

AMENDED IN SENATE MAY 8, 2007
AMENDED IN SENATE APRIL 26, 2007
AMENDED IN SENATE APRIL 19, 2007
AMENDED IN SENATE APRIL 16, 2007

SENATE BILL

No. 731

Introduced by Senator Oropeza

February 23, 2007

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

LEGISLATIVE COUNSEL'S DIGEST

SB 731, as amended, Oropeza. 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, 2008, 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 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, as specified. The bill would make the 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, 2012. The bill would repeal these provisions on January 1, 2014.

~~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~~ *no*.

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:

4
5 CHAPTER 10.5. MASSAGE THERAPISTS
6

7 4600. As used in this chapter, the following terms shall have
8 the following meanings:

9 (a) "Approved school" or "approved massage school" means a
10 facility that meets minimum standards for training and curriculum
11 in massage and related subjects and that is approved by any of the
12 following:

1 (1) The Bureau For Private Postsecondary And Vocational
2 Education pursuant to Section 94739 of the Education Code prior
3 to July 1, 2007, and as of the date on which an applicant met the
4 requirements of paragraph (2) of subdivision (b) or subparagraph
5 (A) of paragraph (2) of subdivision (c) of Section 4601.

6 (2) The Massage Therapy Organization or the Department of
7 Consumer Affairs.

8 (3) An institution accredited by the Accrediting Commission
9 for Senior Colleges and Universities or the Accrediting
10 Commission for Community and Junior Colleges of the Western
11 Association of Schools and Colleges and that is one of the
12 following:

13 (A) A public institution.

14 (B) An institution incorporated and lawfully operating as a
15 nonprofit public benefit corporation pursuant to Part 2
16 (commencing with Section 5110) of Division 2 of Title 1 of the
17 Corporations Code, and that is not managed by any entity for profit.

18 (C) A for-profit institution.

19 (D) An institution that does not meet all of the criteria in
20 subparagraph (B) that is incorporated and lawfully operating as a
21 nonprofit public benefit corporation pursuant to Part 2
22 (commencing with Section 5110) of Division 2 of Title 1 of the
23 Corporations Code, that has been in continuous operation since
24 April 15, 1997, and that is not managed by any entity for profit.

25 (4) A college or university of the state higher education system,
26 as defined in Section 100850 of the Education Code.

27 (5) A school of equal or greater training that is approved by the
28 corresponding agency in another state or accredited by an agency
29 recognized by the United States Department of Education.

30 (b) "Compensation" means the payment, loan, advance,
31 donation, contribution, deposit, or gift of money or anything of
32 value.

33 (c) "Massage therapist," "bodyworker," "bodywork therapist,"
34 or "massage and bodywork therapist" means a person who is
35 certified by the Massage Therapy Organization under subdivision
36 (c) of Section 4601 and who administers massage for
37 compensation.

38 (d) "Massage practitioner," "bodywork practitioner," or
39 "massage and bodywork practitioner" means a person who is
40 certified by the Massage Therapy Organization under subdivision

1 (b) of Section 4601 and who administers massage for
2 compensation.

3 (e) "Organization" means the Massage Therapy Organization
4 created pursuant to this chapter, which shall be a nonprofit
5 organization exempt from taxation under Section 501(c)(3) of Title
6 26 of the United States Code. The organization may commence
7 activities as authorized by this section once it has submitted a
8 request to the Internal Revenue Service seeking this exemption.

9 (f) "Registered school" means a facility that meets minimum
10 standards for training and curriculum in massage and related
11 subjects and that either was recognized by the Bureau for Private
12 Postsecondary and Vocational Education pursuant to Section 94931
13 of the Education Code prior to July 1, 2007, and as of the date on
14 which an applicant met the requirements of paragraph (2) of
15 subdivision (b) or subparagraph (A) of paragraph (2) of subdivision
16 (c) of Section 4601, or is recognized by the organization or the
17 Department of Consumer Affairs, by an institution accredited by
18 the senior commission or the junior commission of the Western
19 Association of Schools and Colleges as defined in paragraph (2)
20 of subdivision (a) of Section 4600, by a college or university of
21 the state higher education system as defined in Section 100850 of
22 the Education Code, or by a school of equal or greater training that
23 is approved by the corresponding agency in another state.

