



## 1997 ASSEMBLY BILL 461

July 22, 1997 - Introduced by Representatives HARSDORF, SCHAFER, ROBSON, URBAN, WASSERMAN, NASS, BALDWIN, KAUFERT, MURAT, HANSON, SYKORA, PORTER and J. LEHMAN, cosponsored by Senators PLACHE, WIRCH, WEEDEN, ROESSLER, GEORGE, C. POTTER, FARROW, BURKE, HUELSMAN and A. LASEE. Referred to Committee on Consumer Affairs.

1     **AN ACT to amend** 15.08 (1m) (b), 50.01 (2), 55.043 (4) (e), 103.10 (1) (e), 146.40  
2           (1) (d), 146.81 (1) (i) and (j), 252.10 (7), 252.15 (1) (ar) 1., 448.03 (2) (a), 448.10  
3           (4), 451.02 (1), 895.48 (1m) (intro.), 895.48 (1m) (b) and 908.03 (6m) (a); and **to**  
4           **create** 15.405 (6r), 146.81 (1) (hp), 180.1901 (1m) (h), 440.08 (2) (a) 46r., 448.21  
5           (1) (f) and chapter 460 of the statutes; **relating to:** the regulation of massage  
6           therapists and bodyworkers, creating a massage therapy and bodywork  
7           examining board, granting rule-making authority and providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

This bill establishes requirements for the licensure of massage therapists and bodyworkers. The bill creates a 7-member massage therapy and bodywork examining board (examining board), attached to the department of regulation and licensing, to administer and enforce the requirements.

The bill also prohibits, with certain exceptions, a person who is not granted a license by the examining board from practicing massage therapy or bodywork for compensation. "Massage therapy or bodywork" is defined as the use of manual actions to manipulate the soft tissue of the human body for the purpose of improving circulation, reducing tension, relieving pain or increasing flexibility or the use of an adjunctive therapy to accomplish such purposes, but the term does not include making a medical diagnosis. The bill also prohibits a person who is not granted a

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license from using a title that represents that he or she is a massage therapist or bodyworker.

The bill does all of the following with respect to the regulation of massage therapists and bodyworkers:

1. Specifies the education, training, examination and other requirements and qualifications needed for licensure as a massage therapist or bodyworker and allows the examining board to waive any of the requirements if an applicant has substantially equivalent education, training or other experience. The bill also permits the examining board to promulgate rules that require a licensed massage therapist or bodyworker to complete at least 12 hours of continuing education every 2 years.

2. Allows the examining board to grant a temporary massage therapist or bodyworker license to a person who has applied to take the next available massage therapist or bodyworker examination and to grant a reciprocal license to a person who is licensed by another state or territory with licensing requirements that are substantially equivalent to the requirements of the bill.

3. Requires a massage therapist or bodyworker to obtain the informed consent of a client and to keep confidential any information that is given to the massage therapist or bodyworker in confidence by a client.

4. Prohibits a massage therapist or bodyworker from practicing massage therapy or bodywork at a "sexually oriented business", as defined by rule by the examining board.

5. Requires a massage therapist or bodyworker to make a report to the examining board if he or she is convicted of a felony or misdemeanor, or is found to have committed a violation of state or local law that is punishable by a forfeiture, and the circumstances of the felony, misdemeanor or violation substantially relate to the practice of massage therapy or bodywork. The bill also requires a massage therapist or bodyworker to make a report to the examining board if he or she has reasonable cause to believe that another massage therapist or bodyworker has committed a crime relating to prostitution or has had sexual contact or intercourse with a client and allows the examining board to investigate the report.

6. Allows the examining board to reprimand a person who has been granted a license or to deny, limit, suspend or revoke a license if a person has engaged in certain conduct or violated any requirement under the bill. A person who violates the bill's requirements is subject to a forfeiture of up to \$1,000 for each violation, except that a person who violates the prohibition against practicing massage therapy or bodywork or using a title without a license is required to pay a forfeiture of up to \$500 for each day of violation.

