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AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN SENATE APRIL 23, 2014

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AMENDED IN ASSEMBLY MAY 1, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1147**

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**Introduced by Assembly Members Bonilla, Gomez, and Holden**  
**(~~Coauthor: Assembly Member Skinner~~)**  
***(Coauthors: Assembly Members Chau, Gatto, and Skinner)***

February 22, 2013

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An act to amend Section 460 of, and to add and repeal Chapter 10.5 (commencing with Section 4600) of Division 2 of, the Business and Professions Code, and to amend Section 51034 of the Government Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as amended, Bonilla. Massage therapy.

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 practitioner or massage therapist. Existing law authorizes a city, county, or city and county to impose certain requirements on massage establishments or businesses that are the sole proprietorship of an individual certified pursuant to existing state law or that employ or use only persons who are so certified. Existing law authorizes a city, county, or city and county to, among other things, adopt reasonable health and safety requirements, as specified, pertaining to those massage establishments or businesses, and to require an applicant for a business license to operate a massage business or establishment to fill out an application that requests relevant information, as specified.

This bill would reenact, revise, and recast these provisions to, among other things, establish an interim board of directors to govern the council until September 1, 2015, and provide for the appointment of a new board of directors consisting of 13 members, as specified, whose 4-year terms would begin on that date. The bill would authorize the board to establish fees reasonably related to the costs of providing services and performing its duties, not to exceed \$300. The bill would require the board to provide at least 90 days' advance notice prior to holding a meeting to vote upon a proposal to ~~change the certification requirements or~~ increase the certification fees, as specified, except as provided. The bill would also require the board to notify certificate holders of a board action that ~~changes those requirements or~~ increases those fees.

~~This bill would delete provisions for the registration of massage establishments and, instead, provide for the certification of massage establishment operators and sole provider massage establishment operators, as specified. The~~

*The bill would discontinue the issuance of new massage practitioner certificates after January 1, 2015, except as provided, but would authorize the renewal of massage practitioner certificates issued prior to January 1, 2015. The bill would require that all certificates issued pursuant to these provisions be subject to renewal every 2 years, except as provided. The bill would require the council to inspect and approve schools or continuing education providers that provide education required for certification, as specified.*

The bill would authorize the council to deny an application for a certificate, or to discipline a certificate holder for a violation of these

provisions, as specified. The bill would require the board to exercise its denial or discipline authority by means of fair and reasonable procedures that, among other things, provide the applicant or certificate holder with notice and an opportunity to be heard, as specified. The bill would provide that unprofessional conduct in violation of these provisions includes, among other things, engaging in sexually suggestive advertising related to massage services and engaging in sexual activity while providing massage services for compensation.

The bill would, notwithstanding any other law, prohibit a city, county, or city and county from enacting *or enforcing* an ordinance that conflicts with these provisions or other corresponding specified provisions. However, the bill would authorize a city, county, or city and county to enact ordinances that require a certificate holder or registered establishment to, among other things, obtain a license, permit, or other authorization, as specified, and abide by reasonable health and safety requirements, as specified.

The bill would authorize a court to issue an injunction or to provide any other relief it deems appropriate for violations of these provisions, as specified. The bill would provide that the powers and duties of the council are subject to review by the appropriate committees of the Legislature and would require the council to provide a specified report to these committees on or before June 1, 2016.

The bill would provide that these provisions are issues of statewide concern, and therefore applicable statewide. The bill would also provide that its provisions are severable.

The bill would repeal these provisions on January 1, 2017.

The bill would also make clarifying and conforming changes regarding local regulation of massage establishments or businesses.

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

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

1 SECTION 1. (a) It is the intent of *the* Legislature that this act  
2 enable consumers and local governments to more easily identify  
3 trained massage professionals, provide for the consistent and  
4 statewide certification and oversight of massage professionals,  
5 ensure that schools teaching massage provide a high level of  
6 training and protection for students, assist local governments and  
7 law enforcement in maintaining the highest standards of

1 performance by certificated professionals, provide for a self-funded  
2 nonprofit oversight body to certify massage professionals, and  
3 ensure full compliance with, and execution of, the requirements  
4 of this act.

5 (b) It is the intent of the Legislature that broad control over land  
6 use in regulating massage establishments be returned to local  
7 governments so that they may manage those establishments in the  
8 best interest of the individual community, and that the requirements  
9 and practice of the profession of massage therapy remain a matter  
10 of statewide concern, regulation, and oversight.

11 (c) It is further the intent of the Legislature that local  
12 governments, law enforcement, nonprofit stakeholders, the massage  
13 industry, and massage professionals work together going forward  
14 to improve communication and share information to further  
15 increase the value of statewide certification, and also to develop  
16 a model ordinance reflecting best practices in massage regulation  
17 for cities and counties to adopt that will respect local control,  
18 patient privacy, and the dignity of the profession of massage  
19 therapy.

20 SEC. 2. Section 460 of the Business and Professions Code is  
21 amended to read:

22 460. (a) No city, county, or city and county shall prohibit a  
23 person or group of persons, authorized by one of the agencies in  
24 the Department of Consumer Affairs or an entity established  
25 pursuant to this code by a license, certificate, or other means to  
26 engage in a particular business, from engaging in that business,  
27 occupation, or profession or any portion of that business,  
28 occupation, or profession.

29 (b) (1) No city, county, or city and county shall prohibit a  
30 healing arts professional licensed with the state under Division 2  
31 (commencing with Section 500) or licensed or certified by an entity  
32 established pursuant to this code from engaging in any act or  
33 performing any procedure that falls within the professionally  
34 recognized scope of practice of that licensee.

35 (2) This subdivision shall not be construed to prohibit the  
36 enforcement of a local ordinance in effect prior to January 1, 2010,  
37 related to any act or procedure that falls within the professionally  
38 recognized scope of practice of a healing arts professional licensed  
39 under Division 2 (commencing with Section 500).

1 (c) This section shall not be construed to prevent a city, county,  
2 or city and county from adopting or enforcing any local ordinance  
3 governing zoning, business licensing, or reasonable health and  
4 safety requirements for establishments or businesses of a healing  
5 arts professional licensed under Division 2 (commencing with  
6 Section 500) or licensed or certified by an entity established under  
7 this code or a person or group of persons described in subdivision  
8 (a).