24 4600.5. (a) A Massage Therapy Organization, as defined in
25 subdivision (e) of Section 4600, shall be created and shall have
26 the responsibilities and duties set forth in this chapter. The
27 organization may take any reasonable actions to carry out the
28 responsibilities and duties set forth in this chapter, including, but
29 not limited to, hiring staff and entering into contracts.

30 (b) (1) The organization shall be governed by a board of
31 directors made up of at least two representatives from each
32 professional society, association, or other entity, whose
33 membership is comprised of massage therapists and that chooses
34 to participate in the organization. To qualify, a professional society,
35 association, or other entity shall have a membership in California
36 of at least 1,000 individuals for the last three years, and shall have
37 bylaws that require its members to comply with a code of ethics.
38 The board of directors shall also include each of the following
39 persons:

1 (A) One member selected by each statewide association of
2 private postsecondary schools incorporated on or before July 1,
3 2008, whose member schools have together had at least 1,000
4 graduates in each of the previous three years from massage therapy
5 programs meeting the approval standards set forth in subdivision
6 (a) of Section 4600, except from those qualifying entities that
7 choose not to exercise this right of selection.

8 (B) One member selected by the League of California cities,
9 unless this entity chooses not to exercise this right of selection.

10 (C) One member selected by the California State Association
11 of Counties, unless this entity chooses not to exercise this right of
12 selection.

13 (D) One member selected by the Director of Consumer Affairs,
14 unless this entity chooses not to exercise this right of selection.

15 The organization's bylaws shall establish a process by which
16 any other directors may be selected.

17 (2) The initial board of directors shall establish the organization,
18 initiate the request for tax-exempt status from the Internal Revenue
19 Service, and solicit input from the massage community concerning
20 the operations of the organization. The initial board of directors,
21 in its discretion, may immediately undertake to issue the certificates
22 authorized by this chapter after adopting the necessary bylaws or
23 other rules, or may establish by adoption of bylaws the permanent
24 governing structure prior to issuing certificates.

25 (c) The board of directors shall establish fees reasonably related
26 to the cost of providing services and carrying out its ongoing
27 responsibilities and duties. Initial and renewal fees shall be
28 established by the board of directors annually.

29 4601. (a) The organization shall issue a certificate under this
30 chapter to an applicant who satisfies the requirements of this
31 chapter.

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

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

37 (B) The applicant has successfully completed, at a single
38 approved school, curricula in massage and related subjects totaling
39 a minimum of 250 hours that incorporates appropriate school
40 assessment of student knowledge and skills. Included in the hours

1 shall be instruction addressing anatomy and physiology,
2 contraindications, health and hygiene, and business and ethics,
3 with at least 100 hours of the required minimum 250 hours devoted
4 to these curriculum areas.

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

6 (2) New certificates shall not be issued pursuant to this
7 subdivision after December 31, 2013.

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

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

13 (2) The applicant satisfies at least one of the following
14 requirements:

15 (A) He or she has successfully completed the curricula in
16 massage and related subjects totaling a minimum of 500 hours. Of
17 this 500 hours, a minimum of 250 hours shall be from approved
18 schools. The remaining 250 hours required may be secured either
19 from approved or registered schools, or from continuing education
20 providers approved by, or registered with, the organization or the
21 Department of Consumer Affairs. After December 31, 2013,
22 applicants may only satisfy the curricula in massage and related
23 subjects from approved schools.

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

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

27 (d) The organization shall issue a certificate to an applicant who
28 meets the other qualifications of this chapter and holds a current
29 and valid registration, certification, or license from any other state
30 whose licensure requirements meet or exceed those defined within
31 this chapter. The organization shall have discretion to give credit
32 for comparable academic work completed by an applicant in a
33 program outside of California.

