

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No. 334 (e e)

Introduced by:

J. T. Won Pat

AN ACT TO ADD A NEW ARTICLE 23 TO CHAPTER 12
OF DIVISION 1 OF TITLE 10, GUAM CODE
ANNOTATED, RELATIVE TO THE LICENSING OF
MASSAGE PRACTITIONERS TO PRACTICE IN GUAM.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A new Article 23 is hereby *added* to Chapter 12 of
3 Division 1 of Title 10, Guam Code Annotated, to read as follows:

4 "ARTICLE 23.

5 §122301. General Provisions.

6 §122302. Purpose.

7 §122303. Definitions.

8 §122304. Exclusions from Practice of Massage.

9 §122305. License Requirements.

10 §122306. Renewal of Licenses.

11 §122307. Application.

12 §122308. Evaluation of Application.

13 §122309. Denial, Suspension or Revocation of License.

14 §122310. Massage Practice Rules.

- 1 **§122311. Advertisement.**
- 2 **§122312. Exclusions.**
- 3 **§122313. Violations and Penalties.**
- 4 **§122314. Reciprocity.**
- 5 **§122315. Grandfather Clause.**

6 **§122301. General Provisions.** This Article shall be known
7 and may be cited as the 'Massage Practitioner Licensing Act'.

8 **§122302. Purpose.** The purpose of this Article is to
9 promote and to protect the public health, employees, clients, and
10 others within the practice of massage therapy.

11 **§122303. Definitions.** As used in this Article:

12 (1) 'Licensed Massage Practitioner' means a person who
13 administers massage therapy procedures for compensation and
14 who is licensed in Guam to practice massage therapy. The title
15 'Licensed Massage Practitioner' may be applied only to an
16 individual, not to a group, association, partnership, or
17 corporation;

18 (2) A 'Licensure' means the procedure by which a person
19 hereinafter referred to as "practitioner" applies to the Board for
20 approval to practice massage on Guam. It does not constitute for
21 personal or business health certificates, occupancy permits or
22 zoning certificates otherwise required on Guam;

23 (3) 'Massage Therapy' means utilizing at least one (1) or
24 variations of the following procedures applied by manual means:
25 touching, tapping, stroking, friction, kneading, vibration,

1 compression, percussion, and energy balancing, to enhance the
2 maintenance of good health and as a complement to other health
3 supportive processes;

4 (4) 'Board' means the Board of Allied Health Examiners;
5 and

6 (5) 'Board Approved Massage School' means a facility or
7 program that meets minimum standards for training and
8 curriculum, including the underlying principles of anatomy,
9 physiology, and other related massage therapy subjects, as
10 determined by the Rules and Regulations of the Board.

11 (6) 'Department' means the Department of Public Health
12 and Social Services.

13 (7) 'Suruhanu or Suruhana' means an individual who
14 heals through massage and the use of traditional chamorro
15 remedies that include the use of root, leaves, bark, plants and
16 grass and incorporates the cultural healing process.

17 **§122304. Exclusions from Practice of Massage.** The
18 practice of Massage Therapy shall *not* include:

19 (1) The diagnosis or prescribing of treatments for disease
20 or injury;

21 (2) The adjustment of the articulations of the osseous
22 structures of the body or spine;

23 (3) The providing of any service or procedure for which a
24 license to practice medicine or chiropractic or physical therapy or
25 nursing is otherwise required by law; or

1 (4) The providing of any service or procedure for which a
2 license to practice barbering or cosmetology is otherwise required
3 by law.

4 **§122305. License Requirements.** Any person who
5 provides massage therapy services in Guam for compensation
6 must be licensed. Any person is qualified for licensure as a
7 massage practitioner under this Act who:

8 (1) Has completed a course of study at a board-approved
9 massage school or has completed an apprenticeship program that
10 meets standards adopted by the Board;

11 (2) Pay a fee of Eighty Dollars (\$80.00), and submit an
12 application in accordance with §122307, and complete all the other
13 requirements of this Article and of the Board.

14 **§122306. Renewal of Licenses.** A Massage Practitioner
15 License shall be renewed by October 1 of every odd numbered
16 year. In order to renew a license to practice massage, a licensee
17 must:

18 (1) Be otherwise eligible for licensure;

19 (2) The Board shall approve the method for renewal
20 which shall include continuing education requirements not to
21 exceed twelve (12) classroom hours. The Board shall establish
22 criteria for the approval of continuing education programs or
23 courses. The programs or courses approved by the Board may
24 include correspondence courses that meet the criteria for
25 continuing education courses held in a classroom setting.

