



House Bill 185, An Act Relative to Licensing Massage Therapists

FACT SHEET

Brief Summary: This legislation amends language in sections 227, 228 and 235 of M.G.L. c. 112, which in part, govern the licensing of massage therapists in the Commonwealth. This legislation received a favorable report from the Joint Committee on Professional Licensure and Consumer Affairs last session as well as in the current session. House Bill 185 presently sits before the House Ways and Means Committee.

Current Law: In 2006, the Legislature enacted Chapter 135 of the Acts of 2006, “An Act Relative to the Licensure of Massage Therapists.” This legislation amended M.G.L. c. 13 by creating two new sections, § 98, which created a state Massage Therapy Board, and § 99, which provided the Massage Therapy Board with exclusive powers and duties over the licensure and regulation of massage therapists in the Commonwealth, including, but not limited to, the duty to administer and enforce sections 227 to 236, inclusive, of chapter 112. The board, which is relatively new, has been confronted by various issues not previously contemplated in 2006.

Rationale:

- **Removes Ambiguity in the Definition of “Massage”.** Section 1 of HB 185 corrects the definition of massage by removing the reference to “nonspecific” stretching. Stretching, by definition, aims to elongate a specific muscle or muscle group. The reference to “nonspecific” stretching renders the definition counterintuitive and exposed to ambiguous interpretation. Already, the Board of Registration for Massage Therapy has been confronted with the technical inability to enforce this section.
- **Clarifies Availability of Kinesiology Taping.** Section 2 provides for the use of “kinesiology taping” in connection with massage. Kinesiology tape is an elastic therapeutic tape that is applied to the skin usually following massage therapy. It acts to facilitate the body’s natural healing process by lifting the tissue and supporting and stabilizing the affected muscles prolonging the benefits of massage therapy. The current language is silent on the use of kinesiology tape and, thereby, fails to explicitly address a technique that is regularly practiced by massage therapists nationwide. Again, the Board of Registration for Massage Therapy determines that massage therapists are allowed to do this, but a clarification will ensure consistency going forward.
- **Clarifies Charitable Services Exemption.** Section 3 of HB 185 adds language to the section that exempts massage therapists in a charitable or sporting event from the licensure requirement to clarify that the exemption is available over consecutive days. Section 228(a)(6) of Chapter 112, as currently written, arguably excludes from the

exemption the massage therapist who gives a massage at an event over more than one consecutive day. In other words, without adding the HB 185 clarification, the practical application of the current language in this section could be interpreted as excluding massage therapists visiting the Commonwealth for more than one day from the exemption, thereby discouraging such massage therapists from performing services in events such as the Boston Marathon or the Pan-Mass Challenge. Moreover, the law, as currently written, could be interpreted to adversely impact professional sports teams or event participation in town for consecutive days.

- **Closes the Loophole on Electronic Advertising.** Section 4 adds language to section 235(a) of Chapter 112 to clarify that electronic means of advertising fall within the scope of the law governing advertising by massage therapists. Currently, the law fails to directly address advertising through electronic means, which leaves open a window through which unlicensed individuals (and/or entities) may freely solicit illicit business under the façade of “massage” services, but beyond the reach of the Board of Registration for Massage Therapy. Moreover, as currently written, a licensed massage therapist offering illegal escort services and the like, under the façade of “massage” can evade Board of Registration for Massage Therapy discipline simply by marketing those illicit services online or through other electronic means.

Electronic means of advertising through the dissemination of marketing materials via email, websites, blogs, and text messages is a major component of marketing in today’s world. Unfortunately, individuals are using these avenues to perpetuate illicit activities, the marketing of which often remains below the radar, going unnoticed for far too long. Importantly, section 4 of HB 185 provides an enforcement mechanism that will help to ensure that individuals and entities in the Commonwealth are not using electronic means to market what is essentially prostitution. This prong of the legislation dovetails neatly with the current initiatives that seek to promulgate a human trafficking law in Massachusetts. By clarifying the scope of the advertising law as it applies to massage therapists, the Commonwealth will be in a better position to expose those individuals who attempt to hide the true nature of their illicit activities under the auspices of running a legitimate massage therapy establishment and/or practice.