

ASSEMBLY BILL

No. 2195

Introduced by Assembly Member Bonilla

February 18, 2016

An act to amend Sections 4602 and 4621 of the Business and Professions Code, relating to massage therapy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2195, as introduced, Bonilla. 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.

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.

1 (b) The council may take any reasonable actions necessary to
2 carry out the responsibilities and duties set forth in this chapter,
3 including, but not limited to, hiring staff, entering into contracts,
4 and developing policies, procedures, rules, and bylaws to
5 implement this chapter.

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

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

12 (e) The council is authorized to determine whether the
13 information provided to the council in relation to the certification
14 of an applicant is true and correct and meets the requirements of
15 this chapter. If the council has any reason to question whether the
16 information provided is true or correct, or meets the requirements
17 of this chapter, the council is authorized to make any investigation
18 it deems necessary to establish that the information received is
19 accurate and satisfies any criteria established by this chapter. The
20 applicant has the burden to prove that he or she is entitled to
21 certification.

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

32 ~~(1) One member selected by each statewide association of~~
33 ~~private postsecondary schools incorporated on or before January~~
34 ~~1, 2010, which member schools have together had at least 1,000~~
35 ~~graduates in each of the previous three years from massage therapy~~
36 ~~programs that meet the approval standards set forth in subdivision~~
37 ~~(a) of Section 4601, unless a qualifying association chooses not~~
38 ~~to exercise this right of selection.~~

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

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

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

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

11 ~~(6) The council's bylaws shall establish a process for appointing~~
12 ~~other professional directors to the council who have knowledge~~
13 ~~of the massage industry or can bring needed expertise to the~~
14 ~~operation of the council for purposes of complying with Section~~
15 ~~4603.~~

16 ~~(g) At 12 p.m. Pacific standard time on September 15, 2015,~~
17 ~~the term of each member of the~~

18 ~~(f) The council shall be governed by a board of directors~~
19 ~~established pursuant to subdivision (f) shall terminate, and the~~
20 ~~terms of 13 new members of the board of directors comprised of~~
21 ~~13 members who shall be chosen in the following manner, shall~~
22 ~~begin: manner:~~

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

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

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

32 (4) One member shall be a representative of an “anti-human
33 trafficking” organization to be determined by the council. This
34 organization shall appoint one member, unless the organization
35 chooses not to exercise this right to appoint.

36 (5) One member shall be appointed by the Office of the
37 Chancellor of the California Community Colleges, unless that
38 office chooses not to exercise this right to appoint.

1 (6) One member shall be a member of the public appointed by
2 the Director of the Department of Consumer Affairs, unless the
3 director chooses not to exercise this right to appoint.

4 (7) One member shall be appointed by the California Association
5 of Private Postsecondary Schools, unless that entity chooses not
6 to exercise this right to appoint.

7 (8) One member shall be appointed by the American Massage
8 Therapy Association, California Chapter, who shall be a
9 California-certified massage therapist or massage practitioner who
10 is a California resident and who has been practicing massage for
11 at least three years, unless that entity chooses not to exercise this
12 right to appoint.

13 (9) One member shall be a public health official representing a
14 city, county, city and county, or state health department, to be
15 determined by the council. The city, county, city and county, or
16 state health department chosen, shall appoint one member unless
17 that entity chooses not to exercise this right to appoint.

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

28 (B) If there is more than one professional society, association,
29 or other entity that meets the requirements of subparagraph (A),
30 the appointment shall rotate based on a four-year term between
31 each of the qualifying entities. The qualifying entity shall maintain
32 its appointment authority during the entirety of the four-year term
33 during which it holds the appointment authority. The order in
34 which a qualifying professional society, association, or other entity
35 has the authority to appoint shall be determined by alphabetical
36 order based on the full legal name of the entity as of January 1,
37 2014.

38 (11) The members appointed to the board in accordance with
39 paragraphs (1) to (10), inclusive, shall appoint three additional
40 members, at a duly held board meeting in accordance with the

1 board's bylaws. One of those appointees shall be an attorney
2 licensed by the State Bar of California, who has been practicing
3 law for at least three years and who at the time of appointment
4 represents a city in the state. One of those appointees shall represent
5 a massage business entity that has been operating in the state for
6 at least three years. The council shall establish in its bylaws a
7 process for appointing an additional member, provided that the
8 member has knowledge of the massage industry or can bring
9 needed expertise to the operation of the council for purposes of
10 complying with Section 4603.

11 ~~(h)~~

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

13 ~~(i)~~

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

21 ~~(j)~~

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

29 ~~(k)~~

30 ~~(j)~~ Prior to holding a meeting to vote upon a proposal to increase
31 the certification fees, the board shall provide at least 90 days'
32 notice of the meeting, including posting a notice on the council's
33 Internet Web site unless at least two-thirds of the board members
34 concur that there is an active threat to public safety and that voting
35 at a meeting without prior notice is necessary. However, the board
36 shall not waive the requirements of subdivision (j).

37 ~~(l)~~

38 ~~(k)~~ If the board approves an increase in the certification fees,
39 the council shall update all relevant areas of its Internet Web site

1 and notify all certificate holders and affected applicants by email
2 within 14 days of the board's action.

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

5 4621. (a) This chapter shall remain in effect only until January
6 1, ~~2017~~, 2019, and as of that date is repealed, unless a later enacted
7 statute, that is enacted before January 1, ~~2017~~, 2019, deletes or
8 extends that date.

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