

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0319/1dn
MDK:kmg:rs

February 11, 2002

NOTE:

D-NOTE

NOT submitted
to Rep Underheim.

Representative Underheim:

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 2 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 3 classes of people. First, any person who is registered under current law is automatically eligible for a certificate, if he or she applies within 2 years after the effective date of the bill. 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 2 years after the effective date of the bill. See SECTION 29 (5) of the bill for additional requirements. Third, a person who misses the 2-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 2-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?

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.

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State of Wisconsin
2001 - 2002 LEGISLATURE

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Today

Stay
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ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2001 ASSEMBLY BILL 749

SA ✓

repeal

1 AN ACT to repeal 180.1901 (1m) (ag), 440.08 (2) (a) 67q., subchapter XI (title) of
2 chapter 440 [precedes 440.98], 440.98 to 440.981, 440.982 (title) and (1) (intro.)
3 and (a), 440.982 (1) (c) and (2) and 440.983 to 440.988; to renumber and
4 amend 440.982 (1) (b) and 440.989; to amend 15.08 (1m) (b), 50.01 (2), 55.043
5 (4) (e), 103.10 (1) (e), 146.40 (1) (d), 146.81 (1) (hp), 146.997 (1) (d) 13., 252.15
6 (1) (ar) 1., 448.03 (2) (a), 448.10 (4), 451.02 (1), 895.48 (1m) (intro.) and 908.03
7 (6m) (a); and to create 15.405 (6r), 20.485 (5) (h), 180.1901 (1m) (h), 440.08 (2)
8 (a) 46r., 448.21 (1) (f) and chapter 460 of the statutes; relating to: the
9 regulation of massage therapists and bodyworkers, creating a massage therapy
10 and bodywork examining board, granting rule-making authority, making an
11 appropriation, and providing a penalty.

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

12 SECTION 1. 15.08 (1m) (b) of the statutes is amended to read:

STET: Leave as originally typed

as affected by 2001 Wisconsin Act ... Assembly Bill 206,

STET: leave as originally typed - no changes to this section

1 15.08 (1m) (b) The public members of the chiropractic examining board, the
 2 dentistry examining board, the hearing and speech examining board, the massage
 3 therapy and bodywork examining board, the medical examining board, podiatry
 4 examining council, occupational therapy examining council, respiratory care
 5 practitioners examining council and council on physician assistants, the board of
 6 nursing, the nursing home administrator examining board, the veterinary
 7 examining board, the optometry examining board, the pharmacy examining board,
 8 the examining board of ~~social workers, marriage and family therapists and~~
 9 ~~professional counselors~~ and the psychology examining board shall not be engaged in
 10 any profession or occupation concerned with the delivery of physical or mental health
 11 care.

Restore
 Restore
 marriage and family therapy, professional counseling, and social work

Proof
 AB206
 section 1

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

13 15.405 (6r) MASSAGE THERAPY AND BODYWORK EXAMINING BOARD. (a) There is
 14 created a massage therapy and bodywork examining board in the department of
 15 regulation and licensing. The examining board shall consist of the following
 16 members appointed for 4-year terms:

17 1. Five massage therapists or bodyworkers who are certified under ch. 460 and
 18 have engaged in the practice of massage therapy or bodywork for at least 2 years
 19 preceding appointment.

20 2. Two public members.

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

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

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

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

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

6 **SECTION 3.** 20.485 (5) (h) of the statutes is created to read:

7 20.485 (5) (h) *Certification of massage therapists and bodyworkers.* Ninety
8 percent of all moneys received under s. 460.05 (3) (c) and 2001 Wisconsin Act (this
9 act), section 29 (5) for making determinations regarding applications for massage
10 therapist and bodyworker certificates.

11 **SECTION 4.** 50.01 (2) of the statutes is amended to read:

12 50.01 (2) "Nurse's assistant" means a person who performs routine patient care
13 duties delegated by a registered nurse or licensed practical nurse who supervises the
14 person, for the direct health care of a patient or resident. "Nurse's assistant" does
15 not mean a person who is licensed, permitted, certified, or registered under subch.
16 ~~XI of ch. 440 or ch. 441, 448, 449, 450, 451, 455 or 459, or 460~~ or a person whose duties
17 primarily involve skills that are different than those taught in instructional
18 programs for nurse's assistants.

19 **SECTION 5.** 55.043 (4) (e) of the statutes is amended to read:

20 55.043 (4) (e) Refer the case to the department of regulation and licensing if
21 the misappropriation of property or neglect or abuse involves an individual who is
22 required to hold a credential, as defined in s. 440.01 (2) (a), under chs. 440 to ~~459~~ 460.

23 **SECTION 6.** 103.10 (1) (e) of the statutes is amended to read:

24 103.10 (1) (e) "Health care provider" means a person described under s. 146.81
25 (1), but does not include a person described under s. 146.81 (1) (hp).

1 **SECTION 7.** 146.40 (1) (d) of the statutes is amended to read:

2 146.40 (1) (d) “Nurse’s assistant” means an individual who performs routine
3 patient care duties delegated by a registered nurse or licensed practical nurse who
4 supervises the individual, for the direct health care of a patient or resident. “Nurse’s
5 assistant” does not mean an individual who is licensed, permitted, certified, or
6 registered under ~~subch. XI of ch. 440 or ch. 441, 448, 449, 450, 451, 455 or, 459, or~~
7 460 or an individual whose duties primarily involve skills that are different than
8 those taught in instructional and competency evaluation programs for nurse’s
9 assistants certified under sub. (3) or evaluated by competency evaluation programs
10 for nurse’s assistants approved under sub. (3m).

11 **SECTION 8.** 146.81 (1) (hp) of the statutes is amended to read:

12 146.81 (1) (hp) A massage therapist or bodyworker issued a license certified
13 under subch. XI of ch. 440 ch. 460.

14 **SECTION 9.** 146.997 (1) (d) 13. of the statutes is amended to read:

15 146.997 (1) (d) 13. A massage therapist or bodyworker issued a license of
16 ~~registration~~ certificate under ~~subch. XI of ch. 440~~ 460.

17 **SECTION 10.** 180.1901 (1m) (ag) of the statutes is repealed.

18 **SECTION 11.** 180.1901 (1m) (h) of the statutes is created to read:

19 180.1901 (1m) (h) Massage therapy and bodywork examining board under ch.
20 460.

21 **SECTION 12.** 252.15 (1) (ar) 1. of the statutes is amended to read:

22 252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but does
23 not include a massage therapist or bodyworker issued a ~~license of registration~~
24 certificate under ~~subch. XI of ch. 440~~ 460.

