

AMENDED IN SENATE JUNE 23, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1822**

**Introduced by Assembly Member Swanson**

February 11, 2010

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~~An act to amend Sections 4600.5 and 4612 of, and to add Section 4612.5 to, the~~ *An act to amend Sections 4600.5, 4602, 4602.5, 4603, 4604, and 4612 of the Business and Professions Code, relating to massage therapy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1822, as amended, Swanson. Massage therapy.

Existing law, until January 1, 2016, provides for the voluntary certification of massage practitioners and massage therapists by a nonprofit Massage Therapy Organization, as defined and governed by a board of directors, and imposes certain duties on that organization. Existing law prohibits a city, county, or city and county from enacting an ordinance that requires a certificate holder to obtain any other license, permit, or other authorization to engage in the practice of massage. Notwithstanding that prohibition, existing law authorizes a city, county, or city and county to adopt and enforce any local ordinance governing zoning, business licensing, and reasonable health and safety requirements for massage establishments or businesses. ~~Existing law exempts from certain local regulations sole proprietorships, as defined,~~

~~and massage establishments or businesses that only employ persons who are certified.~~

This bill would add 2 members to the board of directors of the Massage Therapy Organization who would be selected by specified peace officer associations, *and would limit the number of law enforcement professionals that may serve on the board of directors.* The bill would also clarify that a city, county, or city and county is authorized to require ~~any person who administers massage for compensation, or who owns a massage establishment or business, to also hold a business license or massage establishment permit or both a~~ *specified background check of any owner or operator of a massage establishment who is not certified to practice massage by the organization.*

*Existing law provides that the organization is authorized to take any reasonable actions to carry out the responsibilities set forth in the massage therapy provisions, including, but not limited to, issuing certificates to practice massage and disciplining certificate holders for unprofessional conduct.*

*This bill would authorize the organization to establish a definition of “unprofessional conduct” for purposes of discipline, as specified.*

*Existing law requires the organization to provide specified information concerning certificate holders upon request of local law enforcement or governmental agencies.*

*This bill would also require the organization to provide that information with respect to a certificate applicant.*

*This bill would make other technical and conforming changes.*

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

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

- 1     SECTION 1. Section 4600.5 of the Business and Professions
- 2     Code is amended to read:
- 3     4600.5. (a) A Massage Therapy Organization, as defined in
- 4     subdivision (e) of Section 4600, shall be created and shall have
- 5     the responsibilities and duties set forth in this chapter. The
- 6     organization may take any reasonable actions to carry out the
- 7     responsibilities and duties set forth in this chapter, including, but
- 8     not limited to, hiring staff and entering into contracts.

1 (b) (1) The organization shall be governed by a board of  
2 directors made up of two representatives selected by each  
3 professional society, association, or other entity, whose  
4 membership is comprised of massage therapists and that chooses  
5 to participate in the organization. To qualify, a professional society,  
6 association, or other entity shall have a dues-paying membership  
7 in California of at least 1,000 individuals for the last three years,  
8 and shall have bylaws that require its members to comply with a  
9 code of ethics. The board of directors shall also include each of  
10 the following persons:

11 (A) One member selected by each statewide association of  
12 private postsecondary schools incorporated on or before January  
13 1, 2010, whose member schools have together had at least 1,000  
14 graduates in each of the previous three years from massage therapy  
15 programs meeting the approval standards set forth in subdivision  
16 (a) of Section 4600, except from those qualifying associations that  
17 choose not to exercise this right of selection.

18 (B) One member selected by the League of California Cities,  
19 unless that entity chooses not to exercise this right of selection.

20 (C) One member selected by the California State Association  
21 of Counties, unless that entity chooses not to exercise this right of  
22 selection.

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

25 (E) One member appointed by the California Community  
26 College Chancellor's Office, unless that entity chooses not to  
27 exercise this right of selection. The person appointed, if any, shall  
28 not be part of any massage therapy certificate or degree program.

29 ~~The~~

30 (F) *One member selected by the California Police Chiefs*  
31 *Association, unless that entity chooses not to exercise this right of*  
32 *selection.*

33 (G) *One member selected by the California State Sheriffs'*  
34 *Association, unless that entity chooses not to exercise this right of*  
35 *selection.*

36 (2) *No more than two law enforcement professionals may serve*  
37 *on the board at any given time and those members may only be*  
38 *selected by the organizations specified in subparagraphs (F) and*  
39 *(G) of paragraph (1).*

1 (3) *The* organization’s bylaws shall establish a process for  
2 appointing other professional directors as determined by the board.

