

AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

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AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JUNE 20, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 412

Introduced by Senator Figueroa

February 17, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as amended, Figueroa. Massage therapy.

Existing law provides for the regulation of various healing arts professionals, including physicians and surgeons, chiropractors, physical therapists, and acupuncturists. Existing law authorizes the legislative body of a city or county to enact ordinances providing for the licensing and regulation of the business of massage when carried on within the city or county.

This bill would, commencing July 1, 2007, provide for the certification of massage practitioners and massage therapists by the Massage Therapy Organization, which would be a nonprofit organization that meets specified requirements, and would impose certain duties on the organization. The bill would require applicants

for certification as massage practitioners or massage therapists to be 18 years of age or older, to meet specified educational criteria, to provide to the organization and update certain information, to provide fingerprints for submission to the Department of Justice for a criminal background check, and to pay fees required by the organization. The bill would require the Department of Justice to review specified information and to provide to the organization fitness determinations and certain other information. The bill would allow the organization to take certain disciplinary action against certificate holders, would make the violation of specified provisions a misdemeanor, and would require the organization to take certain action with regard to suspending or revoking a certificate if the certificate holder has been arrested for, and charged with, specified crimes. The bill would prohibit a city, county, or city and county from enacting certain ordinances regulating the practice of massage by a certificate holder. The bill would make the Massage Therapy Organization subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection. The bill would require the organization to provide the committee with a related report by September 1, 2011. The bill would repeal these provisions on January 1, 2013.

Because this bill would make the violation of specified provisions a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Chapter 10.5 (commencing with Section 4600)
- 2 is added to Division 2 of the Business and Professions Code, to
- 3 read:

CHAPTER 10.5. MASSAGE THERAPISTS

4600. As used in this chapter, the following terms shall have the following meanings:

(a) “Approved school” or “approved massage school” means a facility that meets minimum standards for training and curriculum in massage and related subjects and that is approved by the Bureau For Private Postsecondary And Vocational Education pursuant to Section 94915 of the Education Code, by an institution accredited pursuant to paragraph (7) of subdivision

(b) of Section 94739 of the Education Code, by colleges or universities of the state higher education system as defined in Section 100850 of the Education Code, or by a school of equal or greater training that is approved by the corresponding agency in another state or accredited by an agency recognized by the United States Department of Education.

(b) “Compensation” means the payment, loan, advance, donation, contribution, deposit, or gift of money or anything of value.

(c) (1) “Massage” means the application of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the purpose of positively affecting the health and well-being of the client. The practice includes the external application of water, heat, cold, lubricants, salt scrubs, or other topical preparations, and the use of devices that mimic or enhance the actions of the hands. Massage does not include the prescription of legend drugs or controlled substances, the diagnosis of illness or disease, or any treatment for which a license to practice medicine, chiropractic, physical therapy, ~~or podiatry~~ *podiatry, or any other profession is required. Massage specifically does not include moving a joint beyond an individual’s normal physiological range of motion, or using a fast, low amplitude thrust.*

(2) “Massage” does not include touching that meets either of the following criteria:

(A) It is done as part of movement education, energy balancing, or any other technique, profession, or modality in which any soft tissue manipulation is incidental to, and not the central aim of, the practice.

1 (B) It is done while engaging in the practice of another
2 somatic technique, profession, or modality with established
3 standards and ethics in which a practitioner is qualified, provided
4 that those services are not designated or implied to be massage or
5 massage therapy.

6 (3) For purposes of this chapter, massage and bodywork are
7 interchangeable.

8 (d) “Massage therapist,” “bodyworker,” “bodywork therapist,”
9 or “massage and bodywork therapist” means a person who is
10 certified by the Massage Therapy Organization under subdivision
11 (c) of Section 4601 and who administers massage for
12 compensation.

13 (e) “Massage practitioner,” “bodywork practitioner,” or
14 “massage and bodywork practitioner” means a person who is
15 certified by the Massage Therapy Organization under subdivision
16 (b) of Section 4601 and who administers massage for
17 compensation.