25 **SECTION 13.** 440.08 (2) (a) 46r. of the statutes is created to read:

1 440.08 (2) (a) 46r. Massage therapist or bodyworker: July 1 of each
2 even-numbered year; \$53.

3 **SECTION 14.** 440.08 (2) (a) 67q. of the statutes, as affected by 2001 Wisconsin
4 Act 16, is repealed.

5 **SECTION 15.** Subchapter XI (title) of chapter 440 [precedes 440.98] of the
6 statutes is repealed.

7 **SECTION 16.** 440.98 to 440.981 of the statutes are repealed.

8 **SECTION 17.** 440.982 (title) and (1) (intro.) and (a) of the statutes are repealed.

9 **SECTION 18.** 440.982 (1) (b) of the statutes is renumbered 460.06 and amended
10 to read:

11 **460.06 Examinations.** ~~Promulgate rules establishing the education, training~~
12 ~~or competency requirements that an applicant for a license must satisfy in order to~~
13 ~~be issued a license of registration under this subchapter. The rules shall require an~~
14 ~~applicant to complete at least 500 classroom hours of study in a course of instruction~~
15 ~~in massage therapy or bodywork approved by the department or at a school approved~~
16 ~~by the educational approval board under s. 45.54. The rules shall also require an The~~
17 ~~examining board may not grant a certificate under this chapter unless the applicant~~
18 ~~whose application is received after March 1, 2000, to successfully complete passes~~
19 ~~the national certification examination for therapeutic massage and bodywork that~~
20 ~~is offered by the National Certification Board for Therapeutic Massage and~~
21 ~~Bodywork or -a substantially equivalent an examination relating to the practice of~~
22 ~~massage therapy or bodywork that is approved administered by a national board~~
23 ~~that is accredited by the National Commission of for Certifying Agencies of the~~
24 ~~National Organization for Competency Assurance or that is developed, administered~~
25 ~~or a substantially equivalent examination approved by the department examining~~

1 board. The examining board shall promulgate rules ~~may that~~ also require an
2 applicant to pass an examination on state laws and administrative rules governing
3 massage therapy or bodywork.

4 **SECTION 19.** 440.982 (1) (c) and (2) of the statutes are repealed.

5 **SECTION 20.** 440.983 to 440.988 of the statutes are repealed.

6 **SECTION 21.** 440.989 of the statutes is renumbered 460.17 and amended to
7 read:

8 **460.17 Local regulation.** A city, village, town, or county, may not enact an
9 ordinance that regulates the practice of massage therapy or bodywork by a person
10 who is issued a ~~license of registration~~ certificate by the ~~department~~ examining
11 board under this ~~subchapter~~ chapter. No provision of any ordinance enacted by a
12 city, village, town, or county that is in effect before February 1, 1999, and that
13 relates to the practice of massage therapy or bodywork, may be enforced against a
14 person who is issued a ~~license of registration~~ certificate by the ~~department~~
15 examining board under this ~~subchapter~~ chapter.

16 **SECTION 22.** 448.03 (2) (a) of the statutes is amended to read:

17 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
18 permit, registration, certificate or certification granted to practice professional or
19 practical nursing or nurse-midwifery under ch. 441, to practice chiropractic under
20 ch. 446, to practice dentistry or dental hygiene under ch. 447, to practice optometry
21 under ch. 449, to practice acupuncture under ch. 451, to practice massage therapy
22 or bodywork under ch. 460 or under any other statutory provision, or as otherwise
23 provided by statute.

24 **SECTION 23.** 448.10 (4) of the statutes is amended to read:

1 448.10 (4) MASSAGE AND HYDROTHERAPY. ~~Any~~ Notwithstanding s. 460.02, any
2 person who, on July 11, 1953, was practicing massage and hydrotherapy in this state
3 under a certificate of registration issued pursuant to s. 147.185, 1951 stats., as it
4 existed prior to July 11, 1953, or who had applied for a certificate of registration in
5 massage and hydrotherapy before said date, shall have the right to continue to so
6 practice under such certificate, and the term "massage and hydrotherapy" shall be
7 deemed to include the use of galvanic generator, diathermy, infrared ray and
8 ultraviolet light for massage purposes. Nothing contained in this subsection shall
9 limit the existing authority of the board to revoke such certificate for cause, and in
10 addition, the board may require the holder of such certificate to demonstrate by
11 examination fitness to use the instrumentalities enumerated in this subsection. A
12 lack of such fitness shall constitute cause for revocation of such certificate. No such
13 certificate holder shall treat a specific disease except on the advice of a licensed
14 physician.

15 **SECTION 24.** 448.21 (1) (f) of the statutes is created to read:

16 448.21 (1) (f) The practice of massage therapy or bodywork within the meaning
17 of ch. 460.

18 **SECTION 25.** 451.02 (1) of the statutes is amended to read:

19 451.02 (1) An individual holding a license, permit or certificate under ch. 441,
20 446, 447, 448 ~~or~~, 449, or 460 who engages in a practice of acupuncture that is also
21 included within the scope of his or her license, permit, or certificate.

22 **SECTION 26.** Chapter 460 of the statutes is created to read:

23

CHAPTER 460

24

MASSAGE THERAPY AND BODYWORK

25

EXAMINING BOARD

1 **460.01 Definitions.** In this chapter:

2 (1) “Examining board” means the massage therapy and bodywork examining
3 board.

4 (2) “Manual action” includes holding, positioning, rocking, kneading,
5 compressing, decompressing, gliding, or percussing the soft tissue of the human body
6 or applying a passive range of motion to the human body.

7 (3) “Massage therapist or bodyworker” means a person who is certified as a
8 massage therapist or bodyworker under this chapter.

9 (4) “Massage therapy or bodywork” means the science and healing art that uses
10 manual actions to palpate and manipulate the soft tissue of the human body, in order
11 to improve circulation, reduce tension, relieve soft tissue pain, or increase flexibility,
12 and includes determining whether massage therapy or bodywork is appropriate or
13 contraindicated, or whether a referral to another health care practitioner is
14 appropriate. “Massage therapy or bodywork” does not include making a medical or
15 chiropractic diagnosis.

16 (5) “Physician’s office” has the meaning given in s. 101.123 (1) (dg).

17 (6) “Sexual contact” has the meaning given in s. 939.22 (34).