3 ~~(2)~~

4 (4) The initial board of directors shall establish the organization,  
5 initiate the request for tax-exempt status from the Internal Revenue  
6 Service, and solicit input from the massage community concerning  
7 the operations of the organization. The initial board of directors,  
8 in its discretion, may immediately undertake to issue the certificates  
9 authorized by this chapter after adopting the necessary bylaws or  
10 other rules, or may establish by adoption of bylaws the permanent  
11 governing structure prior to issuing certificates.

12 (c) The board of directors shall establish fees reasonably related  
13 to the cost of providing services and carrying out its ongoing  
14 responsibilities and duties. Initial and renewal fees shall be  
15 established by the board of directors annually.

16 (d) The meetings of the organization shall be subject to the rules  
17 of the Bagley-Keene Open ~~Meetings~~ *Meeting* Act (Article 9  
18 (commencing with Section 11120) of Chapter 1 of Part 1 of  
19 Division 3 of Title 2 of the Government Code).

20 *SEC. 2. Section 4602 of the Business and Professions Code is*  
21 *amended to read:*

22 4602. (a) The organization may discipline a certificate holder  
23 by any, or a combination, of the following methods:

- 24 (1) Placing the certificate holder on probation.
- 25 (2) Suspending the certificate and the rights conferred by this  
26 chapter on a certificate holder for a period not to exceed one year.
- 27 (3) Revoking the certificate.
- 28 (4) Suspending or staying the disciplinary order, or portions of  
29 it, with or without conditions.
- 30 (5) Taking other action as the organization, as authorized by  
31 this chapter or its bylaws, deems proper.

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

34 (c) (1) Notwithstanding any other provision of law, if the  
35 organization receives notice that a certificate holder has been  
36 arrested and charges have been filed by the appropriate prosecuting  
37 agency against the certificate holder alleging a violation of  
38 subdivision (b) of Section 647 of the Penal Code or any other  
39 offense described in *paragraph (8) of subdivision (h) (a)* of Section  
40 4603, the organization shall take all of the following actions:

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

3 (B) Notify the certificate holder within 10 days at the address  
4 last filed with the organization that the certificate has been  
5 suspended, and the reason for the suspension.

6 (C) Notify any business within 10 days that the organization  
7 has in its records as employing the certificate holder that the  
8 certificate has been suspended.

9 (2) Upon notice to the organization that the charges described  
10 in paragraph (1) have resulted in a conviction, the suspended  
11 certificate shall become subject to permanent revocation. The  
12 organization shall provide notice to the certificate holder within  
13 10 days that it has evidence of a valid record of conviction and  
14 that the certificate will be revoked unless the certificate holder  
15 provides evidence within 15 days that the conviction is either  
16 invalid or that the information is otherwise erroneous.

17 (3) Upon notice that the charges have resulted in an acquittal,  
18 or have otherwise been dismissed prior to conviction, the certificate  
19 shall be immediately reinstated and the certificate holder and any  
20 business that received notice pursuant to subparagraph (C) of  
21 paragraph (1) shall be notified of the reinstatement within 10 days.

22 *SEC. 3. Section 4602.5 of the Business and Professions Code*  
23 *is amended to read:*

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

36 (b) The organization shall accept information provided by any  
37 law enforcement agency or any other representative of a local  
38 government agency with responsibility for regulating, or  
39 administering a local ordinance relating to, massage or massage  
40 businesses. The organization shall have the responsibility to review

1 any information received and to take any actions authorized by  
2 this chapter that are warranted by that information.

3 *SEC. 4. Section 4603 of the Business and Professions Code is*  
4 *amended to read:*

5 4603. (a) It is a violation of this chapter for a certificate holder  
6 to commit, and the organization may deny an application for a  
7 certificate or discipline a certificate holder for, any of the following:

8 (a)

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

16 (b)

17 (2) Procuring a certificate by fraud, misrepresentation, or  
18 mistake.

19 (c)

20 (3) Violating or attempting to violate, directly or indirectly, or  
21 assisting in or abetting the violation of, or conspiring to violate,  
22 any provision or term of this chapter or any rule or bylaw adopted  
23 by the organization.