7. Creates exemptions from the bill's requirements for certain persons, including: a) a massage therapist student who practices, without compensation, under the on-premises supervision of an instructor; and b) a person who does not imply that he or she is a massage therapist or bodyworker and who manipulates the soft tissues of the hands or feet, uses touch or spoken words to increase awareness of patterns of movements in the human body, or uses his or her hands to influence energy fields within or around the human body.

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The bill also prohibits a city, village, town or county from enacting an ordinance that regulates the practice of massage therapy or bodywork by a person who is licensed by the examining board. In addition, a city, village, town or county is allowed to enact a zoning ordinance that restricts the location of an office in which massage therapy or bodywork is practiced, but only if the same restrictions also apply to a physician's office.

Finally, the bill also does all of the following:

1. Makes state law regarding the confidentiality of patient health care records applicable to records of a massage therapist or bodyworker about his or her clients.
2. Allows massage therapists or bodyworkers to organize and be shareholders in a health care professional service corporation. Current law allows only certain other health care providers to organize and be members of such a corporation.
3. Exempts, under certain circumstances, massage therapists or bodyworkers from civil liability for rendering voluntary care to participants at certain athletic events and contests. Current law exempts only certain other health care providers from such liability.
4. Expands the exception to the hearsay rule under current law that applies to records of certain health care providers so that it also applies to records of massage therapists or bodyworkers.
5. Expands the applicability of certain requirements under current law pertaining to subpoenas of health care records so that they also apply to records of massage therapists and bodyworkers.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           **SECTION 1.** 15.08 (1m) (b) of the statutes is amended to read:
- 2           15.08 (**1m**) (b) The public members of the chiropractic examining board, the
- 3           dentistry examining board, the hearing and speech examining board, the massage
- 4           therapy and bodywork examining board, the medical examining board, podiatry
- 5           examining council, occupational therapy examining council, respiratory care
- 6           practitioners examining council and council on physician assistants, the board of
- 7           nursing, the nursing home administrator examining board, the veterinary
- 8           examining board, the optometry examining board, the pharmacy examining board,
- 9           the examining board of social workers, marriage and family therapists and

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1 professional counselors and the psychology examining board shall not be engaged in  
2 any profession or occupation concerned with the delivery of physical or mental health  
3 care.

4 **SECTION 2.** 15.405 (6r) of the statutes is created to read:

5 15.405 (6r) MASSAGE THERAPY AND BODYWORK EXAMINING BOARD. (a) There is  
6 created a massage therapy and bodywork examining board in the department of  
7 regulation and licensing. The examining board shall consist of the following  
8 members appointed for 4-year terms:

9 1. Five massage therapists or bodyworkers who are licensed under ch. 460 and  
10 have engaged in the practice of massage therapy or bodywork for at least 2 years  
11 preceding appointment.

12 2. Two public members.

13 (b) In appointing members under par. (a), the governor shall ensure, to the  
14 maximum extent practicable, that the membership of the board is diverse, based on  
15 all of the following factors:

16 1. Massage or bodywork therapies practiced in this state.

17 2. Affiliation and nonaffiliation with a professional association for the practice  
18 of massage therapy or bodywork.

19 3. Professional associations with which massage therapists or bodyworkers in  
20 this state are affiliated.

21 4. Practice in urban and rural areas in this state.

22 **SECTION 3.** 50.01 (2) of the statutes is amended to read:

23 50.01 (2) “Nurse’s assistant” means a person who performs routine patient care  
24 duties delegated by a registered nurse or licensed practical nurse who supervises the  
25 person, for the direct health care of a patient or resident. “Nurse’s assistant” does

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1 not mean a person who is licensed, permitted, certified or registered under ch. 441,  
2 448, 449, 450, 451, 455 ~~or~~ 459 or 460 or a person whose duties primarily involve skills  
3 that are different than those taught in instructional programs for nurse's assistants.

4 **SECTION 4.** 55.043 (4) (e) of the statutes is amended to read:

5 55.043 (4) (e) Refer the case to the department of regulation and licensing or  
6 the appropriate examining board if the abuse, neglect or misappropriation of  
7 property involves an individual who is required to be licensed, permitted, certified  
8 or registered under chs. 440 to 459 460.

