

---

---

## A BILL FOR AN ACT

RELATING TO MASSAGE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

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

3           1. By adding four new definitions to be appropriately  
4 inserted and to read:

5           "Certified massage" and "certified massage therapy" means  
6 massage therapy performed by a certified massage therapist, or  
7 by a massage therapist assistant being supervised by a certified  
8 massage therapist that includes the assessment and treatment of  
9 humans to evaluate, prevent, and alleviate pain, anguish, and  
10 other physical and mental diseases and disorders primarily by  
11 means of massage therapy. It includes consultation, evaluation,  
12 treatment, and modification of treatment.

13           "Certified massage therapist" means a person who is a  
14 licensed massage therapist in the State and certified by the  
15 board to practice certified massage therapy as outlined in this  
16 chapter.



1       "Licensed massage therapist" and "massage therapist" means  
2 a person who is licensed to practice massage therapy in the  
3 State.

4       "Massage therapy assistant" means a person who is  
5 registered as a massage therapy assistant in the State and  
6 assists a certified massage therapist in the practice of massage  
7 therapy with the following restrictions:

8       (1) A massage therapist assistant must be supervised by a  
9 certified massage therapist at all times pursuant to  
10 rules established by the board;

11       (2) The massage therapist assistant may only practice  
12 massage therapy as directed by the supervising  
13 certified massage therapist; and

14       (3) The massage therapist assistant to certified massage  
15 therapist ratio at any one massage therapy  
16 establishment shall not exceed five massage therapist  
17 assistants to one certified massage therapist."

18       2. By amending the definition of "massage", "massage  
19 therapy", and "Hawaiian massage" to read:

20       "Massage", "massage therapy", and "Hawaiian massage"  
21 commonly known as lomilomi, means any method of treatment of the



1 ~~[superficial soft parts of the body,]~~ soft tissue parts of the  
2 musculoskeletal system, consisting of rubbing, stroking,  
3 tapotement, guided movement, pressing, shaking, or kneading with  
4 the hands, feet, elbow, or arms, and whether or not aided by any  
5 mechanical or electrical apparatus, appliances, or supplementary  
6 aids such as rubbing alcohol, liniments, antiseptics, oils,  
7 powder, creams, lotions, ointments, or other similar  
8 preparations commonly used in this practice. Any mechanical or  
9 electrical apparatus used as described in this chapter shall be  
10 approved by the United States Food and Drug Administration."

11 3. By amending the definition of "massage therapy  
12 establishment" to read:

13 "Massage therapy establishment" means premises occupied  
14 and used for the purpose of practicing massage therapy,  
15 certified massage therapy, or massage therapy training; provided  
16 that when any massage therapy establishment is situated in any  
17 building used for residential purposes, the massage therapy  
18 establishment premises shall be set apart and shall not be used  
19 for any other purpose."

20 4. By repealing the definition of "massage therapist  
21 apprentice".



1           ~~[""Massage therapist apprentice" means any person who~~  
2 ~~engages in the occupation or practice of massage under the~~  
3 ~~direct supervision of a sponsoring massage therapist who is~~  
4 ~~employed by or registered with an approved massage~~  
5 ~~establishment." ]~~

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

8           "**§452-2 License required.** (a) It is unlawful for any  
9 person in the State to engage in or attempt to engage in the  
10 occupation or practice of massage for compensation without a  
11 current massage therapist license issued pursuant to this  
12 chapter.

13           (b) A ~~[massage therapist apprentice who has a permit, or~~  
14 ~~a]~~ massage therapist student under the direct supervision of a  
15 teacher in a massage school setting, is also permitted to engage  
16 in or attempt to engage in the occupation or practice of  
17 massage.

18           (c) A massage therapist assistant under the supervision of  
19 a certified massage therapist is also permitted to engage in the  
20 practice of massage."



