A BILL

To amend sections 503.40, 503.41, 503.42, 503.43, 503.44, 503.47, 503.48, 503.49, 503.50, 715.61, 2927.17, 4731.04, 4731.15, and 4731.41; to enact section 503.411; and to repeal sections 503.45 and 503.46 of the Revised Code to make changes to the massage therapy licensing law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 503.40, 503.41, 503.42, 503.43, 503.44, 503.47, 503.48, 503.49, 503.50, 715.61, 2927.17, 4731.04, 4731.15, and 4731.41 be amended and section 503.411 of the Revised Code be enacted to read as follows:

Sec. 503.40. As used in sections 503.40 to 503.49 of the Revised Code:

(A) "Massage therapy" means any method of exerting pressure on, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft tissue of the body with the hands, or with the aid of any mechanical or electrical apparatus or appliance has the same meaning as in section 4731.04 of the Revised Code.

(B) "Massage establishment" means any fixed place of
business where a person offers massage therapy is provided:

(1) In exchange for anything of value; or

(2) In connection with the provision of another legitimate service.

(C) "Masseur" or "masseuse"—"Massage therapist" means any individual person who performs massages at a massage establishment. massage therapy.

(D) "Sexual or genital area" includes the genitalia, pubic area, anus, perineum of any person, and the breasts of a female. "Registration" means to provide information to the board of township trustees to indicate the location of the establishment, the names of individuals employed there, and evidence of current state licensure or student status of anyone providing massage therapy at the establishment as provided in division (A) of section 503.411 of the Revised Code.

Sec. 503.41. (A) A board of township trustees, by resolution, may regulate and require the registration of massage establishments and their employees within the unincorporated territory of the township and may require the registration of persons performing massage therapy at the massage establishments. In accordance with sections 503.40 to 503.49 of the Revised Code, for that purpose those purposes, the board, by a majority vote of all members, may adopt, amend, administer, and enforce such establishment regulations and registration requirements within the unincorporated territory of the township.

(B) A board may adopt establishment regulations, registration requirements, and amendments under this section
only after public hearing at not fewer than two regular sessions of the board. The board shall cause to be published in a newspaper of general circulation in the township, or as provided in section 7.16 of the Revised Code, notice of the public hearings, including the time, date, and place, once a week for two weeks immediately preceding the hearings. The board shall make available proposed establishment regulations, registration requirements, or amendments to the public at the office of the board.

(C) Regulations Establishment regulations, registration requirements, or amendments adopted by the board are effective thirty days after the date of adoption unless, within thirty days after the adoption of the regulations, requirements, or amendments, the township fiscal officer receives a petition, signed by a number of qualified electors residing in the unincorporated area of the township equal to not less than ten per cent of the total vote cast for all candidates for governor in the area at the most recent general election at which a governor was elected, requesting the board to submit the regulations, requirements, or amendments to the electors of the area for approval or rejection at the next primary or general election occurring at least ninety days after the board receives the petition.

No establishment regulation, registration requirement, or amendment for which the referendum vote has been requested is effective unless a majority of the votes cast on the issue is in favor of the regulation, requirement, or amendment. Upon certification by the board of elections that a majority of the votes cast on the issue was in favor of the regulation, requirement, or amendment, the regulation, requirement, or amendment takes immediate effect.
(D) The board shall make available establishment and registration requirements it adopts or amends to the public at the office of the board and shall cause to be published once a notice of the availability of the regulations and requirements in a newspaper of general circulation in the township within ten days after their adoption or amendment.

(E) Nothing in sections 503.40 to 503.49 of the Revised Code shall be construed to allow a board of township trustees to license any massage therapist or otherwise regulate the practice of any limited branch of medicine specified in section 4731.15 of the Revised Code or the practice of providing therapeutic massage by a licensed physician, a licensed podiatrist, a licensed chiropractor, a licensed podiatrist, a licensed nurse, or any other licensed health professional. As used in this division, "licensed" means licensed, certified, or registered to practice in this state.