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

19 **460.02 Certificate required.** Except as provided in s. 460.03, no person may
20 practice massage therapy or bodywork for compensation or in the expectation of
21 compensation, or designate himself or herself as a massage therapist or bodyworker,
22 or use or assume the title “massage therapist and bodyworker” or “massage
23 therapist” or “bodyworker,” or append to the person’s name the letters “M.T.,”
24 “L.M.T.,” “B.W.,” or “L.B.W.,” or use any other title or designation that represents or

1 may tend to represent the person as a massage therapist or bodyworker, unless the
2 person is certified under this chapter.

3 **460.03 Applicability.** A certificate under this chapter is not required for any
4 of the following:

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

10 (2) A massage therapy or bodywork student practicing massage therapy or
11 bodywork within the scope of the student's education or training, and under the
12 supervision of an instructor.

13 (3) A massage therapist or bodyworker who is authorized to practice massage
14 therapy or bodywork in another state or country and is providing a consultation to
15 or demonstration with a massage therapist or bodyworker who is certified under this
16 chapter.

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

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

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

22 (c) Restricts his or her touch to placing the hands on or above the human body
23 to influence the energy fields within or around the body.

24 **460.04 Duties of examining board.** (1) The examining board shall assign
25 a unique certificate number to each person certified under this chapter.

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

3 (a) Standards that govern the professional conduct of massage therapists or
4 bodyworkers. The standards shall prohibit a massage therapist or bodyworker from
5 having sexual contact or sexual intercourse with a client.

6 (b) Criteria for approving a school of massage therapy or bodywork from which
7 graduation is required under s. 460.05 (1) (e) 1. The criteria shall be consistent with
8 the criteria of the educational approval board in approving schools under s. 45.54.

9 (c) Criteria for approving the courses of instruction required under s. 460.05
10 (1) (e) 2. and 3. Rules promulgated under this paragraph shall require the course of
11 instruction required under s. 460.05 (1) (e) 3. to consist of at least 600 classroom
12 hours. The rules shall also require the criteria for approving a course of instruction
13 under s. 460.05 (1) (e) 3. to be consistent with the criteria of the Commission on
14 Massage Therapy Accreditation or the Accreditation Commission on Acupuncture
15 and Oriental Medicine.

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

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

19 **460.05 Certification of massage therapists or bodyworkers.** (1) The
20 examining board shall grant a certificate as a massage therapist or bodyworker to
21 a person who satisfies all of the following:

22 (a) The person is 18 years of age or older.

23 (b) The person has graduated from high school or attained high school
24 graduation equivalency as determined by the department of public instruction under
25 s. 115.29 (4).

1 (c) The person submits an application for the certificate to the department on
2 a form provided by the department.

3 (d) The person pays the fee specified in s. 440.05 (1).

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

6 1. Graduated from a school of massage therapy or bodywork approved by the
7 educational approval board under s. 45.54 or by the examining board under the rules
8 promulgated under s. 460.04 (2) (b).

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

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

15 (f) The person passes the examinations under s. 460.06.

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

20 (3) After the first day of the 25th month beginning after the effective date of
21 this subsection ... [revisor inserts date], the examining board shall grant a certificate
22 as a massage therapist or bodyworker to a person if the educational approval board
23 notifies the examining board that the educational approval board has determined all
24 of the following:

INSERT 11-15 ✓

1 (a) That the person submitted an application to the educational approval board
2 on a form provided by the educational approval board that describes the person's
3 education, training, and experience in the practice of massage therapy or bodywork
4 and includes evidence satisfactory to the educational approval board of all of the
5 following:

6 1. That the person is 18 years of age or older.

7 2. That the person graduated from high school or attained high school
8 graduation equivalency as determined by the department of public instruction under
9 s. 115.29 (4).

10 3. That, during the 2-year period after the effective date of this subdivision
11 [revisor inserts date], the person was actively engaged in the practice of massage
12 therapy or bodywork.

13 (b) That the person included with the application under par. (a) an attestation
14 that the person only recently became aware of the requirements of this chapter.

15 (c) That the person paid the fee specified in s. 440.05 (1) (a) to the educational
16 approval board.

17 (d) That the person's education, training, and experience in the practice of
18 massage therapy or bodywork is substantially equivalent to the education required
19 under sub. (1) (e).

20 **460.07 Display of certificate; expiration and renewal.** (1) Each person
21 who is certified under this chapter shall conspicuously display the certificate in the
22 place of business where he or she practices massage therapy or bodywork so that the
23 certificate can easily be seen and read.

24 (2) The renewal dates for certificates granted under this chapter, other than
25 temporary certificates granted under s. 460.08, are specified under s. 440.08 (2) (a).

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all of the following: (9) (a)

1 Renewal applications shall be submitted to the department on a form provided by the (9) (b)
2 department and shall include the renewal fee specified in s. 440.08 (2) (a) and if
3 applicable, proof of completion of continuing education under s. 460.10.

4 **460.08 Temporary certificate.** Upon application and payment of the fee
5 specified in s. 440.05 (6), the examining board may grant a temporary massage
6 therapist or bodyworker certificate to a person who satisfies the requirements under
7 s. 460.05 (1) (a) to (e) and (g) has submitted an application to take the next available
8 examinations under s. 460.06, and has not previously failed an examination. A
9 temporary certificate granted under this section shall expire on the date on which
10 the person receives notice that he or she failed one of the examinations or that he or
11 she has passed both examinations. A temporary certificate granted under this
12 section may not be renewed.

13 **460.09 Reciprocal certificate.** Upon application and payment of the fee
14 specified in s. 440.05 (2), the examining board shall grant a massage therapist or
15 bodyworker certificate to a person who holds a similar certificate in another state or
16 territory of the United States or another country if the examining board determines
17 that the requirements for receiving the certificate in the other state, territory, or
18 country are substantially equivalent to the requirements under s. 460.05.

19 **460.10 Continuing education.** The examining board may promulgate rules
20 establishing requirements and procedures for a massage therapist or bodyworker to
21 complete continuing education programs or courses of study to qualify for renewal
22 of his or her certificate. Any rules promulgated under this section shall require a
23 massage therapist or bodyworker to complete at least 24 hours of continuing
24 education programs or courses of study every 2 years to qualify for renewal. The
25 examining board may waive all or part of any requirement established in rules

1 promulgated under this section if it determines that prolonged illness, disability, or
2 other exceptional circumstances have prevented a massage therapist or bodyworker
3 from completing the requirement.

4 **460.11 Practice requirements.** (1) A massage therapist or bodyworker may
5 not practice massage therapy or bodywork on a client unless the massage therapist
6 or bodyworker first obtains the informed consent of the client and has informed the
7 client that he or she may withdraw the consent at any time.

