

REGULAR CALENDAR

October 26, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 1429-FN-A,

AN ACT establishing licensure for massage

establishments. Having considered the same, report the

same: RECOMMENDED FOR FUTURE LEGISLATION.

Rep. Jaci Grote

FOR THE COMMITTEE

COMMITTEE REPORT

| | |
|-------------------|---|
| Committee: | Executive Departments and Administration |
| Bill Number: | HB 1429-FN-A |
| Title: | establishing licensure for massage establishments. |
| Date: | October 26, 2022 |
| Consent Calendar: | REGULAR |
| Recommendation: | RECOMMENDED FOR FUTURE LEGISLATION |

STATEMENT OF INTENT

This bill requires that massage establishments be registered with the Office of Professional Licensure (OPLC), allowing the agency to confirm that those performing the service are licensed and that the establishment is following proper statutes and rules for this business segment. The committee had concerns with interference with municipal departments and ordinances. During the subcommittee meeting with members of the committee and OPLC, it was determined that prioritizing local authority as part of the OPLC inspection should and could be included in the bill. The subcommittee's recommendation to consider for future legislation was adopted by the committee. The committee minority wanted only local regulation, with no independent OPLC authority.

Vote 8-5.

Rep. Jaci Grote
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Executive Departments and Administration

HB 1429-FN-A, establishing licensure for massage establishments. **RECOMMENDED FOR FUTURE LEGISLATION** .

Rep. Jaci Grote for Executive Departments and Administration. This bill requires that massage establishments be registered with the Office of Professional Licensure (OPLC), allowing the agency to confirm that those performing the service are licensed and that the establishment is following proper statutes and rules for this business segment. The committee had concerns with interference with municipal departments and ordinances. During the subcommittee meeting with members of the committee and OPLC, it was determined that prioritizing local authority as part of the OPLC inspection should and could be included in the bill. The subcommittee's recommendation to consider for future legislation was adopted by the committee. The committee minority wanted only local regulation, with no independent OPLC authority. **Vote 8-5.**

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

February 8, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 1429-FN-A,

AN ACT establishing licensure for massage

establishments. Having considered the same, report the

same with the recommendation that the bill be

REFERRED FOR INTERIM STUDY.

Rep. Stephen Pearson

FOR THE COMMITTEE

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

| | |
|-------------------|---|
| Committee: | Executive Departments and Administration |
| Bill Number: | HB 1429-FN-A |
| Title: | establishing licensure for massage establishments. |
| Date: | February 8, 2022 |
| Consent Calendar: | CONSENT |
| Recommendation: | REFER FOR INTERIM STUDY |

STATEMENT OF INTENT

The committee had concerns about the effectiveness of this bill in relationship to the intended goal of allowing State inspectors the ability to inspect these establishments for criminal activity and human trafficking concerns. The hope is that this issue can be looked at more as a matter of local enabling legislation to allow local communities the ability to conduct inspections of these establishments. There was also concern about the addition of an inspector position for a mater that is only affecting a few communities. These issues warrant that this legislation be studied further.

Vote 18-0.

Rep. Stephen Pearson
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 1429-FN-A, establishing licensure for massage establishments. **REFER FOR INTERIM STUDY.**

Rep. Stephen Pearson for Executive Departments and Administration. The committee had concerns about the effectiveness of this bill in relationship to the intended goal of allowing State inspectors the ability to inspect these establishments for criminal activity and human trafficking concerns. The hope is that this issue can be looked at more as a matter of local enabling legislation to allow local communities the ability to conduct inspections of these establishments. There was also concern about the addition of an inspector position for a mater that is only affecting a few communities. These issues warrant that this legislation be studied further. **Vote 18-0.**

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 1429-FN-A

BILL TITLE: establishing licensure for massage establishments.