9 (d) Nothing in this section shall prohibit any city, county, or  
10 city and county from levying a business license tax solely for  
11 revenue purposes, nor any city or county from levying a license  
12 tax solely for the purpose of covering the cost of regulation.

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

15  
16 CHAPTER 10.5. MASSAGE THERAPY ACT  
17

18 4600. This chapter shall be known and may be cited as the  
19 Massage Therapy Act. Whenever a reference is made to the  
20 Massage Therapy Act by any statute, it shall be construed to refer  
21 to this chapter.

22 4601. 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, that meets  
27 any of the following requirements, and that has not been otherwise  
28 disapproved by the council:

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

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

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

37 (A) A public institution.

38 (B) An institution incorporated and lawfully operating as a  
39 nonprofit public benefit corporation pursuant to Part 2

1 (commencing with Section 5110) of Division 2 of Title 1 of the  
2 Corporations Code, and that is not managed by any entity for profit.

3 (C) A for-profit institution.

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

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

12 (5) Is a school requiring equal or greater training than what is  
13 required pursuant to this chapter and is recognized by the  
14 corresponding agency in another state or accredited by an agency  
15 recognized by the United States Department of Education.

16 (b) “Certificate” means a valid certificate issued by the council  
17 pursuant to this chapter.

18 (c) “Compensation” means a payment, loan, advance, donation,  
19 contribution, deposit, or gift of money, or anything of value.

20 (d) “Council” means the California Massage Therapy Council  
21 created pursuant to this chapter, which shall be a nonprofit  
22 organization exempt from taxation under Section 501(c)(3) of Title  
23 26 of the United States Code.

24 (e) “Massage” means the scientific manipulation of the soft  
25 tissues. For purposes of this chapter, the terms “massage” and  
26 “bodywork” shall have the same meaning.

27 (f) “Massage establishment” or “establishment” means a *fixed*  
28 location where massage is performed for compensation, excluding  
29 those locations where massage is only provided on an out-call  
30 basis.

31 (g) “Massage practitioner” means a person who is certified by  
32 the council pursuant to Section 4604.2 and who administers  
33 massage for compensation.

34 (h) “Massage therapist” means a person who is certified by the  
35 council under Section 4604 and who administers massage for  
36 compensation.

37 ~~(i) “Operator” means a person, whether owner or nonowner,~~  
38 ~~who meets the requirements of Section 4604.1. An operator need~~  
39 ~~not be an owner of the establishment or a certified massage~~  
40 ~~therapist or practitioner.~~

1 (j)

2 (i) “Sole provider” means a massage business where the owner  
3 owns 100 percent of the business, is the only person who provides  
4 massage services for compensation for that business pursuant to  
5 a valid and active certificate issued in accordance with this chapter,  
6 and has no other employees or independent contractors.

7 4602. (a) The California Massage Therapy Council, as defined  
8 in subdivision (d) of Section 4601, is hereby established and shall  
9 carry out the responsibilities and duties set forth in this chapter.

10 (b) The council may take any reasonable actions necessary to  
11 carry out the responsibilities and duties set forth in this chapter,  
12 including, but not limited to, hiring staff, entering into contracts,  
13 and developing policies and procedures to implement this chapter.

14 (c) The council may require background checks for all  
15 employees, contractors, volunteers, and board members as a  
16 condition of their employment, formation of a contractual  
17 relationship, or participation in council activities.

18 (d) The council shall issue a certificate to an individual applicant  
19 who satisfies the requirements of this chapter for that certificate.

20 (e) The council is authorized to determine whether the  
21 information provided to the council in relation to the certification  
22 of an applicant is true and correct and meets the requirements of  
23 this chapter. If the council has any reason to question whether the  
24 information provided is true or correct or meets the requirements  
25 of this chapter, the council is authorized to make any investigation  
26 it deems necessary to establish that the information received is  
27 accurate and satisfies any criteria established by this chapter. *The*  
28 *applicant has the burden to prove that he or she is entitled to*  
29 *certification.*

30 (f) Until September~~4~~, 15, 2015, the council shall be governed  
31 by a board of directors comprised of two representatives selected  
32 by each professional society, association, or other entity, which  
33 membership is comprised of massage therapists and that chooses  
34 to participate in the council. To qualify, a professional society,  
35 association, or other entity shall have a dues-paying membership  
36 in California of at least 1,000 individuals for the last three years  
37 and shall have bylaws that require its members to comply with a  
38 code of ethics. The board of directors shall also include each of  
39 the following persons:

1 (1) One member selected by each statewide association of  
2 private postsecondary schools incorporated on or before January  
3 1, 2010, which member schools have together had at least 1,000  
4 graduates in each of the previous three years from massage therapy  
5 programs that meet the approval standards set forth in subdivision  
6 (a) of Section 4601, unless a qualifying association chooses not  
7 to exercise this right of selection.

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

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

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

15 (5) One member appointed by the Office of the Chancellor of  
16 the California Community Colleges, unless that entity chooses not  
17 to exercise this right of selection. The person appointed, if any,  
18 shall not be part of any massage therapy certificate or degree  
19 program.

20 (6) The council’s bylaws shall establish a process for appointing  
21 other professional directors, as determined by the board.

22 (g) At 12 p.m. Pacific standard time on September ~~1~~, 15, 2015,  
23 the term of each member of the board of directors established  
24 pursuant to subdivision (f) shall terminate, and the terms of 13  
25 new members of the board of directors who shall be chosen in the  
26 following manner, shall begin:

27 (1) One member shall be a representative of the League of  
28 California Cities, unless that entity chooses not to exercise this  
29 right to appoint.

30 (2) One member shall be a representative of the California Police  
31 Chiefs Association, unless that entity chooses not to exercise this  
32 right to appoint.

33 (3) One member shall be a representative of the California State  
34 Association of Counties, unless that entity chooses not to exercise  
35 this right to appoint.

