

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1388**

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**Introduced by Assembly Member Kehoe**

February 21, 2003

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An act to *amend Section 144 of, and to add Chapter 10.5 (commencing with Section 4600) to Division 2 of, the Business and Professions Code, relating to massage therapy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1388, as amended, Kehoe. Massage therapy and bodywork ~~registration~~ licensure.

Existing law provides for the regulation of various healing arts professionals, including physicians and surgeons, dentists, chiropractors, and acupuncturists. *Existing law requires applicants for licensure or registration by various boards, bureaus, commissions, and divisions to submit fingerprints for the purpose of conducting criminal history record checks.*

This bill would establish the Massage Therapy and Bodyworks Commission in the Department of Consumer Affairs to ~~register~~ license and regulate massage therapists and bodyworkers. The bill would specify the composition, powers, and duties of the commission. The bill would prohibit a person from using certain titles without being ~~registered~~ licensed, and would specify requirements for ~~registration~~ licensure, including requiring the submission of fingerprints to conduct a criminal history record check. The bill would also authorize a physical therapist to perform activities in their scope of practice even if the activities extend into the field of chiropractic science. *The bill would*

*authorize the commission to issue citations, administrative fines, and suspensions for a violation of the laws regulating massage therapists and bodyworkers. The bill would require the commission to submit fingerprint images from applicants for licensure to the Department of Justice. The bill would require the Department of Justice to provide certain criminal record information obtained from the fingerprint images to the commission and to charge a fee to cover the cost of processing this information. The bill would not prohibit an unregistered person exempt certain unlicensed persons from the prohibitions against engaging in the practice of massage therapy or bodywork.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. *Section 144 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 144. (a) Notwithstanding any other provision of law, an
- 4 agency designated in subdivision (b) shall require an applicant to
- 5 furnish to the agency a full set of fingerprints for purposes of
- 6 conducting criminal history record checks. Any agency
- 7 designated in subdivision (b) may obtain and receive, at its
- 8 discretion, criminal history information from the Department of
- 9 Justice and the United States Federal Bureau of Investigation.
- 10 (b) Subdivision (a) applies to the following boards or
- 11 committees:
- 12 (1) California Board of Accountancy.
- 13 (2) State Athletic Commission.
- 14 (3) Board of Behavioral Sciences.
- 15 (4) Court Reporters Board of California.
- 16 (5) State Board of Guide Dogs for the Blind.
- 17 (6) California State Board of Pharmacy.
- 18 (7) Board of Registered Nursing.
- 19 (8) Veterinary Medical Board.
- 20 (9) Registered Veterinary Technician Committee.
- 21 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 22 (11) Respiratory Care Board of California.
- 23 (12) Hearing Aid Dispensers Advisory Commission.
- 24 (13) Physical Therapy Board of California.



1 (14) Physician Assistant Committee of the Medical Board of  
2 California.

3 (15) Speech-Language Pathology and Audiology Board.

4 (16) Medical Board of California.

5 (17) State Board of Optometry.

6 (18) Acupuncture Board.

7 (19) Cemetery and Funeral Bureau.

8 (20) Bureau of Security and Investigative Services.

9 (21) Division of Investigation.

10 (22) Board of Psychology.

11 (23) The California Board of Occupational Therapy.

12 (24) *The Massage Therapy and Bodyworks Commission.*

13 SEC. 2. Chapter 10.5 (commencing with Section 4600) is  
14 added to Division 2 of the Business and Professions Code, to read:

15  
16 CHAPTER 10.5. MESSAGE THERAPISTS  
17

18 4600. The Massage Therapy and Bodyworks Commission is  
19 hereby created in the Department of Consumer Affairs.

20 (a) The commission shall consist of seven members, appointed  
21 for four-year terms, who are registered massage therapists or  
22 bodyworkers and who have engaged in the practice of massage  
23 therapy or bodywork for at least two years preceding appointment.

24 (b) The Governor shall appoint five members, the Senate Rules  
25 Committee shall appoint one member, and the Speaker of the  
26 Assembly shall appoint one member.

27 (c) *Three members of the commission shall represent the two*  
28 *massage therapy or bodywork professional organizations that*  
29 *have a code of ethics and requirements for continuing education*  
30 *and that combined represent the majority of California massage*  
31 *therapists and bodyworkers. Two members shall represent*  
32 *massage therapy or bodywork schools in California. The*  
33 *remaining two members shall represent the public served under*  
34 *this chapter.*

35 (d) The members of the board shall serve without  
36 compensation. A member shall be reimbursed for his or her actual  
37 expenses arising out of his or her service on the board.