9 **SECTION 5.** 103.10 (1) (e) of the statutes is amended to read:

10 103.10 (1) (e) "Health care provider" means a person described under s. 146.81  
11 (1), but does not include a person described under s. 146.81 (1) (hp).

12 **SECTION 6.** 146.40 (1) (d) of the statutes is amended to read:

13 146.40 (1) (d) "Nurse's assistant" means an individual who performs routine  
14 patient care duties delegated by a registered nurse or licensed practical nurse who  
15 supervises the individual, for the direct health care of a patient or resident. "Nurse's  
16 assistant" does not mean an individual who is licensed, permitted, certified or  
17 registered under ch. 441, 448, 449, 450, 451, 455 ~~or~~ 459 or 460 or an individual whose  
18 duties primarily involve skills that are different than those taught in instructional  
19 and competency evaluation programs for nurse's assistants certified under sub. (3)  
20 or evaluated by competency evaluation programs for nurse's assistants approved  
21 under sub. (3m).

22 **SECTION 7.** 146.81 (1) (hp) of the statutes is created to read:

23 146.81 (1) (hp) A massage therapist or bodyworker licensed under ch. 460.

24 **SECTION 8.** 146.81 (1) (i) and (j) of the statutes are amended to read:

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1           146.81 (1) (i) A partnership of any providers specified under pars. (a) to ~~(hm)~~  
2           ~~(hp)~~.

3           (j) A corporation or limited liability company of any providers specified under  
4           pars. (a) to ~~(hm)~~ (hp) that provides health care services.

5           **SECTION 9.** 180.1901 (1m) (h) of the statutes is created to read:

6           180.1901 (1m) (h) Massage therapy and bodywork examining board under ch.  
7           460.

8           **SECTION 10.** 252.10 (7) of the statutes is amended to read:

9           252.10 (7) Drugs necessary for the treatment of mycobacterium tuberculosis  
10          shall be purchased by the department from the appropriation under s. 20.435 (1) (e)  
11          and dispensed to patients through the public health dispensaries or through health  
12          care providers, as defined in s. 146.81 (1), other than social workers, marriage and  
13          family therapists or professional counselors certified under ch. 457,  
14          speech-language pathologists or audiologists licensed under subch. II of ch. 459,  
15          speech and language pathologists licensed by the department of education public  
16          instruction, massage therapists or bodyworkers licensed under ch. 460 or, on or after  
17          July 1, 1995, and no later than June 30, 1999, dietitians certified under subch. IV of  
18          ch. 448.

19          **SECTION 11.** 252.15 (1) (ar) 1. of the statutes is amended to read:

20          252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but not a  
21          massage therapist or bodyworker licensed under ch. 460.

22          **SECTION 12.** 440.08 (2) (a) 46r. of the statutes is created to read:

23          440.08 (2) (a) 46r. Massage therapist or bodyworker: July 1 of each  
24          even-numbered year; \$41.

25          **SECTION 13.** 448.03 (2) (a) of the statutes is amended to read:

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1           448.03 (2) (a) Any person lawfully practicing within the scope of a license,  
2           permit, registration, certificate or certification granted to practice professional or  
3           practical nursing or nurse-midwifery under ch. 441, to practice chiropractic under  
4           ch. 446, to practice dentistry or dental hygiene under ch. 447, to practice optometry  
5           under ch. 449, to practice acupuncture under ch. 451, to practice massage therapy  
6           or bodywork under ch. 460 or under any other statutory provision, or as otherwise  
7           provided by statute.