36 (4) One member shall be a representative of an  
37 ~~antihuman-trafficking~~ “*anti-human trafficking*” organization to  
38 be determined by ~~that entity unless that entity~~ *the council. This*  
39 *organization shall appoint one member, unless the organization*  
40 ~~chooses not to exercise this right to appointment.~~ *appoint.*

1 (5) One member *shall be* appointed by the Office of the  
2 Chancellor of the California Community Colleges, unless that  
3 office chooses not to exercise this right ~~of appointment. The~~  
4 ~~appointee shall not be participating in any massage therapy~~  
5 ~~certificate or degree program.~~ *to appoint.*

6 (6) ~~Two members~~ *One member shall be a member of the public*  
7 *appointed by the Director of Consumer Affairs, one of whom shall*  
8 *be a public member and one of whom shall be a California-certified*  
9 *massage therapist or practitioner who has been practicing for at*  
10 *least three years, unless the director chooses not to exercise this*  
11 *right of appointment.* *to appoint.*

12 (7) One member *shall be* appointed by the California  
13 Association of Private Postsecondary ~~Schools.~~ *Schools, unless that*  
14 *entity chooses not to exercise this right to appoint.*

15 (8) ~~One representative member~~ shall be appointed by the  
16 American Massage Therapy Association, California Chapter, who  
17 shall be a California-certified massage therapist or massage  
18 practitioner who is a California resident and who has been  
19 practicing massage for at least three ~~years.~~ *years, unless that entity*  
20 *chooses not to exercise this right to appoint.*

21 (9) *One member shall be a public health official representing*  
22 *a city, county, city and county, or state health department, unless*  
23 *that entity chooses not to exercise this right to appoint.*

24 ~~(9)~~

25 (10) (A) ~~One representative, who~~ *member shall be a certified*  
26 *massage therapist or a certified massage practitioner who is a*  
27 *California resident who has practiced massage for at least three*  
28 *years prior to the appointment, selected by a professional society,*  
29 *association, or other entity which membership is comprised of*  
30 *massage therapist professionals, and that chooses to participate in*  
31 *the council. To qualify, a professional society, association, or other*  
32 *entity shall have a dues-paying membership in California of at*  
33 *least 1,000 individuals, have been established since 2000, and shall*  
34 *have bylaws that require its members to comply with a code of*  
35 *ethics.*

36 (B) If there is more than one professional society, association,  
37 or other entity that meets the requirements of subparagraph (A),  
38 the appointment shall rotate based on a four-year term between  
39 each of the qualifying entities. The qualifying entity shall maintain  
40 its appointment authority during the entirety of the four-year term

1 during which it holds the appointment authority. The order in  
2 which a qualifying professional society, association, or other entity  
3 has the authority to appoint shall be determined by alphabetical  
4 order based on the full legal name of the entity as of January 1,  
5 2014.

6 ~~(10)~~

7 (11) The members appointed to the board in accordance with  
8 paragraphs (1) to ~~(9)~~; (10), inclusive, shall appoint three additional  
9 members, at a duly held board meeting in accordance with the  
10 board's bylaws. One of those appointees shall be an attorney  
11 licensed by the State Bar of California, who has been practicing  
12 law for at least three years and who at the time of appointment  
13 represents a city in the state. One of those appointees shall represent  
14 a massage business entity that has been operating in the state for  
15 at least three years.

16 (h) Board member terms shall be for four years.

17 (i) The board of directors shall establish fees reasonably related  
18 to the cost of providing services and carrying out its ongoing  
19 responsibilities and duties. Initial and renewal fees for certificates  
20 shall be in an amount sufficient to support the functions of the  
21 council in the administration of this chapter, but in no event shall  
22 exceed three hundred dollars (\$300). The renewal fee shall be  
23 reassessed biennially by the board.

24 (j) The meetings of the council shall be subject to the rules of  
25 the Bagley-Keene Open Meeting Act (Article 9 (commencing with  
26 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of  
27 the Government Code). The board may adopt additional policies  
28 and procedures that provide greater transparency to certificate  
29 holders and the public than required by the Bagley-Keene Open  
30 Meeting Act.

31 (k) Prior to holding a meeting to vote upon a proposal to ~~change~~  
32 ~~the certification requirements or~~ increase the certification fees, the  
33 board shall provide at least 90 days' notice of the meeting,  
34 including posting a notice on the council's Internet Web-site, ~~and~~  
35 ~~sending a notice either by regular mail or email to certificate~~  
36 ~~holders and affected applicants, in advance of the vote, site~~ unless  
37 at least two-thirds of the board members concur that there is an  
38 active threat to public safety and that voting at a meeting without  
39 prior notice is ~~required~~. *necessary. However, the board shall not*  
40 *waive the requirements of subdivision (j).*

1 (l) If the board approves ~~a change to the certification~~  
2 ~~requirements~~ or an increase in the certification fees, the council  
3 shall update all relevant areas of its Internet Web site and notify  
4 all certificate holders and affected applicants by a ~~notice sent either~~  
5 ~~by regular mail or email~~ within 14 days of the board's action.

6 4603. Protection of the public shall be the highest priority for  
7 the council in exercising its ~~certification, registration, certification~~  
8 *and* disciplinary authority, and other functions. Whenever the  
9 protection of the public is inconsistent with other interests sought  
10 to be promoted, the protection of the public shall be paramount.

11 4604. (a) In order to obtain certification as a massage therapist,  
12 an applicant shall submit a written application and provide the  
13 council with satisfactory evidence that he or she meets all of the  
14 following requirements:

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

16 (2) The applicant has successfully completed the curricula in  
17 massage and related subjects totaling a minimum of 500 hours, or  
18 the credit unit equivalent, that incorporates appropriate school  
19 assessment of student knowledge and skills.

20 (A) Of the 500 hours, a minimum of 100 hours of instruction  
21 shall address anatomy and physiology, contraindications, health  
22 and hygiene, and business and ethics.

23 (B) All of the 500 hours shall be from schools approved by the  
24 council.

25 (3) The applicant has passed a massage and bodywork  
26 competency assessment examination that meets generally  
27 recognized psychometric principles and standards and that is  
28 approved by the council. The successful completion of this  
29 examination may have been accomplished before the date the  
30 council is authorized by this chapter to begin issuing certificates.