34 (e) An applicant applying for a massage therapist or massage
35 practitioner certificate shall file with the organization a written
36 application provided by the organization, showing to the
37 satisfaction of the organization that he or she meets all of the
38 requirements of this chapter.

39 (f) Any certification issued under this chapter shall be subject
40 to renewal every two years in a manner prescribed by the

1 organization, and shall expire unless renewed in that manner. The
2 organization may provide for the late renewal of a license.
3 Certificates issued pursuant to this section or subdivision (a) or
4 (c) of Section 4604 on or before December 31, 2013, shall, after
5 December 31, 2013, be renewed without any additional educational
6 requirements, provided that the certificate holder continues to be
7 qualified pursuant to this chapter.

8 (g) (1) The organization shall have the responsibility to
9 determine that the school or schools from which an applicant has
10 obtained the education required by this chapter meet the
11 requirements of this chapter. If the organization has any reason to
12 question whether or not the applicant received the education that
13 is required by this chapter from the school or schools that the
14 applicant is claiming, the organization shall investigate the facts
15 to determine that the applicant received the required education
16 prior to issuing a certificate.

17 (2) For purposes of paragraph (1) and any other provision of
18 this chapter for which the organization is authorized to receive
19 factual information as a condition of taking any action, the
20 organization shall have the authority to conduct oral interviews of
21 the applicant and others or to make any investigation deemed
22 necessary to establish that the information received is accurate and
23 satisfies any criteria established by this chapter.

24 4601.2. No certificates shall be issued by the organization
25 pursuant to this chapter prior to July 1, 2008.

26 4601.5. (a) Prior to issuing a certificate to the applicant or
27 designating a custodian of records, the organization shall require
28 the applicant or the custodian of records candidate to submit
29 fingerprint images in a form consistent with the requirements of
30 this section. The organization shall submit the fingerprint images
31 and related information to the Department of Justice for the purpose
32 of obtaining information as to the existence and nature of a record
33 of state and federal level convictions and of state and federal level
34 arrests for which the Department of Justice establishes that the
35 applicant or candidate was released on bail or on his or her own
36 recognizance pending trial. Requests for federal level criminal
37 offender record information received by the Department of Justice
38 pursuant to this section shall be forwarded to the Federal Bureau
39 of Investigation by the Department of Justice. The Department of
40 Justice shall review the information returned from the Federal

1 Bureau of Investigation, and shall compile and disseminate a fitness
2 determination regarding the applicant or candidate to the
3 organization.

4 (b) The Department of Justice shall provide information to the
5 organization pursuant to subdivision (p) of Section 11105 of the
6 Penal Code.

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

10 (d) The organization shall request subsequent arrest notification
11 service from the Department of Justice, as provided under Section
12 11105.2 of the Penal Code, for all applicants for licensure or
13 custodian of records candidates for whom fingerprint images and
14 related information are submitted to conduct a search for state and
15 federal level criminal offender record information.

16 (e) This section shall become operative July 1, 2008.

17 4601.6. Organization directors, employees, or volunteer
18 individuals may undergo the background investigation process
19 delineated in Section 4601.5.

20 4602. (a) The organization may discipline a certificate holder
21 by any, or a combination, of the following methods:

22 (1) Placing the certificate holder on probation.

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

25 (3) Revoking the certificate.

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

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

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

32 (c) (1) Notwithstanding any other provision of law, if the
33 organization receives notice that a certificate holder has been
34 arrested and charges have been filed by the appropriate prosecuting
35 agency against the certificate holder alleging a violation of
36 subdivision (b) of Section 647 of the Penal Code or any other
37 offense described in subdivision (h) of Section 4603, the
38 organization shall take all of the following actions:

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

1 (B) Notify the certificate holder at the address last filed with
2 the organization that the certificate has been suspended, and the
3 reason for the suspension.

4 (C) Notify any business that the organization has in its records
5 as employing the certificate holder that the certificate has been
6 suspended.