8           **SECTION 14.** 448.10 (4) of the statutes is amended to read:

9           448.10 (4) MASSAGE AND HYDROTHERAPY. Any Notwithstanding s. 460.02, any  
10          person who, on July 11, 1953, was practicing massage and hydrotherapy in this state  
11          under a certificate of registration issued pursuant to s. 147.185, 1951 stats., as it  
12          existed prior to July 11, 1953, or who had applied for a certificate of registration in  
13          massage and hydrotherapy before said date, shall have the right to continue to so  
14          practice under such certificate, and the term "massage and hydrotherapy" shall be  
15          deemed to include the use of galvanic generator, diathermy, infrared ray and  
16          ultraviolet light for massage purposes. Nothing contained in this subsection shall  
17          limit the existing authority of the board to revoke such certificate for cause, and in  
18          addition, the board may require the holder of such certificate to demonstrate by  
19          examination fitness to use the instrumentalities enumerated in this subsection. A  
20          lack of such fitness shall constitute cause for revocation of such certificate. No such  
21          certificate holder shall treat a specific disease except on the advice of a licensed  
22          physician.

23          **SECTION 15.** 448.21 (1) (f) of the statutes is created to read:

24          448.21 (1) (f) The practice of massage therapy or bodywork within the meaning  
25          of ch. 460.





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1       contraindicated, or whether a referral to another health care practitioner is  
2       appropriate.

3           (b) Does not include making a medical diagnosis.

4           **(6)** “Physician’s office” has the meaning given in s. 101.123 (1) (dg).

5           **(7)** “Sexual contact” has the meaning given in s. 939.22 (34).

6           **(8)** “Sexual intercourse” has the meaning given in s. 948.01 (7) (a).

7           **460.02 License required.** Except as provided in s. 460.03, no person may  
8       practice massage therapy or bodywork for compensation or in the expectation of  
9       compensation, or designate himself or herself as a massage therapist or bodyworker,  
10      or use or assume the title “massage therapist and bodyworker” or “massage  
11      therapist” or “bodyworker”, or append to the person’s name the letters “M. T.”, “L. M.  
12      T.”, “B. W.” or “L. B. W.”, or use any other title or designation which represents or may  
13      tend to represent the person as a massage therapist or bodyworker, unless the person  
14      is licensed under this chapter.

15          **460.03 Applicability.** A license under this chapter is not required for any of  
16      the following:

17          **(1)** A person holding a license, permit, registration or certification granted by  
18      this state or the federal government who engages in a practice of massage therapy  
19      or bodywork within the scope of his or her license, permit, registration or certification  
20      and who does not imply that he or she is a massage therapist or bodyworker.

21          **(2)** A massage therapy or bodywork student practicing massage therapy or  
22      bodywork, without compensation, within the scope of the student’s education or  
23      training, and under the on-premises supervision of an instructor.

24          **(3)** A massage therapist or bodyworker who is licensed to practice massage  
25      therapy or bodywork in another state or country and is providing a consultation to

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1 or demonstration with a massage therapist or bodyworker who is licensed under this  
2 chapter.

3 (4) A person who does any of the following and who does not imply that he or  
4 she is a massage therapist or bodyworker:

5 (a) Restricts his or her manipulation of soft tissue to the hands or feet.

6 (b) Uses touch or spoken words to increase awareness of existing or potential  
7 patterns of movement in the human body.

8 (c) Uses a laying on of hands to influence energy fields within or around the  
9 human body.

10 **460.04 Duties of examining board.** (1) The examining board shall assign  
11 a unique license number to each person licensed under this chapter.

12 (2) The examining board shall promulgate rules that establish all of the  
13 following:

14 (a) A code of ethics that governs the professional conduct of massage therapists  
15 or bodyworkers. The code of ethics shall prohibit a massage therapist or bodyworker  
16 from having sexual contact or sexual intercourse with a client.

17 (b) Criteria for approving a school of massage therapy or bodywork from which  
18 graduation is required under s. 460.05 (1) (e) 1. Rules promulgated under this  
19 paragraph shall define the curricula and qualifications of instructors that are  
20 required for approval of a school.

21 (c) Criteria for approving the courses of instruction required under s. 460.05  
22 (1) (e) 2. and 3. Rules promulgated under this paragraph shall require the course of  
23 instruction required under s. 460.05 (1) (e) 3. to consist of at least 500 classroom  
24 hours.

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1 (d) Requirements and procedures for obtaining the informed consent of a client  
2 under s. 460.11 (1) and for making a report required under s. 460.12 (1).