DATE: September 21, 2022

LOB ROOM: 301 - 303

MOTION:

Interim Study (2nd yr) Recommended for Future Legislation

Moved by Rep. Grote

Seconded by Rep. P. Schmidt

Vote: 8-5

Respectfully submitted,

Rep John Sytek, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on *HB 1429*

BILL TITLE:

DATE: *9-21-22*

LOB ROOM: 302 - 304

MOTION:

Recommended for Future Legislation

Not Recommended for Future Legislation

Moved by Rep. *GROTE*
~~*GROTE*~~

Seconded by Rep. *SCHMIDT*

Vote: *8-5*

Respectfully submitted,

Rep. *[Signature]*
Committee Clerk



2022 SESSION

GROTE
SCHMIDT

Executive Departments and Administration

Bill #: ^{HB} 1429 Motion: RECOMMENDED! AM #: _____ Exec Session Date: 9-21-22

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|-----------------------------------|-------------|-------------|-----------|
| McGuire, Carol M. Chairman | | X | |
| Rhodes, Jennifer M. Vice Chairman | X | | |
| Sytek, John Clerk | | X | |
| Pearson, Stephen C. | X | | |
| Yakubovich, Michael | | | |
| Lekas, Tony | | X | |
| Alliegro, Mark C. | | X | |
| Bailey, Glenn | | X | |
| Lanzara, Tom E. | X | | |
| Santonastaso, Matthew | | | |
| Goley, Jeffrey P. | | | |
| Schuett, Dianne E. | X | | |
| Judy, Jean L. | | | |
| Schmidt, Peter B. | X | | |
| Marsh, William M. | | | |
| Fellows, Sallie D. | X | | |
| Fontneau, Timothy J. | | | |
| Grote, Jaci L. | X | | |
| O'Brien, Michael B. | X | | |
| TOTAL VOTE: | | | |

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 1429-FN-A

BILL TITLE: establishing licensure for massage establishments.

DATE: February 7, 2022

LOB ROOM: 302-304

MOTIONS: REFER FOR INTERIM STUDY

Moved by Rep. S. Pearson

Seconded by Rep. Grote

Vote: 18-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John Sytek, Clerk

HOUSE COMMITTEE ON ED + A

EXECUTIVE SESSION ON HB 1429

BILL TITLE: ESTABLISHING LICENSURE FOR MASSAGE ESTABLISHMENTS

DATE: 2-7-22

LOB ROOM: 302

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Interim Study (2nd year)
- Adoption of Amendment # _____ (if offered)

Moved by Rep. PEARSON Seconded by Rep. GROTE Vote: 18-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Interim Study (2nd year)
- Adoption of Amendment # _____ (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Interim Study (2nd year)
- Adoption of Amendment # _____ (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Interim Study (2nd year)
- Adoption of Amendment # _____ (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR? Yes No

Minority Report? Yes No If yes, author Rep.: _____ Motion: _____

Respectfully submitted, Rep. Jhytik, Clerk



1/22/2021 9:57:48 AM
Roll Call Committee Registers
Report

2021 SESSION

Executive Departments and Administration

PEARSON / GROTE

Bill #: HB 1429 Motion: INTERIM STUDY AM #: _____ Exec Session Date: 2-7-22

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|---|-------------|-------------|-----------|
| McGuire, Carol M. Chairman | X | | |
| Roy, Terry Vice Chairman <i>RHODES</i> | X | | |
| Sytek, John Clerk | X | | |
| Pearson, Stephen C. | X | | |
| Yakubovich, Michael | X | | |
| Lekas, Tony | X | | |
| Alliegro, Mark C. | X | | |
| Bailey, Glenn | X | | |
| Lanzara, Tom E. | X | | |
| Santonastaso, Matthew | X | | |
| Goley, Jeffrey P. | X | | |
| Schuett, Dianne E. | X | | |
| Jeudy, Jean L. | X | | |
| Schmidt, Peter B. | | | |
| Schultz, Kristina M. <i>MARSH</i> | X | | |
| Fellows, Sallie D. | X | | |
| Fontneau, Timothy J. | X | | |
| Grote, Jaci L. | X | | |
| O'Brien, Michael B. | X | | |
| TOTAL VOTE: | | | |

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION on HB 1429-FN-A

BILL TITLE: establishing licensure for massage establishments.