18 (f) “Organization” means the Massage Therapy Organization
19 created pursuant to this chapter, which shall be a nonprofit
20 organization, exempt from taxation under paragraph (3) of
21 subsection (c) of Section 501 of Title 26 of the United States
22 Code. The organization may commence activities as authorized
23 by this section once it has submitted a request to the Internal
24 Revenue Service seeking this exemption.

25 (g) “Registered school” means a facility that meets minimum
26 standards for training and curriculum in massage and related
27 subjects that is recognized by the Bureau For Private
28 Postsecondary And Vocational Education pursuant to Section
29 94931 of the Education Code, by an institution accredited by the
30 senior commission or the junior commission of the Western
31 Association of Schools and Colleges as defined in paragraph (7)
32 of subdivision (b) of Section 94739 of the Education Code, by
33 colleges and universities of the state higher education system as
34 defined in Section 100850 of the Education Code, or by a school
35 of equal or greater training that is approved by the corresponding
36 agency in another state.

37 4600.5. (a) A Massage Therapy Organization, as defined in
38 subdivision (f) of Section 4600, shall be created and shall have
39 the responsibilities and duties set forth in this chapter. The
40 organization may take any reasonable actions, including hiring

1 staff or entering into contracts, to carry out the responsibilities
2 and duties set forth in this chapter.

3 (b) (1) The organization shall be governed by a board of
4 directors made up of at least two representatives from each
5 professional society, association, or other entity, whose
6 membership is comprised of massage therapists, that chooses to
7 participate in the organization. To qualify, a professional society,
8 association, or other entity ~~must~~ *shall* have a membership in
9 California of at least 1,000 individuals for the last three years,
10 and *shall* have bylaws that require its members to comply with a
11 code of ethics. In addition, the board of directors shall *include*
12 *one member selected by each statewide association of private*
13 *postsecondary schools incorporated on or before July 1, 2007,*
14 *whose member schools have together had at least 1,000*
15 *graduates in each of the previous three years from massage*
16 *therapy programs meeting the approval standards set forth in*
17 *subdivision (a) of Section 4600, unless these qualifying entities*
18 *choose not to exercise this right of selection. The board of*
19 *directors shall also include a person selected by the League of*
20 *California Cities, a person selected by the California State*
21 *Association of Counties, and a person selected by the Bureau*
22 *Chief of the Bureau for Private Postsecondary Vocational*
23 *Education, unless these entities choose not to exercise this right*
24 *of selection. The organization's bylaws shall establish a process*
25 *by which any other directors may be selected.*

26 (2) The initial board of directors shall establish the
27 organization, initiate the request for tax-exempt status from the
28 Internal Revenue Service, and solicit input from the massage
29 community concerning the operations of the organization. The
30 initial board of directors, in its discretion, may immediately
31 undertake to issue the certificates authorized by this chapter after
32 adopting the necessary bylaws or other rules, or may establish by
33 adoption of bylaws the permanent governing structure prior to
34 issuing certificates.

35 (c) The board of directors shall establish fees reasonably
36 related to the cost of providing services and carrying out its
37 ongoing responsibilities and duties. Initial and renewal fees shall
38 be established by the board of directors annually.

39 4601. (a) The organization shall issue a certificate
40 authorizing an applicant who satisfies the requirements of this

1 chapter to perform massage services as described in this chapter
2 in any jurisdiction in the state.

3 (b) (1) In order to obtain certification as a massage
4 practitioner, an applicant shall submit a written application and
5 provide the organization with satisfactory evidence that he or she
6 meets all of the following requirements:

7 (A) The applicant is 18 years of age or older.

8 (B) The applicant has successfully completed, at a single
9 approved school, curricula in massage and related subjects
10 totaling a minimum of 250 hours, that incorporates appropriate
11 school assessment of student knowledge and skills. Included in
12 the hours shall be instruction addressing anatomy and
13 physiology, contraindications, health and hygiene, and business
14 and ethics, with at least 100 hours of the required minimum 250
15 hours devoted to these curriculum areas.

16 (C) All fees required by the organization have been paid.

17 (2) (A) Certificates issued pursuant to this subdivision or
18 pursuant to subdivision (a) or (c) of Section 4604 on or prior to
19 December 31, 2012, shall, after December 31, 2012, be renewed
20 without any additional educational requirements, provided that
21 the certificate holder continues to be qualified pursuant to this
22 chapter.