3 (e) A definition of “sexually oriented business” for purposes of s. 460.11 (3).

4 (f) A definition of “laying on of hands” for purposes of s. 460.03 (4) (c).

5 **460.05 Licensure of massage therapists or bodyworkers.** (1) The  
6 examining board shall grant a license as a massage therapist or bodyworker to a  
7 person who satisfies all of the following:

8 (a) Is 18 years of age or older.

9 (b) Has graduated from high school or attained high school graduation  
10 equivalency as determined by the department of public instruction under s. 115.29  
11 (4).

12 (c) Submits an application for the license to the department on a form provided  
13 by the department.

14 (d) Pays the fee specified in s. 440.05 (1).

15 (e) Except as provided in sub. (2), submits evidence satisfactory to the  
16 examining board that he or she has done all of the following:

17 1. Graduated from a school of massage therapy or bodywork approved under  
18 s. 38.51.

19 2. Completed at least 6 classroom hours in the laws of this state and rules of  
20 the examining board relating to the practice of massage therapy or bodywork in a  
21 course of instruction approved by the examining board.

22 3. Completed a minimum number of classroom hours, established by the  
23 examining board by rule, in a course of instruction in the principles and techniques  
24 of massage therapy or bodywork that is approved by the examining board.

25 (f) Passes an examination under s. 460.06.

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1           **(2)** The examining board may waive a requirement specified in sub. (1) (e) if  
2 a person establishes, to the satisfaction of the examining board, that he or she has  
3 education, training or other experience that is substantially equivalent to the  
4 requirement.

5           **460.06 Examination.** **(1)** The examining board shall conduct or arrange for  
6 examinations for massage therapist or bodyworker licensure at least semiannually  
7 and at times and places determined by the examining board.

8           **(2)** Examinations shall consist of written or oral tests, or both, requiring  
9 applicants to demonstrate minimum competency in subjects substantially related to  
10 the practice of massage therapy or bodywork.

11           **460.07 Issuance of license; expiration and renewal.** **(1)** The department  
12 shall issue a certificate of licensure to each person who is licensed under this chapter.  
13 The person shall conspicuously display the certificate in the place of business where  
14 he or she practices massage therapy or bodywork so that the certificate can easily be  
15 seen and read.

16           **(2)** The renewal dates for licenses granted under this chapter, other than  
17 temporary licenses granted under s. 460.08, are specified under s. 440.08 (2) (a).  
18 Renewal applications shall be submitted to the department on a form provided by the  
19 department and shall include the renewal fee specified in s. 440.08 (2) (a) and, if  
20 applicable, proof of completion of continuing education under s. 460.10.

21           **460.08 Temporary license.** Upon application and payment of the fee  
22 specified in s. 440.05 (6), the examining board may grant a temporary massage  
23 therapist or bodyworker license to a person who satisfies the requirements under s.  
24 460.05 (1) (a) to (e), has submitted an application to take the next available  
25 examination under s. 460.06 and has not previously failed the examination. A

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1 temporary license granted under this section shall expire on the date on which the  
2 person receives the results of the examination and may not be renewed.

3 **460.09 Reciprocal license.** Upon application and payment of the fee  
4 specified in s. 440.05 (2), the examining board shall grant a massage therapist or  
5 bodyworker license to a person who holds a similar license or certificate in another  
6 state or territory of the United States if the examining board determines that the  
7 requirements for receiving the license or certificate in the other state or territory are  
8 substantially equivalent to the requirements under s. 460.05.

9 **460.10 Continuing education.** The examining board may promulgate rules  
10 establishing requirements and procedures for a massage therapist or bodyworker to  
11 complete continuing education programs or courses of study in order to qualify for  
12 renewal of his or her license. Any rules promulgated under this section shall require  
13 a massage therapist or bodyworker to complete at least 12 hours of continuing  
14 education programs or courses of study in order to qualify for renewal. The  
15 examining board may waive all or part of any requirement established in rules  
16 promulgated under this section if it determines that prolonged illness, disability or  
17 other exceptional circumstances have prevented a massage therapist or bodyworker  
18 from completing the requirement.