8 (2) A massage therapist or bodyworker shall keep confidential any information
9 that a client in confidence gives to the massage therapist or bodyworker and any
10 other information that the massage therapist or bodyworker obtains about a client
11 in the course of practicing massage therapy or bodywork that a reasonable person
12 in the client's position would want kept confidential, unless the information is
13 otherwise required by law to be disclosed or the client specifically authorizes the
14 disclosure of the information.

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

18 **460.12 Duty to make reports.** (1) A massage therapist or bodyworker shall
19 submit a report to the examining board if he or she has reasonable cause to believe
20 that another massage therapist or bodyworker has committed a crime relating to
21 prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual
22 intercourse with a client. If the report relates to sexual contact or sexual intercourse
23 with a client, the report may not identify the client unless the client has provided
24 written consent for disclosure of this information.

1 (2) The examining board may use a report made under sub. (1) as the basis for
2 an investigation under s. 460.15 (1). If, after an investigation, the examining board
3 has reasonable cause to believe that a massage therapist or bodyworker has
4 committed a crime, the examining board shall report the belief to the district
5 attorney for the county in which the crime, in the opinion of the examining board,
6 occurred.

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

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

1 (5) (a) In this subsection, “violation” means a violation of any state or local law
2 that is punishable by a forfeiture.

3 (b) A massage therapist or bodyworker shall submit a written report to the
4 examining board if he or she is convicted of a felony or misdemeanor, or is found to
5 have committed a violation, in this state or elsewhere, and if the circumstances of the
6 felony, misdemeanor, or violation substantially relate to the practice of massage
7 therapy or bodywork. The report shall identify the date, place, and nature of the
8 conviction or finding and shall be submitted within 30 days after the entry of the
9 judgment of conviction or the judgment finding that he or she committed the
10 violation. If the report is submitted by mail, the report is considered to be submitted
11 on the date that it is mailed.

12 **460.13 Employment of massage therapists or bodyworkers.** No person
13 may employ a person to engage in the practice of massage therapy or bodywork
14 unless the person who is employed is certified under this chapter or is exempt from
15 the certification requirements of this chapter.

16 **460.14 Advertising.** A massage therapist or bodyworker may not advertise
17 that he or she practices massage therapy or bodywork unless the advertisement
18 includes his or her certificate number and a statement that the massage therapist
19 or bodyworker is a “certified massage therapist and bodyworker” or “certified
20 massage therapist” or “certified bodyworker.”

21 **460.15 Disciplinary proceedings and actions.** (1) Subject to the rules
22 promulgated under s. 440.03 (1), the examining board may make investigations and
23 conduct hearings to determine whether a violation of this chapter or any rule
24 promulgated under this chapter has occurred.

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

5 (a) Made a material misstatement in an application for a certificate or for
6 renewal of a certificate.

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

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

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

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

14 (f) Intentionally made a false statement in a report submitted under s. 460.12
15 (1).

16 (g) Engaged in unprofessional conduct in violation of the standards established
17 in rules promulgated under s. 460.04 (2) (a).

18 (h) Engaged in conduct while practicing massage therapy or bodywork that
19 jeopardizes the health, safety, or welfare of a client or that evidences a lack of
20 knowledge of, inability to apply, or the negligent application of, principles or skills
21 of massage therapy or bodywork.

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

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

1 (3) The examining board may restore a certificate that has been suspended or
2 revoked on such terms and conditions as the examining board may deem
3 appropriate.

4 **460.16 Penalties.** (1) Except as provided in sub. (2), any person who violates
5 this chapter or any rule promulgated under this chapter shall forfeit not more than
6 \$1,000 for each violation.

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

10 **SECTION 27.** 895.48 (1m) (intro.) of the statutes is amended to read:

11 895.48 (1m) (intro.) Any physician or athletic trainer licensed under ch. 448,
12 chiropractor licensed under ch. 446, dentist licensed under ch. 447, emergency
13 medical technician licensed under s. 146.50, first responder certified under s. 146.50
14 (8), physician assistant licensed under ch. 448, registered nurse licensed under ch.
15 441, or a massage therapist or bodyworker issued a license of registration certificate
16 under ~~subch. XI of ch. 440~~ 460 who renders voluntary health care to a participant
17 in an athletic event or contest sponsored by a nonprofit corporation, as defined in s.
18 46.93 (1m) (c), a private school, as defined in s. 115.001 (3r), a public agency, as
19 defined in s. 46.93 (1m) (e), or a school, as defined in s. 609.655 (1) (c), is immune from
20 civil liability for his or her acts or omissions in rendering that care if all of the
21 following conditions exist:

22 **SECTION 28.** 908.03 (6m) (a) of the statutes is amended to read:

23 908.03 (6m) (a) *Definition.* In this subsection, “health care provider” means
24 a massage therapist or bodyworker issued a license of registration certificate under
25 ~~subch. XI of ch. 440~~ 460, a chiropractor licensed under ch. 446, a dentist licensed

1 under ch. 447, a physician assistant licensed under ch. 448, or a health care provider
2 as defined in s. 655.001 (8).

3 **SECTION 29. Nonstatutory provisions.**

4 (1) DEFINITIONS. In this SECTION:

5 (a) “Examining board” means the massage therapy and bodywork examining
6 board.

7 (b) “Massage therapy or bodywork” has the meaning given in section 460.01 (4)
8 of the statutes, as created by this act.

9 (2) INITIAL APPOINTMENTS.

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

14 1. Two massage therapist or bodyworker members and one public member, for
15 terms expiring on July 1, 2003.

16 2. One massage therapist or bodyworker member, for a term expiring on July
17 1, 2004.

18 3. One massage therapist or bodyworker member and one public member, for
19 terms expiring on July 1, 2005.

20 4. One massage therapist or bodyworker member, for a term expiring on July
21 1, 2006.

22 (b) Notwithstanding section 15.405 (6r) (a) of the statutes, as created by this
23 act, for the purpose of being appointed and serving as members of the examining
24 board, the members need not be certified under chapter 460 of the statutes, as

1 created by this act, until the first day of the 15th month beginning after the effective
2 date of this paragraph.

3 (3) EMERGENCY RULES. The examining board may use the procedure under
4 section 227.24 of the statutes to promulgate rules required under section 460.04 (2)
5 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (a), (2) (b),
6 and (3) of the statutes, the examining board is not required to provide evidence that
7 promulgating a rule under this subsection as an emergency rule is necessary for the
8 preservation of public peace, health, safety, or welfare and is not required to provide
9 a finding of emergency for a rule promulgated under this subsection.