23 (B) New certificates shall not be issued pursuant to this
24 subdivision after December 31, 2012.

25 (c) In order to obtain certification as a massage therapist, an
26 applicant shall submit a written application and provide the
27 organization with satisfactory evidence that he or she meets all of
28 the following requirements:

29 (1) The applicant is 18 years of age or older.

30 (2) The applicant satisfies one of the following requirements:

31 (A) He or she has successfully completed the curricula in
32 massage and related subjects totaling a minimum of 500 hours.
33 Of this 500 hours, a minimum of 250 hours shall be from
34 ~~programs that satisfy the criteria established in paragraph (2) of~~
35 ~~subdivision (b) approved schools.~~ The remaining 250 hours
36 required may be secured either from ~~these programs, from~~
37 *approved or registered schools, or from approved continuing*
38 *education providers approved by, or registered with, the Bureau*
39 *of Private Postsecondary and Vocational Education. After*

1 *December 31, 2012, applicants may only satisfy the curricula in*
2 *massage and related subjects from approved schools.*

3 (B) The applicant has passed an examination that has been
4 approved by the organization.

5 (3) All fees required by the organization have been paid.

6 (d) The organization shall issue a certificate to an applicant
7 who meets the other qualifications of this chapter and holds a
8 current and valid registration, certification, or license from any
9 other state whose licensure requirements meet or exceed those
10 defined within this chapter. The organization shall have
11 discretion to give credit for comparable academic work
12 completed by an applicant in a program outside of California.

13 (e) An applicant applying for a massage therapist or massage
14 practitioner certificate shall file with the organization a written
15 application provided by the organization, showing to the
16 satisfaction of the organization that he or she meets all of the
17 requirements of this chapter.

18 (f) Any certification issued under this chapter shall be subject
19 to renewal every two years in a manner prescribed by the
20 organization and shall expire unless renewed in that manner. The
21 organization may provide for the late renewal of a license.

22 (g) (1) The organization shall have the responsibility to
23 determine that the school or schools from which an applicant has
24 obtained the education required by this chapter meet the
25 requirements of this chapter. If the organization has any reason to
26 question whether or not the applicant received the education that
27 is required by this chapter from the school or schools that the
28 applicant is claiming, the organization shall investigate the facts
29 to determine that the applicant received the required education
30 prior to issuing a certificate.

31 (2) For purposes of paragraph (1) and any other provision of
32 this chapter for which the organization is authorized to receive
33 factual information as a condition of taking any action, the
34 organization shall have the authority to conduct oral interviews
35 of the applicant and others or to make any investigation deemed
36 necessary to establish that the information received is accurate
37 and satisfies any criteria established by this chapter.

38 4601.2. No certificates shall be issued by the organization
39 pursuant to this chapter prior to July 1, 2007.

1 4601.5. (a) Prior to issuing a certificate to the applicant, the
2 organization shall require the applicant to submit fingerprint
3 images in a form consistent with the requirements of this section.
4 The organization shall submit the fingerprint images and related
5 information to the Department of Justice for the purpose of
6 obtaining information as to the existence and nature of a record
7 of state and federal level convictions and of state and federal
8 level arrests for which the Department of Justice establishes that
9 the applicant was released on bail or on his or her own
10 recognizance pending trial. Requests for federal level criminal
11 offender record information received by the Department of
12 Justice pursuant to this section shall be forwarded to the Federal
13 Bureau of Investigation by the Department of Justice. The
14 Department of Justice shall review the information returned from
15 the Federal Bureau of Investigation, and shall compile and
16 disseminate a fitness determination regarding the candidate to the
17 organization.

18 (b) The Department of Justice shall provide information to the
19 organization pursuant to subdivision (p) of Section 11105 of the
20 Penal Code.

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

24 (d) The organization shall request subsequent arrest
25 notification service from the Department of Justice, as provided
26 under Section 11105.2 of the Penal Code, for all applicants for
27 licensure for whom fingerprint images and related information
28 are submitted to conduct a search for state and federal level
29 criminal offender record information.