1 SECTION 3. Section 452-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§452-4 Creation of state board; qualifications. (a)

4 There is established within the department of commerce and  
5 consumer affairs for administrative purposes a state board of  
6 massage therapy consisting of [~~five~~] seven members.

7 (b) [~~Three~~] Five members shall have at least three years  
8 of practical experience as licensed massage therapists [~~, who~~]  
9 and shall be actively employed as massage therapists, and two  
10 shall be public members. Two of the five members licensed as  
11 massage therapists shall be certified massage therapists in  
12 accordance with this chapter.

13 (c) Board members affiliated with any school teaching  
14 massage [~~or any apprenticeship~~] or other massage therapy  
15 training program shall disclose that affiliation and shall at  
16 all times adhere to the provisions of chapter 84 and the  
17 interpretations of that chapter by the state ethics commission."

18 SECTION 4. Section 452-6, Hawaii Revised Statutes, is  
19 amended by amending subsections (b) and (c) to read as follows:

20 "(b) In addition to any other powers and duties authorized  
21 by law, the board may grant, or upon proof of violation of this



1 chapter or the rules adopted by the board governing the practice  
2 under this chapter, revoke, suspend, or refuse to renew a  
3 license or registration as provided in this chapter.

4 (c) The board shall adopt rules pursuant to chapter 91  
5 relating to massage therapist [~~apprenticeship and~~] training  
6 including rules establishing qualifications for [~~apprenticeship~~  
7 ~~permits and~~] training programs and the requirements to be met  
8 [~~by massage therapist apprentices~~] prior to taking the massage  
9 therapist license examination[~~-~~] and the certified massage  
10 therapist examination."

11 SECTION 5. Section 452-12, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§452-12 Application for examination.** Each person who  
14 desires to practice [~~the occupation of~~] massage [~~therapist~~]  
15 therapy shall file with the board a written application on a  
16 form prescribed and supplied by the board, and shall submit such  
17 credentials as may be required by this chapter or the rules  
18 adopted by the board, and shall also pay the board the required  
19 fees."

20 SECTION 6. Section 452-13, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§452-13 Requisites for admission to examination, ~~[and]~~  
2 licensing, certification, and registration of massage  
3 therapists, certified massage therapists, massage therapist  
4 assistants, and massage therapy establishments. (a) The  
5 executive secretary of the board shall determine the sufficiency  
6 of the preliminary qualifications of applicants for admission to  
7 examination and licensing~~[-]~~ or certification. The executive  
8 secretary shall require that:

- 9           (1) A nonrefundable application fee shall be paid to the  
10 board at the time of ~~[the]~~ each application.
- 11           (2) The examination fee shall be refunded only if the  
12 applicant is found not qualified to take the ~~[license]~~  
13 examination.
- 14           (3) An applicant for examination to licensure shall have  
15 completed academic training in anatomy, physiology,  
16 structural kinesiology, and the theory and  
17 demonstration of massage, which is not confined to any  
18 specific system or method of massage therapy, spent at  
19 least six months as a ~~[massage therapist apprentice~~  
20 ~~or]~~ massage therapist student in a school approved by  
21 the board, and met all other requirements set for



1            [~~apprentices or~~] students by the board pursuant to  
2            section 452-6(c).

3            (4) An applicant for examination to certification shall  
4            have completed all of the requirements for a massage  
5            therapist license as outlined in this chapter, have a  
6            current valid massage therapist license in the State  
7            in good standing with the board, have at least one  
8            year of practical experience employed as a licensed  
9            massage therapist, and have an additional three  
10           hundred classroom hours of academic training in  
11           anatomy, physiology, structural kinesiology,  
12           pathology, critical thinking, clinical reasoning, and  
13           professional development for healthcare providers.

