

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY JULY 2, 2012

AMENDED IN ASSEMBLY JUNE 21, 2012

AMENDED IN ASSEMBLY JUNE 12, 2012

AMENDED IN SENATE JANUARY 10, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 122

Introduced by Senator Price

January 24, 2011

An act to amend Sections 2709, 2786, and 2798, ~~4600, 4601, 4602, 4602.5, 4603, 4603.7, 4612, and 4613~~ of, and to add Sections 2135.7, 2786.2, and 2786.5, ~~and 4603.8~~ to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 122, as amended, Price. Healing Arts.

(1) Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to issue a license to an applicant who meets specified qualifications and requirements, including successfully completing a medical curriculum, as specified, in a medical school or schools located in the United States or Canada approved by the board, or in a medical school located outside the United States or Canada that otherwise meets specified requirements. Existing law requires the board to issue a license to an applicant who, among other things, (A) holds an unlimited license as a physician and surgeon in another state or

states or a Canadian province or provinces, (B) has held an unrestricted license to practice medicine for at least 4 years, (C) has passed a written examination recognized by the board to be equivalent in context to that administered in California, (D) the board has determined has (i) not had disciplinary action taken against him or her, (ii) not been the subject of an adverse judgment or settlement, and (iii) has not committed any acts or crimes constituting grounds for denial of a certificate, in each case, as specified, (E) has completed specified postgraduate training, and (F) is board certified in a specialty, as specified.

This bill would, upon review and recommendation, authorize the board to determine that an applicant for a physician and surgeon's certificate who acquired his or her medical education or a portion thereof at a foreign medical school that is not recognized or has been previously disapproved by the board is eligible for a certificate if the applicant (1) successfully completes a course of medical instruction leading to a degree of medical doctor, (2) holds an unlimited and unrestricted license in another state or federal territory and practiced for 10 or 20 years depending on whether the medical education was acquired from an unrecognized or previously disapproved foreign medical school, (3) is certified by a specified specialty board, (4) has successfully taken and passed specified examinations, (5) has not been the subject of specified disciplinary action or of adverse judgments or settlements, (6) has successfully completed 3 years of approved postgraduate training, (7) is not subject to denial of licensure under specified provisions, and (8) has not held a healing arts license and been subject to disciplinary action by specified healing arts boards. The bill would also authorize the board to adopt specified regulations concerning the acceptance of records when originals are not available and substitution of board certifications for years of practice or licensure when considering an application for a certificate pursuant to these provisions.

~~(1)~~

(2) Existing law creates within the Department of Consumer Affairs the Board of Registered Nursing, and makes the board responsible for the licensure and regulation of registered nurses. Existing law requires the board to meet quarterly.

This bill would require meetings of the board to be held in northern and southern California.

~~(2)~~

(3) Existing law defines the term “approved school of nursing” and requires the board to approve and regulate registered nursing schools that are institutions of higher education or are affiliated with an institution of higher education, as specified. Existing law requires a school of nursing that is not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees.

This bill would delete the provisions requiring an agreement and would instead allow the board to approve a school of nursing that is affiliated with an institution of higher education, and that is subject to the requirements set forth in the California Private Postsecondary Education Act of 2009 to grant nursing degrees. The bill would specify that the term “approved school of nursing” includes an approved nursing program. The bill would subject all approved schools of nursing to specified fees for deposit into the Board of Registered Nursing Fund, a continuously appropriated fund. Because the bill adds a new source of revenue to a continuously appropriated fund, the bill would make an appropriation.

The bill would require the board to have a memorandum of understanding with the Bureau for Private Postsecondary Education to delineate the powers of the board and bureau, as specified.

(3)

(4) Existing law provides that it is unlawful for anyone to conduct a school of nursing unless the school has been approved by the board.

This bill would authorize the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the Bureau for Private Postsecondary Education and the office of the Attorney General of such a school. The bill would also provide that it is unprofessional conduct for any registered nurse to violate that provision.