30 (e) This section shall become operative July 1, 2007.

31 4602. (a) The organization may discipline a certificate holder
32 by any, or a combination, of the following methods:

33 (1) Placing the certificate holder on probation.

34 (2) Suspending the certificate and the rights conferred by this
35 chapter on a certificate holder for a period not to exceed one
36 year.

37 (3) Revoking the certificate.

38 (4) Suspending or staying the disciplinary order, or portions of
39 it, with or without conditions.

1 (5) Taking other action as the organization, as authorized by
2 this chapter or its bylaws, deems proper.

3 (b) The organization may issue an initial certificate on
4 probation, with specific terms and conditions, to any applicant.

5 (c) (1) Notwithstanding any other provision of law, if the
6 organization receives notice that a certificate holder has been
7 arrested and charges have been filed by the appropriate
8 prosecuting agency against the certificate holder alleging a
9 violation of subdivision (b) of Section 647 of the Penal Code or
10 any other offense described in subdivision (h) of Section 4603,
11 the organization shall take all of the following actions:

12 (A) Immediately suspend, on an interim basis, the certificate
13 of that certificate holder.

14 (B) Notify the certificate holder at the address last filed with
15 the organization that the certificate has been suspended, and the
16 reason for the suspension.

17 (C) Notify any business that the organization has in its records
18 as employing the certificate holder that the certificate has been
19 suspended.

20 (2) Upon notice to the organization that the charges described
21 in paragraph (1) have resulted in a conviction, the suspended
22 certificate shall become subject to permanent revocation. The
23 organization shall provide notice to the certificate holder that it
24 has evidence of a valid record of conviction and that the
25 certificate will be revoked unless the certificate holder provides
26 evidence that the conviction is either invalid or that the
27 information is otherwise erroneous.

28 (3) Upon notice that the charges have resulted in an acquittal,
29 or have otherwise been dismissed prior to conviction, the
30 certificate shall be immediately reinstated and the certificate
31 holder and any business that received notice pursuant to
32 subparagraph (C) of paragraph (1) shall be immediately notified
33 of the reinstatement.

34 4602.5. (a) Upon the request of any law enforcement agency
35 or any other representative of a local government agency with
36 responsibility for regulating, or administering a local ordinance
37 relating to, massage or massage businesses, the organization shall
38 provide information concerning a certificate holder, including,
39 but not limited to, the current status of the certificate, any history
40 of disciplinary actions taken against the certificate holder, the

1 home and work addresses of the certificate holder, and any other
2 information in the organization's possession that is necessary to
3 verify facts relevant to administering the local ordinance.

4 (b) The organization shall accept information provided by any
5 law enforcement agency or any other representative of a local
6 government agency with responsibility for regulating, or
7 administering a local ordinance relating to, massage or massage
8 businesses. The organization shall have the responsibility to
9 review any information received and to take any actions
10 authorized by this chapter that is warranted by that information.

11 4603. It is a violation of this chapter for a certificate holder to
12 commit, and the organization may deny an application for a
13 certificate or discipline a certificate holder for, any of the
14 following:

15 (a) Unprofessional conduct, including, but not limited to, the
16 following:

17 (1) Incompetence or gross negligence in carrying out usual
18 massage or massage therapy functions.

19 (2) Repeated similar negligent acts in carrying out usual
20 massage or massage therapy functions.

21 (3) Denial of licensure, revocation, suspension, restriction, or
22 any other disciplinary action against a certificate holder by
23 another state or territory of the United States, by any other
24 government agency, or by another California health care
25 professional licensing board. A certified copy of the decision,
26 order, or judgment shall be conclusive evidence of these actions.

27 (b) Procuring a certificate by fraud, misrepresentation, or
28 mistake.

29 (c) Violating or attempting to violate, directly or indirectly, or
30 assisting in or abetting the violation of, or conspiring to violate,
31 any provision or term of this chapter or any rule or bylaw
32 adopted by the organization.

33 (d) Conviction of any felony, or conviction of a misdemeanor
34 that is substantially related to the qualifications, functions, or
35 duties of a certificate holder, in which event the record of the
36 conviction shall be conclusive evidence of the crime.