38 4601. The commission may charge an application fee for  
39 registration of not more than \_\_\_\_ dollars (\$\_\_\_\_) and may charge  
40 a registration fee of not more than \_\_\_\_ dollars (\$\_\_\_\_).



1 4602. For purposes of this section, the following terms shall  
2 have the following meanings:

3 (a) “Bodyworker” means a person who engages in bodywork.

4 (b) “Massage therapist” means a person who engages in  
5 massage therapy.

6 (c) “Massage therapy” and “bodywork” mean the science and  
7 healing art that uses manual actions to palpate and manipulate the  
8 soft tissue of the human body, and includes determining whether  
9 massage therapy or bodywork is appropriate or contraindicated, or  
10 whether referral to another health care practitioner is appropriate.

11 4603. This chapter does not apply to a person holding a  
12 license, permit, registration or certification granted by this state or  
13 the federal government, who engages in the practice of massage  
14 therapy or bodywork within the scope of his or her license, permit,  
15 registration or certification, and who does not use a title or  
16 description that implies that he or she is registered under this  
17 chapter or represent himself or herself to be registered under this  
18 chapter.

19 *4603.1. The following practitioners are exempt from the*  
20 *provisions of this chapter.*

21 (a) *Reflexologists who restrict their manipulation of the soft*  
22 *tissues of the human body to the hands, feet, or ears and do not hold*  
23 *themselves out to be a massage therapist or do massage therapy.*

24 (b) *Practitioners of Feldenkrais Method, the Trager Approach,*  
25 *the Alexander Technique, and Body-Mind Centering practitioners*  
26 *who are engaged in a profession with established standards and*  
27 *ethics, if their services are not designated or implied to be massage*  
28 *or massage therapy.*

29 (c) *Practitioners of polarity and energy therapy who are*  
30 *engaged in a profession with established standards and ethics in*  
31 *which their services are not designated or implied to be massage*  
32 *or massage therapy.*

33 4604. A person shall not *perform services regulated by this*  
34 *chapter* or represent himself or herself to be registered under this  
35 chapter, nor shall he or she use any of the following titles, unless  
36 the person is registered as a massage therapist or bodyworker  
37 pursuant to this chapter:

38 (a) California registered massage therapist and bodyworker.

39 (b) California registered massage therapist.

40 (c) California registered bodyworker.



- 1 (d) Registered massage therapist and bodyworker.
- 2 (e) Registered massage therapist.
- 3 (f) Registered bodyworker.
- 4 (g) Any title or description that implies that he or she is
- 5 registered under this chapter.

6 4605. The commission may promulgate ~~rules~~ *regulations*

7 establishing requirements and standards for the practice of

8 massage therapy or bodywork by a registrant, including a code of

9 ethics that governs a registrant's practice of massage therapy or

10 bodywork.

11 4606. The massage therapy and bodywork commission may

12 promulgate ~~rules~~ *regulations* establishing the education, training,

13 and competency requirements that an applicant for registration

14 shall satisfy in order to be registered under this chapter.

15 (a) The ~~rules~~ *regulations* shall *at a minimum* do the following:

16 (1) Require an applicant to complete at least \_\_\_\_ classroom

17 hours of study in a course of instruction in massage therapy or

18 bodywork approved by the commission or at a school approved by

19 the commission.

20 (2) Require an applicant whose application is received after

21 March 1, ~~2004~~ 2005, to successfully complete ~~one~~ *any* of the

22 following:

23 (A) The national certification examination for therapeutic

24 massage and bodywork that is offered by the National

25 Certification Board for Therapeutic Massage and Bodywork.

26 (B) A substantially equivalent examination relating to the

27 practice of massage therapy or bodywork that is approved by the

28 National Commission of Certifying Agencies of the National

29 Organization for Competency Assurance.

30 (C) An examination relating to the practice of massage therapy

31 or bodywork that is developed, administered, or approved by the

32 commission. *The commission may authorize a massage therapy or*

33 *bodywork school approved by the commission to administer the*

34 *examination as part of the school's course work.*

35 (3) *Require an applicant to provide documented evidence of*

36 *completion of hours of massage therapy or bodywork experience.*

37 (4) *Allow for licensure in California if the applicant is*

38 *registered, licensed, or certified in another state that has*

39 *substantially similar requirements for massage therapy and*

40 *bodywork.*



1 (b) The ~~rules~~ *regulations* may require an applicant to pass an  
2 examination on state law and administrative rules governing  
3 massage therapy or bodywork.

4 (c) *The regulations may provide for multiple levels of massage*  
5 *therapy or bodywork services that may be provided under this*  
6 *chapter and may provide for different requirements for each level.*  
7 *The regulations shall recognize increased or specialized*  
8 *education, skill level, and experience.*

9 4607. (a) The commission shall ~~register~~ *license* as a massage  
10 therapist or bodyworker a person who does all of the following:

11 (1) Meets education and experience qualifications established  
12 by the commission.

