

Senate Engrossed House Bill

~~massage therapists; fingerprinting; website information~~
(now: massage therapists; fingerprinting)

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2438

AN ACT

AMENDING SECTIONS 32-4203, 32-4222, 41-619.51, 41-1758 AND 41-1758.01,
ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF MASSAGE THERAPY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-4203, Arizona Revised Statutes, is amended to
3 read:
4 32-4203. Board; powers and duties
5 A. The board shall:
6 1. Evaluate the qualifications of applicants for licensure.
7 2. Designate at least one national examination that it requires
8 applicants to pass. The examination must be available to a graduating
9 massage therapy or bodywork therapy student within ninety days before the
10 student's expected graduation date. The board shall require that an
11 examination be processed and the results returned to the board within
12 thirty days after the examination is administered. If, ~~within six months~~
13 ~~of the effective date of this amendment of this section~~ BY OCTOBER 20,
14 2005, the testing agency administering the examination fails or is unable
15 to comply with the requirements of this paragraph, the board shall
16 designate another examination for applicants to pass.
17 3. Issue licenses to persons who meet the requirements of this
18 chapter.
19 4. Regulate the practice of massage therapy by interpreting and
20 enforcing this chapter.
21 5. Establish EDUCATION requirements for ~~the education of~~ licensees
22 and applicants, including ~~the identification of board recognized~~
23 IDENTIFYING BOARD-RECOGNIZED schools, AND continuing education programs
24 and assessing the continuing competence of licensees.
25 6. Adopt rules for ethical and professional conduct to govern the
26 practice of massage therapy in this state.
27 7. Adopt rules to enforce this chapter.
28 8. Meet at least once each quarter in compliance with the open
29 meeting requirements of title 38, chapter 3, article 3.1 and keep an
30 official record of these meetings.
31 9. At its first regular meeting after the start of each calendar
32 year, elect officers from among its members as necessary to accomplish
33 board business.
34 10. Provide for the timely orientation and training of new
35 professional and public appointees to the board regarding board licensing
36 and disciplinary procedures, this chapter, board rules and board
37 procedures.
38 11. Maintain a current list of all licensees. ~~This list shall~~
39 ~~include~~ THAT INCLUDES the licensee's name, current business address and
40 telephone number and license number and ~~shall be~~ THAT IS regularly
41 accessible in electronic format to public officials and agencies to verify
42 the license status of licensees in this state.
43 12. Enter into contracts for services necessary to enforce this
44 chapter.

1 13. Publish, at least annually, or make available for copying or
2 reproduction in any format, final disciplinary actions taken against a
3 licensee.

4 B. The board may:

5 1. Accept and spend federal monies and private grants, gifts,
6 contributions and devises to assist in carrying out the purposes of this
7 chapter. These monies do not revert to the state general fund at the end
8 of a fiscal year.

9 2. Administer oaths and affirmations, subpoena witnesses, take
10 evidence and require the production of documents, records or information,
11 either kept in original form or electronically stored or recorded, or
12 other items relevant to a matter within the jurisdiction of the board.

13 3. **FOR INITIAL LICENSURE**, require a criminal background check,
14 including the fingerprinting of every applicant for licensure, to assist
15 the board in determining whether grounds exist to deny a license.

16 Sec. 2. Section 32-4222, Arizona Revised Statutes, is amended to
17 read:

18 **32-4222. Qualifications for licensure: fingerprint clearance**
19 **card**

20 A. An applicant for a license as a massage therapist shall:

21 1. Be at least eighteen years of age.

22 2. Be a citizen or legal resident of the United States.

23 3. Satisfy the requirements of section 32-4224.

24 4. Be of good moral character.

25 5. Receive either a high school diploma or general equivalency
26 diploma or a similar document or certificate or submit proof that the
27 applicant has passed an ability to benefit examination recognized by the
28 United States department of education.

29 6. Pay the fees established pursuant to section 32-4227.