10 (4) TRANSITIONAL PROVISIONS; REGISTRANTS. Notwithstanding section 460.05 (1)
11 of the statutes, as created by this act, the examining board shall, no later than the
12 first day of the ~~15~~⁷th month beginning after the effective date of this subsection, issue
13 a certificate as a massage therapist or bodyworker to a person who holds a valid
14 license of registration as a massage therapist or bodyworker issued by the
15 department of regulation and licensing under section 440.983, 1999 stats.

16 (5) TRANSITIONAL PROVISIONS; NONREGISTRANTS. Notwithstanding section 460.05
17 (1) of the statutes, as created by this act, the examining board shall issue a certificate
18 as a massage therapist or bodyworker to a person if the educational approval board
19 notifies the examining board that the educational approval board has determined all
20 of the following:

21 (a) That the person submitted, no later than the first day of the 25th month
22 beginning after the effective date of this paragraph, an application to the educational
23 approval board on a form provided by the educational approval board that describes
24 the person's education, training, and experience in the practice of massage therapy

INSEAT 21-8

1 or bodywork and provides evidence satisfactory to the educational approval board of
2 all of the following:

3 1. That the person is 18 years of age or older.
4 2. That the person graduated from high school or attained high school
5 graduation equivalency as determined by the department of public instruction under
6 section 115.29 (4) of the statutes.

7 3. That, on the effective date of this subdivision, the person was actively
8 engaged in the practice of massage therapy or bodywork.

9 (b) That the person paid the fee specified in section 440.05 (1) (a) of the statutes
10 to the educational approval board.

11 (c) That the person's education, training, and experience in the practice of
12 massage therapy or bodywork are substantially equivalent to the education required
13 under section 460.05 (1) (e) of the statutes, as created by this act.

14 **SECTION 30. Initial applicability.**

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

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

21 (3) The treatment of section 895.48 (1m) (intro.) of the statutes first applies to
22 care rendered on the effective date of this subsection.

23 **SECTION 31. Effective dates.** This act takes effect on the first day of the 7th
24 month beginning after publication, except as follows:

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0319/2ins
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INSERT 11-15:

(g) The person submits evidence satisfactory to the examining board that he or she has in effect malpractice liability insurance coverage in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

INSERT 12-12:

4. That the person has in effect malpractice liability insurance coverage in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

INSERT 13-3:

(c) Evidence satisfactory to the examining board that the applicant has in effect malpractice liability insurance coverage in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

INSERT 21-8:

4. That the person has in effect malpractice liability insurance coverage in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0319/1dn
MDK.kmg:rs

February 11, 2002

Representative Underheim:

① 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 *2* 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 *3* classes of people. First, any person who is registered under current law ~~is automatically eligible for a certificate, if he or she applies within 2 years after the effective date of the bill.~~ 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

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

two

three

within six months after the effective date of the bill

the examining board must issue a certificate to

of the bill may apply to the EAB for a certificate within ^{two} 2 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} 2-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} 2-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?

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

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0319/2dn
MDK:kmg:rs

February 11, 2002

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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.
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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.

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Mark D. Kunkel
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Emery, Lynn

From: Emery, Lynn
Sent: Monday, February 11, 2002 4:33 PM
To: Rep.Underheim
Subject: LRBs0319/2 & 2dn (attached as requested)

Lynn Emery

Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

2/11/2002



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBs0319/2
MDK:kg&wlj&cs:rs

ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2001 ASSEMBLY BILL 749

1 **AN ACT** *to repeal* 180.1901 (1m) (ag), 440.08 (2) (a) 67q., subchapter XI (title) of
2 chapter 440 [precedes 440.98], 440.98 to 440.981, 440.982 (title) and (1) (intro.)
3 and (a), 440.982 (1) (c) and (2) and 440.983 to 440.988; **to renumber and**
4 **amend** 440.982 (1) (b) and 440.989; **to amend** 15.08 (1m) (b), 50.01 (2), 55.043
5 (4) (e), 103.10 (1) (e), 146.40 (1) (d), 146.81 (1) (hp), 146.997 (1) (d) 13., 252.15
6 (1) (ar) 1., 448.03 (2) (a), 448.10 (4), 451.02 (1), 895.48 (1m) (intro.) and 908.03
7 (6m) (a); and **to create** 15.405 (6r), 20.485 (5) (h), 180.1901 (1m) (h), 440.08 (2)
8 (a) 46r., 448.21 (1) (f) and chapter 460 of the statutes; **relating to:** the
9 regulation of massage therapists and bodyworkers, creating a massage therapy
10 and bodywork examining board, granting rule-making authority, making an
11 appropriation, and providing a penalty.

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

12 **SECTION 1.** 15.08 (1m) (b) of the statutes is amended to read:

1 15.08 (1m) (b) The public members of the chiropractic examining board, the
2 dentistry examining board, the hearing and speech examining board, the massage
3 therapy and bodywork examining board, the medical examining board, podiatry
4 examining council, occupational therapy examining council, respiratory care
5 practitioners examining council and council on physician assistants, the board of
6 nursing, the nursing home administrator examining board, the veterinary
7 examining board, the optometry examining board, the pharmacy examining board,
8 the examining board of social workers, marriage and family therapists and
9 professional counselors and the psychology examining board shall not be engaged in
10 any profession or occupation concerned with the delivery of physical or mental health
11 care.

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

13 15.405 (6r) **MASSAGE THERAPY AND BODYWORK EXAMINING BOARD.** (a) There is
14 created a massage therapy and bodywork examining board in the department of
15 regulation and licensing. The examining board shall consist of the following
16 members appointed for 4-year terms:

17 1. Five massage therapists or bodyworkers who are certified under ch. 460 and
18 have engaged in the practice of massage therapy or bodywork for at least 2 years
19 preceding appointment.

20 2. Two public members.

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

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

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

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

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

6 **SECTION 3.** 20.485 (5) (h) of the statutes is created to read:

7 20.485 (5) (h) *Certification of massage therapists and bodyworkers.* Ninety
8 percent of all moneys received under s. 460.05 (3) (c) and 2001 Wisconsin Act (this
9 act), section 29 (5) for making determinations regarding applications for massage
10 therapist and bodyworker certificates.