7 (2) Upon notice to the organization that the charges described
8 in paragraph (1) have resulted in a conviction, the suspended
9 certificate shall become subject to permanent revocation. The
10 organization shall provide notice to the certificate holder that it
11 has evidence of a valid record of conviction and that the certificate
12 will be revoked unless the certificate holder provides evidence that
13 the conviction is either invalid or that the information is otherwise
14 erroneous.

15 (3) Upon notice that the charges have resulted in an acquittal,
16 or have otherwise been dismissed prior to conviction, the certificate
17 shall be immediately reinstated and the certificate holder and any
18 business that received notice pursuant to subparagraph (C) of
19 paragraph (1) shall be immediately notified of the reinstatement.

20 4602.5. (a) Upon the request of any law enforcement agency
21 or any other representative of a local government agency with
22 responsibility for regulating, or administering a local ordinance
23 relating to, massage or massage businesses, the organization shall
24 provide information concerning a certificate holder, including, but
25 not limited to, the current status of the certificate, any history of
26 disciplinary actions taken against the certificate holder, the home
27 and work addresses of the certificate holder, and any other
28 information in the organization's possession that is necessary to
29 verify facts relevant to administering the local ordinance.

30 (b) The organization shall accept information provided by any
31 law enforcement agency or any other representative of a local
32 government agency with responsibility for regulating, or
33 administering a local ordinance relating to, massage or massage
34 businesses. The organization shall have the responsibility to review
35 any information received and to take any actions authorized by
36 this chapter that are warranted by that information.

37 4603. It is a violation of this chapter for a certificate holder to
38 commit, and the organization may deny an application for a
39 certificate or discipline a certificate holder for, any of the following:

1 (a) Unprofessional conduct, including, but not limited to, denial
2 of licensure, revocation, suspension, restriction, or any other
3 disciplinary action against a certificate holder by another state or
4 territory of the United States, by any other government agency, or
5 by another California health care professional licensing board. A
6 certified copy of the decision, order, or judgment shall be
7 conclusive evidence of these actions.

8 (b) Procuring a certificate by fraud, misrepresentation, or
9 mistake.

10 (c) Violating or attempting to violate, directly or indirectly, or
11 assisting in or abetting the violation of, or conspiring to violate,
12 any provision or term of this chapter or any rule or bylaw adopted
13 by the organization.

14 (d) Conviction of any felony, or conviction of a misdemeanor
15 that is substantially related to the qualifications or duties of a
16 certificate holder, in which event the record of the conviction shall
17 be conclusive evidence of the crime.

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

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

23 (g) Committing any fraudulent, dishonest, or corrupt act that is
24 substantially related to the qualifications or duties of a certificate
25 holder.

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

27 4603.5. It shall be the responsibility of any certificate holder
28 to notify the organization of his or her home address, as well as
29 the address of any business establishment where he or she regularly
30 works as a massage therapist or massage practitioner, whether as
31 an employee or as an independent contractor. A certificate holder
32 shall notify the organization within 30 days of changing either his
33 or her home address or the address of the business establishment
34 where he or she regularly works as a massage therapist or massage
35 practitioner.

36 4604. (a) Notwithstanding Section 4601, the organization may
37 grant a massage practitioner certificate to any person who applies
38 on or before January 1, 2010, with one of the following:

39 (1) A current valid massage permit or license from a California
40 city, county, or city and county and documentation evidencing that

1 the person has completed at least a 100-hour course in massage at
2 a state-approved or registered school, or out-of-state school
3 recognized by the organization as providing comparable education,
4 has been practicing for at least three years, and has provided at
5 least 1,000 hours of massage to members of the public for
6 compensation.

7 (2) Documentation evidencing that the person has completed
8 at least a 100-hour course in massage at a state-approved or
9 registered school, or out-of-state school recognized by the
10 organization as providing comparable education, has been
11 practicing for at least three years, and has provided at least 1,750
12 hours of massage to members of the public for compensation. For
13 purposes of this subdivision, evidence of practice shall include
14 either of the following:

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

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

20 (3) Documentation evidencing that the person holds a current
21 valid certificate of authorization as an instructor at a massage
22 school approved by the organization or the Department of
23 Consumer Affairs, or holds the position of a massage instructor at
24 a school accredited by an agency recognized by the United States
25 Department of Education, or colleges and universities of the state
26 higher education system, as defined in Section 100850 of the
27 Education Code.