DATE: June 15, 2022

Subcommittee Members: Reps. Grote, Rhodes, Bailey and P. Schmidt

Comments and Recommendations: Focus on health and public safety rather than law enforcement. Address hygiene vs. "crime" in the bill. The bill would confirm presence of licensed therapists.

MOTION:

Interim Study (2nd yr) Recommended for Future Legislation

Moved by Rep. P. Schmidt

Seconded by Rep. Rhodes

Vote: 4-0

Respectfully submitted,

Rep. Jaci Grote
Subcommittee Chairman

SUBCOMMITTEE WORK SESSION on HB 1429-FN-A

BILL TITLE: establishing licensure for massage establishments.

DATE: June 15, 2022

Subcommittee Members: Reps. Grote, Rhodes, Goley, P. Schmidt and Lanzara
Bailey

Comments and Recommendations:

Focus on health and public safety rather than law enforcement.
Address hygiene vs "crime" in the bill. The bill would
confirm presence of licensed therapists.

MOTION:

Recommended for Future Legislation

Not Recommended for Future Legislation

Moved by Rep. Schmidt Seconded by Rep. Rhodes Vote: 4-0

Respectfully submitted,

Rep. [Signature]
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION on HB 1429-FN-A

BILL TITLE: establishing licensure for massage establishments.

DATE: January 24, 2022

Subcommittee Members: Reps. Sytek, Jeudy, McGuire, P. Schmidt and Grote

Comments and Recommendations: The subcommittee discussed the bill and agreed in principal that there should be a local option to regulate/inspect massage establishments and to provide ability for DPLC to inspect/check the license of a practitioner at place of employment.

Respectfully submitted,

Rep. John Sytek
Subcommittee Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION on HB 1429-FN-A

BILL TITLE: establishing licensure for massage establishments.

DATE: 1-24-22

Subcommittee Members: Reps. Sytek, Fontneau, Jeudy, O'Brien and McGuire

ALSO ATTENDING: GROTE, SCHMIDT

Comments and Recommendations:

THE SUBCOMMITTEE DISCUSSED THE BILL AND AGREED IN PRINCIPLE THAT THERE SHOULD BE A LOCAL OPTION TO REGULATE/INSPECT MASSAGE ESTABL. AND TO PROVIDE ABILITY FOR DPLC TO INSPECT/CHECK THE LICENSE OF A PRACTITIONER AT PLACE OF EMPLOYMENT.

NO MOTIONS:

OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

Respectfully submitted,

Rep. 
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 1429-FN-A

BILL TITLE: establishing licensure for massage establishments.

DATE: January 18, 2022

LOB ROOM: 302-304 **Time Public Hearing Called to Order:** 2:10 p.m.

Time Adjourned: 2:45 p.m.

Committee Members: Reps. McGuire, Rhodes, Sytek, S. Pearson, Yakubovich, T. Lekas, Alliegro, Bailey, Lanzara, Goley, Schuett, Jeudy, P. Schmidt, Marsh, Fellows, Grote and O'Brien

Bill Sponsors:

Rep. Grote
Rep. Wolf

Rep. K. Murray
Rep. Marsh

Rep. Bartlett
Rep. Simpson

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Grote introduced the bill and spoke in support. She said that it had previously passed the House but died in the Senate during the COVID pandemic. She said that this bill will enable OPLC to help these businesses do their work in a safe manner.

Michael Porter, Investigative Bureau Chief of OPLC, spoke in favor. He said that this would enable OPLC to proactively make sure health and safety practices are in place by allowing unannounced right of entry. The licensing of an establishment would mean that the inspectors would have the right of entry to check that the personnel are properly licensed. He made particular reference to those practicing who are not licensed at all. He described a recent incident with unlicensed personnel. He described the owner's due process rights and working with the owner to get back in operation. He described iworking with law enforcement and said that there are no new restrictions in this bill. Most boards have the right to report out to law enforcement. He said OPLC is interested in education. He answered Committee questions concerning what are minor infractions, why this business was being singled out.