Sec. 503.411. If a board of township trustees has adopted a resolution under section 503.41 of the Revised Code to regulate massage establishments, all of the following apply:

(A) The massage establishment regulations shall include a requirement that all massage therapy performed in a massage establishment be performed by a person who meets one or more of the following conditions and that does not exclude any such person:

(1) Is licensed by the state cosmetology and barber board, or its predecessors or successors, and provides massage therapy as a portion of, and incidental to, barber services in accordance with Chapter 4709. of the Revised Code or cosmetology services in accordance with Chapter 4713. of the Revised Code;
(2) Is licensed by the board of nursing, or its predecessors or successors, and provides massage therapy as a portion of, and incidental to, nursing services in accordance with Chapter 4723. of the Revised Code;

(3) Is licensed by the state medical board, or its predecessors or successors, and provides massage therapy as a portion of, and incidental to, medical services in accordance with Chapter 4730. or 4731. of the Revised Code or acupuncture or oriental medicine in accordance with Chapter 4762. of the Revised Code;

(4) Is licensed by the state chiropractic board, or its predecessors or successors, and provides massage therapy as a portion of, and incidental to, chiropractic services in accordance with Chapter 4734. of the Revised Code;

(5) Is licensed by the state medical board, or its predecessors or successors, as a massage therapist in accordance with Chapter 4731. of the Revised Code;

(6) Is licensed by the Ohio occupational therapy, physical therapy, and athletic trainers board, or its predecessors or successors, and provides massage therapy as a portion of, and incidental to, services provided as an occupational therapist, physical therapist, or athletic trainer in accordance with Chapter 4755. of the Revised Code;

(7) Is enrolled and regularly and actively participating in a program of study to achieve the training necessary to obtain the massage therapist license specified in division (A) (5) of this section and the program of study is in good standing as determined by the state medical board.

(B) No person shall knowingly act as a massage therapist
for a massage establishment located in the unincorporated area
of the township without first having obtained a license from a
board specified in division (A) of this section or without being
a student as provided in division (A)(7) of this section.

(C) The massage establishment regulations may include any
of the following:

(1) A requirement that the massage establishment fully
comply with any applicable zoning resolution and amendments to
the resolution that are adopted by the board under Chapter 519,
of the Revised Code;

(2) Designated hours as prohibited hours of operation;

(3) The prohibitions set forth in division (B) of section
503.42 of the Revised Code;

(4) Any other regulation considered by the board to be
necessary for the health, safety, and welfare of the township
residents, subject to division (E) of section 503.41 of the
Revised Code.

Sec. 503.42. If a board of township trustees has adopted a
resolution under section 503.41 of the Revised Code that
includes a permit requirement to operate a massage
establishment:

(A) No person shall engage in, conduct or carry on, or
permit to be engaged in, conducted or carried on in the
unincorporated areas of the township, the operation of operate a
massage establishment in the unincorporated areas of a township
without first having obtained a permit from the board of
township trustees as provided in section 503.43 of the Revised
Code.
(B) No individual shall act as a masseur or masseuse for a massage establishment located in the unincorporated areas of the township without first having obtained a license from the board of township trustees as provided in section 503.45 of the Revised Code.

(C) No owner or operator of a massage establishment located in the unincorporated areas of the township shall knowingly do any of the following:

1. Employ an unlicensed masseur or masseuse as a massage therapist a person who does not meet one of the criteria listed in division (A) of section 503.411 of the Revised Code;

2. Refuse to allow appropriate state or local authorities, including police officers, access to the massage establishment for any health or safety inspection conducted pursuant to a massage establishment regulation or massage therapist registration requirement adopted by the township under section 503.41 of the Revised Code;

3. Operate during the hours designated as prohibited hours of operation by the board of township trustees;

4. Employ any person under the age of eighteen.

(D) No person employed in a massage establishment located in the unincorporated area of the township shall knowingly do any of the following in the performance of duties at the massage establishment:

1. Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the sexual or genital area of any other person;

2. Perform, offer, or agree to perform any act which
would require the touching of the sexual or genital area of any other person;

(3) Touch, offer, or agree to touch the sexual or genital area of any other person with any mechanical or electrical apparatus or appliance;

(4) Wear unclean clothing, no clothing, transparent clothing, or clothing that otherwise reveals the sexual or genital areas of the masseur or masseuse;

(5) Uncover or allow the sexual or genital area of any other person to be uncovered while providing massages.

(E) No licensed masseur or masseuse shall accept or continue employment at a massage establishment that does not have a current, valid permit issued by the board of township trustees.