37 (e) Impersonating an applicant or acting as a proxy for an
38 applicant in any examination referred to under this chapter for
39 the issuance of a certificate.

1 (f) Impersonating a certified practitioner or therapist, or
2 permitting or allowing an uncertified person to use a certificate.

3 (g) Committing any fraudulent, dishonest, or corrupt act that is
4 substantially related to the qualifications, functions, or duties of a
5 certificate holder.

6 (h) Committing any act punishable as a sexually related crime.

7 4603.5. It shall be the responsibility of any certificate holder
8 to notify the organization of his or her home address, as well as
9 the address of any business establishment where he or she
10 regularly works as a massage therapist or massage practitioner,
11 whether as an employee or as an independent contractor. A
12 certificate holder shall notify the organization within 30 days of
13 changing either his or her home address or the address of the
14 business establishment where he or she regularly works as a
15 massage therapist or massage practitioner.

16 4604. (a) Notwithstanding Section 4601, the organization
17 may grant a massage practitioner certificate to any person who
18 applies on or before January 1, 2009, with one of the following:

19 (1) Both of the following:

20 (A) A current valid massage permit or license from a
21 California city, county, or city and county.

22 (B) Documentation evidencing that the person has completed
23 at least a 100-hour course in massage at a state-approved or
24 registered school, or out-of-state school recognized by the
25 organization as providing comparable education, has been
26 practicing for at least three years, and has provided at least 1,000
27 hours of massage to members of the public for compensation.

28 (2) Documentation evidencing that the person has completed
29 at least a 100-hour course in massage at a state-approved or
30 registered school, or out-of-state school recognized by the
31 organization as providing comparable education, has been
32 practicing for at least three years, and has provided at least 1,750
33 hours of massage to members of the public for compensation. For
34 purposes of this subdivision, evidence of practice shall include
35 either of the following:

36 (A) A W-2 form or employer's affidavit containing the dates
37 of the applicant's employment.

38 (B) Tax returns indicating self-employment as a massage
39 practitioner or massage therapist or any other title that may
40 demonstrate experience in the field of massage.

1 (3) Documentation evidencing that the person holds a current
 2 valid certificate of authorization as an instructor at a
 3 BPPVE-approved massage school, or holds the position of a
 4 massage instructor at a school accredited by an agency
 5 recognized by the United States Department of Education, or
 6 colleges and universities of the state higher education system, as
 7 defined in Section 100850 of the Education Code.

8 (b) (1) After reviewing the information submitted under
 9 subdivision (a), the organization may require additional
 10 information necessary to enable it to determine whether to issue
 11 a certificate.

12 (2) If an applicant under paragraph (1) of subdivision (a) or
 13 subdivision (c) has not complied with Section 4601.5, or its
 14 equivalent, when obtaining a license or permit from the city,
 15 county, or city and county, the organization shall require the
 16 applicant to comply with Section 4601.5 prior to issuing a
 17 certificate pursuant to this section.

18 (c) (1) A person applying for a massage practitioner
 19 certificate on or before January 1, 2009, who meets the
 20 educational requirements of either paragraph (1) or (2) of
 21 subdivision (a), but who has not completed the required number
 22 of practice hours prior to submitting an application pursuant to
 23 this section, may apply for a conditional certificate.

24 (2) An applicant for a conditional certificate shall be required
 25 to complete 30 hours of additional education per year from
 26 schools or courses described in paragraph (5) until he or she has
 27 completed a total of 250 hours of education.

28 (3) Upon successful completion of the requirements of this
 29 subdivision, the organization shall issue a certificate to the
 30 person that is not conditional.

31 (4) The organization shall immediately revoke the conditional
 32 certificate issued to any person pursuant to this subdivision if the
 33 time period specified in paragraph (2) expires without proof of
 34 completion of the requirements having been filed with the
 35 organization.

36 (5) Any additional education required by this section may be
 37 completed through courses provided by any of the following:

38 (A) Approved schools, as defined in subdivision (a) of Section
 39 4600.

1 (B) Registered schools, as defined in subdivision (g) of
2 Section 4600.