31 (4) The applicant has successfully passed a background  
32 investigation pursuant to Section 4606, and has not violated any  
33 of the provisions of this chapter.

34 (5) All fees required by the council have been paid.

35 (6) The council may issue a certificate to an applicant who meets  
36 the qualifications of this chapter if he or she holds a current and  
37 valid registration, certification, or license from any other state  
38 whose licensure requirements meet or exceed those defined within  
39 this chapter. If an applicant has received education at a school that  
40 is not approved by the council, the council shall have the discretion

1 to give credit for comparable academic work completed by an  
2 applicant in a program outside of California.

3 (b) A certificate issued pursuant to this chapter and any  
4 identification card issued by the council shall be surrendered to  
5 the council by any certificate holder whose certificate is suspended  
6 or revoked.

7 ~~4604.1. (a) In order to obtain certification as a massage  
8 establishment operator, an applicant shall submit a written  
9 application and provide the council with satisfactory evidence that  
10 he or she meets all of the following requirements:~~

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

12 ~~(2) The applicant has successfully completed an educational  
13 program approved by the council that includes curricula determined  
14 to be relevant by the council related to public protection not to  
15 exceed 50 hours, or the credit unit equivalent, that incorporates  
16 appropriate school assessment of student knowledge and skills.  
17 The required hours shall be secured from one provider approved  
18 by the council to teach the educational program required by this  
19 paragraph. The council shall determine the relevant curricula and  
20 the total number of education hours, or credit unit equivalent, that  
21 shall be required for certification pursuant to this paragraph.~~

22 ~~(3) The applicant has successfully passed a background  
23 investigation pursuant to Section 4606 and has not violated any  
24 provision of this chapter.~~

25 ~~(4) All fees required by the council have been paid.~~

26 ~~(b) A person certified pursuant to this chapter as a massage  
27 therapist, massage practitioner, or conditionally certified as a  
28 massage practitioner who holds a valid and active certification and  
29 is also a sole provider shall be issued certification as a sole provider  
30 massage establishment operator upon written request and payment  
31 of all fees required by the council, without having to meet the other  
32 requirements of paragraph (2) of subdivision (a). The sole provider  
33 massage establishment operator certification shall be valid only  
34 as long as the certificate holder meets the definition of a sole  
35 provider set forth in subdivision (m) of Section 4601. The  
36 certificate shall terminate immediately, by operation of law without  
37 further action, when the certificate holder no longer meets the  
38 definition of a sole provider.~~

39 ~~(e) A certificate issued pursuant to this chapter and any  
40 identification card issued by the council shall be surrendered to~~

1 the council by any certificate holder whose certificate is suspended  
2 or revoked.

3 ~~(d) A massage establishment operator may be held responsible~~  
4 ~~and disciplined by the council for conduct by any employee,~~  
5 ~~independent contractor, or volunteer working on the premises of~~  
6 ~~the operator's establishment that violates any law or the policies~~  
7 ~~and procedures of the council, if the operator knew or should have~~  
8 ~~known of the conduct.~~

9 ~~(e) A certificate may be issued by the council pursuant to this~~  
10 ~~section on or after January 1, 2016.~~

11 ~~4604.2.~~

12 ~~4604.1.~~ (a) The council shall not accept applications to issue  
13 any new certificates to practice as a certified massage practitioner  
14 on or after ~~August~~ *January* 1, 2015.

15 (b) Certificates to practice as a certified massage practitioner  
16 for applications accepted prior to January 1, 2015, may be renewed  
17 without any additional educational requirements.

18 (c) A massage practitioner certificate and any identification card  
19 issued by the council, shall be surrendered to the council by any  
20 certificate holder whose certificate is suspended or revoked.

21 ~~4604.3.~~

22 ~~4604.2.~~ (a) A person who was issued a conditional certificate  
23 to practice as a massage practitioner shall, within five years of  
24 being issued the conditional certificate by the council, complete  
25 and report to the council the completion of, at least 30 hours of  
26 additional education per year from approved schools or from  
27 continuing education providers approved by the council, until he  
28 or she has completed a total of at least 250 hours of education.

29 (b) A conditional certificate issued to any person pursuant to  
30 this section shall immediately be nullified, without need for further  
31 action by the council, if proof of completion of the requirements  
32 specified in subdivision (a) is not filed with the council within the  
33 time period specified in subdivision (a).

34 (c) Notwithstanding subdivision (a) of Section ~~4604.2,~~ *4604.1,*  
35 the council shall issue a new certificate to practice as a massage  
36 practitioner to a person that successfully completes the  
37 requirements described in subdivision (a).

38 4605. Except as otherwise provided, a certification issued  
39 pursuant to this chapter shall be subject to renewal every two years  
40 in the manner prescribed by the council. A certificate issued by

1 the council shall expire after two years unless renewed as  
 2 prescribed. The council may provide for the late renewal of a  
 3 certificate.

4 4606. (a) Prior to issuing a certificate to an applicant, or  
 5 designating a custodian of records, the council shall require the  
 6 applicant or the custodian of records candidate to submit fingerprint  
 7 images as directed by the council and in a form consistent with  
 8 the requirements of this section.

9 (b) The council shall submit the fingerprint images and related  
 10 information to the Department of Justice for the purpose of  
 11 obtaining information as to the existence and nature of a record of  
 12 state and federal level convictions and of state and federal level  
 13 arrests for which the Department of Justice establishes that the  
 14 applicant or candidate was released on bail or on his or her own  
 15 recognizance pending trial.

16 (c) Requests for federal level criminal offender record  
 17 information received by the Department of Justice pursuant to this  
 18 section shall be forwarded to the Federal Bureau of Investigation  
 19 by the Department of Justice. The Department of Justice shall  
 20 review the information returned from the Federal Bureau of  
 21 Investigation, and shall compile and disseminate a fitness  
 22 determination regarding the applicant or candidate to the council.  
 23 The Department of Justice shall provide information to the council  
 24 pursuant to subdivision (p) of Section 11105 of the Penal Code.

25 (d) The Department of Justice and the council shall charge a  
 26 fee sufficient to cover the cost of processing the request for state  
 27 and federal level criminal offender record information.