24 (d)

25 (4) Conviction of any felony, or conviction of a misdemeanor  
26 that is substantially related to the qualifications or duties of a  
27 certificate holder, in which event the record of the conviction shall  
28 be conclusive evidence of the crime.

29 (e)

30 (5) Impersonating an applicant or acting as a proxy for an  
31 applicant in any examination referred to under this chapter for the  
32 issuance of a certificate.

33 (f)

34 (6) Impersonating a certified practitioner or therapist, or  
35 permitting or allowing an uncertified person to use a certificate.

36 (g)

37 (7) Committing any fraudulent, dishonest, or corrupt act that is  
38 substantially related to the qualifications or duties of a certificate  
39 holder.

40 (h)

1 (8) Committing any act punishable as a sexually related crime.

2 (b) *For purposes of paragraph (1) of subdivision (a), the*  
3 *organization may adopt a definition of “unprofessional conduct”*  
4 *by resolution at a duly noticed public hearing.*

5 *SEC. 5. Section 4604 of the Business and Professions Code is*  
6 *amended to read:*

7 4604. (a) Notwithstanding Section 4601, the organization may  
8 grant a massage practitioner certificate to any person who applies  
9 on or before January 1, 2012, with one of the following:

10 (1) A current valid massage permit or license from a California  
11 city, county, or city and county and documentation evidencing that  
12 the person has completed at least a 100-hour course in massage at  
13 a state-approved or registered school, or out-of-state school  
14 recognized by the organization as providing comparable education,  
15 has been practicing for at least three years, and has provided at  
16 least 1,000 hours of massage to members of the public for  
17 compensation.

18 (2) Documentation evidencing that the person has completed  
19 at least a 100-hour course in massage at a state-approved or  
20 registered school, or out-of-state school recognized by the  
21 organization as providing comparable education, has been  
22 practicing for at least three years, and has provided at least 1,750  
23 hours of massage to members of the public for compensation. For  
24 purposes of this subdivision, evidence of practice shall include  
25 either of the following:

26 (A) A W-2 form or employer’s affidavit containing the dates  
27 of the applicant’s employment.

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

31 (3) Documentation evidencing that the person holds a current  
32 valid certificate of authorization as an instructor at an approved  
33 massage school, or holds the position of a massage instructor at a  
34 school accredited by an agency recognized by the United States  
35 Department of Education, or colleges and universities of the state  
36 higher education system, as defined in Section 100850 of the  
37 Education Code.

38 (b) (1) After reviewing the information submitted under  
39 subdivision (a) *or upon the request of a local law enforcement*

1 agency, the organization may require additional information  
2 necessary to enable it to determine whether to issue a certificate.

3 (2) If an applicant under paragraph (1) of subdivision (a) or  
4 paragraph (1) of subdivision (c) has not complied with Section  
5 4601.3, or its equivalent, when obtaining a license or permit from  
6 the city, county, or city and county, the organization shall require  
7 the applicant to comply with Section 4601.3 prior to issuing a  
8 certificate pursuant to this section.

9 (c) (1) A person applying for a massage practitioner certificate  
10 on or before January 1, 2012, who meets the educational  
11 requirements of either paragraph (1) or (2) of subdivision (a), but  
12 who has not completed the required number of practice hours prior  
13 to submitting an application pursuant to this section, may apply  
14 for a conditional certificate.

15 (2) An applicant for a conditional certificate shall, within five  
16 years of being issued the conditional certificate, be required to  
17 complete at least 30 hours of additional education per year from  
18 schools or courses described in paragraph (5) until he or she has  
19 completed a total of at least 250 hours of education, which may  
20 include massage education hours previously completed in a  
21 massage course described in either paragraph (1) or (2) of  
22 subdivision (a).

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

26 (4) The organization shall immediately revoke the conditional  
27 certificate issued to any person pursuant to this subdivision if the  
28 time period specified in paragraph (2) expires without proof of  
29 completion of the requirements having been filed with the  
30 organization.

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

33 (A) An approved school.

34 (B) A registered school.

