

By: A. Johnson of Harris

H.B. No. 1433

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of massage therapy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.355, Occupations Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) Subsection (a) does not apply to a person whose license was revoked under Section 455.251(b)(1).

(a-2) This subsection and Subsection (a-1) expire September 1, 2025.

SECTION 2. Section 455.152, Occupations Code, is amended to read as follows:

Sec. 455.152. INELIGIBILITY FOR LICENSE. A person is not eligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor if the person is an individual and has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for:

(1) an offense under Chapter 20A, Penal Code, or Section 43.03, 43.031, 43.04, 43.041, or 43.05 [Subchapter A, Chapter 43], Penal Code; [7] or

(2) an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by Subdivision (1) [another sexual offense].

SECTION 3. The heading to Section 455.251, Occupations

1 Code, is amended to read as follows:

2 Sec. 455.251. GROUNDS FOR LICENSE DENIAL, ~~[OR]~~ DISCIPLINARY  
3 ACTION, OR ADMINISTRATIVE PENALTY.

4 SECTION 4. Sections 455.251(a) and (b), Occupations Code,  
5 are amended to read as follows:

6 (a) The commission or executive director may refuse to issue  
7 a license to a person, ~~[and shall]~~ suspend, revoke, or refuse to  
8 renew the license of a person, or impose an administrative penalty  
9 under Subchapter F, Chapter 51, on ~~[shall reprimand]~~ a person  
10 licensed under this chapter if the person:

11 (1) obtains or attempts to obtain a license by fraud,  
12 misrepresentation, or concealment of material facts;

13 (2) sells, barter, or offers to sell or barter a  
14 license;

15 (3) violates a rule adopted by the commission under  
16 this chapter;

17 (4) engages in unprofessional conduct as defined by  
18 commission rule that endangers or is likely to endanger the health,  
19 welfare, or safety of the public;

20 (5) violates an order or ordinance adopted by a  
21 political subdivision under Chapter 243, Local Government Code; or

22 (6) violates this chapter.

23 (b) The commission or executive director shall revoke the  
24 license of a person licensed as a massage therapist or massage  
25 therapy instructor if:

26 (1) the person is convicted of, enters a plea of nolo  
27 contendere or guilty to, or receives deferred adjudication for:

1                    (A) an offense under Chapter 20A, Penal Code, or  
2 Section 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code  
3 [involving prostitution or another sexual offense]; or

4                    (B) an offense under federal law or the laws of  
5 another state containing elements that are substantially similar to  
6 the elements of an offense described by Paragraph (A); or

7                    (2) the commission or executive director determines  
8 the person has practiced or administered massage therapy at or for a  
9 sexually oriented business.

10                   SECTION 5. As soon as practicable after the effective date  
11 of this Act, the Texas Commission of Licensing and Regulation shall  
12 adopt rules necessary to implement Sections 455.152 and 455.251,  
13 Occupations Code, as amended by this Act.

14                   SECTION 6. Section 51.355(a-1), Occupations Code, as added  
15 by this Act, applies only with respect to a license revoked under  
16 Section 455.251(b)(1), Occupations Code, as that section existed  
17 immediately before the effective date of this Act.

18                   SECTION 7. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2023.