Beverly Donovan, Derry Economic Development Director, spoke in favor. She described the situation concerning of non-therapeutic massages. She cited high turnover of ownership, people living in retail establishments. She said that Derry needs state help.

Bob Mackey, Derry Code Enforcement Office, described the procedure for opening a business. There is an initial life safety inspection but nothing thereafter. He described some of the squalid conditions he has discovered. He took Committee questions.

Respectfully submitted,

Rep. Sytek

State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

ENFORCEMENT DIVISION

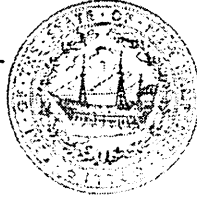
7 Eagle Square, Suite 100

Concord, N.H. 03301-2412

Telephone 603-271-2152 · Fax 603-271-6702

Lindsey B. Courtney
Executive Director

Jessica F. Kallipolites
Director



January 18, 2022

Honorable Committee Members
House Executive Departments
And Administration Committee
107 North Main Street
Concord, NH 03301

Re: HB- 1429 Establishing Licensure for Massage Establishments

Honorable Chairwoman McGuire and Honorable Committee Members;

The Office of Professional Licensure and Certification (“OPLC”) supports HB-1429 establishing licensure for massage establishments. Currently, Massage Therapists (“Therapists”) are centrally licensed through the OPLC. While Therapists are licensed, the establishments they work in are not. The proposed legislation defines establishment as the place where the profession of massage is practiced. “Establishment” shall include any building in which 2 or more massage therapists work for the same employer.

This legislation, as presently worded, authorizes an inspector to be proactive in ensuring massage establishments operate within minimum health and safety standards, thereby protecting the public health, safety, and welfare, while also ensuring consumer confidence in the profession overall. One area of concern is unlicensed practice. Under current statutes and administrative rules governing Therapists, the OPLC Division of Enforcement (“Enforcement”) relies on consumer complaints when there is a concern over unlicensed or unsanitary practice. Often times consumers are unaware whether a Therapist is licensed or not. Passage of this legislation allows OPLC inspectors to proactively inspect massage establishments to ensure Therapists engaging in the profession are in fact licensed and operating withing the health and safety standards in place for the protection of the public health, safety, and welfare.

Currently, there are several professions authorizing licensure and inspections of establishments or job sites. One such profession is Barbering, Cosmetology, and Esthetics. Pursuant to RSA Chapter 313-A, barbershops, hair, esthetic, and nail salons or shops (establishments) are licensed. Prior to becoming licensed, the establishments are inspected prior to opening to ensure minimum health and safety standards are met. Once operating post-inspection, RSA Chapter 313-A allows inspectors to conduct at least 2 random inspections per year of any shop or establishment. Inspectors randomly inspect these establishments and work with establishment and shop owners, as well as licensees working in the establishments, when health and/or safety violations are identified. The primary goal of inspectors in the field is educating the establishment owner and professional licensees of violations and provide corrective measures.

While inspectors do issue violation points, the primary objective is to ensure public health, safety and welfare are protected proactively. During these routine inspections, inspectors have identified numerous establishments operating in proper order with minimal violations. In other inspections, inspectors have identified serious health and safety concerns including but not limited to dirty metal implements, unsanitary foot spas, improperly sterilized metal implements, the use of illegal glue products banned in New Hampshire before consumers were harmed. Additionally, and most importantly, inspectors also identified establishments who employed unlicensed workers, and in one instance, every employee in the establishment was unlicensed. NH RSA Chapter 313-A not only authorizes administrative and criminal prosecution for those engaging in unlicensed activity, but statues also authorize prosecution for establishment owners who knowingly allow unlicensed activity to occur.