11 **SECTION 4.** 50.01 (2) of the statutes is amended to read:

12 50.01 (2) “Nurse’s assistant” means a person who performs routine patient care
13 duties delegated by a registered nurse or licensed practical nurse who supervises the
14 person, for the direct health care of a patient or resident. “Nurse’s assistant” does
15 not mean a person who is licensed, permitted, certified, or registered under subch.
16 ~~XI of ch. 440 or ch. 441, 448, 449, 450, 451, 455 or, 459, or 460~~ or a person whose duties
17 primarily involve skills that are different than those taught in instructional
18 programs for nurse’s assistants.

19 **SECTION 5.** 55.043 (4) (e) of the statutes is amended to read:

20 55.043 (4) (e) Refer the case to the department of regulation and licensing if
21 the misappropriation of property or neglect or abuse involves an individual who is
22 required to hold a credential, as defined in s. 440.01 (2) (a), under chs. 440 to ~~459~~ 460.

23 **SECTION 6.** 103.10 (1) (e) of the statutes is amended to read:

24 103.10 (1) (e) “Health care provider” means a person described under s. 146.81
25 (1), but does not include a person described under s. 146.81 (1) (hp).

1 **SECTION 7.** 146.40 (1) (d) of the statutes is amended to read:

2 146.40 (1) (d) “Nurse’s assistant” means an individual who performs routine
3 patient care duties delegated by a registered nurse or licensed practical nurse who
4 supervises the individual, for the direct health care of a patient or resident. “Nurse’s
5 assistant” does not mean an individual who is licensed, permitted, certified, or
6 registered under ~~subch. XI of ch. 440 or ch. 441, 448, 449, 450, 451, 455 or 459, or~~
7 460 or an individual whose duties primarily involve skills that are different than
8 those taught in instructional and competency evaluation programs for nurse’s
9 assistants certified under sub. (3) or evaluated by competency evaluation programs
10 for nurse’s assistants approved under sub. (3m).

11 **SECTION 8.** 146.81 (1) (hp) of the statutes is amended to read:

12 146.81 (1) (hp) A massage therapist or bodyworker issued a license certified
13 under subch. XI of ch. 440 ch. 460.

14 **SECTION 9.** 146.997 (1) (d) 13. of the statutes is amended to read:

15 146.997 (1) (d) 13. A massage therapist or bodyworker issued a ~~license of~~
16 ~~registration~~ certificate under ~~subch. XI of ch. 440~~ 460.

17 **SECTION 10.** 180.1901 (1m) (ag) of the statutes is repealed.

18 **SECTION 11.** 180.1901 (1m) (h) of the statutes is created to read:

19 180.1901 (1m) (h) Massage therapy and bodywork examining board under ch.
20 460.

21 **SECTION 12.** 252.15 (1) (ar) 1. of the statutes is amended to read:

22 252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but does
23 not include a massage therapist or bodyworker issued a ~~license of registration~~
24 certificate under ~~subch. XI of ch. 440~~ 460.

25 **SECTION 13.** 440.08 (2) (a) 46r. of the statutes is created to read:

1 440.08 (2) (a) 46r. Massage therapist or bodyworker: July 1 of each
2 even-numbered year; \$53.

3 **SECTION 14.** 440.08 (2) (a) 67q. of the statutes, as affected by 2001 Wisconsin
4 Act 16, is repealed.

5 **SECTION 15.** Subchapter XI (title) of chapter 440 [precedes 440.98] of the
6 statutes is repealed.

7 **SECTION 16.** 440.98 to 440.981 of the statutes are repealed.

8 **SECTION 17.** 440.982 (title) and (1) (intro.) and (a) of the statutes are repealed.

9 **SECTION 18.** 440.982 (1) (b) of the statutes is renumbered 460.06 and amended
10 to read:

11 **460.06 Examinations.** ~~Promulgate rules establishing the education, training~~
12 ~~or competency requirements that an applicant for a license must satisfy in order to~~
13 ~~be issued a license of registration under this subchapter. The rules shall require an~~
14 ~~applicant to complete at least 500 classroom hours of study in a course of instruction~~
15 ~~in massage therapy or bodywork approved by the department or at a school approved~~
16 ~~by the educational approval board under s. 45.54. The rules shall also require an The~~
17 ~~examining board may not grant a certificate under this chapter unless the applicant~~
18 ~~whose application is received after March 1, 2000, to successfully complete passes~~
19 ~~the national certification examination for therapeutic massage and bodywork that~~
20 ~~is offered by the National Certification Board for Therapeutic Massage and~~
21 ~~Bodywork or a substantially equivalent an examination relating to the practice of~~
22 ~~massage therapy or bodywork that is approved administered by a national board~~
23 ~~that is accredited by the National Commission of for Certifying Agencies of the~~
24 ~~National Organization for Competency Assurance or that is developed, administered~~
25 ~~or a substantially equivalent examination approved by the department examining~~

1 board. The examining board shall promulgate rules ~~may that~~ also require an
2 applicant to pass an examination on state laws and administrative rules governing
3 massage therapy or bodywork.

4 **SECTION 19.** 440.982 (1) (c) and (2) of the statutes are repealed.

5 **SECTION 20.** 440.983 to 440.988 of the statutes are repealed.

6 **SECTION 21.** 440.989 of the statutes is renumbered 460.17 and amended to
7 read:

8 **460.17 Local regulation.** A city, village, town, or county, may not enact an
9 ordinance that regulates the practice of massage therapy or bodywork by a person
10 who is issued a ~~license of registration~~ certificate by the ~~department~~ examining
11 board under this ~~subchapter~~ chapter. No provision of any ordinance enacted by a
12 city, village, town, or county that is in effect before February 1, 1999, and that
13 relates to the practice of massage therapy or bodywork, may be enforced against a
14 person who is issued a ~~license of registration~~ certificate by the ~~department~~
15 examining board under this ~~subchapter~~ chapter.

16 **SECTION 22.** 448.03 (2) (a) of the statutes is amended to read:

17 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
18 permit, registration, certificate or certification granted to practice professional or
19 practical nursing or nurse–midwifery under ch. 441, to practice chiropractic under
20 ch. 446, to practice dentistry or dental hygiene under ch. 447, to practice optometry
21 under ch. 449, to practice acupuncture under ch. 451, to practice massage therapy
22 or bodywork under ch. 460 or under any other statutory provision, or as otherwise
23 provided by statute.