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

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

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

4 *SEC. 6. Section 4612 of the Business and Professions Code is*  
5 *amended to read:*

6 4612. (a) (1) The holder of a certificate issued pursuant to  
7 this chapter shall have the right to practice massage, consistent  
8 with this chapter and the qualifications established by his or her  
9 certification, in any city, county, or city and county in this state  
10 and shall not be required to obtain any other license, permit, or  
11 other authorization, except as provided in this section, to engage  
12 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 by an  
16 individual who is certified pursuant to this chapter and who is  
17 practicing consistent with the qualifications established by his or  
18 her certification. No provision of any ordinance enacted by a city,  
19 county, or city and county that is in effect before the effective date  
20 of this chapter, and that requires a license, permit, or other  
21 authorization to practice massage, may be enforced against an  
22 individual who is certified pursuant to this chapter.

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

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

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

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

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

15 (4) Nothing in this section shall prohibit a city, county, or city  
 16 and county from adopting land use and zoning requirements  
 17 applicable to massage establishments ~~or businesses~~, provided that  
 18 these requirements shall be no different than the requirements that  
 19 are uniformly applied to *all other businesses providing professional*  
 20 ~~or personal services~~ ~~businesses~~, *as defined in subdivision (a) of*  
 21 *Section 13401 of the Corporations Code, or personal services*.

22 (5) Local building code or physical facility requirements  
 23 applicable to massage establishments ~~or businesses~~ shall not require  
 24 additional restroom, shower, or other facilities that are not  
 25 uniformly applicable to *all other businesses providing professional*  
 26 ~~or personal service~~ ~~businesses services~~, *as defined in subdivision*  
 27 *(a) of Section 13401 of the Corporations Code, or personal*  
 28 *services*, nor shall building or facility requirements be adopted  
 29 that (A) require unlocked doors when there is no staff available to  
 30 assure security for clients and massage staff who are behind closed  
 31 doors, or (B) require windows that provide a view into massage  
 32 rooms that interfere with the privacy of clients of the massage  
 33 ~~business establishment~~.

34 (6) A city, county, or city and county may adopt reasonable  
 35 health and safety requirements with respect to massage  
 36 establishments ~~or businesses~~, including, but not limited to,  
 37 requirements for cleanliness of massage rooms, towels and linens,  
 38 and reasonable attire and personal hygiene requirements for persons  
 39 providing massage services, provided that nothing in this paragraph  
 40 shall be interpreted to authorize adoption of local ordinances that

1 impose additional qualifications, such as medical examinations,  
2 background checks, or other criteria, upon any person certified  
3 pursuant to this chapter.

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

6 (A) Requiring an applicant for a business license to operate a  
7 massage ~~business~~ or establishment to fill out an application that  
8 requests the applicant to provide relevant information.

9 (B) Making reasonable investigations into the information so  
10 provided.

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

13 (c) An owner or operator of a massage ~~business~~ or establishment  
14 subject to subdivision (b) shall be responsible for the conduct of  
15 all employees or independent contractors working on the premises  
16 of the ~~business~~ establishment. *Failure to comply with this*  
17 *subdivision may result in suspension or revocation of the owner*  
18 *or operator's certificate in accordance with Section 4603.* Nothing  
19 in this section shall preclude a local ordinance from authorizing  
20 suspension, revocation, or other restriction of a license or permit  
21 issued to a massage establishment ~~or business~~ if violations of this  
22 chapter, or of the local ordinance, occur on the ~~business~~ premises  
23 *of the establishment.*

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

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

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

36 (e) *Nothing in this chapter precludes a city, county, or city and*  
37 *county from requiring a background check, as described in Section*  
38 *4601.3, of an owner or operator of a massage establishment who*  
39 *is not certified pursuant to this chapter.*

1 SECTION 1. ~~Section 4600.5 of the Business and Professions~~  
2 ~~Code is amended to read:~~

3 ~~4600.5. (a) A Massage Therapy Organization, as defined in~~  
4 ~~subdivision (c) of Section 4600, shall be created and shall have~~  
5 ~~the responsibilities and duties set forth in this chapter. The~~  
6 ~~organization may take any reasonable actions to carry out the~~  
7 ~~responsibilities and duties set forth in this chapter, including, but~~  
8 ~~not limited to, hiring staff and entering into contracts.~~