Sec. 503.43. If a board of township trustees has adopted a resolution under section 503.41 of the Revised Code that includes a permit requirement to operate a massage establishment, the application for a permit to operate a massage establishment shall be made to the board and shall include the following:

(A) An initial, nonrefundable filing fee of two hundred fifty dollars and an annual nonrefundable renewal fee of one hundred twenty-five dollars;

(B) A health and safety report of an inspection of the premises performed within thirty days of the application to determine compliance with applicable health and safety codes, which inspection appropriate state or local authorities acting pursuant to an agreement with the board shall perform;
(C) The full name and address of any person applying for a permit, including any partner or limited partner of a partnership applicant, any officer or director of a corporate applicant, and any stock holder holding more than two per cent of the stock of a corporate applicant having less than a total of fifty employees or any stock holder holding more than twenty-five per cent of the stock of a corporate applicant having more than a total of fifty employees, the date of birth and social security number of each individual, and the federal identification number of any partnership or corporation;

(D) Authorization for an investigation into the criminal record of any person applying for a permit;

(E) Proof that the massage establishment fully complies with any applicable zoning resolution and amendments to the resolution adopted by the board under Chapter 519 of the Revised Code;

(F) Any other information determined by the board to be necessary for the health, safety, and welfare of the township residents, subject to division (E) of section 503.41 of the Revised Code.

A permit issued under this section to a massage establishment shall expire one year after the date of issuance, except that no massage establishment shall be required to discontinue business because of the failure of the board to act on a renewal application filed in a timely manner and pending before the board on the expiration date of the establishment's permit. Each permit shall contain the name of the applicant, the address of the massage establishment, and the expiration date of the permit.
Sec. 503.44. If a board of township trustees has adopted a resolution under section 503.41 of the Revised Code that includes a permit requirement to operate a massage establishment, it shall deny any application for a permit to operate a massage establishment or revoke, at any time, a previously issued permit, for any of the following reasons:

(A) Falsification of any of the information required for the application or failure to fully complete the application;

(B) Failure to cooperate with any required health or safety inspection;

(C) Any one of the persons named on the application is under the age of eighteen;

(D) Any one of the persons named on the application has been convicted of or pleaded guilty to any violation of Chapter 2907. of the Revised Code, or any violation of any municipal ordinance that is substantially equivalent to any offense contained in Chapter 2907. of the Revised Code, within five years preceding the application;

(E) Any masseur or masseuse employed at the licensed massage establishment has been convicted of or pleaded guilty to a violation of division (D) of section 503.42 of the Revised Code.

Sec. 503.47. If a board of township trustees has adopted a resolution under section 503.41 of the Revised Code that includes a permit requirement to operate a massage establishment, the regulations adopted for that purpose may require any of the following:

(A) A massage establishment to display its current permit in an area open to the public;
(B) Each massage establishment to display the
massager's license and massage therapists' certificates to practice
at all times in the areas of the massage establishment where the
licensee is providing massage; massage therapy is provided;

(C) Massage establishments to undergo periodic health and
safety inspections to determine continual compliance with
applicable health and safety codes;

(D) Massagers to undergo periodic physical examinations
performed by a licensed physician, a physician assistant, a
clinical nurse specialist, a certified nurse practitioner, or a
certified nurse-midwife certifying that the massager continues
to be free from communicable diseases;

(E) Any other requirement reasonably thought necessary by
the board for the health, safety, and welfare of township
residents, subject to division (E) of section 503.41 of the
Revised Code.

Sec. 503.48. A board of township trustees acting under
sections 503.40 to 503.49 of the Revised Code that has adopted a
resolution under section 503.41 of the Revised Code need not
hold any hearing in connection with an order denying or revoking
a permit to operate a massage establishment or masseur or
masseuse license. The board shall maintain a complete record of
each proceeding and shall notify the applicant in writing of its
order. Any person adversely affected by an order of the board
denying or revoking a permit to operate a massage establishment
or masseur or masseuse license may appeal from the order of the
board to the court of common pleas of the county in which the
township is located, the place of business of the permit holder
is located, or the person is a resident. The appeal shall be in
accordance with Chapter 2506. of the Revised Code.
Sec. 503.49. If a board of township trustees has adopted a resolution under section 503.41 of the Revised Code that includes a permit requirement to operate a massage establishment, the board shall deposit the fees collected by the township for massage establishment permits and masseur and masseuse licenses in the township general fund and first use the fees for the cost of administering and enforcing massage establishment regulations and massage therapist registration requirements adopted under section 503.41 of the Revised Code.

Sec. 503.50. (A) Whoever violates division (A) or (B) of section 503.42 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (B) of section 503.411 or division (C), (D), or (E) (B) of section 503.42 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 715.61. (A) As used in this section:

(1) "Massage establishment" has the same meaning as in section 503.40 of the Revised Code.