1 (3) Pay a license renewal fee of Eighty Dollars (\$80.00) and
2 comply with any other administrative requirements of the Board
3 for license renewal.

4 **§122307. Application.** Any person desiring to obtain a
5 Massage Practitioner License or renewal thereof shall make an
6 application to the Board of Allied Health Examiners and shall
7 furnish the following:

8 (1) The full true name and any other names used by the
9 applicant;

10 (2) The present address and telephone number of the
11 applicant;

12 (3) Each residence and business address of the applicant
13 for the three (3) years immediately preceding the date of the
14 application, and the inclusive dates of each address;

15 (4) Written proof that the applicant is at least eighteen (18)
16 years of age;

17 (5) Applicant's height, weight, color of eyes, and hair;

18 (6) Two (2) photographs of the applicant one (1) inch by
19 one (1) inch in size, taken within one (1) month immediately
20 preceding the date of application. One (1) photograph shall be
21 retained by the Board and one (1) photograph affixed to the
22 license;

23 (7) Applicant's business, occupation and employment
24 history for the three (3) years immediately preceding the date of
25 application;

1 (8) The business license or permit history of the applicant;
2 whether such applicant has ever had any license or permit issued
3 by an agency or board, city, county, or state revoked or
4 suspended, or has had any professional or vocational license or
5 permit revoked or suspended, and the reason therefore;

6 (9) All criminal convictions, except traffic violations, and a
7 statement of the dates and places of those convictions;

8 (10) The address at which the applicant intends to keep all
9 records of his/her massage practice and receive telephone calls,
10 and the address of any other office or location in which the
11 applicant will ordinarily be available to receive clients for the
12 administration of massage therapy services, as well as the address
13 of any hotel, clinic or other facility, excluding a client's permanent
14 place of residence, where the applicant intends to provide
15 massage services;

16 (11) Proof of successful completion of course of study or
17 apprenticeship program as approved by the Board; and

18 (12) Such other identification and information as may be
19 required by the Board in order to discover the truth of the matters
20 herein specified as required to be set forth in the application.

21 **§122308. Evaluation of Application.** The Board of Allied
22 Health Examiners shall have a reasonable time, not to exceed
23 forty-five (45) days, in which to evaluate the application and make
24 any verifications deemed necessary. A Massage Practitioner

1 License shall be issued within that time frame, provided the
2 applicant has furnished all the requested information; and

3 (1) Has not knowingly made a material false statement in
4 the application;

5 (2) Has not within five (5) years immediately preceding
6 the date of the filing of the application been convicted in a court of
7 competent jurisdiction of any offense as a sex offender, or any
8 felony offense involving moral turpitude;

9 (3) All locations where the applicant will be available to
10 receive clients for the administration of massage services qualify
11 for compliance with all applicable laws pertaining to a
12 professional practice, including, but not limited to, health, zoning,
13 fire and safety requirements and standards;

14 (4) The applicant is at least eighteen (18) years of age;

15 (5) The applicant has not had a license to practice massage
16 suspended or revoked for good cause within three (3) years
17 immediately preceding the date of the filing of the application,
18 unless the applicant can show a material change in circumstances
19 or mitigating circumstances exist since the revocation or
20 suspension; and

21 (6) The applicant meets all requirements of this Article.

22 **§122309. Denial, Suspension or Revocation of License.**

23 The Board may refuse to grant, may suspend or revoke a license,
24 impose probation and/or impose civil penalty not to exceed One
25 Thousand Dollars (\$1,000.00) for any of the following reasons:

1 (1) Practicing massage therapy or representing one's self
2 as a Massage Practitioner without being licensed;

3 (2) Knowingly or recklessly making any false statement to
4 the Board;

5 (3) Suspension or revocation of a license to practice
6 massage in another state, territory or country based upon acts by
7 the licensee similar to acts described in this Section;

8 (4) Habitual intemperance in the use of intoxicants, drugs,
9 or controlled substances to such an extent as to impair the
10 licensee's abilities to perform professional duties in a safe manner;
11 or

12 (5) Any conduct or practice contrary to recognized
13 standards of ethics of the massage profession.