30 7. Within five years preceding the date of the application **FOR**
31 **INITIAL LICENSURE**, not have been convicted of:

32 ~~(a) A class 1, 2 or 3 felony.~~

33 ~~(b) A class 4, 5 or 6 felony offense involving moral turpitude that~~
34 ~~has a reasonable relationship to the practice of massage therapy.~~

35 ~~(c) a misdemeanor involving prostitution or solicitation or other~~
36 **ANOTHER** similar offense involving moral turpitude that has a reasonable
37 relationship to the practice of massage therapy.

38 8. Within the past five years, not have voluntarily surrendered a
39 license under section 32-4254 or not have had a license to practice
40 massage therapy or another similar license revoked by a political
41 subdivision of this state or a regulatory agency in another jurisdiction
42 in the United States for an act that occurred in that jurisdiction and
43 that would be subject to discipline pursuant to this chapter.

44 9. Not be currently under investigation, suspension or restriction
45 by a political subdivision of this state or a regulatory agency in another

1 jurisdiction in the United States for an act that occurred in that
2 jurisdiction and that would be subject to discipline pursuant to this
3 chapter. If the applicant is under investigation by a regulatory agency
4 in another jurisdiction, the board shall suspend the application process
5 and may not issue or deny a license to the applicant until the
6 investigation is resolved.

7 10. FOR INITIAL LICENSURE, submit a full set of fingerprints to the
8 board for the purpose of obtaining a state and federal criminal records
9 check pursuant to section 41-1750 and Public Law 92-544. The department
10 of public safety may exchange this fingerprint data with the federal
11 bureau of investigation. The board may charge the cost of each criminal
12 background check to the applicant.

13 11. BEGINNING JANUARY 1, 2023, POSSESS A VALID FINGERPRINT
14 CLEARANCE CARD ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1 FOR
15 INITIAL LICENSURE, LICENSE RENEWAL, A TEMPORARY LICENSE OR LICENSE
16 REINSTATEMENT PURSUANT TO THIS CHAPTER.

17 B. In addition to the requirements of subsection A of this section,
18 an applicant for licensure as a massage therapist shall either:

19 1. Have successfully completed a course of study of massage therapy
20 or bodywork therapy consisting of a minimum of five hundred classroom and
21 clinical hours of supervised instruction at a board recognized school in
22 this state that is accredited by an agency recognized by the secretary of
23 the United States department of education.

24 2. Have done both of the following:

25 (a) Successfully completed a course of study in massage therapy or
26 bodywork therapy consisting of a minimum of five hundred classroom and
27 clinical hours of supervised instruction at a school in this state that is
28 licensed by the state board for private postsecondary education or at a
29 school outside of this state that is recognized by the board pursuant to
30 section 32-4228.

31 (b) Successfully passed an examination administered by a national
32 board accredited by the certifying agency that has been approved by the
33 national commission on competency assurance and that is in good standing
34 with that agency or have successfully passed an examination that is
35 administered or approved by the board.

36 C. The board may adopt rules to allow it to consider the education
37 and experience of an applicant who came from a foreign country. The board
38 by rule may increase the minimum number of classroom hours of supervised
39 instruction at a board recognized school that an applicant for licensure
40 must successfully have completed.

41 D. If the board is satisfied that an applicant meets the
42 requirements of this section, the board shall issue a license to the
43 applicant.

1 E. The board, by rule, shall establish communication proficiency
2 requirements related to an applicant's ability to protect health and
3 safety in connection with the practice of massage therapy.

4 F. Subject to the board's approval, the executive director may
5 issue licenses to applicants who meet the requirements of this chapter.

6 G. The board may deny an application for a license if the applicant
7 committed an act that would subject a person licensed under this chapter
8 to disciplinary action.