Inspections that turn up unlicensed activity have a number of options available including but not limited to an emergency suspension of establishment licensure until health and safety standards are corrected and individuals engaged in the profession are properly licensed. The importance of licensure is the licensee demonstrates at the very least, an understanding of the minimum health and safety standards required of the profession. Recently, the Board of Barbering, Cosmetology, and Esthetics emergently suspended the establishment license of establishments demonstrating serious health and safety violation and/or unlicensed workers. Through the process of the emergency suspensions, establishment owners were provided with due process protections. These protections include a mandatory hearing within 10 working days of the emergency suspension. In several cases, the emergency suspension of operations due to health and safety violations and unlicensed practice, establishment owners worked with the Board and Division of Enforcement to correct the violations, achieve licensure, and reopen. These matters involved imminent danger to the public health, safety, and welfare, and all of these matters were resolved with settlement agreements, and in some instances criminal prosecution, but more important, each establishment was able to reopen upon correction of the serious health and safety violations and unlicensed practice.

Currently massage establishments are not regulated similarly. Under the current statutory language, the Board is a reactionary Board in as much as they must rely on a complaint against a Therapist, which often times means potential harm to a consumer has already occurred. Under the language of HB-1429 massage establishment licensure will allow the Board to deploy inspectors into the field proactively for the protection of the public health, safety, and welfare.

We do wish to briefly address the law enforcement aspects of this statute. Currently, many Boards and Commissions are authorized to report out to law enforcement agencies and/or health licensing agencies when matters arise concerning the protection of the public health, safety, and welfare. This would be addressed in administrative rule writing upon passage of this legislation.

Lastly, OPLC understands there are many establishments and licensees who operate within the bounds of the law. In fact, we believe the majority of establishments and licensees are following the statutes and rules governing their professions. Unfortunately, there are some who are unscrupulous and do not follow the statutes and administrative rules governing the profession and pose an imminent danger to the public health, safety, and welfare. Those engaging in unsavory tactics erode consumer confidence which ultimately impacts consumers, but also impacts those establishments and licensees who work hard to ensure trust and credibility for the profession.

We will be providing in-person testimony and are available after the public hearing for any members of the committee who may have additional questions or concerns.

Sincerely,

/s/ Michael Porter

Michael Porter
Investigations Bureau Chief
OPLC Division of Enforcement

HB 1429-FN-A - AS INTRODUCED

2022 SESSION

22-2236

11/08

HOUSE BILL **1429-FN-A**

AN ACT establishing licensure for massage establishments.

SPONSORS: Rep. Grote, Rock. 24; Rep. K. Murray, Rock. 24; Rep. Bartlett, Merr. 19; Rep. Wolf, Merr. 5; Rep. Marsh, Carr. 8; Rep. Simpson, Rock. 36

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill establishes licensure for massage establishments.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT establishing licensure for massage establishments.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Regulation of Massage Therapists and Massage Establishments. Amend RSA 328-B:1 to read
2 as follows:

3 328-B:1 Regulation of Massage Therapists and Massage Establishments. The general court, to
4 protect the health, safety, and welfare of the people of the state of New Hampshire, establishes a
5 regulatory program for massage therapists, including establishing basic qualifications for licensure
6 of massage therapists *and massage establishments*.

7 2 New Paragraph; Massage Therapy and Massage Establishments; Definitions; Establishment.
8 Amend RSA 328-B:2 by inserting after paragraph III the following new paragraph:

9 III-a. "Establishment" means the place where the profession of massage is practiced.
10 "Establishment" shall include any building in which 2 or more massage therapists work for the same
11 employer.

12 3 New Paragraph; Massage Therapy and Establishments; Definitions; Sole Proprietor. Amend
13 RSA 328-B:2 by inserting after paragraph VIII the following new paragraph:

14 IX. "Sole proprietor" means any person who owns a business by himself or herself, and who
15 does not employ any additional employees.

16 4 New Paragraphs; Massage Therapists and Massage Establishments; Prohibited Acts. Amend
17 RSA 328-B:3 by inserting after paragraph VI the following new paragraphs:

18 VII. Operate an establishment without an establishment license.

19 VIII. Operate an establishment unless such establishment is, at all times, under the direct
20 supervision and management of a professional licensed pursuant to this chapter.

21 5 New Paragraph; Massage Therapists and Massage Establishments; Rulemaking. Amend RSA
22 328-B:4 by inserting after paragraph VII the following new paragraph:

23 VIII. Pursuant to RSA 541-A, adopt rules relative to massage establishments, including:

24 (a) The issuance, suspension, revocation, renewal, and denial of massage establishment
25 licenses.