~~(4) Existing law, until January 1, 2015, provides for the voluntary certification of massage practitioners and massage therapists by the California Massage Therapy Council. Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage therapist, including, but not limited to, (A) successfully completing curricula in massage and related subjects totaling a minimum of 500 hours, a minimum of 250 hours of which shall be from a school approved by the council and the other 250 hours may be secured as specified, or (B) passing a massage and bodywork competency assessment examination, as specified.~~

~~This bill would require an applicant for a massage therapist certificate to meet the other requirements for certification and to also successfully complete either (A) the 500 hours or the credit unit equivalent, as specified above, or (B) the competency assessment examination, as specified above, and curricula in massage and related subjects totaling a minimum of 250 hours, at a single approved school.~~

~~(5) Existing law requires the council to immediately suspend, on an interim basis, the certificate of a certificate holder, if the council receives notice that a certificate holder has been arrested for and charged with, among other crimes, soliciting or engaging in an act of prostitution or an act punishable as sexually related crime, and to provide notices of the suspension to the certificate holder and any business that employs the certificate holder, in each case, as specified.~~

~~This bill would, additionally, require the council to immediately suspend the certificate of a certificate holder upon receipt of clear and convincing evidence that the holder has committed an act punishable as a sexually related crime or felony. The bill would also require the council to consider any available credible mitigating evidence before making a decision to so suspend a certificate. The bill would grant the holder of a certificate so suspended the right to a hearing to be held within 30 days, and require the council to send notice of suspension to the certificate holder and to other specified businesses.~~

~~(6) Existing law requires the council, upon request of a law enforcement agency or local government agency with responsibility for regulating massage or massage business, to provide information concerning a certificate holder, as specified.~~

~~This bill would authorize those local agencies, upon request of the council, to provide information to the council concerning an applicant or certificate holder, including, but not limited to, information related to criminal activity or unprofessional conduct allegedly engaged in by that person.~~

~~(7) Under existing law, conviction of a felony that is substantially related to the qualifications or duties of a certificate holder is a violation and basis for the council to deny an application or discipline a certificate holder.~~

~~This bill would also impose those consequences for a conviction of a felony, misdemeanor, infraction, or municipal code violation, or liability in an administrative or civil action, that is substantially related to the qualifications, functions, or duties of a certificate holder. The bill~~

would also require a certificate holder to provide identifying information, upon request, as specified.

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

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

1 *SECTION 1. Section 2135.7 is added to the Business and*
2 *Professions Code, to read:*

3 2135.7. (a) *Upon review and recommendation, the board may*
4 *determine that an applicant for a physician and surgeon's*
5 *certificate who acquired his or her medical education or a portion*
6 *thereof at a foreign medical school that is not recognized or has*
7 *been previously disapproved by the board is eligible for a physician*
8 *and surgeon's certificate if the applicant meets all of the following*
9 *criteria:*

10 (1) *Has successfully completed a resident course of medical*
11 *education leading to a degree of medical doctor equivalent to that*
12 *specified in Sections 2089 to 2091.2, inclusive.*

13 (2) (A) (i) *For an applicant who acquired any part of his or*
14 *her medical education from an unrecognized foreign medical*
15 *school, he or she holds an unlimited and unrestricted license as a*
16 *physician and surgeon in another state or federal territory and*
17 *has held that license and continuously practiced for a minimum*
18 *of 10 years prior to the date of application.*

19 (ii) *For an applicant who acquired any part of his or her*
20 *professional instruction from a foreign medical school previously*
21 *disapproved by the board, he or she holds an unlimited and*
22 *unrestricted license as a physician and surgeon in another state*
23 *or federal territory and has held that license and continuously*
24 *practiced for a minimum of 20 years prior to the date of*
25 *application.*

26 (B) *For the purposes of clauses (i) and (ii) of subparagraph*
27 *(A), the board may combine the period of time that the applicant*
28 *has held an unlimited and unrestricted license in other states or*
29 *federal territories and continuously practiced therein, but each*
30 *applicant under this section shall have a minimum of five years*
31 *continuous licensure and practice in a single state or federal*
32 *territory. For purposes of this paragraph, continuous licensure*
33 *and practice includes any postgraduate training after 24 months*

1 in a postgraduate training program that is accredited by the
2 Accreditation Council for Graduate Medical Education (ACGME)
3 or postgraduate training completed in Canada that is accredited
4 by the Royal College of Physicians and Surgeons of Canada
5 (RCPSC).

6 (3) Is certified by a specialty board that is a member board of
7 the American Board of Medical Specialties.