19 **460.11 Practice requirements. (1)** A massage therapist or bodyworker may  
20 not practice massage therapy or bodywork on a client unless the massage therapist  
21 or bodyworker first obtains the informed consent of the client and has informed the  
22 client that he or she may withdraw the consent at any time.

23 **(2)** A massage therapist or bodyworker shall keep confidential any information  
24 that a client in confidence gives to the massage therapist or bodyworker and any  
25 other information that the massage therapist or bodyworker obtains about a client

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1 in the course of practicing massage therapy or bodywork that a reasonable person  
2 in the client's position would want kept confidential, unless the information is  
3 otherwise required by law to be disclosed or the client specifically authorizes the  
4 disclosure of the information.

5 (3) A massage therapist or bodyworker may not, whether for compensation or  
6 not, practice massage therapy or bodywork for a sexually oriented business, as  
7 defined by the examining board by rule.

8 **460.12 Duty to make reports.** (1) A massage therapist or bodyworker shall  
9 submit a report to the examining board if he or she has reasonable cause to believe  
10 that another massage therapist or bodyworker has committed a crime relating to  
11 prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual  
12 intercourse with a client. If the report relates to sexual contact or sexual intercourse  
13 with a client, the report may not identify the client unless the client has provided  
14 written consent for disclosure of this information.

15 (2) The examining board may use a report made under sub. (1) as the basis for  
16 an investigation under s. 460.16 (1). If, after an investigation, the examining board  
17 has reasonable cause to believe that a massage therapist or bodyworker has  
18 committed a crime, the examining board shall report the belief to the district  
19 attorney for the county in which the crime, in the opinion of the examining board,  
20 occurred.

21 (3) If, after an investigation, the examining board determines that a report  
22 submitted under sub. (1) is without merit, the examining board shall remove the  
23 report from the record of the massage therapist or bodyworker who is the subject of  
24 the report.

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1           (4) All reports and records made from reports under sub. (1) and maintained  
2 by the department, the examining board, district attorneys and other persons,  
3 officials and institutions shall be confidential and are exempt from disclosure under  
4 s. 19.35 (1). Information regarding the identity of a client with whom a massage  
5 therapist or bodyworker is suspected of having sexual contact or sexual intercourse  
6 shall not be disclosed by persons who have received or have access to a report or  
7 record unless disclosure is consented to in writing by the client. The report of  
8 information under sub. (1) and the disclosure of a report or record under this  
9 subsection does not violate any person's responsibility for maintaining the  
10 confidentiality of patient health care records, as defined in s. 146.81 (4) and as  
11 required under s. 146.82. Reports and records may be disclosed only to the  
12 department, the examining board and the appropriate staff of a district attorney or  
13 a law enforcement agency within this state for purposes of investigation or  
14 prosecution.

15           (5) (a) In this subsection, "violation" means a violation of any state or local law  
16 that is punishable by a forfeiture.

17           (b) A massage therapist or bodyworker shall submit a written report to the  
18 examining board if he or she is convicted of a felony or misdemeanor, or is found to  
19 have committed a violation, in this state or elsewhere, and the circumstances of the  
20 felony, misdemeanor or violation substantially relate to the practice of massage  
21 therapy or bodywork. The report shall identify the date, place and nature of the  
22 conviction or finding and shall be submitted within 30 days after the entry of the  
23 judgment of conviction or the judgment finding that he or she committed the  
24 violation. If the report is submitted by mail, the report is considered to be submitted  
25 on the date that it is mailed.

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1           **460.13 Employment of massage therapists or bodyworkers.** No person  
2 may employ a person to engage in the practice of massage therapy or bodywork  
3 unless the person who is employed is licensed under this chapter or is exempt from  
4 the licensure requirements of this chapter.

5           **460.14 Advertising.** A massage therapist or bodyworker may not advertise  
6 that he or she practices massage therapy or bodywork unless the advertisement  
7 includes his or her license number and a statement that the massage therapist or  
8 bodyworker is a “licensed massage therapist and bodyworker” or “licensed massage  
9 therapist” or “licensed bodyworker”.