26 (b) Procedures for holding hearings and conducting investigations pursuant to
27 paragraph II concerning massage establishments.

28 (c) Conditions, requirements, and standards for operation under an establishment
29 license, including health and safety standards.

30 (d) Standards and procedures for inspections of establishments, including inspections
31 conducted as part of the initial licensing process.

1 (e) Application forms and procedures to open, close, relocate, or renew an establishment.

2 (f) Requiring public display of licensure, and secure record keeping procedures.

3 (g) Procedures for disciplinary action, including cease and desist orders, suspension,
4 limitation, or revocation of establishment licensure.

5 (h) Requiring massage establishments to obtain certificates of good standing from the
6 secretary of state.

7 (i) Qualifications for exemption of schools, health facilities, or others from massage
8 establishment license requirements in RSA 329-B:14.

9 (j) Required documentation to verify sole proprietor or independent contractor
10 designation.

11 6 New Paragraph; Massage Therapists and Massage Establishments; License Issuance. Amend
12 RSA 328-B:6 by inserting after paragraph I the following new paragraph:

13 I-a. Initial licenses shall be valid until the next succeeding expiration date pursuant to RSA
14 328-B:7.

15 7 Massage Therapists and Massage Establishments; License Renewal. Amend RSA 328-B:6 and
16 328-B:7 to read as follows:

17 328-B:7 License Renewal. All licenses issued pursuant to this chapter shall expire on the last
18 day of the birth month of the licensee in the even-numbered year, upon approval of the executive
19 director of the renewal application and submission of the required \$110 renewal fee *for massage*
20 *therapists or the required fee as determined in rules adopted by the executive director for*
21 *massage establishments.*

22 8 Massage Establishments; License Revocation. Amend RSA 328-B:8, IV to read as follows:

23 IV. Is convicted of any crime involving violence inflicted on a person or threatened against a
24 person, or any sexually-related crime, *including prostitution*, or a crime involving moral
25 turpitude, *or human trafficking.*

26 9 New Paragraph; Massage Therapists and Massage Establishments; Exemptions. Amend RSA
27 328-B:10 by inserting after paragraph III the following new paragraph:

28 IV. Nothing in this chapter shall be construed to require a residential care or health facility
29 licensed pursuant to RSA 151:2 to obtain an establishment license pursuant to this chapter.

30 10 New Sections; Massage Establishment Licensure. Amend RSA 328-B by inserting after
31 section 13 the following new sections:

32 328-B:14 Massage Establishment Licensure.

33 I. It shall be a misdemeanor for any person, as owner, manager, or agent, to open, establish,
34 conduct, or maintain an establishment without first having obtained an establishment license from
35 the board. Any New Hampshire licensed massage therapist may obtain an establishment license
36 upon application and payment of the initial licensure fee provided that the establishment meets all

1 requirements established in the rules of the board. Massage establishment licenses granted
2 pursuant to this chapter shall be conspicuously posted within the establishment.

3 II. In addition to licenses issued under paragraph I, the board may issue an establishment
4 license to an applicant who does not hold a personal massage therapist license provided that the
5 owner employs a licensed massage therapist as manager. Nothing in this paragraph shall authorize
6 such an owner to personally engage in massage therapy.

7 III. This section shall not apply to a sole proprietor or to independent contractors. If a sole
8 proprietor or independent contractor is providing services without a prior appointment, the sole
9 proprietor or independent contractor shall obtain an establishment license.

10 IV. Only establishments issued a license by the executive director shall use the terms
11 "licensed massage establishment" or "massage establishment."

12 V. The license fees for establishments shall be determined in rules adopted by the executive
13 director under RSA 541-A. Establishments that are licensed as an establishment, shop, or facility
14 under one of the occupations or professions regulated by the office of professional licensure and
15 certification in RSA 310-A:1-a shall pay a reduced fee for a massage establishment license.

