

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0319/2dn
MDK:kmg:rs

February 11, 2002

Representative Underheim:

The “/1” version of this substitute amendment was created for my own purposes and not submitted to you.

Note that this substitute amendment makes the following changes to AB-749:

1. The name of the credential is changed from “license” to “certificate.” Note, however, that only the name is changed and none of the substantive requirements regarding the certificate are changed.
2. References to “adjunctive therapies” are eliminated.
3. Proposed s. 460.04 (2) (b) and (c) are revised. Please review these changes. In retrospect, the distinction between approval of schools and approval of courses of instruction seems confusing. I’m not sure why the distinction is made, or why different criteria should apply.
4. Regarding the examination required for a certificate, see the changes to the proposed amendment of s. 460.06. In short, I changed that provision so that a person must pass one of the following: 1) the national certification examination for therapeutic massage and bodywork that is offered by the National Certification Board for Therapeutic Massage and Bodywork; 2) an examination relating to the practice of massage therapy or bodywork that is administered by a national board that is accredited by the National Commission for Certifying Agencies; or 3) a substantially equivalent examination approved by the examining board. Did I get this right? Note that I used “passes,” rather than “successfully completes.” This is a minor change, but it makes the language consistent with the last sentence of that provision (i.e., the requirement to pass an examination on state rules).
5. In proposed 460.03 (2), the phrase “without compensation” is deleted.
6. Proposed s. 460.10 is revised to require *at least* 24 hours of continuing education every two years for renewal of a certificate. Note that, as drafted, the examining board could require more than 24 hours.
7. The grandfather provisions are changed to apply to three classes of people. First, the examining board must, within six months after the effective date of the bill, issue

a certificate to any person who is registered under current law. See SECTION 29 (4) of the bill. Second, a person who is not registered under current law, but who is actively engaged in the practice of massage therapy or bodywork on the effective date of the bill may apply to the EAB for a certificate within two years after the effective date of the bill. See SECTION 29 (5) of the bill for additional requirements. Third, a person who misses the two-year deadline may apply to the EAB for a certificate if, among other things, he or she attests that he or she only recently became aware of the bill's requirements. Also, he or she must be actively engaged in the practice of massage therapy or bodywork during the two-year period after the effective date of the bill. See proposed s. 460.05 (3). Please review all of these provisions to make sure that they are okay.

8. The substitute amendment requires people who apply to the EAB for a certificate to pay an initial fee to the EAB, not to DRL. The reason is that the EAB, not DRL or the examining board, will be expending administrative resources in determining whether a certificate should be granted. I'm not sure what the amount of the fee should be because I do not know what the EAB's costs will be. Therefore, I required applicants to pay to the EAB the same fee that they would otherwise have to pay to DRL, i.e., \$53 (which, under s. 440.05 (1) (a), stats., is the initial credential fee when no examination is required). Also, I added an appropriation to the EAB for collection of the fee. Because DRL receives only 90% of the initial fees that it collects under current law, I also provided that the EAB receives only 90% of the initial fees that it collects. Are all of these provisions okay?

9. The substitute amendment requires all applicants to have the insurance required under current law.

Finally, I'm not sure why you want the EAB to play a role in certifying massage therapists and bodyworkers. Under current law, the EAB approves schools, not people who engage in occupations.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us