10           **460.15 Local regulation. (1)** A city, village, town or county may not enact  
11 an ordinance that regulates the practice of massage therapy or bodywork by a person  
12 who is licensed by the examining board under this chapter. No provision of any  
13 ordinance enacted by a city, village, town or county that is in effect before the effective  
14 date of this subsection .... [revisor inserts date], and that relates to the practice of  
15 massage therapy or bodywork, may be enforced against a person who is licensed by  
16 the examining board under this chapter.

17           **(2)** Notwithstanding s. 59.69 (4), 60.61 (2), 60.62 (1), 61.35, 62.23 (7) or sub. (1),  
18 a city, village, town or county may enact a zoning ordinance that restricts the location  
19 of an office in which massage therapy or bodywork is practiced by a person licensed  
20 by the examining board under this chapter only if the same restrictions also apply  
21 to the location of a physician’s office. No provision of any zoning ordinance enacted  
22 by a city, village, town or county that is in effect before the effective date of this  
23 subsection .... [revisor inserts date], and that restricts the location of an office in  
24 which massage therapy or bodywork is practiced by a person licensed by the



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1 examining board under this chapter, may be enforced unless the same restrictions  
2 also apply to the location of a physician's office.

3 **460.16 Disciplinary proceedings and actions.**

4 (1) Subject to the rules promulgated under s. 440.03 (1), the examining board  
5 may make investigations and conduct hearings to determine whether a violation of  
6 this chapter or any rule promulgated under this chapter has occurred.

7 (2) Subject to the rules promulgated under s. 440.03 (1), the examining board  
8 may reprimand a massage therapist or bodyworker or deny, limit, suspend or revoke  
9 a license under this chapter if it finds that the applicant or licensee has done any of  
10 the following:

11 (a) Made a material misstatement in an application for a license or for renewal  
12 of a license.

13 (b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the  
14 circumstances of which substantially relate to the practice of massage therapy or  
15 bodywork.

16 (c) Advertised in a manner that is false, deceptive or misleading.

17 (d) Advertised, practiced or attempted to practice under another's name.

18 (e) Subject to ss. 111.321, 111.322 and 111.34, practiced massage therapy or  
19 bodywork while his or her ability to practice was impaired by alcohol or other drugs.

20 (f) Intentionally made a false statement in a report submitted under s. 460.12  
21 (1).

22 (g) Engaged in unprofessional or unethical conduct in violation of the code of  
23 ethics established in rules promulgated under s. 460.04 (2) (a).

24 (h) Engaged in conduct while practicing massage therapy or bodywork which  
25 jeopardizes the health, safety or welfare of a client or which evidences a lack of

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1 knowledge of, inability to apply or the negligent application of, principles or skills of  
2 massage therapy or bodywork.

3 (i) Committed a crime related to prostitution under ss. 944.30 to 944.34.

4 (j) Violated this chapter or any rule promulgated under this chapter.

5 **(3)** The examining board may restore a license that has been suspended or  
6 revoked on such terms and conditions as the examining board may deem  
7 appropriate.

8 **460.17 Penalties. (1)** Except as provided in sub. (2), any person who violates  
9 this chapter or any rule promulgated under this chapter shall forfeit not more than  
10 \$1,000 for each violation.

11 **(2)** A person who violates s. 460.02 shall forfeit not more than \$500 for each  
12 violation. Each day of continued violation of s. 460.02 constitutes a separate  
13 violation.

14 **SECTION 18.** 895.48 (1m) (intro.) of the statutes is amended to read:

15 895.48 **(1m)** (intro.) Any physician licensed under ch. 448, chiropractor  
16 licensed under ch. 446, dentist licensed under ch. 447, emergency medical technician  
17 licensed under s. 146.50, physician assistant certified under ch. 448 ~~or~~, registered  
18 nurse licensed under ch. 441 or massage therapist or bodyworker licensed under ch.  
19 460 who renders voluntary health care to a participant in an athletic event or contest  
20 sponsored by a nonprofit corporation, as defined in s. 46.93 (1m) (c), a private school,  
21 as defined in s. 115.001 (3r), a public agency, as defined in s. 46.93 (1m) (e), or a school,  
22 as defined in s. 609.655 (1) (c), is immune from civil liability for his or her acts or  
23 omissions in rendering that care if all of the following conditions exist:

24 **SECTION 19.** 895.48 (1m) (b) of the statutes is amended to read:

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1           895.48 **(1m)** (b) The physician, chiropractor, dentist, massage therapist or  
2 bodyworker, emergency medical technician, physician assistant or registered nurse  
3 does not receive compensation for the health care, other than reimbursement for  
4 expenses.