13 (2) Passes an examination ~~given~~ *approved* by the commission.

14 (3) Pays the appropriate application and ~~registration~~ *a license*  
15 fees.

16 (b) The commission may deny ~~registration~~ *licensure* if any of  
17 the following apply:

18 (1) The person is currently under investigation for a matter  
19 related to his or her practice of massage therapy or bodywork in  
20 another state, territory, or country.

21 (2) The person has been disciplined for a matter related to his  
22 or her practice of massage therapy or bodywork in another state,  
23 territory, or country.

24 (3) The person is currently a party in pending litigation in  
25 which it is alleged that he or she is liable for damages for acts  
26 committed in the course of the practice of massage therapy or  
27 bodywork.

28 (4) The person has been found liable for damages for acts  
29 committed in the course of the practice of massage therapy or  
30 bodywork that evidence a lack of ability or fitness to practice  
31 massage therapy or bodywork.

32 (5) The person has been convicted of an offense the  
33 circumstances of which substantially relate to the practice of  
34 massage therapy or bodywork.

35 (c) (1) *The commission may issue a citation and an*  
36 *administrative fine of up to five thousand dollars (\$5,000) or*  
37 *suspend a license for any violation of this chapter or any*  
38 *regulation adopted under this chapter.*



1 (2) *The commission shall suspend or revoke a license for any*  
2 *knowing and intentional violation of this chapter or any regulation*  
3 *adopted under this chapter.*

4 4608. Upon application and payment of the appropriate  
5 application and registration fees, the commission may register as  
6 a massage therapist or bodyworker a person who has been issued  
7 a similar license, registration, or certificate by another state or  
8 territory of the United States or another country.

9 4609. ~~Nothing in this chapter prohibits a person who is not~~  
10 ~~registered pursuant to this chapter from practicing massage~~  
11 ~~therapy or bodywork. Except as provided in subdivision (b) of~~  
12 ~~Section 4607, the following persons shall be deemed to meet the~~  
13 ~~requirements of subdivision (a) of Section 4607 if an application~~  
14 ~~is received by April 1, 2005, and payment of fees required under~~  
15 ~~Section 4601 are made:~~

16 (a) *A person who is licensed by a local government agency to*  
17 *practice massage therapy or bodywork prior to January 1, 2005.*

18 (b) *A person who is not required to be licensed by a local*  
19 *government agency to practice massage therapy or bodywork*  
20 *prior to January 1, 2005, but can demonstrate \_\_\_\_\_ hours of*  
21 *massage therapy or bodywork experience.*

22 4610. *No local government agency may restrict the practice*  
23 *of massage therapy or bodywork. This chapter shall preempt local*  
24 *ordinance regulation of the practice of massage therapy as set*  
25 *forth in this chapter.*

26 4611. *A student of a massage therapy or bodywork school*  
27 *approved by the commission may provide massage therapy or*  
28 *bodywork as required by the school to complete course work if the*  
29 *student receives no financial remuneration for providing the*  
30 *massage therapy or bodywork.*

31 4612. (a) *The commission shall submit fingerprint images*  
32 *and related information to the Department of Justice of applicants*  
33 *for licensure for the purpose of obtaining information as to the*  
34 *existence and nature of a record of state and federal level*  
35 *convictions and state and federal level arrests for which the*  
36 *Department of Justice establishes that the applicant was released*  
37 *on bail or on his or her own recognizance pending trial. Requests*  
38 *for federal level criminal offender record information received by*  
39 *the Department of Justice pursuant to this section shall be*



1 forwarded to the Federal Bureau of Investigation by the  
2 Department of Justice.

3 (b) Pursuant to paragraph (1) of subdivision (p) of Section  
4 11105 of the Penal Code, the Department of Justice shall provide  
5 the following information to the commission:

6 (1) Every conviction rendered against the applicant.

7 (2) Every arrest for an offense for which the applicant is  
8 presently awaiting trial, whether the applicant is incarcerated or  
9 has been released on bail or on his or her own recognizance  
10 pending trial.

11 (c) The Department of Justice shall charge a fee sufficient to  
12 cover the cost of processing the request for state and federal level  
13 criminal offender record information.

14 (d) Fingerprint images and related information submitted  
15 pursuant to this section include fingerprint images and related  
16 information transmitted electronically.

17 (e) The commission shall request subsequent arrest notification  
18 service from the Department of Justice, as provided under Section  
19 11105.2 of the Penal Code, for all applicants for licensure for  
20 which fingerprint images and related information are submitted to  
21 conduct a search for state and federal level criminal offender  
22 record information.