28 (e) The council shall request subsequent arrest notification  
 29 service from the Department of Justice, as provided under Section  
 30 11105.2 of the Penal Code, for all applicants for certification ~~or~~  
 31 ~~registration~~, or custodian of records candidates for whom  
 32 fingerprint images and related information are submitted to conduct  
 33 a search for state and federal level criminal offender record  
 34 information.

35 (f) The council is authorized to receive arrest notifications and  
 36 other background material about applicants and certificate holders  
 37 from a city, county, or city and county.

38 4607. *An owner or operator of a massage business or*  
 39 *establishment who is certified pursuant to this chapter shall be*

1 *responsible for the conduct of all individuals providing massage*  
2 *for compensation on the business premises.*

3 4608. In addition to the other requirements of this chapter, a  
4 certificate holder shall:

5 (a) Display his or her original certificate wherever he or she  
6 provides massage for compensation. A certificate holder shall have  
7 his or her identification card in his or her possession while  
8 providing massage services for compensation.

9 (b) Provide his or her full name and certificate number upon  
10 the request of a member of the public, the council, or a member  
11 of law enforcement, or a local government agency charged with  
12 regulating massage or massage establishments, at the location  
13 where he or she is providing massage services for compensation.

14 (c) Include the name under which he or she is certified and his  
15 or her certificate number in any and all advertising of massage for  
16 compensation.

17 (d) Notify the council within 30 days of any changes in the  
18 certificate holder's home address or the address of any massage  
19 establishment or other location where he or she provides massage  
20 for compensation, excluding those locations where massage is  
21 only provided on an out-call ~~basis, or is employed as a massage~~  
22 ~~establishment operator.~~ *basis*. A certificate holder also shall notify  
23 the council of his or her primary email address, if any, and notify  
24 the council within 30 days of a change of the primary email  
25 address.

26 4609. (a) It is a violation of this chapter for an applicant or a  
27 certificate holder to commit any of the following acts, the  
28 commission of which is grounds for the council to deny an  
29 application for a certificate or to impose discipline on a certificate  
30 holder:

31 (1) Unprofessional conduct, including, but not limited to, any  
32 of the following:

33 (A) Engaging in sexually suggestive advertising related to  
34 massage services.

35 (B) Engaging in any form of sexual activity on the premises of  
36 a massage establishment where massage is provided for  
37 compensation, excluding a residence.

38 (C) Engaging in sexual activity while providing massage  
39 services for compensation.

1 (D) Practicing massage on a suspended certificate or practicing  
2 outside of the conditions of a restricted certificate.

3 (E) Providing massage of the genitals or anal region, or of  
4 female breasts, for compensation without the written consent of  
5 the person receiving the massage and supervision by a physician.  
6 region.

7 (F) Providing massage of female breasts without the written  
8 consent of the person receiving the massage and a referral from  
9 a licensed California health care provider.

10 (2) Procuring or attempting to procure a certificate by fraud,  
11 material misrepresentation, or mistake.

12 (3) Failing to fully disclose all information requested on the  
13 application.

14 (4) Impersonating an applicant or acting as a proxy for an  
15 applicant in any examination referred to in this chapter for the  
16 issuance of a certificate.

17 (5) Impersonating a certificate holder, or permitting or allowing  
18 a noncertified person to use a certificate.

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

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

26 (8) Denial of licensure, revocation, suspension, restriction,  
27 citation, or any other disciplinary action against an applicant or  
28 certificate holder by another state or territory of the United States,  
29 by any other government agency, or by another California health  
30 care professional licensing board. A certified copy of the decision,  
31 order, judgment, or citation shall be conclusive evidence of these  
32 actions.

33 (9) Being convicted of any felony, misdemeanor, infraction, or  
34 municipal code violation, or being held liable in an administrative  
35 or civil action for an act, that is substantially related to the  
36 qualifications, functions, or duties of a certificate holder while  
37 holding a valid certificate. holder. A record of the conviction or  
38 other judgment or liability shall be conclusive evidence of the  
39 crime or liability.

1 (10) Dressing while engaged in the practice of massage for  
2 ~~compensation~~ *compensation, or while in a massage establishment,*  
3 *in a manner that exposes the certificate holder's ~~breasts~~ breasts,*  
4 *buttocks, or genitals, that is transparent or see-through, ~~or that~~*  
5 *otherwise that constitutes a violation of Section 314 of the Penal*  
6 ~~Code.~~ *Code, or that is otherwise deemed by the council to*  
7 *constitute unprofessional attire based on the custom and practice*  
8 *of the profession in California.*

9 (11) Committing any act punishable as a sexually related crime  
10 or being required to register pursuant to the Sex Offender  
11 Registration Act (Chapter 5.5 (commencing with Section 290) of  
12 Title 9 of Part 1 of the Penal Code), or being required to register  
13 as a sex offender in another state.

14 (b) The council may deny an application for a certificate for the  
15 commission of any of the acts described in subdivision (a). The  
16 council may also discipline a certificate holder, in any manner  
17 permitted by this chapter, for the commission of any of those acts  
18 by a certificate holder.

19 4610. (a) An applicant for a certificate shall not be denied a  
20 certificate, and a certificate holder shall not be disciplined pursuant  
21 to this chapter except according to procedures that satisfy the  
22 requirements of this section. Denial or discipline that is not in  
23 accord with this section shall be void and without effect.

24 (b) The council may discipline a certificate holder by any, or a  
25 combination, of the following methods:

26 (1) Placing the certificate holder on probation, which may  
27 include limitations or conditions on practice.

28 (2) Suspending the certificate and the rights conferred by this  
29 chapter on a certificate holder ~~or registered establishment~~ for a  
30 period not to exceed one year.

31 (3) Suspending or staying the disciplinary order, or portions of  
32 it, with or without conditions.

33 (4) Revoking the certificate.

34 (5) Taking other action as the council, as authorized by this  
35 chapter or policies adopted by the board, deems proper.

36 (c) The council may issue an initial certificate on probation,  
37 with specific terms and conditions, to any applicant.