9 ~~(b) (1) The organization shall be governed by a board of~~  
10 ~~directors made up of two representatives selected by each~~  
11 ~~professional society, association, or other entity, whose~~  
12 ~~membership is comprised of massage therapists and that chooses~~  
13 ~~to participate in the organization. To qualify, a professional society,~~  
14 ~~association, or other entity shall have a dues-paying membership~~  
15 ~~in California of at least 1,000 individuals for the last three years,~~  
16 ~~and shall have bylaws that require its members to comply with a~~  
17 ~~code of ethics. The board of directors shall also include each of~~  
18 ~~the following persons:~~

19 ~~(A) One member selected by each statewide association of~~  
20 ~~private postsecondary schools incorporated on or before January~~  
21 ~~1, 2010, whose member schools have together had at least 1,000~~  
22 ~~graduates in each of the previous three years from massage therapy~~  
23 ~~programs meeting the approval standards set forth in subdivision~~  
24 ~~(a) of Section 4600, except from those qualifying associations that~~  
25 ~~choose not to exercise this right of selection.~~

26 ~~(B) One member selected by the League of California Cities,~~  
27 ~~unless that entity chooses not to exercise this right of selection.~~

28 ~~(C) One member selected by the California State Association~~  
29 ~~of Counties, unless that entity chooses not to exercise this right of~~  
30 ~~selection.~~

31 ~~(D) One member selected by the Director of Consumer Affairs,~~  
32 ~~unless that entity chooses not to exercise this right of selection.~~

33 ~~(E) One member appointed by the California Community~~  
34 ~~College Chancellor's Office, unless that entity chooses not to~~  
35 ~~exercise this right of selection. The person appointed, if any, shall~~  
36 ~~not be part of any massage therapy certificate or degree program.~~

37 ~~(F) One member selected by the California Police Chiefs~~  
38 ~~Association, unless that entity chooses not to exercise this right of~~  
39 ~~selection.~~

1 ~~(G) One member selected by the California State Sheriffs’~~  
2 ~~Association, unless that entity chooses not to exercise this right of~~  
3 ~~selection.~~

4 ~~The organization’s bylaws shall establish a process for appointing~~  
5 ~~other professional directors as determined by the board.~~

6 ~~(2) The initial board of directors shall establish the organization,~~  
7 ~~initiate the request for tax-exempt status from the Internal Revenue~~  
8 ~~Service, and solicit input from the massage community concerning~~  
9 ~~the operations of the organization. The initial board of directors,~~  
10 ~~in its discretion, may immediately undertake to issue the certificates~~  
11 ~~authorized by this chapter after adopting the necessary bylaws or~~  
12 ~~other rules, or may establish by adoption of bylaws the permanent~~  
13 ~~governing structure prior to issuing certificates.~~

14 ~~(e) The board of directors shall establish fees reasonably related~~  
15 ~~to the cost of providing services and carrying out its ongoing~~  
16 ~~responsibilities and duties. Initial and renewal fees shall be~~  
17 ~~established by the board of directors annually.~~

18 ~~(d) The meetings of the organization shall be subject to the rules~~  
19 ~~of the Bagley-Keene Open Meeting Act (Article 9 (commencing~~  
20 ~~with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title~~  
21 ~~2 of the Government Code).~~

22 ~~SEC. 2. Section 4612 of the Business and Professions Code is~~  
23 ~~amended to read:~~

24 ~~4612. (a) (1) The holder of a certificate issued pursuant to~~  
25 ~~this chapter shall have the right to practice massage, consistent~~  
26 ~~with this chapter and the qualifications established by his or her~~  
27 ~~certification, in any city, county, or city and county in this state~~  
28 ~~and shall not be required to obtain any other license, permit, or~~  
29 ~~other authorization, except as provided in this section or Section~~  
30 ~~4612.5, to engage in that practice.~~

31 ~~(2) Notwithstanding any other provision of law, a city, county,~~  
32 ~~or city and county shall not enact an ordinance that requires a~~  
33 ~~license, permit, or other authorization to practice massage by an~~  
34 ~~individual who is certified pursuant to this chapter and who is~~  
35 ~~practicing consistent with the qualifications established by his or~~  
36 ~~her certification, except as provided in Section 4612.5. No~~  
37 ~~provision of any ordinance enacted by a city, county, or city and~~  
38 ~~county that is in effect before the effective date of this chapter,~~  
39 ~~and that requires a license, permit, or other authorization to practice~~

1 massage, may be enforced against an individual who is certified  
2 pursuant to this chapter, except as provided in Section 4612.5.