8 (4) Has successfully taken and passed the examinations
9 described in Article 9 (commencing with Section 2170).

10 (5) Has not been the subject of a disciplinary action by a medical
11 licensing authority or of adverse judgments or settlements resulting
12 from the practice of medicine that the board determines constitutes
13 a pattern of negligence or incompetence.

14 (6) Has successfully completed three years of approved
15 postgraduate training. The postgraduate training required by this
16 paragraph shall have been obtained in a postgraduate training
17 program accredited by the ACGME or postgraduate training
18 completed in Canada that is accredited by the RCPSC.

19 (7) Is not subject to denial of licensure under Division 1.5
20 (commencing with Section 475) or Article 12 (commencing with
21 Section 2220).

22 (8) Has not held a healing arts license and been the subject of
23 disciplinary action by a healing arts board of this state or by
24 another state or federal territory.

25 (b) The board may adopt regulations to establish procedures
26 for accepting transcripts, diplomas, and other supporting
27 information and records when the originals are not available due
28 to circumstances outside the applicant’s control. The board may
29 also adopt regulations authorizing the substitution of additional
30 specialty board certifications for years of practice or licensure
31 when considering the certification for a physician and surgeon
32 pursuant to this section.

33 (c) This section shall not apply to a person seeking to participate
34 in a program described in Sections 2072, 2073, 2111, 2112, 2113,
35 2115, or 2168, or seeking to engage in postgraduate training in
36 this state.

37 **SECTION 1.**

38 **SEC. 2.** Section 2709 of the Business and Professions Code is
39 amended to read:

1 2709. The board for the purpose of transacting its business
2 shall meet at least once every three months, at times and places it
3 designates by resolution. Meetings shall be held in northern and
4 southern California.

5 ~~SEC. 2.~~

6 *SEC. 3.* Section 2786 of the Business and Professions Code is
7 amended to read:

8 2786. (a) An approved school of nursing, or an approved
9 nursing program, is one that has been approved by the board, gives
10 the course of instruction approved by the board, covering not less
11 than two academic years, is affiliated or conducted in connection
12 with one or more hospitals, and is an institution of higher
13 education. For purposes of this section, “institution of higher
14 education” includes, but is not limited to, community colleges
15 offering an associate of arts or associate of science degree and
16 private postsecondary institutions offering an associate of arts,
17 associate of science, or baccalaureate degree or an entry-level
18 master’s degree, and is an institution that is not subject to the
19 California Private Postsecondary Education Act of 2009 (Chapter
20 8 (commencing with Section 94800) of Part 59 of Division 10 of
21 Title 3 of the Education Code).

22 (b) A school of nursing that is affiliated with an institution that
23 is subject to the California Private Postsecondary Education Act
24 of 2009 (Chapter 8 (commencing with Section 94800) of Part 59
25 of Division 10 of Title 3 of the Education Code), may be approved
26 by the board to grant an associate of arts or associate of science
27 degree to individuals who graduate from the school of nursing or
28 to grant a baccalaureate degree in nursing with successful
29 completion of an additional course of study as approved by the
30 board and the institution involved.

31 (c) The board shall determine by regulation the required subjects
32 of instruction to be completed in an approved school of nursing
33 for licensure as a registered nurse and shall include the minimum
34 units of theory and clinical experience necessary to achieve
35 essential clinical competency at the entry level of the registered
36 nurse. The board’s standards shall be designed to require all schools
37 to provide clinical instruction in all phases of the educational
38 process.

39 (d) The board shall perform or cause to be performed an analysis
40 of the practice of the registered nurse no less than every five years.

1 Results of the analysis shall be utilized to assist in the
2 determination of the required subjects of instruction, validation of
3 the licensing examination, and assessment of the current practice
4 of nursing.

5 ~~SEC. 3.~~

6 *SEC. 4.* Section 2786.2 is added to the Business and Professions
7 Code, to read:

8 2786.2. A private postsecondary school of nursing approved
9 by the board pursuant to subdivision (b) of Section 2786 shall
10 comply with Chapter 8 of Part 59 of Division 10 of Title 3 of the
11 Education Code. The board shall have a memorandum of
12 understanding with the Bureau for Private Postsecondary Education
13 to delineate the powers of the board to review and approve schools
14 of nursing and the powers of the bureau to protect the interest of
15 students attending institutions governed by the *California* Private
16 Postsecondary Education Act of 2009, Chapter 8 (commencing
17 with Section 94800) of Division 10 of Title 3 of the Education
18 Code.

