

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2194

Introduced by ~~Committee on Business and Professions~~ (Assembly Members ~~Bonilla (Chair), Jones (Vice Chair), Baker, Bloom, Campos, Chang, Dodd, Mullin, Ting, Wilk, and Wood)~~ Assembly Member Salas

(Principal coauthor: Senator Hill)

February 18, 2016

~~An act to amend Sections 3504 and 3512 of the Business and Professions Code, relating to professions and vocations.~~ *An act to amend Sections 4602 and 4621 of the Business and Professions Code, relating to massage therapy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2194, as amended, ~~Committee on Business and Professions~~ Salas. ~~Physician Assistant Board; personnel.~~ *California Massage Therapy Council: extension of sunset date.*

The Massage Therapy Act, until January 1, 2017, provides for certification of massage practitioners and massage therapists by the California Massage Therapy Council. Existing law also provides for the council to be governed by an interim board of directors until September 15, 2015, and for the appointment of a new board of directors having 4-year terms.

This bill would extend the operation of these provisions until January 1, 2019, and make nonsubstantive changes to delete obsolete provisions related to the interim board.

~~The Physician Assistant Practice Act provides for the licensure and regulation of physician assistants by the Physician Assistant Board,~~

which is within the jurisdiction of the Medical Board of California, and authorizes the Physician Assistant Board, except as specified, to employ personnel necessary to carry out the provisions of that act, including an executive officer. Existing law repeals the Physician Assistant Board and the authorization for the board to employ personnel as of January 1, 2017.

This bill would extend those provisions until January 1, 2021.

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. Section 4602 of the Business and Professions
2 Code is amended to read:
3 4602. (a) The California Massage Therapy Council, as defined
4 in subdivision (d) of Section 4601, is hereby established and shall
5 carry out the responsibilities and duties set forth in this chapter.
6 (b) The council may take any reasonable actions necessary to
7 carry out the responsibilities and duties set forth in this chapter,
8 including, but not limited to, hiring staff, entering into contracts,
9 and developing policies, procedures, rules, and bylaws to
10 implement this chapter.
11 (c) The council may require background checks for all
12 employees, contractors, volunteers, and board members as a
13 condition of their employment, formation of a contractual
14 relationship, or participation in council activities.
15 (d) The council shall issue a certificate to an individual applicant
16 who satisfies the requirements of this chapter for that certificate.
17 (e) The council is authorized to determine whether the
18 information provided to the council in relation to the certification
19 of an applicant is true and correct and meets the requirements of
20 this chapter. If the council has any reason to question whether the
21 information provided is true or ~~correct~~ correct, or meets the
22 requirements of this chapter, the council is authorized to make any
23 investigation it deems necessary to establish that the information
24 received is accurate and satisfies any criteria established by this
25 chapter. The applicant has the burden to prove that he or she is
26 entitled to certification.
27 (f) ~~Until September 15, 2015, the~~ The council shall be governed
28 by a board of directors comprised of ~~two representatives selected~~

1 by each professional society, association, or other entity, which
2 membership is comprised of massage therapists and that chooses
3 to participate *13 members who shall be chosen* in the council. To
4 qualify, a professional society, association, or other entity shall
5 have a dues-paying membership in California of at least 1,000
6 individuals for the last three years and shall have bylaws that
7 require its members to comply with a code of ethics. The board of
8 directors shall also include each of the following persons: *manner:*

9 (1) ~~One member selected by each statewide association of~~
10 ~~private postsecondary schools incorporated on or before January~~
11 ~~1, 2010, which member schools have together had at least 1,000~~
12 ~~graduates in each of the previous three years from massage therapy~~
13 ~~programs that meet the approval standards set forth in subdivision~~
14 ~~(a) of Section 4601, unless a qualifying association chooses not~~
15 ~~to exercise this right of selection.~~

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

18 (3) ~~One member selected by the California State Association~~
19 ~~of Counties, unless that entity chooses not to exercise this right of~~
20 ~~selection.~~

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

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

28 (6) ~~The council's bylaws shall establish a process for appointing~~
29 ~~other professional directors to the council who have knowledge~~
30 ~~of the massage industry or can bring needed expertise to the~~
31 ~~operation of the council for purposes of complying with Section~~
32 ~~4603.~~

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

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

- 1 (2) One member shall be a representative of the California Police
2 Chiefs Association, unless that entity chooses not to exercise this
3 right to appoint.
- 4 (3) One member shall be a representative of the California State
5 Association of Counties, unless that entity chooses not to exercise
6 this right to appoint.
- 7 (4) One member shall be a representative of an “anti-human
8 trafficking” organization to be determined by the council. This
9 organization shall appoint one member, unless the organization
10 chooses not to exercise this right to appoint.
- 11 (5) One member shall be appointed by the Office of the
12 Chancellor of the California Community Colleges, unless that
13 office chooses not to exercise this right to appoint.
- 14 (6) One member shall be a member of the public appointed by
15 the Director of the Department of Consumer Affairs, unless the
16 director chooses not to exercise this right to appoint.
- 17 (7) One member shall be appointed by the California Association
18 of Private Postsecondary Schools, unless that entity chooses not
19 to exercise this right to appoint.
- 20 (8) One member shall be appointed by the American Massage
21 Therapy Association, California Chapter, who shall be a
22 California-certified massage therapist or massage practitioner who
23 is a California resident and who has been practicing massage for
24 at least three years, unless that entity chooses not to exercise this
25 right to appoint.
- 26 (9) One member shall be a public health official representing a
27 city, county, city and county, or state health department, to be
28 determined by the council. The city, county, city and county, or
29 state health department chosen, shall appoint one member unless
30 that entity chooses not to exercise this right to appoint.
- 31 (10) (A) One member shall be a certified massage therapist or
32 a certified massage practitioner who is a California resident who
33 has practiced massage for at least three years prior to the
34 appointment, selected by a professional society, association, or
35 other entity which membership is comprised of massage therapist
36 professionals, and that chooses to participate in the council. To
37 qualify, a professional society, association, or other entity shall
38 have a dues-paying membership in California of at least 1,000
39 individuals, have been established since 2000, and shall have
40 bylaws that require its members to comply with a code of ethics.