24 **SECTION 23.** 448.10 (4) of the statutes is amended to read:

1 448.10 (4) MASSAGE AND HYDROTHERAPY. ~~Any~~ Notwithstanding s. 460.02, any
2 person who, on July 11, 1953, was practicing massage and hydrotherapy in this state
3 under a certificate of registration issued pursuant to s. 147.185, 1951 stats., as it
4 existed prior to July 11, 1953, or who had applied for a certificate of registration in
5 massage and hydrotherapy before said date, shall have the right to continue to so
6 practice under such certificate, and the term “massage and hydrotherapy” shall be
7 deemed to include the use of galvanic generator, diathermy, infrared ray and
8 ultraviolet light for massage purposes. Nothing contained in this subsection shall
9 limit the existing authority of the board to revoke such certificate for cause, and in
10 addition, the board may require the holder of such certificate to demonstrate by
11 examination fitness to use the instrumentalities enumerated in this subsection. A
12 lack of such fitness shall constitute cause for revocation of such certificate. No such
13 certificate holder shall treat a specific disease except on the advice of a licensed
14 physician.

15 **SECTION 24.** 448.21 (1) (f) of the statutes is created to read:

16 448.21 (1) (f) The practice of massage therapy or bodywork within the meaning
17 of ch. 460.

18 **SECTION 25.** 451.02 (1) of the statutes is amended to read:

19 451.02 (1) An individual holding a license, permit or certificate under ch. 441,
20 446, 447, 448 ~~or~~ 449, or 460 who engages in a practice of acupuncture that is also
21 included within the scope of his or her license, permit, or certificate.

22 **SECTION 26.** Chapter 460 of the statutes is created to read:

23

CHAPTER 460

24

MASSAGE THERAPY AND BODYWORK

25

EXAMINING BOARD

1 **460.01 Definitions.** In this chapter:

2 (1) “Examining board” means the massage therapy and bodywork examining
3 board.

4 (2) “Manual action” includes holding, positioning, rocking, kneading,
5 compressing, decompressing, gliding, or percussing the soft tissue of the human body
6 or applying a passive range of motion to the human body.

7 (3) “Massage therapist or bodyworker” means a person who is certified as a
8 massage therapist or bodyworker under this chapter.

9 (4) “Massage therapy or bodywork” means the science and healing art that uses
10 manual actions to palpate and manipulate the soft tissue of the human body, in order
11 to improve circulation, reduce tension, relieve soft tissue pain, or increase flexibility,
12 and includes determining whether massage therapy or bodywork is appropriate or
13 contraindicated, or whether a referral to another health care practitioner is
14 appropriate. “Massage therapy or bodywork” does not include making a medical or
15 chiropractic diagnosis.

16 (5) “Physician’s office” has the meaning given in s. 101.123 (1) (dg).

17 (6) “Sexual contact” has the meaning given in s. 939.22 (34).

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

19 **460.02 Certificate required.** Except as provided in s. 460.03, no person may
20 practice massage therapy or bodywork for compensation or in the expectation of
21 compensation, or designate himself or herself as a massage therapist or bodyworker,
22 or use or assume the title “massage therapist and bodyworker” or “massage
23 therapist” or “bodyworker,” or append to the person’s name the letters “M.T.,”
24 “L.M.T.,” “B.W.,” or “L.B.W.,” or use any other title or designation that represents or

1 may tend to represent the person as a massage therapist or bodyworker, unless the
2 person is certified under this chapter.

3 **460.03 Applicability.** A certificate under this chapter is not required for any
4 of the following:

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

10 (2) A massage therapy or bodywork student practicing massage therapy or
11 bodywork within the scope of the student's education or training, and under the
12 supervision of an instructor.

13 (3) A massage therapist or bodyworker who is authorized to practice massage
14 therapy or bodywork in another state or country and is providing a consultation to
15 or demonstration with a massage therapist or bodyworker who is certified under this
16 chapter.

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

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

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

22 (c) Restricts his or her touch to placing the hands on or above the human body
23 to influence the energy fields within or around the body.

24 **460.04 Duties of examining board.** (1) The examining board shall assign
25 a unique certificate number to each person certified under this chapter.

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

3 (a) Standards that govern the professional conduct of massage therapists or
4 bodyworkers. The standards shall prohibit a massage therapist or bodyworker from
5 having sexual contact or sexual intercourse with a client.

6 (b) Criteria for approving a school of massage therapy or bodywork from which
7 graduation is required under s. 460.05 (1) (e) 1. The criteria shall be consistent with
8 the criteria of the educational approval board in approving schools under s. 45.54.

9 (c) Criteria for approving the courses of instruction required under s. 460.05
10 (1) (e) 2. and 3. Rules promulgated under this paragraph shall require the course of
11 instruction required under s. 460.05 (1) (e) 3. to consist of at least 600 classroom
12 hours. The rules shall also require the criteria for approving a course of instruction
13 under s. 460.05 (1) (e) 3. to be consistent with the criteria of the Commission on
14 Massage Therapy Accreditation or the Accreditation Commission on Acupuncture
15 and Oriental Medicine.

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

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

19 **460.05 Certification of massage therapists or bodyworkers.** (1) The
20 examining board shall grant a certificate as a massage therapist or bodyworker to
21 a person who satisfies all of the following:

22 (a) The person is 18 years of age or older.

23 (b) The person has graduated from high school or attained high school
24 graduation equivalency as determined by the department of public instruction under
25 s. 115.29 (4).

1 (c) The person submits an application for the certificate to the department on
2 a form provided by the department.

3 (d) The person pays the fee specified in s. 440.05 (1).

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

6 1. Graduated from a school of massage therapy or bodywork approved by the
7 educational approval board under s. 45.54 or by the examining board under the rules
8 promulgated under s. 460.04 (2) (b).

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

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

15 (f) The person passes the examinations under s. 460.06.

16 (g) The person submits evidence satisfactory to the examining board that he
17 or she has in effect malpractice liability insurance coverage in an amount that is not
18 less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

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

23 (3) After the first day of the 25th month beginning after the effective date of
24 this subsection [revisor inserts date], the examining board shall grant a certificate
25 as a massage therapist or bodyworker to a person if the educational approval board

1 notifies the examining board that the educational approval board has determined all
2 of the following:

3 (a) That the person submitted an application to the educational approval board
4 on a form provided by the educational approval board that describes the person's
5 education, training, and experience in the practice of massage therapy or bodywork
6 and includes evidence satisfactory to the educational approval board of all of the
7 following:

8 1. That the person is 18 years of age or older.

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

12 3. That, during the 2-year period after the effective date of this subdivision
13 [revisor inserts date], the person was actively engaged in the practice of massage
14 therapy or bodywork.

15 4. That the person has in effect malpractice liability insurance coverage in an
16 amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all
17 occurrences in one year.

18 (b) That the person included with the application under par. (a) an attestation
19 that the person only recently became aware of the requirements of this chapter.