38 (d) Any denial or discipline shall be decided upon and imposed  
39 in good faith and in a fair and reasonable manner. Any procedure  
40 that conforms to the requirements of subdivision (f) is fair and

1 reasonable, but a court may also find other procedures to be fair  
2 and reasonable when the full circumstances of the denial or  
3 discipline are considered.

4 (e) A procedure is fair and reasonable if the procedures specified  
5 in subdivision (f) or (g) are followed or if all of the following  
6 apply:

7 (1) Denial or discipline shall be based on a preponderance of  
8 the evidence. In determining the basis for the denial or discipline,  
9 the council may consider all written documents or statements as  
10 evidence, but shall weigh the reliability of those documents or  
11 statements.

12 (2) The provisions of the procedure are ~~publically~~ *publicly*  
13 available on the council's Internet Web site.

14 (3) The council provides 15 calendar days prior notice of the  
15 denial or discipline and the reasons for the denial or discipline.

16 (4) The council provides an opportunity for the ~~applicant,~~  
17 *applicant or* certificate holder, to be heard, orally or in writing,  
18 not less than five days before the effective date of the denial or  
19 discipline, by a person or body authorized to decide whether the  
20 proposed denial or discipline should go into effect.

21 (f) (1) Notwithstanding any other law, if the council receives  
22 notice that a certificate holder has been arrested and charges have  
23 been filed by the appropriate prosecuting agency against the  
24 certificate holder alleging a violation of subdivision (b) of Section  
25 647 of the Penal Code or any other offense described in paragraph  
26 ~~(10)~~ *(11)* of subdivision (a) of Section 4609, the council shall  
27 immediately suspend, on an interim basis, the certificate of that  
28 certificate holder, and take all of the following additional actions:

29 (A) Notify the certificate holder at the address last filed with  
30 the council that the certificate has been suspended and the reason  
31 for the suspension within 10 business days.

32 (B) ~~The council shall notify~~ *Provide notification of the*  
33 *suspension by email to the clerk or other designated contact of*  
34 *the city, county, or city and county when the certificate is*  
35 *suspended pursuant to this section in which the certificate holder*  
36 *lives or works, pursuant to the council's records, within 10*  
37 *business days of the decision to suspend.* days.

38 (C) *Provide notification of the suspension by email to any*  
39 *establishment or employer, whether public or private, that the*

1 *council has in its records as employing the certificate holder,*  
2 *within 10 business days.*

3 (2) Upon notice to the council that the charges described in  
4 paragraph (1) have resulted in a conviction, the council shall  
5 permanently revoke the suspended certificate. The council shall  
6 provide notice to the certificate holder, at the address last filed  
7 with the council by a method providing delivery confirmation,  
8 within 10 business days that it has evidence of a valid record of  
9 conviction and that the certificate will be revoked unless the  
10 certificate holder provides evidence within 15 days from the date  
11 of the council's mailing of the notice that the conviction is either  
12 invalid or that the information is otherwise erroneous.

13 (3) Upon notice that the charges described in paragraph (1) have  
14 resulted in an acquittal or have been otherwise dismissed prior to  
15 conviction, the certificate shall be immediately reinstated and the  
16 certificate holder and any establishment or employer that received  
17 notice pursuant to this section shall be notified of the reinstatement  
18 within 10 business days.

19 (g) (1) Notwithstanding any other law, if the council  
20 determines that a certificate holder has committed an act punishable  
21 as a sexually related crime or a felony that is substantially related  
22 to the qualifications, functions, or duties of a certificate holder,  
23 the council may immediately suspend the certificate of that  
24 certificate holder. A determination to immediately suspend a  
25 certificate pursuant to this subdivision shall be based upon a  
26 preponderance of the evidence and the council shall also consider  
27 any available credible mitigating evidence before making a  
28 decision. Written statements by any person shall not be considered  
29 by the council when determining whether to immediately suspend  
30 a certificate unless made under penalty of perjury. If the council  
31 suspends a certificate in accordance with this subdivision, the  
32 council shall take all of the following additional actions:

33 (A) Notify the certificate holder within 10 business days, at the  
34 address last filed with the council, by a method providing delivery  
35 confirmation, that the certificate has been suspended, the reason  
36 for the suspension, and that the certificate holder has the right to  
37 request a hearing pursuant to paragraph (2).

38 (B) Notify by email or any other means consistent with the  
39 notice requirements of this chapter, any business or employer,  
40 whether public or private, that the council has in its records as

1 employing or contracting with the certificate holder for massage  
 2 services, and the California city, county, or city and county that  
 3 has jurisdiction over that establishment or employer, that the  
 4 certificate has been suspended within 10 business days.

5 (2) A certificate holder whose certificate is suspended pursuant  
 6 to this subdivision shall have the right to request, in writing, a  
 7 hearing to challenge the factual basis for the suspension. If the  
 8 holder of the suspended certificate requests a hearing on the  
 9 suspension, the hearing shall be held within 30 calendar days after  
 10 receipt of the request. A holder whose certificate is suspended  
 11 based on paragraph (1) shall be subject to revocation or other  
 12 discipline in accordance with subdivision (a).

13 (3) If the council determines, after a hearing conducted pursuant  
 14 to this subdivision, to lift the suspension, the certificate shall be  
 15 immediately reinstated and the certificate holder, any establishment  
 16 or employer, and the city, county, or city and county that has  
 17 jurisdiction over that establishment or employer, that received  
 18 notice pursuant to this section shall be notified of the reinstatement  
 19 within 10 business days.

20 (h) Any notice required under this section may be given by any  
 21 method reasonably calculated to provide actual notice. Any notice  
 22 given by mail shall be given by first-class or certified mail sent to  
 23 the last address of the applicant or certificate holder shown on the  
 24 council’s records.

25 (i) An applicant or certificate holder may challenge a denial or  
 26 discipline decision issued pursuant to this section in a court of  
 27 competent jurisdiction. Any action challenging a denial or  
 28 discipline, including any claim alleging defective notice, shall be  
 29 commenced within one year after the effective date of the denial  
 30 or discipline. If the action is successful, the court may order any  
 31 relief, including reinstatement, that it finds equitable under the  
 32 circumstances.