5           **SECTION 20.** 908.03 (6m) (a) of the statutes is amended to read:

6           908.03 **(6m)** (a) *Definition.* In this subsection, “health care provider” means  
7 a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a physician  
8 assistant certified under ch. 448, a massage therapist or bodyworker licensed under  
9 ch. 460 or a health care provider as defined in s. 655.001 (8).

10           **SECTION 21. Nonstatutory provisions.**

11           (1) INITIAL APPOINTMENTS.

12           (a) Notwithstanding section 15.405 (6r) (a) of the statutes, as created by this  
13 act, the initial members of the massage therapy and bodywork examining board shall  
14 be appointed by the first day of the 3rd month beginning after the effective date of  
15 this paragraph for the following terms:

16           1. Two massage therapist or bodyworker members and one public member, for  
17 terms expiring on July 1, 1999.

18           2. One massage therapist or bodyworker member, for a term expiring on July  
19 1, 2000.

20           3. One massage therapist or bodyworker member and one public member, for  
21 terms expiring on July 1, 2001.

22           4. One massage therapist or bodyworker member, for a term expiring on July  
23 1, 2002.

24           (b) Notwithstanding section 15.405 (6r) (a) of the statutes, as created by this  
25 act, for the purpose of being appointed and serving as members of the massage

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1 therapy and bodywork examining board, the members need not be licensed under  
2 chapter 460 of the statutes, as created by this act, until the first day of the 15th month  
3 beginning after the effective date of this paragraph.

4 (2) WAIVER OF CERTAIN LICENSURE REQUIREMENTS. Notwithstanding section  
5 460.05 (1) of the statutes, as created by this act, the massage therapy and bodywork  
6 examining board shall grant a license as a massage therapist or bodyworker to a  
7 person who, not later than the last day of the 6th month beginning after the effective  
8 date of this subsection, does all of the following:

9 (a) Submits an application to the examining board on a form approved by the  
10 examining board that describes the person's education and his or her experience in  
11 the practice of massage therapy and bodywork.

12 (b) Provides evidence satisfactory to the examining board that he or she has  
13 completed at least 100 classroom hours of instruction in the practice of massage  
14 therapy or bodywork, or has practiced massage therapy or bodywork for  
15 compensation for at least 2 years during the 5-year period immediately preceding  
16 the date of the application.

17 (c) Pays the fee specified in s. 440.05 (1) of the statutes.

18 **SECTION 22. Initial applicability.**

19 (1) The treatment of section 146.81 (1) (hp) of the statutes first applies to  
20 contracts entered into or renewed by massage therapists or bodyworkers under  
21 section 635.272 (1) of the statutes on the effective date of this subsection.

22 (2) The treatment of section 146.81 (1) (hp) of the statutes first applies to the  
23 use of billing forms specified in section 632.725 (2) (a) of the statutes on the effective  
24 date of this subsection.

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1           (3) The treatment of chapter 460 of the statutes first applies to crimes relating  
2 to prostitution that are committed on and sexual contact or sexual intercourse that  
3 occurs on the effective date of this subsection.

4           (4) The treatment of section 895.48 (1m) (intro.) and (b) of the statutes first  
5 applies to care rendered on the effective date of this subsection.

6           **SECTION 23. Effective dates.** This act takes effect on the first day of the 9th  
7 month beginning after publication, except as follows:

8           (1) The treatment of section 15.405 (6r) and SECTION 21 (1) of this act take effect  
9 on the day after publication.

10

**(END)**