9 Sec. 3. Section 41-619.51, Arizona Revised Statutes, is amended to
10 read:

11 41-619.51. Definitions

12 In this article, unless the context otherwise requires:

13 1. "Agency" means the supreme court, the department of economic
14 security, the department of child safety, the department of education, the
15 department of health services, the department of juvenile corrections, the
16 department of emergency and military affairs, the department of public
17 safety, the department of transportation, the state real estate
18 department, the department of insurance and financial institutions, the
19 Arizona game and fish department, the Arizona department of agriculture,
20 the board of examiners of nursing care institution administrators and
21 assisted living facility managers, the state board of dental examiners,
22 the Arizona state board of pharmacy, the board of physical therapy, the
23 state board of psychologist examiners, the board of athletic training, the
24 board of occupational therapy examiners, the state board of podiatry
25 examiners, ~~or~~ the state board of technical registration **OR THE BOARD OF**
26 **MASSAGE THERAPY.**

27 2. "Board" means the board of fingerprinting.

28 3. "Central registry exception" means notification to the
29 department of economic security, the department of child safety or the
30 department of health services, as appropriate, pursuant to section
31 41-619.57 that the person is not disqualified because of a central
32 registry check conducted pursuant to section 8-804.

33 4. "Expedited review" means an examination, in accordance with
34 board rule, of the documents an applicant submits by the board or its
35 hearing officer without the applicant being present.

36 5. "Good cause exception" means the issuance of a fingerprint
37 clearance card to an employee pursuant to section 41-619.55.

38 6. "Person" means a person who is required to be fingerprinted
39 pursuant to this article or who is subject to a central registry check and
40 any of the following:

- 41 (a) Section 3-314.
- 42 (b) Section 8-105.
- 43 (c) Section 8-322.
- 44 (d) Section 8-463.
- 45 (e) Section 8-509.

- 1 (f) Section 8-802.
- 2 (g) Section 8-804.
- 3 (h) Section 15-183.
- 4 (i) Section 15-503.
- 5 (j) Section 15-512.
- 6 (k) Section 15-534.
- 7 (l) Section 15-763.01.
- 8 (m) Section 15-782.02.
- 9 (n) Section 15-1330.
- 10 (o) Section 15-1881.
- 11 (p) Section 17-215.
- 12 (q) Section 28-3228.
- 13 (r) Section 28-3413.
- 14 (s) Section 32-122.02.
- 15 (t) Section 32-122.05.
- 16 (u) Section 32-122.06.
- 17 (v) Section 32-823.
- 18 (w) Section 32-1232.
- 19 (x) Section 32-1276.01.
- 20 (y) Section 32-1284.
- 21 (z) Section 32-1297.01.
- 22 (aa) Section 32-1904.
- 23 (bb) Section 32-1941.
- 24 (cc) Section 32-1982.
- 25 (dd) Section 32-2022.
- 26 (ee) Section 32-2063.
- 27 (ff) Section 32-2108.01.
- 28 (gg) Section 32-2123.
- 29 (hh) Section 32-2371.
- 30 (ii) Section 32-3430.
- 31 (jj) Section 32-3620.
- 32 (kk) Section 32-3668.
- 33 (ll) Section 32-3669.
- 34 (mm) Section 32-4128.
- 35 (nn) SECTION 32-4222.
- 36 ~~(mm)~~ (oo) Section 36-113.
- 37 ~~(oo)~~ (pp) Section 36-207.
- 38 ~~(pp)~~ (qq) Section 36-411.
- 39 ~~(qq)~~ (rr) Section 36-425.03.
- 40 ~~(rr)~~ (ss) Section 36-446.04.
- 41 ~~(ss)~~ (tt) Section 36-594.01.
- 42 ~~(tt)~~ (uu) Section 36-594.02.
- 43 ~~(uu)~~ (vv) Section 36-766.01.
- 44 ~~(vv)~~ (ww) Section 36-882.
- 45 ~~(ww)~~ (xx) Section 36-883.02.

- 1 ~~(xx)~~ (yy) Section 36-897.01.
- 2 ~~(yy)~~ (zz) Section 36-897.03.
- 3 ~~(zz)~~ (aaa) Section 36-3008.
- 4 ~~(aaa)~~ (bbb) Section 41-619.53.
- 5 ~~(bbb)~~ (ccc) Section 41-1964.
- 6 ~~(ccc)~~ (ddd) Section 41-1967.01.
- 7 ~~(ddd)~~ (eee) Section 41-1968.
- 8 ~~(eee)~~ (fff) Section 41-1969.
- 9 ~~(fff)~~ (ggg) Section 41-2814.
- 10 ~~(ggg)~~ (hhh) Section 46-141, subsection A or B.
- 11 ~~(hhh)~~ (iii) Section 46-321.