19 ~~SEC. 4.~~

20 *SEC. 5.* Section 2786.5 is added to the Business and Professions
21 Code, to read:

22 2786.5. (a) An institution of higher education or a private
23 postsecondary school of nursing approved by the board pursuant
24 to subdivision (b) of Section 2786 shall remit to the board for
25 deposit in the Board of Registered Nursing Fund the following
26 fees, in accordance with the following schedule:

27 (1) The fee for approval of a school of nursing shall be five
28 thousand dollars (\$5,000).

29 (2) The fee for continuing approval of a nursing program
30 established after January 1, 2013, shall be three thousand five
31 hundred dollars (\$3,500).

32 (3) The processing fee for authorization of a substantive change
33 to an approval of a school of nursing shall be five hundred dollars
34 (\$500).

35 (b) If the board determines that the annual cost of providing
36 oversight and review of a school of nursing, as required by this
37 article, is less than the amount of any fees required to be paid by
38 that institution pursuant to this article, the board may decrease the
39 fees applicable to that institution to an amount that is proportional
40 to the board's costs associated with that institution.

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 2798 of the Business and Professions Code is
3 amended to read:

4 2798. (a) It is unlawful for anyone to conduct a school of
5 nursing unless the school has been approved by the board.

6 (b) If the board has a reasonable belief, either by complaint or
7 otherwise, that a school is allowing students to apply for its nursing
8 program and that nursing program does not have the approval of
9 the board, the board shall immediately order the school to cease
10 and desist from offering students the ability to enroll in its nursing
11 program. The board shall also notify the Bureau for Private
12 Postsecondary Education and the Attorney General’s office that
13 the school is offering students the ability to enroll in a nursing
14 program that does not have the approval of the board.

15 (c) It shall be unprofessional conduct for any registered nurse
16 to violate or attempt to violate, either directly or indirectly, or to
17 assist or abet the violation of, this section.

18 (d) This section is not applicable to schools conducted under
19 Section 2789 of this chapter.

20 ~~SEC. 6.~~ Section 4600 of the Business and Professions Code is
21 amended to read:

22 4600. ~~As used in this chapter, the following terms shall have
23 the following meanings:~~

24 (a) ~~“Approved school” or “approved massage school” means a
25 school approved by the council that meets minimum standards for
26 training and curriculum in massage and related subjects and that
27 meets any of the following requirements:~~

28 (1) ~~Is approved by the Bureau for Private Postsecondary
29 Education.~~

30 (2) ~~Is approved by the Department of Consumer Affairs.~~

31 (3) ~~Is an institution accredited by the Accrediting Commission
32 for Senior Colleges and Universities or the Accrediting
33 Commission for Community and Junior Colleges of the Western
34 Association of Schools and Colleges and that is one of the
35 following:~~

36 (A) ~~A public institution.~~

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

1 ~~(C) A for-profit institution.~~

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

8 ~~(4) Is a college or university of the state higher education system,~~
9 ~~as defined in Section 100850 of the Education Code.~~

10 ~~(5) Is a school of equal or greater training that is recognized by~~
11 ~~the corresponding agency in another state or accredited by an~~
12 ~~agency recognized by the United States Department of Education.~~

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

16 ~~(c) “Massage therapist,” “bodyworker,” “bodywork therapist,”~~
17 ~~or “massage and bodywork therapist” means a person who is~~
18 ~~certified by the California Massage Therapy Council under~~
19 ~~subdivision (c) of Section 4601 and who administers massage for~~
20 ~~compensation.~~

21 ~~(d) “Massage practitioner,” “bodywork practitioner,” or~~
22 ~~“massage and bodywork practitioner” means a person who is~~
23 ~~certified by the California Massage Therapy Council under~~
24 ~~subdivision (b) of Section 4601 and who administers massage for~~
25 ~~compensation.~~