14           (5) An applicant for examination to registration as a  
15           massage therapist assistant shall have completed three  
16           hundred hours of academic training in anatomy, safety  
17           and contraindications, sanitation, hygiene, and theory  
18           and demonstration of massage which is not confined to  
19           any specific system or method of massage therapy,  
20           spent at least three months in training at a school  
21           approved by the board, and met all other requirements





1           set for massage therapist assistants by the board  
2           pursuant to section 452-6(c).

3           (6) A licensed massage therapist practicing in the State  
4           with at least three years of working experience who is  
5           in good standing with the board may apply for the  
6           examination for certification on or before June 30,  
7           2016.

8           (b) An applicant desiring to license a massage therapy  
9 establishment shall file with the board a written application on  
10 a form prescribed and supplied by the board, and setting forth  
11 that the applicant has complied with all of the requirements in  
12 a manner and detail as may be required by the rules established  
13 by the board. A license fee shall be paid to the board together  
14 with the application fee."

15           SECTION 7. Section 452-14, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           "**§452-14** ~~[**Examination.**]~~ **Examinations.** The department of  
18 commerce and consumer affairs or the board may contract with  
19 professional testing services to prepare, administer, and grade  
20 ~~[the]~~ any examination for applicants as may be required for the  
21 purposes of this chapter. The ~~[examination of applicants for a~~



1 ~~license to practice massage]~~ examinations shall be conducted  
2 under rules prescribed by the board and shall consist of a  
3 written examination which is not confined to any specific system  
4 or method and which is consistent with the practical and  
5 theoretical requirements of the occupation as provided by this  
6 chapter."

7 SECTION 8. Section 452-15, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§452-15 Licenses[-], certifications, and registrations.**

10 (a) If an applicant for an examination [~~for massage therapist~~]  
11 to licensure, certification, or registration passes the  
12 examination to the satisfaction of the board, the board shall  
13 issue a license, certification, or registration to that effect,  
14 signed by the chairperson. The license, certification, or  
15 registration shall be evidence that the person to whom it is  
16 issued is entitled to follow the practice stipulated therein as  
17 prescribed in this chapter. The license, certification, or  
18 registration shall not be transferable and shall be  
19 conspicuously displayed in the place of business or employment."

20 SECTION 9. Section 452-16, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§452-16 Renewal of license[~~r~~], certification, and  
2 registration; fees. Massage therapist licenses, massage  
3 therapist certifications, massage therapist assistant  
4 registrations, and massage therapy establishment licenses shall  
5 expire on June 30 of each even-numbered year following the date  
6 of issuance unless renewed for the next biennium. These  
7 licenses, certifications, and registrations may be renewed by  
8 filing an application therefor, accompanied by a renewal fee.  
9 The application shall be made between May 1 and June 30 of each  
10 even-numbered year. Failure to apply for renewal as provided in  
11 this section shall constitute a forfeiture of the license,  
12 certification, or registration as of the date of expiration.  
13 Any license, certification, or registration so forfeited may be  
14 restored within one year after expiration upon the filing of an  
15 application in the same manner and payment of a penalty fee in  
16 addition to all delinquent fees. Thereafter, the person shall  
17 apply as a new applicant and the board may require the person to  
18 take and pass the examination and satisfy all requirements for  
19 the examination, including training, if the board is not  
20 satisfied that the person possesses current knowledge and skills  
21 for the practice of massage therapy."



1 SECTION 10. Section 452-19, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§452-19 Penalties.** (a) Any person who practices massage  
4 or maintains a massage therapy establishment, or acts in any  
5 capacity wherein a license, certification, or registration is  
6 required by this chapter, without [~~a license~~] the appropriate  
7 license, certification, or registration as provided for in this  
8 chapter, shall be guilty of a petty misdemeanor.

9 (b) Any owner, operator, manager, or licensee in charge of  
10 or in control of a massage therapy establishment who knowingly  
11 employs a person who is not licensed, certified, or registered  
12 as a massage therapist or [~~who has not received a permit as a~~  
13 ~~massage therapist apprentice~~] a massage therapist assistant as  
14 provided in this chapter, or who allows an unlicensed,  
15 uncertified, or unregistered person to perform, operate, or  
16 practice massage is guilty of a misdemeanor."