12 Sec. 4. Section 41-1758, Arizona Revised Statutes, is amended to
13 read:

14 41-1758. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Agency" means the supreme court, the department of economic
17 security, the department of child safety, the department of education, the
18 department of health services, the department of juvenile corrections, the
19 department of emergency and military affairs, the department of public
20 safety, the department of transportation, the state real estate
21 department, the department of insurance and financial institutions, the
22 board of fingerprinting, the Arizona game and fish department, the Arizona
23 department of agriculture, the board of examiners of nursing care
24 institution administrators and assisted living facility managers, the
25 state board of dental examiners, the Arizona state board of pharmacy, the
26 board of physical therapy, the state board of psychologist examiners, the
27 board of athletic training, the board of occupational therapy examiners,
28 the state board of podiatry examiners, ~~or~~ the state board of technical
29 registration OR THE BOARD OF MASSAGE THERAPY.

30 2. "Division" means the fingerprinting division in the department
31 of public safety.

32 3. "Electronic or internet-based fingerprinting services" means a
33 secure system for digitizing applicant fingerprints and transmitting the
34 applicant data and fingerprints of a person or entity submitting
35 fingerprints to the department of public safety for any authorized purpose
36 under this title. For the purposes of this paragraph, "secure system"
37 means a system that complies with the information technology security
38 policy approved by the department of public safety.

39 4. "Good cause exception" means the issuance of a fingerprint
40 clearance card to an applicant pursuant to section 41-619.55.

41 5. "Person" means a person who is required to be fingerprinted
42 pursuant to any of the following:

- 43 (a) Section 3-314.
- 44 (b) Section 8-105.
- 45 (c) Section 8-322.

- 1 (d) Section 8-463.
- 2 (e) Section 8-509.
- 3 (f) Section 8-802.
- 4 (g) Section 15-183.
- 5 (h) Section 15-503.
- 6 (i) Section 15-512.
- 7 (j) Section 15-534.
- 8 (k) Section 15-763.01.
- 9 (l) Section 15-782.02.
- 10 (m) Section 15-1330.
- 11 (n) Section 15-1881.
- 12 (o) Section 17-215.
- 13 (p) Section 28-3228.
- 14 (q) Section 28-3413.
- 15 (r) Section 32-122.02.
- 16 (s) Section 32-122.05.
- 17 (t) Section 32-122.06.
- 18 (u) Section 32-823.
- 19 (v) Section 32-1232.
- 20 (w) Section 32-1276.01.
- 21 (x) Section 32-1284.
- 22 (y) Section 32-1297.01.
- 23 (z) Section 32-1904.
- 24 (aa) Section 32-1941.
- 25 (bb) Section 32-1982.
- 26 (cc) Section 32-2022.
- 27 (dd) Section 32-2063.
- 28 (ee) Section 32-2108.01.
- 29 (ff) Section 32-2123.
- 30 (gg) Section 32-2371.
- 31 (hh) Section 32-3430.
- 32 (ii) Section 32-3620.
- 33 (jj) Section 32-3668.
- 34 (kk) Section 32-3669.
- 35 (ll) Section 32-4128.
- 36 (mm) SECTION 32-4222.
- 37 ~~(nn)~~ (nn) Section 36-113.
- 38 ~~(oo)~~ (oo) Section 36-207.
- 39 ~~(pp)~~ (pp) Section 36-411.
- 40 ~~(qq)~~ (qq) Section 36-425.03.
- 41 ~~(rr)~~ (rr) Section 36-446.04.
- 42 ~~(ss)~~ (ss) Section 36-594.01.
- 43 ~~(tt)~~ (tt) Section 36-594.02.
- 44 ~~(uu)~~ (uu) Section 36-766.01.
- 45 ~~(vv)~~ (vv) Section 36-882.