16 VI. No town or city shall adopt or enforce a bylaw or ordinance for the licensure of massage
17 establishments, provided that any license issued by a municipality prior to the effective date of this
18 section shall remain valid until the stated expiration of such license.

19 328-B:15 Inspectors.

20 I. The office of professional licensure and certification shall employ inspectors and authorize
21 them to enter and inspect any establishment licensed pursuant to this chapter for the purpose of
22 ascertaining compliance with this chapter and any administrative rules adopted pursuant to RSA
23 328-B:4. Each inspector shall file a report of inspection findings and results with the executive
24 director after each inspection conducted. Salaries and necessary expenses shall be charged against
25 the office of professional licensure and certification fund.

26 II. The executive director shall adopt rules under RSA 541-A relative to the qualifications of
27 an inspector under this section.

28 11 Office of Professional Licensure and Certification; New Classified Position; Appropriation.

29 I. One program inspector, labor grade 21, is hereby established as a classified position in the
30 office of professional licensure and certification.

31 II. The amount necessary to pay for the position established in paragraph I, which shall be
32 in addition to any sums appropriated in 2021, 90:1, 01-21-21-216010-3302, for the division of
33 enforcement, is hereby appropriated to the executive director of the office of professional licensure
34 and certification. Salaries and necessary expenses shall be a charge against the office of professional
35 licensure and certification fund established in RSA 310-A:1-e.

36 12 Effective Date. This act shall take effect 60 days after its passage.

**HB 1429-FN-A- FISCAL NOTE
AS INTRODUCED**

AN ACT establishing licensure for massage establishments.

FISCAL IMPACT: State County Local None

| STATE: | Estimated Increase / (Decrease) | | | |
|------------------------|---|----------------|----------------|----------------|
| | FY 2022 | FY 2023 | FY 2024 | FY 2025 |
| Appropriation | \$150,000 | \$7,500 | \$165,300 | \$8,400 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable | Indeterminable | Indeterminable |
| Funding Source: | <input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Office of Professional Licensure and Certification Agency Budget | | | |

COUNTY:

| | | | | |
|---------------------|-----|----------------|----------------|----------------|
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | Indeterminable | Indeterminable | Indeterminable |

METHODOLOGY:

This bill establishes licensure for massage establishments and establishes a classified position in the office of professional licensure and certification for the purpose of inspecting massage establishments. It also establishes penalties for unlicensed massage establishments.

The Office of Professional Licensure and Certification (OPLC) assumes the license fee for massage establishments would be \$300 for two years. The OPLC assumes 500 massage establishments would need to be licensed in year 1 and that this number would increase by 5% each year thereafter. Based on these assumption OPLC assumes the increase in revenue will be as follows:

- FY 2022: \$150,000 (500 licensees X \$300) for biennium
- FY 2023: \$7,500 (25 (new licenses) X \$300)
- FY 2024: \$165,300 (551 (new plus renewal) X \$300) for biennium
- FY 2025: \$8,400 (28 (new licenses) X \$300)

OPLC estimates the cost for the new program inspector, Labor Grade 21, step one, position with a start date of 7/1/2022 would be \$74,000 in FY 2023, \$74,000 in FY 2024 and \$81,000 in FY 2025.

This bill contains penalties that may have an impact on the New Hampshire judicial system. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

| Judicial Council | FY 2022 | FY 2023 |
|---|--|--|
| Public Defender Program | Has contract with State to provide services. | Has contract with State to provide services. |
| Contract Attorney – Misdemeanor | \$300/Case | \$300/Case |
| Assigned Counsel – Misdemeanor | \$60/Hour up to \$1,400 | \$60/Hour up to \$1,400 |
| It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments. | | |
| NH Association of Counties | FY 2022 | FY 2023 |
| County Prosecution Costs | Indeterminable | Indeterminable |

This bill contains penalties that will have an indeterminable impact on the Judicial Branch system. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department may be able to absorb the cost within its existing budget. However, if the Department needs to prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

It is assumed the State and County expenditures would not occur until FY 2023 and forward.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification, Judicial Branch, Department of Justice,
Judicial Council, and New Hampshire Association of Counties