17 SECTION 11. Section 452-23, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) It is a misdemeanor for any person, including a  
20 massage therapist assistant or a person who is exempt by section  
21 452-21 from this chapter, to advertise with or without any



1 limiting qualifications as a massage therapist unless the person  
2 holds a valid license under this chapter. Further, it shall be  
3 a violation of this chapter for any person to advertise:

4 (1) As a massage therapist, a certified massage therapist,  
5 a massage therapist assistant, or a massage therapy  
6 establishment unless the person holds a valid license,  
7 certification, or registration under this chapter in  
8 the classification so advertised;

9 (2) By combining advertising for [~~a licensed massage~~  
10 ~~therapy service~~] any massage service with escort or  
11 dating services;

12 (3) As performing massage in a form in which the person  
13 has not received training, or of a type which is not  
14 licensed or otherwise recognized by statute or  
15 administrative rule;

16 (4) By using in any mass distribution, print  
17 advertisements such as newspaper advertisements, or  
18 telephone directory listings, pictures depicting the  
19 human form other than hands, wrists, and forearms;

20 (5) By using any term other than therapeutic massage or  
21 massage therapy to refer to the service; or



1 (6) By referring to any personal physical qualities of the  
2 practitioner.

3 "Advertise" as used in this section includes, but is not limited  
4 to, the issuance of any card, sign, or device to any person; the  
5 causing, permitting, or allowing of any sign or marking on or in  
6 any building, vehicle or structure; advertising in any newspaper  
7 or magazine; any listing or advertising in any directory under a  
8 classification or heading that includes the word "massage  
9 therapist" or "massage therapy establishment"; or commercials  
10 broadcast by airwave transmission."

11 SECTION 12. Section 452-24, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) In addition to any other actions authorized by law,  
14 the board may take disciplinary action against any licensee,  
15 certificant, or registrant, including, but not limited to,  
16 revocation, suspension, fine, or a combination thereof, or may  
17 refuse to grant or renew a license, certification, or  
18 registration for any cause authorized by law, including but not  
19 limited to the following:

20 (1) Procuring a license, certification, or registration  
21 through fraud, misrepresentation, or deceit or



- 1           permitting an unlicensed person to perform activities  
2           which require a license under this chapter;
- 3       (2) Conviction of any crime involving moral turpitude;
- 4       (3) Practicing massage while the ability to practice is  
5           impaired by alcohol, drugs, physical disability, or  
6           mental instability;
- 7       (4) Failure to display a license, certification, or  
8           registration as provided in this chapter;
- 9       (5) Professional misconduct, gross carelessness, or  
10           manifest incapacity in the practice of massage;
- 11       (6) Violating this chapter or the rules adopted pursuant  
12           thereto;
- 13       (7) Failing to comply with a board order;
- 14       (8) Any other conduct constituting fraudulent or dishonest  
15           dealings;
- 16       (9) Making a false statement on any document submitted or  
17           required to be filed by this chapter; or
- 18       (10) Any representation, or the use of any designation,  
19           which states or implies that the person is able to  
20           perform a technique of massage which the person is not  
21           trained to perform."



# H.B. NO. 1390

1 SECTION 13. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 14. This Act does not affect rights and duties  
4 that matured, penalties that were incurred, and proceedings that  
5 were begun before its effective date.

6 SECTION 15. This Act shall take effect upon its approval.

7

INTRODUCED BY: Calvin K. Day  
JAN 29 2015





# H.B. NO. 1390

**Report Title:**

Massage; Licensure; Certification; Registration

**Description:**

Establishes licensure requirement for massage therapist assistants. Amends certain provisions relating to the Board of Massage Therapy. Amends certain provisions relating to the licensure, certification, and registration for the practice of massage.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