3 ~~(C) A provider approved by the National Certification Board~~
4 ~~for Therapeutic Massage and Bodywork (NCBTMB).~~

5 (C) *A provider approved by, or registered with, the Bureau of*
6 *Private Postsecondary and Vocational Education.*

7 (D) A provider that establishes to the satisfaction of the
8 organization that its course or courses are appropriate educational
9 programs for this purpose.

10 (d) Nothing in this section shall preclude the organization
11 from exercising any power or authority conferred by this chapter
12 with respect to a conditional certificate holder.

13 4605. It is an unfair business practice for any person to state
14 or advertise or put out any sign or card or other device, or to
15 represent to the public through any print or electronic media, that
16 he or she is certified, registered, or licensed by a governmental
17 agency to perform the functions of a massage therapist or
18 massage practitioner.

19 4606. (a) It is an unfair business practice for any person to
20 hold oneself out or use the title of “certified massage therapist”
21 or “certified massage practitioner” or any other term, such as
22 “licensed,” “registered,” or “CMT,” that implies or suggests that
23 the person is certified as a massage therapist or practitioner
24 without meeting the requirements of Section 4601 *or* 4604.

25 (b) Any person who holds himself or herself out or uses the
26 title of “certified massage therapist” or “certified massage
27 practitioner” or any other term, such as “licensed,” “registered,”
28 or “CMT,” that implies or suggests that the person is certified as
29 a massage therapist or practitioner, without possessing a valid
30 certificate issued pursuant to this chapter, is guilty of a
31 misdemeanor punishable by up to 90 days in a county jail, a fine
32 of fifty dollars (\$50) for the first violation, one hundred dollars
33 (\$100) for the second violation, and two hundred dollars (\$200)
34 for the third and subsequent violations, or by both that
35 imprisonment and fine.

36 4607. The superior court in and for the county in which any
37 person acts as a massage practitioner or massage therapist in
38 violation of the provisions of this chapter, may, upon a petition
39 by any person, issue an injunction or other appropriate order
40 restraining the conduct. The proceedings under this paragraph

1 shall be governed by Chapter 3 (commencing with Section 525)
2 of Title 7 of Part 2 of the Code of Civil Procedure.

3 4608. Nothing in this chapter is intended to limit or prohibit a
4 person who obtains a certification pursuant to this chapter from
5 providing services pursuant to, and in compliance with, Sections
6 2053.5 and 2053.6.

7 4612. (a) (1) The holder of a certificate issued pursuant to
8 this chapter shall have the right to practice massage, consistent
9 with this chapter, in any city, county, or city and county in this
10 state and shall not be required to obtain any other license, permit,
11 or other authorization, except as provided in this section, to
12 engage in that practice.

13 (2) Notwithstanding any other provision of law, a city, county,
14 or city and county shall not enact an ordinance that requires a
15 license, permit, or other authorization to practice massage, as
16 defined in this chapter, by an individual who is certified pursuant
17 to this chapter. No provision of any ordinance enacted by a city,
18 county, or city and county that is in effect before the effective
19 date of this chapter, and that requires a license, permit, or other
20 authorization to practice massage, may be enforced against an
21 individual who is certified pursuant to this chapter.

22 (3) Except as provided in subdivision (b), nothing in this
23 section shall be interpreted to prevent a city, county, or city and
24 county from adopting or enforcing any local ordinance governing
25 zoning, business licensing, and reasonable health and safety
26 requirements for massage establishments or businesses.
27 Subdivision (b) shall not apply to any massage establishment or
28 business that employs or uses persons to provide massage
29 services who are not certified pursuant to this chapter.

30 (b) (1) This subdivision shall apply only to massage
31 establishments or businesses that are sole proprietorships, where
32 the sole proprietor is certified pursuant to this chapter, and to
33 massage establishments or businesses that employ or use only
34 persons certified pursuant to this chapter to provide massage
35 services. For purposes of this subdivision, a sole proprietorship is
36 a business where the owner is the only person employed by that
37 business to provide massage services.

38 (2) (A) Any massage establishment or business described in
39 paragraph (1) shall maintain on its premises evidence for review

1 by local authorities that demonstrates that all persons providing
2 massage services are certified.