33 (j) This section governs only the procedures for denial or  
 34 discipline decision and not the substantive grounds for the denial  
 35 or discipline. Denial or discipline based upon substantive grounds  
 36 that violates contractual or other rights of the ~~applicant~~, *applicant*  
 37 *or* certificate holder, ~~or registered establishment~~, or is otherwise  
 38 unlawful, is not made valid by compliance with this section.

39 4611. (a) It is an unfair business practice for a person to do  
 40 any of the following:

1 (1) To hold himself or herself out or to use the title of “certified  
2 ~~massage therapist,~~ *therapist*” or “certified massage practitioner,”  
3 ~~“certified operator,”~~ or any other term, such as “licensed,”  
4 “certified,” “CMT,” or “CMP,” in any manner whatsoever that  
5 implies or suggests that the person is certified as a massage  
6 therapist or ~~massage establishment operator,~~ *practitioner*, unless  
7 that person currently holds an active and valid certificate issued  
8 by the council pursuant to this chapter.

9 (2) To falsely state or advertise or put out any sign or card or  
10 other device, or to falsely represent to the public through any print  
11 or electronic media, that he or she or any other individual is  
12 licensed, certified, or registered by a governmental agency as a  
13 ~~massage therapist or, massage practitioner, or massage~~  
14 ~~establishment operator.~~ *or massage practitioner.*

15 (b) In addition to any other available remedies, engaging in any  
16 of the prohibited behaviors described in subdivision (a) constitutes  
17 unfair competition under Section 17200.

18 4612. (a) Notwithstanding any other law, a city, county, or  
19 city and county shall not enact *or enforce* an ordinance that  
20 conflicts with this chapter or Section 51034 of the Government  
21 Code.

22 (b) Nothing in this chapter shall prevent a city, county, or city  
23 and county from licensing, regulating, prohibiting, or permitting  
24 an individual who provides massage for compensation without a  
25 valid certificate.

26 4614. (a) Upon the request of any law enforcement agency or  
27 any other representative of a local government agency with  
28 responsibility for regulating or administering a local ordinance  
29 relating to ~~massage,~~ *massage or massage establishments*, the  
30 council shall provide information concerning *an applicant or* a  
31 certificate holder, including, but not limited to, the current status  
32 ~~of the an application or~~ certificate, any history of disciplinary  
33 ~~actions taken against the certificate holder,~~ *actions*, the home and  
34 work addresses of the applicant or certificate holder, and any other  
35 information in the council’s possession that is necessary to verify  
36 facts relevant to administering the local ordinance.

37 (b) Upon the request of the council, any law enforcement agency  
38 or any other representative of a local government agency with  
39 responsibility for regulating or administering a local ordinance  
40 relating to massage or massage establishments is authorized to

1 provide information to the council concerning an applicant or  
2 certificate holder, including, but not limited to, the current status  
3 of any local application or permit, any history of legal or  
4 administrative action taken against the ~~applicant~~, *applicant or*  
5 certificate holder, any information related to criminal activity or  
6 unprofessional conduct allegedly engaged in by a certificate  
7 applicant or certificate holder, including, but not limited to, police  
8 reports and declarations of conduct, the home and work addresses  
9 of the ~~applicant~~, *applicant or* certificate holder, and any other  
10 information in the possession of the law enforcement agency or  
11 other local government agency that is necessary to verify  
12 information or otherwise implement this chapter.

13 (c) The council shall accept information provided by any law  
14 enforcement agency or any other representative of a local  
15 government agency with responsibility for regulating or  
16 administering a local ordinance relating to massage and review  
17 that information in a timely manner. *The council shall have the*  
18 *responsibility to review any information received pursuant to this*  
19 *subdivision and to take any actions authorized by this chapter that*  
20 *are warranted by that information.*

21 4615. (a) The council shall have the responsibility to determine  
22 whether the ~~school, continuing education provider, or provider of~~  
23 ~~education for massage establishment operators~~ *school* from which  
24 an applicant has obtained the education required by this chapter  
25 meets the requirements of this chapter.

26 (1) If the council has any reason to question whether or not the  
27 applicant received the education that is required by this chapter  
28 from the school or schools that the applicant is claiming, the  
29 council shall investigate the facts to determine that the applicant  
30 received the required education prior to issuing a certificate.

31 ~~For~~

32 (2) *For* purposes of this section and any other provision of this  
33 chapter that authorizes the council to receive factual information  
34 as a condition of taking any action, the council may conduct oral  
35 interviews of the applicant and others or conduct any investigation  
36 deemed necessary to establish that the information received is  
37 accurate and satisfies the criteria established by this chapter.

38 (b) The council may charge a reasonable fee for *the* inspection  
39 or approval of schools, ~~continuing education providers, and~~  
40 ~~massage establishment operator education providers~~, provided the

1 fees do not exceed the reasonable cost of the inspection or approval  
2 process.

3 (c) The council shall develop policies and procedures governing  
4 the requirements and approval process for ~~schools, continuing~~  
5 ~~education providers, massage establishment operator education~~  
6 ~~providers, schools and the~~ curriculum and programs for *these*  
7 ~~schools, continuing education classes, and programs for massage~~  
8 ~~establishment operator education providers~~, including provisions  
9 for acceptance of accreditation from a recognized accreditation  
10 body or other form of acceptance.

11 4616. The council shall be sued only in the county of its  
12 principal office, which shall be in Sacramento, unless otherwise  
13 designated by the council.

14 4617. The superior court of a county of competent jurisdiction  
15 may, upon a petition by any person, issue an injunction or any  
16 other relief the court deems appropriate for a violation of this  
17 chapter by any person or establishment operating in that county  
18 subject to the provisions of this chapter. An injunction proceeding  
19 under this section shall be governed by Chapter 3 (commencing  
20 with Section 525) of Title 7 of Part 2 of the Code of Civil  
21 Procedure.