26 ~~(e) “Council” means the California Massage Therapy Council~~
27 ~~created pursuant to this chapter, which shall be a nonprofit~~
28 ~~organization exempt from taxation under Section 501(c)(3) of Title~~
29 ~~26 of the United States Code. The council may commence activities~~
30 ~~as authorized by this section once it has submitted a request to the~~
31 ~~Internal Revenue Service seeking this exemption. Whenever the~~
32 ~~term “organization” is used in this chapter, it shall mean the~~
33 ~~council, except where the context indicates otherwise.~~

34 ~~(f) “Registered school” means a school approved by the council~~
35 ~~that meets minimum standards for training and curriculum in~~
36 ~~massage and related subjects and that either is approved by the~~
37 ~~Bureau for Private Postsecondary Education or the Department of~~
38 ~~Consumer Affairs, or is an institution accredited by the senior~~
39 ~~commission or the junior commission of the Western Association~~
40 ~~of Schools and Colleges as defined in paragraph (3) of subdivision~~

1 ~~(a), is a college or university of the state higher education system~~
2 ~~as defined in Section 100850 of the Education Code, or is a school~~
3 ~~of equal or greater training that is approved by the corresponding~~
4 ~~agency in another state.~~

5 ~~(g) For purposes of this chapter, the terms “massage” and~~
6 ~~“bodywork” shall have the same meaning.~~

7 ~~(h) “Operator of a massage business” means a person, whether~~
8 ~~owner or nonowner, who manages or operates a massage business.~~

9 ~~SEC. 7. Section 4601 of the Business and Professions Code is~~
10 ~~amended to read:~~

11 ~~4601. (a) The council shall issue a certificate under this chapter~~
12 ~~to an applicant who satisfies the requirements of this chapter.~~

13 ~~(b) (1) In order to obtain certification as a massage practitioner,~~
14 ~~an applicant shall submit a written application and provide the~~
15 ~~council with satisfactory evidence that he or she meets all of the~~
16 ~~following requirements:~~

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

18 ~~(B) The applicant has successfully completed, at a single~~
19 ~~approved school, curricula in massage and related subjects, totaling~~
20 ~~a minimum of 250 hours or the credit unit equivalent, that~~
21 ~~incorporates appropriate school assessment of student knowledge~~
22 ~~and skills. Included in the hours shall be instruction addressing~~
23 ~~anatomy and physiology, contraindications, health and hygiene,~~
24 ~~and business and ethics, with at least 100 hours of the required~~
25 ~~minimum 250 hours devoted to these curriculum areas.~~

26 ~~(C) All fees required by the council have been paid.~~

27 ~~(2) New certificates shall not be issued pursuant to this~~
28 ~~subdivision after December 31, 2015. Certificates issued pursuant~~
29 ~~to this section or subdivision (a) or (c) of Section 4604 on or before~~
30 ~~December 31, 2015, shall, after December 31, 2015, be renewed~~
31 ~~without any additional educational requirements, provided that the~~
32 ~~certificate holder continues to be qualified pursuant to this chapter.~~

33 ~~(c) In order to obtain certification as a massage therapist, an~~
34 ~~applicant shall submit a written application and provide the council~~
35 ~~with satisfactory evidence that he or she meets all of the following~~
36 ~~requirements:~~

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

38 ~~(2) The applicant satisfies at least one of the following~~
39 ~~requirements:~~

1 ~~(A) He or she has successfully completed the curricula in~~
2 ~~massage and related subjects totaling a minimum of 500 hours or~~
3 ~~the credit unit equivalent. Of this 500 hours, a minimum of 250~~
4 ~~hours shall be from approved schools. The remaining 250 hours~~
5 ~~required may be secured either from approved or registered schools,~~
6 ~~or from continuing education providers approved by, or registered~~
7 ~~with, the council or the Department of Consumer Affairs. After~~
8 ~~December 31, 2015, applicants may only satisfy the curricula in~~
9 ~~massage and related subjects from approved schools.~~

10 ~~(B) The applicant has done both of the following:~~

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

18 ~~(ii) Passed a massage and bodywork competency assessment~~
19 ~~examination that meets generally recognized psychometric~~
20 ~~principles and standards, and that is approved by the board. The~~
21 ~~successful completion of this examination may have been~~
22 ~~accomplished before the date the council is authorized by this~~
23 ~~chapter to begin issuing certificates.~~