14 **§122310. Massage Practice Rules.** Massage Practitioners
15 must adhere to the following rules:

16 (1) When giving a body massage and a portable or regular
17 massage table is utilized, it must be kept clean, in good repair and
18 covered with impervious materials that are cleanable. When
19 giving a body massage without a massage table, impervious
20 sheeting shall cover, full length, all tables, mattresses or pads,
21 directly under fresh sheets and linens;

22 (2) Conform to rules for communicable disease control as
23 provided by the Department of Public Health and Social Services;

1 (3) When external baths are part of the practice,
2 equipment provided by the massage technician must be clean and
3 disinfected prior to each individual usage;

4 (4) Hot towels, when provided, must conform to rules for
5 linen as provided by the Department of Public Health and Social
6 Services;

7 (5) Electrical equipment must be UL approved; and

8 (6) Standard Code of Conduct of Massage Therapy
9 Profession.

10 **§122311. Advertisement.** It shall be unlawful to advertise
11 the practice of massage using the term massage or any other term
12 that implies a massage technique or method in any public or
13 private publication or communication which shall include any
14 signage on any building that advertises the practice of massage by
15 a person not licensed by the Board as a massage practitioner. Any
16 person who holds a license to practice as a massage practitioner in
17 this territory may use the title "licensed massage practitioner" and
18 the abbreviation "L.M.P.". No other persons may assume such
19 titles or use such abbreviation or any other word, letters, signs or
20 figures to indicate that the person using the title is a licensed
21 massage practitioner.

22 **§122312. Exclusions.** The requirements of this Article
23 shall *not* apply to:

24 (1) Any person practicing a health occupation in Guam,
25 while engaged in the licensed occupation;

1 (2) Any barber or cosmetologist licensed in Guam, while
2 engaged in the licensed occupation;

3 (3) Any athletic trainer/athletic coach while performing
4 his/her normal duties for a sports team or organized sports event;

5 (4) Any Massage Practitioner invited to Guam to
6 participate in an organized sports event, which has the sanction in
7 Guam, or a recognized institution within Guam while performing
8 massage therapy as a part of that event; or

9 (5) Any person who is locally recognized as a '*Suruhanu*'
10 or '*Suruhana*' and uses traditional healing methods.

11 **§122313. Violations and Penalties.** Any person, firm or
12 corporation violating any of the provisions of this Chapter shall be
13 deemed guilty of a misdemeanor and, upon conviction thereof,
14 shall be fined not less than Fifty Dollars (\$50.00), and not more
15 than One Thousand Dollars (\$1,000.00) for each offense, and for
16 the purposes of this Chapter, a separate offense shall be deemed to
17 be committed on each day during which a violation occurs or
18 continues. It is further unlawful for a person, firm or corporation
19 to permit an employed person to practice massage unless duly
20 licensed as provided herein.

21 **Section 122314. Reciprocity.** An applicant holding a license
22 in the U.S. or its territories may be granted a license if, in the
23 opinion of the Board the educational requirements are
24 substantially equivalent to Guam's. The applicant must

1 demonstrate to the satisfaction of the Board a working knowledge
2 of Guam law pertaining to the practice of massage.

3 **Section 123315. Grandfather Clause.** Any individual who
4 has been practicing the art of massage prior to the implementation
5 of this Act shall be grandfathered and allowed a license by the
6 Board; provided that the Board shall by examination determine
7 whether the applicant possess the minimum skill and knowledge
8 necessary to practice competently which shall include, but not
9 limited to anatomy, kinesiology, physiology, pathology, principles
10 of human behavior, massage theory and practice, hydrotherapy,
11 hygiene and first aid. ”

12 **Section 2.** The Board of Allied Health Examiners shall promptly
13 make all necessary preparations for the implementation of this Act,
14 including the preparation of application forms, and the promulgation of
15 any Rules and Regulations pursuant to the Administrative Adjudication
16 Law that the Board deems necessary in order to implement this Act.

17 **Section 3. Effective Date.** This Act shall become effective one (1)
18 year after enactment.

19 **Section 4. Severability.** *If* any provision of this Act or its
20 application to any person or circumstance is held invalid, the invalidity
21 does *not* affect other provisions or applications of this Act which can be
22 given effect without the invalid provision or application, and to this end
23 the provisions of this Act are severable.