- 1 ~~(vv)~~ (ww) Section 36-883.02.
- 2 ~~(ww)~~ (xx) Section 36-897.01.
- 3 ~~(xx)~~ (yy) Section 36-897.03.
- 4 ~~(yy)~~ (zz) Section 36-3008.
- 5 ~~(zz)~~ (aaa) Section 41-619.52.
- 6 ~~(aaa)~~ (bbb) Section 41-619.53.
- 7 ~~(bbb)~~ (ccc) Section 41-1964.
- 8 ~~(ccc)~~ (ddd) Section 41-1967.01.
- 9 ~~(ddd)~~ (eee) Section 41-1968.
- 10 ~~(eee)~~ (fff) Section 41-1969.
- 11 ~~(fff)~~ (ggg) Section 41-2814.
- 12 ~~(ggg)~~ (hhh) Section 46-141, subsection A or B.
- 13 ~~(hhh)~~ (iii) Section 46-321.

14 6. "Vulnerable adult" has the same meaning prescribed in section
15 13-3623.

16 Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to
17 read:

18 41-1758.01. Fingerprinting division; powers and duties

19 A. The fingerprinting division is established in the department of
20 public safety and shall:

21 1. Conduct fingerprint background checks for persons and applicants
22 who are seeking licenses from state agencies, employment with licensees,
23 contract providers and state agencies or employment or educational
24 opportunities with agencies that require fingerprint background checks
25 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,
26 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215,
27 28-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-823, 32-1232,
28 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-1982, 32-2022,
29 32-2063, 32-2108.01, 32-2123, 32-2371, 32-3430, 32-3620, 32-3668, 32-3669,
30 32-4128, 32-4222, 36-113, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01,
31 36-594.02, 36-766.01, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008,
32 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814,
33 section 46-141, subsection A or B and section 46-321.

34 2. Issue fingerprint clearance cards. On issuance, a fingerprint
35 clearance card becomes the personal property of the cardholder and the
36 cardholder shall retain possession of the fingerprint clearance card.

37 3. On submission of an application for a fingerprint clearance
38 card, collect the fees established by the board of fingerprinting pursuant
39 to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147,
40 the monies collected in the board of fingerprinting fund.

41 4. Inform in writing each person who submits fingerprints for a
42 fingerprint background check of the right to petition the board of
43 fingerprinting for a good cause exception pursuant to section 41-1758.03,
44 41-1758.04 or 41-1758.07.

1 5. If after conducting a state and federal criminal history records
2 check the division determines that it is not authorized to issue a
3 fingerprint clearance card to a person, inform the person in writing that
4 the division is not authorized to issue a fingerprint clearance card. The
5 notice shall include the criminal history information on which the denial
6 was based. This criminal history information is subject to dissemination
7 restrictions pursuant to section 41-1750 and Public Law 92-544.

8 6. Notify the person in writing if the division suspends, revokes
9 or places a driving restriction notation on a fingerprint clearance card
10 pursuant to section 41-1758.04. The notice shall include the criminal
11 history information on which the suspension, revocation or placement of
12 the driving restriction notation was based. This criminal history
13 information is subject to dissemination restrictions pursuant to section
14 41-1750 and Public Law 92-544.

15 7. Administer and enforce this article.

16 B. The fingerprinting division may contract for electronic or
17 internet-based fingerprinting services through an entity or entities for
18 the acquisition and transmission of applicant fingerprint and data
19 submissions to the department, including identity verified fingerprints
20 pursuant to section 15-106. The entity or entities contracted by the
21 department of public safety may charge the applicant a fee for services
22 provided pursuant to this article. The entity or entities contracted by
23 the department of public safety shall comply with:

24 1. All information privacy and security measures and submission
25 standards established by the department of public safety.

26 2. The information technology security policy approved by the
27 department of public safety.

28 Sec. 6. Rulemaking exemption

29 Notwithstanding any other law, for the purposes of this act, the
30 board of massage therapy is exempt from the rulemaking requirements of
31 title 41, chapter 6, Arizona Revised Statutes, for one year after the
32 effective date of this act.