28 (b) (1) After reviewing the information submitted under
29 subdivision (a), the organization may require additional information
30 necessary to enable it to determine whether to issue a certificate.

31 (2) If an applicant under paragraph (1) of subdivision (a) or
32 paragraph (1) of subdivision (c) has not complied with Section
33 4601.5, or its equivalent, when obtaining a license or permit from
34 the city, county, or city and county, the organization shall require
35 the applicant to comply with Section 4601.5 prior to issuing a
36 certificate pursuant to this section.

37 (c) (1) A person applying for a massage practitioner certificate
38 on or before January 1, 2010, who meets the educational
39 requirements of either paragraph (1) or (2) of subdivision (a), but
40 who has not completed the required number of practice hours prior

1 to submitting an application pursuant to this section, may apply
2 for a conditional certificate.

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

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

10 (4) The organization shall immediately revoke the conditional
11 certificate issued to any person pursuant to this subdivision if the
12 time period specified in paragraph (2) expires without proof of
13 completion of the requirements having been filed with the
14 organization.

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

17 (A) An approved school.

18 (B) A registered school.

19 (C) A provider approved by, or registered with, the organization
20 or the Department of Consumer Affairs.

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

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

27 4605. It is an unfair business practice for any person to state
28 or advertise or put out any sign or card or other device, or to
29 represent to the public through any print or electronic media, that
30 he or she is certified, registered, or licensed by a governmental
31 agency as a massage therapist or massage practitioner.

32 4606. ~~(a) It is an unfair business practice for any person to~~
33 ~~hold oneself out or use the title of “certified massage therapist” or~~
34 ~~“certified massage practitioner” or any other term, such as~~
35 ~~“licensed,” “registered,” or “CMT,” that implies or suggests that~~
36 ~~the person is certified as a massage therapist or practitioner without~~
37 ~~meeting the requirements of Section 4601 or 4604.~~

38 ~~(b) Any person who holds himself or herself out or uses the title~~
39 ~~of “certified massage therapist” or “certified massage practitioner”~~
40 ~~or any other term, such as “licensed,” “registered,” or “CMT,” that~~

~~implies or suggests that the person is certified as a massage therapist or practitioner, without possessing a valid certificate issued pursuant to this chapter, is guilty of a misdemeanor punishable by up to 90 days in a county jail, by a fine of fifty dollars (\$50) for the first violation, one hundred dollars (\$100) for the second violation, and two hundred dollars (\$200) for the third and subsequent violations, or by both that imprisonment and fine.~~

4607. The superior court in and for the county in which any person acts as a massage practitioner or massage therapist in violation of the provisions of this chapter, may, upon a petition by any person, issue an injunction or other appropriate order restraining the conduct. The proceedings under this paragraph shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

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

4612. (a) (1) The holder of a certificate issued pursuant to this chapter shall have the right to practice massage, consistent with this chapter and the qualifications established by his or her certification, in any city, county, or city and county in this state and shall not be required to obtain any other license, permit, or other authorization, except as provided in this section, to engage in that practice.

(2) Notwithstanding any other provision of law, a city, county, or city and county shall not enact an ordinance that requires a license, permit, or other authorization to practice massage by an individual who is certified pursuant to this chapter and who is practicing consistent with the qualifications established by his or her certification. No provision of any ordinance enacted by a city, county, or city and county that is in effect before the effective date of this chapter, and that requires a license, permit, or other authorization to practice massage, may be enforced against an individual who is certified pursuant to this chapter.

(3) Except as provided in subdivision (b), nothing in this section shall be interpreted to prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, and reasonable health and safety requirements for massage establishments or businesses. Subdivision (b) shall

1 not apply to any massage establishment or business that employs
2 or uses persons to provide massage services who are not certified
3 pursuant to this chapter.