3 ~~(3) Except as provided in subdivision (b), nothing in this section~~  
4 ~~shall be interpreted to prevent a city, county, or city and county~~  
5 ~~from adopting or enforcing any local ordinance governing zoning,~~  
6 ~~business licensing, and reasonable health and safety requirements~~  
7 ~~for massage establishments or businesses. Subdivision (b) shall~~  
8 ~~not apply to any massage establishment or business that employs~~  
9 ~~or uses persons to provide massage services who are not certified~~  
10 ~~pursuant to this chapter.~~

11 ~~(b) (1) This subdivision shall apply only to massage~~  
12 ~~establishments or businesses that are sole proprietorships, where~~  
13 ~~the sole proprietor is certified pursuant to this chapter, and to~~  
14 ~~massage establishments or businesses that employ or use only~~  
15 ~~persons certified pursuant to this chapter to provide massage~~  
16 ~~services. For purposes of this subdivision, a sole proprietorship is~~  
17 ~~a business where the owner is the only person employed by that~~  
18 ~~business to provide massage services.~~

19 ~~(2) (A) Any massage establishment or business described in~~  
20 ~~paragraph (1) shall maintain on its premises evidence for review~~  
21 ~~by local authorities that demonstrates that all persons providing~~  
22 ~~massage services are certified.~~

23 ~~(B) Nothing in this section shall preclude a city, county, or city~~  
24 ~~and county from including in a local ordinance a provision that~~  
25 ~~requires a business described in paragraph (1) to file copies or~~  
26 ~~provide other evidence of the certificates held by the persons who~~  
27 ~~are providing massage services at the business or from requiring~~  
28 ~~compliance with Section 4612.5.~~

29 ~~(3) A city, county, or city and county may charge a massage~~  
30 ~~business or establishment a business licensing fee sufficient to~~  
31 ~~cover the costs of the business licensing activities established by~~  
32 ~~a local ordinance described in this section.~~

33 ~~(4) Nothing in this section shall prohibit a city, county, or city~~  
34 ~~and county from adopting land use and zoning requirements~~  
35 ~~applicable to massage establishments or businesses, provided that~~  
36 ~~these requirements shall be no different than the requirements that~~  
37 ~~are uniformly applied to other professional or personal services~~  
38 ~~businesses.~~

39 ~~(5) Local building code or physical facility requirements~~  
40 ~~applicable to massage establishments or businesses shall not require~~

1 additional restroom, shower, or other facilities that are not  
2 uniformly applicable to other professional or personal service  
3 businesses, nor shall building or facility requirements be adopted  
4 that (A) require unlocked doors when there is no staff available to  
5 assure security for clients and massage staff who are behind closed  
6 doors, or (B) require windows that provide a view into massage  
7 rooms that interfere with the privacy of clients of the massage  
8 business.

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

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

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

24 (B) Making reasonable investigations into the information so  
25 provided.

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

28 (e) An owner or operator of a massage business or establishment  
29 subject to subdivision (b) shall be responsible for the conduct of  
30 all employees or independent contractors working on the premises  
31 of the business. Nothing in this section shall preclude a local  
32 ordinance from authorizing suspension, revocation, or other  
33 restriction of a license or permit issued to a massage establishment  
34 or business if violations of this chapter, or of the local ordinance,  
35 occur on the business premises.

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

1     ~~(1) Provides that duly authorized officials of the city, county,~~  
2     ~~or city and county have the right to conduct reasonable inspections,~~  
3     ~~during regular business hours, to ensure compliance with this~~  
4     ~~chapter, the local ordinance, or other applicable fire and health~~  
5     ~~and safety requirements.~~  
6     ~~(2) Requires an owner or operator to notify the city, county, or~~  
7     ~~city and county of any intention to rename, change management,~~  
8     ~~or convey the business to another person.~~  
9     ~~SEC. 3. Section 4612.5 is added to the Business and Professions~~  
10    ~~Code, to read:~~  
11    ~~4612.5. Notwithstanding any other provision of this chapter,~~  
12    ~~any city, county, or city and county may require any person who~~  
13    ~~administers massage for compensation, or who owns a massage~~  
14    ~~establishment or business, to also hold a business license or a~~  
15    ~~massage establishment permit or both.~~