(2) "Massage therapy" has the same meaning as in section 4731.04 of the Revised Code.

(B) Any municipal corporation may regulate and license manufacturers and dealers in explosives, chattel mortgage and salary loan brokers, peddlers, public ballrooms, scavengers, intelligence officers, billiard rooms, bowling alleys, livery, sale, and boarding stables, dancing or riding academies or schools, race courses, ball grounds, street musicians, secondhand dealers, junk shops, and all persons engaged in the trade, business, or profession of manicuring, massage, or chiropody. In the granting of any license a municipal
corporation may charge such fees as the legislative authority
deems proper and expedient.

(C)(1) A municipal corporation may regulate and license massage establishments within its jurisdiction and may require the registration of persons performing massage therapy at the massage establishment.

(2) If a municipal corporation regulates massage establishments under this section, the regulations shall include a requirement that all massage therapy performed in the massage establishment be performed by a person described in division (A) of section 503.411 of the Revised Code.

Sec. 2927.17. (A) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage therapy, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.

(B) Whoever violates this section is guilty of unlawful advertising of massage, a misdemeanor of the first degree.

(C) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of divisions (A) and (B) of this section.

(D) As used in this section, "sexual:

(1) "Massage therapy" has the same meaning as in section 4731.04 of the Revised Code.

(2) "Sexual activity" has the same meaning as in section
Sec. 4731.04. As used in this chapter:

(A) "Cosmetic therapy" means the permanent removal of hair from the human body through the use of electric modalities approved by the state medical board for use in cosmetic therapy and may include the systematic friction, stroking, slapping, and kneading or tapping of the face, neck, scalp, or shoulders.

(B) "Fifth pathway training" means supervised clinical training obtained in the United States as a substitute for the internship or social service requirements of a foreign medical school.

(C) "Graduate medical education" means education received through any of the following:

(1) An internship, residency, or clinical fellowship program conducted in the United States and accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association;

(2) A clinical fellowship program that is not accredited as described in division (C)(1) of this section, but is conducted in the United States at an institution with a residency program that is accredited as described in that division and is in a clinical field the same as or related to the clinical field of the fellowship program;

(3) An internship program conducted in Canada and accredited by the committee on accreditation of preregistration physician training programs of the federation of provincial medical licensing authorities of Canada;
(4) A residency program conducted in Canada and accredited by either the royal college of physicians and surgeons of Canada or the college of family physicians of Canada.

(D) "Massage therapy" means the treatment of disorders of the human body by the manipulation of soft tissue through the systematic external application of massage techniques including touch, stroking, friction, vibration, percussion, kneading, stretching, compression, and joint movements within the normal physiologic range of motion; and adjunctive thereto, the external application of water, heat, cold, topical preparations, and mechanical devices.

"Massage therapy" does not include the manipulation of the reproductive organs, perineum, rectum, or anus unless the action is undertaken pursuant to a prescription issued by a person who is authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery or the action is performed under the supervision of such a physician.

Sec. 4731.15. (A) The state medical board also shall regulate the following limited branches of medicine: massage therapy and cosmetic therapy, and to the extent specified in section 4731.151 of the Revised Code, naprapathy and mechanotherapy. The board shall adopt rules governing the limited branches of medicine under its jurisdiction. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) A license to practice a limited branch of medicine issued by the state medical board is valid for a two-year period unless revoked or suspended and expires on the date that is two years after the date of issuance. The license may be renewed for additional two-year periods in accordance with division (C) of
(C) Both of the following apply with respect to the renewal of licenses to practice a limited branch of medicine:

(1) Each person seeking to renew a license to practice a limited branch of medicine shall apply for biennial renewal with the state medical board in a manner prescribed by the board. An applicant for renewal shall pay a biennial renewal fee of one hundred dollars.

(2) At least one month before a license expires, the board shall provide a renewal notice to the license holder.

(D) All persons who hold a license to practice a limited branch of medicine issued by the state medical board shall provide the board notice of any change of address. The notice shall be submitted to the board not later than thirty days after the change of address.

(E) A license to practice a limited branch of medicine shall be automatically suspended if the license holder fails to renew the license in accordance with division (C) of this section. Continued practice after the suspension of the license to practice shall be considered as practicing in violation of sections 4731.34 and 4731.41 of the Revised Code.