24 ~~(3) All fees required by the council have been paid.~~

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

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

36 ~~(f) Any certification issued under this chapter shall be subject~~
37 ~~to renewal every two years in a manner prescribed by the council,~~
38 ~~and shall expire unless renewed in that manner. The council may~~
39 ~~provide for the late renewal of a license.~~

1 ~~(g) (1) The council shall have the responsibility to determine~~
2 ~~that the school or schools from which an applicant has obtained~~
3 ~~the education required by this chapter meet the requirements of~~
4 ~~this chapter. If the council has any reason to question whether or~~
5 ~~not the applicant received the education that is required by this~~
6 ~~chapter from the school or schools that the applicant is claiming,~~
7 ~~the council shall investigate the facts to determine that the applicant~~
8 ~~received the required education prior to issuing a certificate.~~

9 ~~(2) For purposes of paragraph (1) and any other provision of~~
10 ~~this chapter for which the council is authorized to receive factual~~
11 ~~information as a condition of taking any action, the council shall~~
12 ~~have the authority to conduct oral interviews of the applicant and~~
13 ~~others or to make any investigation deemed necessary to establish~~
14 ~~that the information received is accurate and satisfies any criteria~~
15 ~~established by this chapter.~~

16 ~~(h) The certificate issued pursuant to this chapter, as well as~~
17 ~~any identification card issued by the council, shall be surrendered~~
18 ~~to the council by any certificate holder whose certificate has been~~
19 ~~suspended or revoked.~~

20 ~~SEC. 8. Section 4602 of the Business and Professions Code is~~
21 ~~amended to read:~~

22 ~~4602. (a) The council may discipline a certificate holder by~~
23 ~~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 council, as authorized by this~~
31 ~~chapter or its bylaws, deems proper.~~

32 ~~(b) The council 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 ~~council receives notice that a certificate holder has been arrested~~
36 ~~and charges have been filed by the appropriate prosecuting agency~~
37 ~~against the certificate holder alleging a violation of subdivision~~
38 ~~(b) of Section 647 of the Penal Code or any other offense described~~
39 ~~in subdivision (h) of Section 4603, the council shall take all of the~~
40 ~~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 council that the certificate has been suspended,
5 and the reason for the suspension.

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

9 (2) Upon notice to the council that the charges described in
10 paragraph (1) have resulted in a conviction, the suspended
11 certificate shall become subject to permanent revocation. The
12 council shall provide notice to the certificate holder within 10 days
13 that it has evidence of a valid record of conviction and that the
14 certificate will be revoked unless the certificate holder provides
15 evidence within 15 days that the conviction is either invalid or that
16 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 (d) Notwithstanding any other provision of law, if the council
23 receives clear and convincing evidence that a certificate holder
24 has committed an act punishable as a sexually related crime or a
25 felony, the council may immediately suspend the certificate of that
26 certificate holder. A decision to immediately suspend a certificate
27 pursuant to this subdivision shall be based on clear and convincing
28 evidence and the council shall also consider any available credible
29 mitigating evidence before making a decision to suspend a
30 certificate. Written statements by any person shall not be
31 considered by the council when determining whether to
32 immediately suspend a certificate unless made under penalty of
33 perjury. If the council suspends the certificate of a certificate holder
34 in accordance with this subdivision, the council shall take all of
35 the following additional actions:

36 (1) Notify the certificate holder, at the address last filed with
37 the council, within 10 business days by a method providing
38 delivery confirmation, that the certificate has been suspended, the
39 reason for the suspension, and that the certificate holder has the
40 right to request a hearing pursuant to paragraph (3).

1 ~~(2) Notify by electronic mail or any other means consistent with~~
2 ~~the notice requirements of this chapter, within 10 business days,~~
3 ~~any business that the council has in its records as employing or~~
4 ~~contracting with the certificate holder for massage services, and~~
5 ~~the California city or county permitting authority that has~~
6 ~~jurisdiction over any business that the council has in its records as~~
7 ~~employing or contracting with the certificate holder, that the~~
8 ~~certificate has been suspended.~~