22 4618. The Legislature finds and declares that due to important  
23 health, safety, and welfare concerns that affect the entire state,  
24 establishing a uniform standard of certification for massage  
25 ~~practitioners, practitioners and~~ massage therapists, and massage  
26 ~~establishment operators~~ *therapists* upon which consumers may  
27 rely to identify individuals who have achieved specified levels of  
28 education, training, and skill is a matter of statewide concern and  
29 not a municipal affair, as that term is used in Section 5 of Article  
30 XI of the California Constitution. Therefore, this chapter shall  
31 apply to all cities, counties, and cities and counties, including  
32 charter cities and charter counties.

33 4619. (a) This chapter shall be liberally construed to effectuate  
34 its purposes.

35 (b) The provisions of this chapter are severable. If any provision  
36 of this chapter or its application is held invalid, that invalidity shall  
37 not affect other provisions or applications that can be given effect  
38 without the invalid provision or application.

39 (c) If any provision of this chapter or the application of these  
40 provisions to any person or circumstance is held to be invalid, the

1 invalidity shall not affect other provisions or applications of the  
2 chapter that can be given effect without the invalid provision or  
3 application, and to this end the provisions of this chapter are  
4 severable.

5 4620. (a) On or before June 1, 2016, for the time period  
6 beginning on January 1, 2015, the council shall provide a report  
7 to the appropriate policy committees of the Legislature that  
8 includes all of the following:

9 (1) A feasibility study of licensure for the massage profession,  
10 including a proposed scope of practice, legitimate techniques of  
11 massage, and related statutory recommendations.

12 (2) The council's compensation guidelines and current salary  
13 levels.

14 (3) *The status of the council's progress towards revising the*  
15 *school approval process.*

16 ~~(3)~~

17 (4) Performance metrics, including, but not limited to:

18 (A) The annual number of denied certificate applications, and  
19 a brief description of the grounds for each decision.

20 (B) The annual number of suspended, revoked, or otherwise  
21 disciplined certificates, and a brief description of the grounds for  
22 each decision.

23 (C) The number of certificates taken off suspension, and a brief  
24 description of the grounds for each decision.

25 (D) The number of schools inspected, approved, and  
26 disapproved, the number of schools that have had their approvals  
27 suspended or revoked, and a brief description of the grounds for  
28 each decision.

29 (E) The total number of complaints about certificate holders  
30 received annually, including a subtotal of complaints received  
31 from local law enforcement and the action taken by the council as  
32 a result of those complaints.

33 (b) The council shall testify in person if requested by the  
34 appropriate policy committees of the Legislature.

35 4621. (a) This chapter shall remain in effect only until January  
36 1, 2017, and as of that date is repealed, unless a later enacted  
37 statute, that is enacted before January 1, 2017, deletes or extends  
38 that date.

1 (b) Notwithstanding any other law, the powers and duties of the  
2 council shall be subject to review by the appropriate policy  
3 committees of the Legislature.

4 SEC. 4. Section 51034 of the Government Code is amended  
5 to read:

6 51034. (a) The Legislature in enacting this chapter recognizes  
7 the existing power of a city or county to regulate a lawful massage  
8 business pursuant to Section 37101, or pursuant to Section 16000  
9 or 16100 of the Business and Professions Code, or under Section  
10 7 of Article XI of the California Constitution.

11 (b) Nothing contained in this chapter shall be a limitation on  
12 that existing power or on the existing authority of a city to license  
13 for revenue purposes. A city, county, or city and county shall not  
14 enact *or enforce* an ordinance that conflicts with the provisions of  
15 this section or Chapter 10.5 (commencing with Section 4600) of  
16 Division 2 of the Business and Professions Code.

17 (c) Nothing contained in this chapter shall authorize a city,  
18 county, or city and county to do any of the following:

19 (1) Prohibit a person of one sex from engaging in the massage  
20 of a person of the other sex.

21 (2) Define a massage establishment as an adult entertainment  
22 business, or otherwise regulate a massage establishment as adult  
23 entertainment.

24 (3) Require a massage establishment to have windows or walls  
25 that do not extend from the floor to ceiling, or have other internal  
26 physical structures, including windows, that interfere with a client's  
27 reasonable expectation of privacy.

28 (4) Impose client draping requirements that extend beyond the  
29 covering of genitalia and female breasts, or otherwise mandate  
30 that the client wear special clothing.

31 (5) Prohibit a massage establishment from locking its external  
32 doors if the massage establishment is a business entity owned by  
33 one individual with one or no employees or independent  
34 contractors.

35 (6) Require a massage establishment to post any notice in an  
36 area that may be viewed by clients that contains explicit language  
37 describing sexual acts, mentions genitalia, or specific contraception  
38 devices.

39 (7) Impose a requirement that a ~~certificate holder~~ *person*  
40 *certified pursuant to Chapter 10.5 (commencing with Section 4600)*

1 *of Division 2 of the Business and Professions Code* take any test,  
2 medical examination, or background check or comply with  
3 education requirements beyond what is required by Chapter 10.5  
4 (commencing with Section 4600) of Division 2 of the Business  
5 and Professions Code.

6 (8) Impose a requirement that an individual, other than a sole  
7 proprietor, holding a certificate issued in accordance with Chapter  
8 10.5 (commencing with Section 4600) of Division 2 of the Business  
9 and Professions Code, obtain any other license, permit, certificate,  
10 or other authorization to provide massage for compensation.

11 (9) Impose a dress code requirement *on a person certified*  
12 *pursuant to Chapter 10.5 (commencing with Section 4600) of*  
13 *Division 2 of the Business and Professions Code* in excess of those  
14 already imposed ~~on a certificate holder~~ pursuant to paragraph (10)  
15 of subdivision (a) of Section 4609 of the Business and Professions  
16 Code.

17 (10) Prohibit ~~a certificate holder~~ *person certified pursuant to*  
18 *Chapter 10.5 (commencing with Section 4600) of Division 2 of the*  
19 *Business and Professions Code* from performing massage for  
20 compensation on the gluteal muscles, prohibit specific massage  
21 techniques recognized by the California Massage Therapy Council  
22 as legitimate, or impose any other specific restriction on  
23 professional practice beyond those set forth in subparagraph (E)  
24 of paragraph (1) of subdivision (a) of Section 4609 of the Business  
25 and Professions Code, except as authorized by Section 460 of the  
26 Business and Professions Code.

O