If a license has been suspended pursuant to this division for two years or less, it may be reinstated. The board shall reinstate the license upon an applicant's submission of a renewal application and payment of a reinstatement fee of one hundred twenty-five dollars. With regard to reinstatement of a license to practice cosmetic therapy, the applicant also shall submit with the application a certification that the number of hours of continuing education necessary to have a suspended
license reinstated have been completed, as specified in rules
the board shall adopt in accordance with Chapter 119. of the
Revised Code.

If a license has been suspended pursuant to this division
for more than two years, it may be restored. Subject to section
4731.222 of the Revised Code, the board may restore the license
upon an applicant's submission of a restoration application and
a restoration fee of one hundred fifty dollars and compliance
with sections 4776.01 to 4776.04 of the Revised Code. The board
shall not restore to an applicant a license to practice unless
the board, in its discretion, decides that the results of the
criminal records check do not make the applicant ineligible for
a license issued pursuant to section 4731.17 of the Revised
Code.

(F) The following persons are not required to hold a
certificate to practice massage therapy issued under this
chapter:

(1) A person authorized to practice under Chapter 4709.,
4713., 4723., 4730., 4734., 4755., or 4762. of the Revised Code,
provided that the person's scope of practice authorizes the
person to use massage techniques;

(2) An enrolled student practicing massage therapy as part
of a program of study at a school, college, or institution in
good standing as determined by the board in accordance with
division (A) of section 4731.16 of the Revised Code;

(3) A person holding a certificate to practice cosmetic
therapy issued under this chapter and whose practice may include
massage techniques.

Sec. 4731.41. (A) Except as provided in division (F) of
section 4731.15 of the Revised Code, no person shall practice medicine and surgery, or any of its branches, without the appropriate license or certificate from the state medical board to engage in the practice. No person shall advertise or claim to the public to be a practitioner of medicine and surgery, or any of its branches, without a license or certificate from the board. No person shall open or conduct an office or other place for such practice without a license or certificate from the board. No person shall conduct an office in the name of some person who has a license or certificate to practice medicine and surgery, or any of its branches. No person shall practice medicine and surgery, or any of its branches, after the person's license or certificate has been revoked, or, if suspended, during the time of such suspension.

A license or certificate signed by the secretary of the board to which is affixed the official seal of the board to the effect that it appears from the records of the board that no such license or certificate to practice medicine and surgery, or any of its branches, in this state has been issued to the person specified therein, or that a license or certificate to practice, if issued, has been revoked or suspended, shall be received as prima-facie evidence of the record of the board in any court or before any officer of the state.

(B) No license or certificate from the state medical board is required by a physician who comes into this state to practice medicine at a free-of-charge camp accredited by the SeriousFun children's network that specializes in providing therapeutic recreation, as defined in section 2305.231 of the Revised Code, for individuals with chronic illnesses as long as all of the following apply:
(1) The physician provides documentation to the medical director of the camp that the physician is licensed and in good standing to practice medicine in another state;

(2) The physician provides services only at the camp or in connection with camp events or camp activities that occur off the grounds of the camp;

(3) The physician receives no compensation for the services;

(4) The physician provides those services within this state for not more than thirty days per calendar year;

(5) The camp has a medical director who holds an unrestricted license to practice medicine issued in accordance with division (A) of this section.

(C) Division (A) of this section does not apply to a person who meets both of the following conditions:

(1) The person holds in good standing a valid license to practice medicine and surgery issued by another state.

(2) The person is practicing as a volunteer without remuneration during a charitable event that lasts not more than seven days.

When a person meets the conditions of this division, the person shall be deemed authorized by the state medical board, during the course of the charitable event, to practice medicine and surgery and shall be subject to the provisions of this chapter authorizing the board to take disciplinary action against a physician. Not less than seven calendar days before the first day of the charitable event, the person or the event's organizer shall notify the board of the person's intent to
practice medicine and surgery at the event. During the course of
the charitable event, the person's scope of practice is limited
to the procedures that a physician authorized under this chapter
to practice medicine and surgery is authorized to perform unless
the person's scope of practice in the other state is more
restrictive than in this state. If the latter is the case, the
person's scope of practice is limited to the procedures that a
physician in the other state may perform.

Section 2. That existing sections 503.40, 503.41, 503.42,
503.43, 503.44, 503.47, 503.48, 503.49, 503.50, 715.61, 2927.17,
4731.04, 4731.15, and 4731.41 of the Revised Code are hereby
repealed.

Section 3. That sections 503.45 and 503.46 of the Revised
Code are hereby repealed.