3 (B) Nothing in this section shall preclude a city, county, or
4 city and county from including in a local ordinance a provision
5 that requires a business described in paragraph (1) to file copies
6 or provide other evidence of the certificates held by the persons
7 who are providing massage services at the business.

8 (e)

9 (3) A city, county, or city and county may charge a massage
10 business or establishment a business licensing fee sufficient to
11 cover the costs of the business licensing activities established by
12 a local ordinance described in this section.

13 (4) Nothing in this section shall prohibit a city, county, or city
14 and county from adopting land use and zoning requirements
15 applicable to massage establishments or businesses, provided that
16 these requirements shall be no different than the requirements
17 that are uniformly applied to other professional or personal
18 services businesses.

19 (5) Local building code or physical facility requirements
20 applicable to massage establishments or businesses shall not
21 require additional restroom, shower, or other facilities that are
22 not uniformly applicable to other professional or personal service
23 businesses, nor shall building or facility requirements be adopted
24 that (A) require unlocked doors when there is no staff available
25 to assure security for clients and massage staff who are behind
26 closed doors, or (B) require windows that provide a view into
27 massage rooms that interfere with the privacy of clients of the
28 massage business.

29 (6) A city, county, or city and county may adopt reasonable
30 health and safety requirements with respect to massage
31 establishments or businesses, including, but not limited to,
32 requirements for cleanliness of massage rooms, towels and
33 linens, and reasonable attire and personal hygiene requirements
34 for persons providing massage services, provided that nothing in
35 this paragraph shall be interpreted to authorize adoption of local
36 ordinances that impose additional qualifications, such as medical
37 examinations, background checks, or other criteria, upon any
38 person certified pursuant to this chapter.

39 (7) Nothing in this section shall preclude a city, county, or city
40 and county from (A) requiring an applicant for a business license

1 to operate a massage business or establishment to fill out an
2 application that requests the applicant to provide relevant
3 information, (B) making reasonable investigations into the
4 information so provided, or, (C) denying or restricting a business
5 license if the applicant has provided materially false information.

6 (c) An owner or operator of a massage business or
7 establishment subject to subdivision (b) shall be responsible for
8 the conduct of all employees or independent contractors working
9 on the premises of the business. Nothing in this section shall
10 preclude a local ordinance from authorizing suspension,
11 revocation, or other restriction of a license or permit issued to a
12 massage establishment or business if violations of this chapter, or
13 of the local ordinance, occur on the business premises.

14 (d) Nothing in this section shall preclude a city, county, or city
15 and county from adopting a local ordinance that is applicable to
16 massage businesses or establishments described in paragraph (1)
17 of subdivision (b) and that does either of the following:

18 (1) Provides that duly authorized officials of the city, county,
19 or city and county have the right to conduct reasonable
20 inspections, during regular business hours, to ensure compliance
21 with this chapter, the local ordinance, or other applicable fire and
22 health and safety requirements.

23 (2) Requires an owner or operator to notify the city, county, or
24 city and county of any intention to rename, change management,
25 or convey the business to another person.

26 4613. (a) Nothing in this chapter shall restrict or limit in any
27 way the authority of a city, county, or city and county to adopt a
28 local ordinance governing any person who is not certified
29 pursuant to this chapter.

30 (b) Nothing in this chapter is intended to affect the practice
31 rights of any person licensed by the state to practice or perform
32 any functions or services pursuant to that license.

33 ~~(e) Nothing in this chapter is intended to grant any practice~~
34 ~~rights to a person certified pursuant to this chapter, except as~~
35 ~~provided in this chapter.~~

36 4615. (a) This chapter shall be subject to the review required
37 by Division 1.2 (commencing with Section 473).

38 (b) The Massage Therapy Organization shall provide to the
39 Joint Committee on Boards, Commissions, and Consumer

1 Protection by September 1, 2011, a report as required by Section
2 473.2.

3 4620. This chapter shall remain in effect only until January 1,
4 2013, and as of that date is repealed, unless a later enacted
5 statute, that is enacted before January 1, 2013, deletes or extends
6 that date.

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the
12 penalty for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition of a
14 crime within the meaning of Section 6 of Article XIII B of the
15 California Constitution.

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