9 ~~(3) A certificate holder whose certificate is suspended pursuant~~
10 ~~to this subdivision shall have the right to request, in writing, a~~
11 ~~hearing to challenge the factual basis for the suspension. If the~~
12 ~~holder of the suspended certificate requests a hearing on the~~
13 ~~suspension, the hearing shall be held within 30 days after receipt~~
14 ~~of the request. A holder whose certificate is suspended based on~~
15 ~~paragraph (1) shall be subject to revocation or other discipline in~~
16 ~~accordance with subdivision (a) of Section 4602.~~

17 ~~SEC. 9. Section 4602.5 of the Business and Professions Code~~
18 ~~is amended to read:~~

19 ~~4602.5. (a) Upon the request of any law enforcement agency~~
20 ~~or any other representative of a local government agency with~~
21 ~~responsibility for regulating, or administering a local ordinance~~
22 ~~relating to, massage or massage businesses, the council shall~~
23 ~~provide information concerning a certificate holder, including, but~~
24 ~~not limited to, the current status of the certificate, any history of~~
25 ~~disciplinary actions taken against the certificate holder, the home~~
26 ~~and work addresses of the certificate holder, and any other~~
27 ~~information in the council's possession that is necessary to verify~~
28 ~~facts relevant to administering the local ordinance.~~

29 ~~(b) Upon the request of the council to any law enforcement~~
30 ~~agency or any other representative of a local government agency~~
31 ~~with responsibility for regulating or administering a local ordinance~~
32 ~~relating to massage or massage businesses, the law enforcement~~
33 ~~agency or local government agency is authorized to provide~~
34 ~~information to the council concerning a certificate applicant or~~
35 ~~certificate holder, including, but not limited to, the current status~~
36 ~~of any application or local permit; any history of disciplinary action~~
37 ~~taken against the certificate applicant or certificate holder; any~~
38 ~~information related to criminal activity or unprofessional conduct~~
39 ~~allegedly engaged in by a certificate applicant or certificate holder,~~
40 ~~including, but not limited to, police reports and declarations of~~

1 conduct; the home and work addresses of the certificate applicant
2 or certificate holder; and any other information in the law
3 enforcement agency's or other local government agency's
4 possession that is necessary to verify facts or implement the
5 provisions of this chapter.

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

13 ~~SEC. 10. Section 4603 of the Business and Professions Code
14 is amended to read:~~

15 ~~4603. It is a violation of this chapter for a certificate holder to
16 commit, and the council may deny an application for a certificate
17 or discipline a certificate holder for, any of the following:~~

18 (a) ~~Unprofessional conduct, including, but not limited to, denial
19 of licensure, revocation, suspension, restriction, or any other
20 disciplinary action against a certificate holder by another state or
21 territory of the United States, by any other government agency, or
22 by another California health care professional licensing board. A
23 certified copy of the decision, order, or judgment shall be
24 conclusive evidence of these actions.~~

25 (b) ~~Procuring a certificate by fraud, misrepresentation, or
26 mistake.~~

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

31 (d) ~~Conviction of any felony, misdemeanor, infraction, or
32 municipal code violation, or liability in an administrative or civil
33 action, that is substantially related to the qualifications, functions,
34 or duties of a certificate holder, in which event the record of the
35 conviction or other judgment shall be conclusive evidence of the
36 crime or liability.~~

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

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

7 ~~SEC. 11. Section 4603.7 of the Business and Professions Code~~
8 ~~is amended to read:~~

9 ~~4603.7. A certificate holder shall include the name under which~~
10 ~~he or she is certified and his or her certificate number in any and~~
11 ~~all advertising and shall display his or her original certificate at~~
12 ~~his or her place of business. A certificate holder shall have his or~~
13 ~~her identification card in his or her possession while providing~~
14 ~~massage services.~~

15 ~~SEC. 12. Section 4603.8 is added to the Business and~~
16 ~~Professions Code, to read:~~

17 ~~4603.8. A certificate holder shall, upon request at the location~~
18 ~~where he or she is providing massage services, provide his or her~~
19 ~~full name and certificate number to a member of the public, the~~
20 ~~council, or a member of law enforcement or a local government~~
21 ~~agency charged with regulating massage.~~