4 (b) (1) This subdivision shall apply only to massage
5 establishments or businesses that are sole proprietorships, where
6 the sole proprietor is certified pursuant to this chapter, and to
7 massage establishments or businesses that employ or use only
8 persons certified pursuant to this chapter to provide massage
9 services. For purposes of this subdivision, a sole proprietorship is
10 a business where the owner is the only person employed by that
11 business to provide massage services.

12 (2) (A) Any massage establishment or business described in
13 paragraph (1) shall maintain on its premises evidence for review
14 by local authorities that demonstrates that all persons providing
15 massage services are certified.

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

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

25 (4) Nothing in this section shall prohibit a city, county, or city
26 and county from adopting land use and zoning requirements
27 applicable to massage establishments or businesses, provided that
28 these requirements shall be no different than the requirements that
29 are uniformly applied to other professional or personal services
30 businesses.

31 (5) Local building code or physical facility requirements
32 applicable to massage establishments or businesses shall not require
33 additional restroom, shower, or other facilities that are not
34 uniformly applicable to other professional or personal service
35 businesses, nor shall building or facility requirements be adopted
36 that (A) require unlocked doors when there is no staff available to
37 assure security for clients and massage staff who are behind closed
38 doors, or (B) require windows that provide a view into massage
39 rooms that interfere with the privacy of clients of the massage
40 business.

1 (6) A city, county, or city and county may adopt reasonable
2 health and safety requirements with respect to massage
3 establishments or businesses, including, but not limited to,
4 requirements for cleanliness of massage rooms, towels and linens,
5 and reasonable attire and personal hygiene requirements for persons
6 providing massage services, provided that nothing in this paragraph
7 shall be interpreted to authorize adoption of local ordinances that
8 impose additional qualifications, such as medical examinations,
9 background checks, or other criteria, upon any person certified
10 pursuant to this chapter.

11 (7) Nothing in this section shall preclude a city, county, or city
12 and county from doing any of the following:

13 (A) Requiring an applicant for a business license to operate a
14 massage business or establishment to fill out an application that
15 requests the applicant to provide relevant information.

16 (B) Making reasonable investigations into the information so
17 provided.

18 (C) Denying or restricting a business license if the applicant
19 has provided materially false information.

20 (c) An owner or operator of a massage business or establishment
21 subject to subdivision (b) shall be responsible for the conduct of
22 all employees or independent contractors working on the premises
23 of the business. Nothing in this section shall preclude a local
24 ordinance from authorizing suspension, revocation, or other
25 restriction of a license or permit issued to a massage establishment
26 or business if violations of this chapter, or of the local ordinance,
27 occur on the business premises.

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

32 (1) Provides that duly authorized officials of the city, county,
33 or city and county have the right to conduct reasonable inspections,
34 during regular business hours, to ensure compliance with this
35 chapter, the local ordinance, or other applicable fire and health
36 and safety requirements.

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

1 4613. (a) Nothing in this chapter shall restrict or limit in any
2 way the authority of a city, county, or city and county to adopt a
3 local ordinance governing any person who is not certified pursuant
4 to this chapter.

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

8 4615. (a) This chapter shall be subject to the review required
9 by Division 1.2 (commencing with Section 473).

10 (b) The organization shall provide to the Joint Committee on
11 Boards, Commissions, and Consumer Protection by September 1,
12 2012, a report as required by Section 473.2.

13 4620. This chapter shall remain in effect only until January 1,
14 2014, and as of that date is repealed, unless a later enacted statute,
15 that is enacted before January 1, 2014, deletes or extends that date.

16 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
17 ~~Section 6 of Article XIII B of the California Constitution because~~
18 ~~the only costs that may be incurred by a local agency or school~~
19 ~~district will be incurred because this act creates a new crime or~~
20 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
21 ~~for a crime or infraction, within the meaning of Section 17556 of~~
22 ~~the Government Code, or changes the definition of a crime within~~
23 ~~the meaning of Section 6 of Article XIII B of the California~~
24 ~~Constitution.~~