

AMENDED IN ASSEMBLY JUNE 12, 2012

AMENDED IN SENATE MAY 21, 2012

AMENDED IN SENATE APRIL 30, 2012

SENATE BILL

No. 1488

Introduced by Senator Yee

February 24, 2012

An act to add and repeal Chapter 12.5 (commencing with Section 4979.1) of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1488, as amended, Yee. Healing arts: California traditional Chinese Medicine traumatologist certification.

~~Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture and any other violation of the act is a crime.~~

Existing law establishes various boards that license and regulate healing arts practitioners, including physicians and surgeons, chiropractors, physical therapists, and massage therapists. Existing law provides for the voluntary certification of certain practitioners, including the voluntary certification of massage therapists by the California Massage Therapy Council, a nonprofit organization. Existing law prescribes specified educational and other requirements for an applicant to obtain a massage therapy certificate.

This bill would establish the California Traditional Chinese Medicine Traumatology Council as a nonprofit organization to provide for the certification and regulation of the practice of California traditional Chinese Medicine traumatologists, as defined. The bill would require the council to issue a certificate to practice as a California traditional Chinese Medicine traumatologist to an applicant who meets certain training and clinical experience requirements and pays a specified fee. This bill would make the meetings and deliberations of the council subject to the open meeting requirements that apply to state bodies.

This bill would set forth procedures for the renewal of a certificate to perform California traditional Chinese Medicine traumatology and would establish specified fees in that regard.

~~This bill would also require specified treatment procedures to be performed under the supervision of an orthopedic surgeon and prohibit treatment that constitutes the practice of medicine or chiropractic procedures, as defined.~~

This bill would also make it an unfair business practice to use the title of “California certified traditional Chinese Medicine traumatologist” without meeting these certification requirements and would authorize the board to suspend or revoke a certificate for unprofessional conduct, certain fraudulent acts, or specified crimes committed by the certificate holder.

This bill would repeal these provisions on January 1, 2017, unless legislation is enacted before that date to remove or extend that deadline.

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. Chapter 12.5 (commencing with Section 4979.1)
 2 is added to Division 2 of the Business and Professions Code, to
 3 read:
 4
 5 CHAPTER 12.5. CALIFORNIA TRADITIONAL CHINESE MEDICINE
 6 TRAUMATOLOGY
 7
 8 4979.1. As used in this chapter:
 9 (a) “California certified traditional Chinese Medicine
 10 traumatologist” means a person who has been certified by the

1 California Traditional Chinese Medicine Traumatology Council
2 to perform California traditional Chinese Medicine traumatology.

3 (b) “Council” means the California Traditional Chinese
4 Medicine Traumatology Council.

5 (c) “California traditional Chinese Medicine traumatology”
6 includes a range of treatments to address both acute and chronic
7 musculoskeletal conditions, ~~as well as many nonmusculoskeletal~~
8 ~~conditions~~ *through stimulation of acupressure points*. Techniques
9 include, but are not limited to, brushing, kneading, rolling, pressing,
10 ~~and~~ *rubbing, pushing, holding, and lifting* the areas between each
11 of the joints to open the body’s defensive chi and stimulate the
12 energy movement in both meridians, *but do not include*
13 *manipulation techniques to realign the musculoskeletal and*
14 *ligamentous relationship, also known as bone setting*.

15 4979.3. (a) The California Traditional Chinese Medicine
16 Traumatology Council shall be established as a nonprofit
17 organization exempt from taxation under Section 501(c)(3) of the
18 Internal Revenue Code, for the purpose of developing standards
19 for, and certifying the practice of, California traditional Chinese
20 Medicine traumatology. The council may commence activities as
21 authorized by this section after submitting a request to the Internal
22 Revenue Service seeking the exemption.

23 (b) (1) The council shall consist of ~~seven~~ *five* members,
24 composed of three representatives from the clinical settings of
25 traumatology, ~~two representatives from the California Orthopaedic~~
26 ~~Association~~, and one representative each from the Medical Board
27 of California and the California Medical Association.

28 (2) Representatives from the clinical settings of traumatology
29 shall be selected by professional societies, associations, or other
30 entities, whose memberships are comprised solely of practitioners
31 of California traditional Chinese Medicine traumatology.

32 (3) To qualify, a professional society, association, or entity shall
33 have a dues-paying membership in California of at least 30
34 individuals for the last three years and shall have bylaws that
35 require its members to comply with a code of ethics.

36 (c) (1) Subject to subdivision (e), the council shall meet and
37 confer to determine the certification standards, including the level
38 of experience and training needed for an individual to qualify for
39 certification in California traditional Chinese Medicine
40 traumatology.

1 (2) The council shall develop the application form for
2 certification.

3 (3) The meetings and deliberations of the council shall be subject
4 to the provisions of the Bagley-Keene Open Meeting Act (Article
5 9 (commencing with Section 11120) of Chapter 1 of Part 1 of
6 Division 3 of Title 2 of the Government Code).