22 ~~SEC. 13. Section 4612 of the Business and Professions Code~~
23 ~~is 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, to engage~~
30 ~~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 provide massage for~~
34 ~~compensation by an individual who is certified pursuant to this~~
35 ~~chapter and who is practicing consistent with the qualifications~~
36 ~~established by his or her certification, or by a massage business~~
37 ~~or massage establishment that employs or uses only persons who~~
38 ~~are certified pursuant to this chapter to provide massage for~~
39 ~~compensation. No provision of any ordinance enacted by a city,~~
40 ~~county, or city and county that is in effect before the effective date~~

1 of this chapter, and that requires a license, permit, or other
2 authorization to provide massage for compensation, may be
3 enforced against an individual who is certified pursuant to this
4 chapter or against a massage business or massage establishment
5 that employs or uses only persons who are certified pursuant to
6 this chapter to provide massage for compensation.

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

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

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

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

32 (3) A city, county, or city and county may charge a massage
33 business or establishment a business licensing fee, provided that
34 the fee shall be no higher than the lowest fee that is applied to
35 other individuals and businesses providing professional services,
36 as defined in subdivision (a) of Section 13401 of the Corporations
37 Code.

38 (4) Nothing in this section shall prohibit a city, county, or city
39 and county from enacting ordinances, regulations, rules,
40 requirements, restrictions, land use regulations, moratoria,

1 conditional use permits, or zoning requirements applicable to an
2 individual certified pursuant to this chapter or to a massage
3 establishment or business that uses only individuals who are
4 certified pursuant to this chapter to provide massage for
5 compensation, provided that, unless otherwise exempted by this
6 chapter, these ordinances, regulations, rules, requirements,
7 restrictions, land use regulations, moratoria, conditional use
8 permits, and zoning requirements shall be no different than the
9 requirements that are uniformly applied to all other individuals
10 and businesses providing professional services, as defined in
11 subdivision (a) of Section 13401 of the Corporations Code. No
12 provision of any ordinance, regulation, rule, requirement,
13 restriction, land use regulation, moratoria, conditional use permit,
14 or zoning requirement enacted by a city, county, or city and county
15 that is in effect before the effective date of this chapter, and that
16 is inconsistent with this paragraph, may be enforced against an
17 individual who is certified pursuant to this chapter or against a
18 massage business or massage establishment that uses only
19 individuals who are certified pursuant to this chapter to provide
20 massage for compensation.

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

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

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

3 ~~(A) Requiring an applicant for a business license to operate a~~
4 ~~massage business or establishment to fill out an application that~~
5 ~~requests the applicant to provide relevant information, as long as~~
6 ~~the information requested is the same as that required of other~~
7 ~~individuals and professionals providing professional services as~~
8 ~~defined in subdivision (a) of Section 13401 of the Corporations~~
9 ~~Code.~~

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

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

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

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 shall be construed to preclude a city,~~
37 ~~county, or city and county from requiring a background check of~~
38 ~~an owner or operator of a massage establishment who owns 5~~
39 ~~percent or more of a massage business or massage establishment~~
40 ~~and who is not certified pursuant to this chapter. The background~~

1 check may include, but is not limited to, a criminal background
2 check, including requiring submission of fingerprints for a state
3 and federal criminal background check, submission of an
4 application that requires the applicant to state information,
5 including, but not limited to, the applicant's business, occupation,
6 and employment history for the 10 years preceding the date of
7 application, the inclusive dates of same, and the name and address
8 of any massage business or other like establishment owned or
9 operated by any person who is subject to the background check
10 requirement of this subdivision. If a noncertified owner's or
11 operator's background check results in a finding that the city,
12 county, or city and county determines is relevant to owning or
13 operating a massage establishment, then the provisions of
14 subdivision (a) and (b) shall not apply to that establishment and
15 the city, county, or city and county may regulate that establishment
16 in any manner it deems proper that is in accordance with the law.

17 SEC. 14. Section 4613 of the Business and Professions Code
18 is amended to read:

19 4613. (a) Nothing in this chapter shall restrict or limit in any
20 way the authority of a city, county, or city and county to adopt a
21 local ordinance governing any person who is not certified pursuant
22 to this chapter.

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

26 (c) Nothing in this chapter shall be construed to restrict or limit
27 in any way the authority of a city, county, or city and county to
28 adopt a local ordinance restricting the opening of a new massage
29 establishment in a location in which a massage establishment has
30 been closed due to criminal activity.