1 (B) If there is more than one professional society, association,
2 or other entity that meets the requirements of subparagraph (A),
3 the appointment shall rotate based on a four-year term between
4 each of the qualifying entities. The qualifying entity shall maintain
5 its appointment authority during the entirety of the four-year term
6 during which it holds the appointment authority. The order in
7 which a qualifying professional society, association, or other entity
8 has the authority to appoint shall be determined by alphabetical
9 order based on the full legal name of the entity as of January 1,
10 2014.

11 (11) The members appointed to the board in accordance with
12 paragraphs (1) to (10), inclusive, shall appoint three additional
13 members, at a duly held board meeting in accordance with the
14 board's bylaws. One of those appointees shall be an attorney
15 licensed by the State Bar of California, who has been practicing
16 law for at least three years and who at the time of appointment
17 represents a city in the state. One of those appointees shall represent
18 a massage business entity that has been operating in the state for
19 at least three years. The council shall establish in its bylaws a
20 process for appointing an additional member, provided that the
21 member has knowledge of the massage industry or can bring
22 needed expertise to the operation of the council for purposes of
23 complying with Section 4603.

24 ~~(h)~~

25 (g) Board member terms shall be for four years.

26 ~~(i)~~

27 (h) The board of directors shall establish fees reasonably related
28 to the cost of providing services and carrying out its ongoing
29 responsibilities and duties. Initial and renewal fees for certificates
30 shall be in an amount sufficient to support the functions of the
31 council in the administration of this chapter, but in no event shall
32 exceed three hundred dollars (\$300). The renewal fee shall be
33 reassessed biennially by the board.

34 ~~(j)~~

35 (i) The meetings of the council shall be subject to the rules of
36 the Bagley-Keene Open Meeting Act (Article 9 (commencing with
37 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
38 the Government Code). The board may adopt additional policies
39 and procedures that provide greater transparency to certificate

1 holders and the public than required by the Bagley-Keene Open
2 Meeting Act.

3 ~~(k)~~

4 (j) Prior to holding a meeting to vote upon a proposal to increase
5 the certification fees, the board shall provide at least 90 days'
6 notice of the meeting, including posting a notice on the council's
7 Internet Web site unless at least two-thirds of the board members
8 concur that there is an active threat to public safety and that voting
9 at a meeting without prior notice is necessary. However, the board
10 shall not waive the requirements of subdivision ~~(j)~~: (i).

11 ~~(l)~~

12 (k) If the board approves an increase in the certification fees,
13 the council shall update all relevant areas of its Internet Web site
14 and notify all certificate holders and affected applicants by email
15 within 14 days of the board's action.

16 SEC. 2. Section 4621 of the Business and Professions Code is
17 amended to read:

18 4621. (a) This chapter shall remain in effect only until January
19 1, ~~2017~~, 2019, and as of that date is repealed, unless a later enacted
20 statute, that is enacted before January 1, ~~2017~~, 2019, deletes or
21 extends that date.

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

25 ~~SECTION 1. Section 3504 of the Business and Professions~~
26 ~~Code is amended to read:~~

27 ~~3504. There is established a Physician Assistant Board within~~
28 ~~the jurisdiction of the Medical Board of California. The board~~
29 ~~consists of nine members. This section shall remain in effect only~~
30 ~~until January 1, 2021 and as of that date is repealed.~~
31 ~~Notwithstanding any other law, the repeal of this section renders~~
32 ~~the board subject to review by the appropriate policy committees~~
33 ~~of the Legislature.~~

34 ~~SEC. 2. Section 3512 of the Business and Professions Code is~~
35 ~~amended to read:~~

36 ~~3512. (a) Except as provided in Sections 159.5 and 2020, the~~
37 ~~board shall employ within the limits of the Physician Assistant~~
38 ~~Fund all personnel necessary to carry out the provisions of this~~
39 ~~chapter including an executive officer who shall be exempt from~~
40 ~~civil service. The Medical Board of California and board shall~~

1 ~~make all necessary expenditures to carry out the provisions of this~~
2 ~~chapter from the funds established by Section 3520. The board~~
3 ~~may accept contributions to effect the purposes of this chapter.~~
4 (b) ~~This section shall remain in effect only until January 1, 2021,~~
5 ~~and as of that date is repealed.~~

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