7 (d) The council shall issue a certificate for California certified
8 traditional Chinese Medicine traumatology to any person who
9 makes an application and meets all of the following requirements,
10 as determined by the council pursuant to subdivision (e):

- 11 (1) Is at least 18 years of age.
- 12 (2) Furnishes satisfactory evidence of training and clinical
13 experience that meets the standards established by the council.
- 14 (3) Is not subject to denial pursuant to Division 1.5 (commencing
15 with Section 475).

16 (e) The council shall evaluate whether an applicant meets the
17 certification standards, including the level of experience and
18 training to sufficiently qualify for the traumatology certification.

19 (f) An individual who is not qualified to receive a certificate
20 under this section, or who fails to apply for certification under this
21 section, shall not hold himself or herself out as a California certified
22 traditional Chinese Medicine traumatologist pursuant to this
23 section.

24 ~~4979.4. (a) A California certified traditional Chinese Medicine
25 traumatologist, when engaging in traditional Chinese Medicine
26 traumatology manipulation techniques to realign the
27 musculoskeletal and ligamentous relationships, shall be supervised
28 by a physician and surgeon who has completed an orthopaedic
29 residency program. The extent of the relationship between a
30 California traditional Chinese Medicine traumatologist and an
31 orthopedic surgeon regarding those manipulation techniques shall
32 be determined by the council after the qualifications necessary for
33 certification are defined and adopted by the council.~~

34 (b)

35 ~~4979.4. (a) A California certified traditional Chinese Medicine
36 traumatologist shall not practice medicine, as defined in Section
37 2052.~~

38 (e)

1 (b) A California certified traditional Chinese Medicine
2 traumatologist shall not practice within the scope of activities
3 regulated by the State Board of Chiropractic Examiners.

4 4979.5. (a) An applicant for California traditional Chinese
5 Medicine traumatology certification shall file an application for a
6 certificate for California traditional Chinese Medicine traumatology
7 with the council.

8 (b) An individual who is not qualified to receive a certificate
9 under this section shall not hold himself or herself out as a
10 California certified traditional Chinese Medicine traumatologist.

11 4979.6. An applicant for certification as a California traditional
12 Chinese Medicine traumatologist shall pay an application fee in a
13 reasonable amount, not to exceed two hundred dollars (\$200) for
14 the regulatory cost to the council of processing the application,
15 when submitting his or her application to the council.

16 4979.7. A California certified traditional Chinese Medicine
17 traumatologist shall renew his or her certificate every two years.

18 4979.8. An expired certificate may be renewed at any time
19 within six months after its expiration. The holder of the certificate
20 shall pay all accrued and unpaid renewal fees, plus a delinquency
21 fee.

22 (a) The renewal fee shall be one hundred dollars (\$100).

23 (b) The delinquency fee shall be twenty-five dollars (\$25).

24 (c) The fee for a duplicate or replacement engraved wall
25 certificate shall be fifteen dollars (\$15).

26 (d) The fee for a duplicate or replacement renewal receipt/pocket
27 certificate shall be ten dollars (\$10).

28 4979.9. Moneys received under this section shall be utilized
29 by the council to pay for the costs associated with administering
30 this chapter.

31 4979.10. It is an unfair business practice for any person to hold
32 himself or herself out as a California certified traditional Chinese
33 Medicine traumatologist or use the title of “California certified
34 traditional Chinese Medicine traumatologist” without meeting the
35 requirements of this chapter.

36 4979.11. It is a violation of this chapter for a certificate holder
37 to commit, and the council may deny an application for a certificate
38 or suspend or revoke a certificate for, any of the following:

39 (a) Unprofessional conduct, including, but not limited to, denial
40 of licensure or certification, revocation, suspension, restriction, or

- 1 any other disciplinary action against a certificate holder by another
2 state or territory of the United States, by any other government
3 agency, or by another entity. A certified copy of the decision,
4 order, or judgment shall be conclusive evidence of these actions.
- 5 (b) Procuring a certificate by fraud, misrepresentation, or
6 mistake.
- 7 (c) Violating or attempting to violate, directly or indirectly, or
8 assisting in or abetting the violation of, or conspiring to violate,
9 any provision of this chapter or any rule or bylaw adopted by the
10 council.
- 11 (d) Conviction of any felony, or conviction of a misdemeanor
12 that is substantially related to the qualifications or duties of a
13 certificate holder, in which event the record of the conviction shall
14 be conclusive evidence of the crime.
- 15 (e) Impersonating an applicant or acting as a proxy for an
16 applicant in any part of the application process or any part of
17 satisfying the standards set by the council referred to under this
18 chapter for the issuance of a certificate.
- 19 (f) Impersonating a California certified traditional Chinese
20 Medicine traumatologist, or permitting or allowing an uncertified
21 person to use a certificate.
- 22 (g) Committing any fraudulent, dishonest, or corrupt act that is
23 substantially related to the qualifications or duties of a certificate
24 holder.
- 25 (h) Committing any act punishable as a sexually related crime.
26 4979.12. This chapter shall remain in effect only until January
27 1, 2017, and as of that date is repealed, unless a later enacted
28 statute, that is enacted before January 1, 2017, deletes or extends
29 that date.