20 (c) That the person paid the fee specified in s. 440.05 (1) (a) to the educational
21 approval board.

22 (d) That the person's education, training, and experience in the practice of
23 massage therapy or bodywork is substantially equivalent to the education required
24 under sub. (1) (e).

1 **460.07 Display of certificate; expiration and renewal.** (1) Each person
2 who is certified under this chapter shall conspicuously display the certificate in the
3 place of business where he or she practices massage therapy or bodywork so that the
4 certificate can easily be seen and read.

5 (2) The renewal dates for certificates granted under this chapter, other than
6 temporary certificates granted under s. 460.08, are specified under s. 440.08 (2) (a).
7 Renewal applications shall be submitted to the department on a form provided by the
8 department and shall include all of the following:

9 (a) The renewal fee specified in s. 440.08 (2) (a).

10 (b) If applicable, proof of completion of continuing education under s. 460.10.

11 (c) Evidence satisfactory to the examining board that the applicant has in effect
12 malpractice liability insurance coverage in an amount that is not less than
13 \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

14 **460.08 Temporary certificate.** Upon application and payment of the fee
15 specified in s. 440.05 (6), the examining board may grant a temporary massage
16 therapist or bodyworker certificate to a person who satisfies the requirements under
17 s. 460.05 (1) (a) to (e) and (g), has submitted an application to take the next available
18 examinations under s. 460.06, and has not previously failed an examination. A
19 temporary certificate granted under this section shall expire on the date on which
20 the person receives notice that he or she failed one of the examinations or that he or
21 she has passed both examinations. A temporary certificate granted under this
22 section may not be renewed.

23 **460.09 Reciprocal certificate.** Upon application and payment of the fee
24 specified in s. 440.05 (2), the examining board shall grant a massage therapist or
25 bodyworker certificate to a person who holds a similar certificate in another state or

1 territory of the United States or another country if the examining board determines
2 that the requirements for receiving the certificate in the other state, territory, or
3 country are substantially equivalent to the requirements under s. 460.05.

4 **460.10 Continuing education.** The examining board may promulgate rules
5 establishing requirements and procedures for a massage therapist or bodyworker to
6 complete continuing education programs or courses of study to qualify for renewal
7 of his or her certificate. Any rules promulgated under this section shall require a
8 massage therapist or bodyworker to complete at least 24 hours of continuing
9 education programs or courses of study every 2 years to qualify for renewal. The
10 examining board may waive all or part of any requirement established in rules
11 promulgated under this section if it determines that prolonged illness, disability, or
12 other exceptional circumstances have prevented a massage therapist or bodyworker
13 from completing the requirement.

14 **460.11 Practice requirements. (1)** A massage therapist or bodyworker may
15 not practice massage therapy or bodywork on a client unless the massage therapist
16 or bodyworker first obtains the informed consent of the client and has informed the
17 client that he or she may withdraw the consent at any time.

18 **(2)** A massage therapist or bodyworker shall keep confidential any information
19 that a client in confidence gives to the massage therapist or bodyworker and any
20 other information that the massage therapist or bodyworker obtains about a client
21 in the course of practicing massage therapy or bodywork that a reasonable person
22 in the client's position would want kept confidential, unless the information is
23 otherwise required by law to be disclosed or the client specifically authorizes the
24 disclosure of the information.

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

4 **460.12 Duty to make reports.** (1) A massage therapist or bodyworker shall
5 submit a report to the examining board if he or she has reasonable cause to believe
6 that another massage therapist or bodyworker has committed a crime relating to
7 prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual
8 intercourse with a client. If the report relates to sexual contact or sexual intercourse
9 with a client, the report may not identify the client unless the client has provided
10 written consent for disclosure of this information.

11 (2) The examining board may use a report made under sub. (1) as the basis for
12 an investigation under s. 460.15 (1). If, after an investigation, the examining board
13 has reasonable cause to believe that a massage therapist or bodyworker has
14 committed a crime, the examining board shall report the belief to the district
15 attorney for the county in which the crime, in the opinion of the examining board,
16 occurred.

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

21 (4) All reports and records made from reports under sub. (1) and maintained
22 by the department, the examining board, district attorneys and other persons,
23 officials, and institutions shall be confidential and are exempt from disclosure under
24 s. 19.35 (1). Information regarding the identity of a client with whom a massage
25 therapist or bodyworker is suspected of having sexual contact or sexual intercourse

1 shall not be disclosed by persons who have received or have access to a report or
2 record unless disclosure is consented to in writing by the client. The report of
3 information under sub. (1) and the disclosure of a report or record under this
4 subsection does not violate any person's responsibility for maintaining the
5 confidentiality of patient health care records, as defined in s. 146.81 (4) and as
6 required under s. 146.82. Reports and records may be disclosed only to the
7 department, the examining board, and the appropriate staff of a district attorney or
8 a law enforcement agency within this state for purposes of investigation or
9 prosecution.

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

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

21 **460.13 Employment of massage therapists or bodyworkers.** No person
22 may employ a person to engage in the practice of massage therapy or bodywork
23 unless the person who is employed is certified under this chapter or is exempt from
24 the certification requirements of this chapter.

1 **460.14 Advertising.** A massage therapist or bodyworker may not advertise
2 that he or she practices massage therapy or bodywork unless the advertisement
3 includes his or her certificate number and a statement that the massage therapist
4 or bodyworker is a “certified massage therapist and bodyworker” or “certified
5 massage therapist” or “certified bodyworker.”

6 **460.15 Disciplinary proceedings and actions.** (1) Subject to the rules
7 promulgated under s. 440.03 (1), the examining board may make investigations and
8 conduct hearings to determine whether a violation of this chapter or any rule
9 promulgated under this chapter has occurred.

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

14 (a) Made a material misstatement in an application for a certificate or for
15 renewal of a certificate.

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

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

20 (d) Advertised, practiced, or attempted to practice under another’s name.

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

23 (f) Intentionally made a false statement in a report submitted under s. 460.12

24 (1).

1 (g) Engaged in unprofessional conduct in violation of the standards established
2 in rules promulgated under s. 460.04 (2) (a).

3 (h) Engaged in conduct while practicing massage therapy or bodywork that
4 jeopardizes the health, safety, or welfare of a client or that evidences a lack of
5 knowledge of, inability to apply, or the negligent application of, principles or skills
6 of massage therapy or bodywork.

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

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

9 (3) The examining board may restore a certificate that has been suspended or
10 revoked on such terms and conditions as the examining board may deem
11 appropriate.

12 **460.16 Penalties.** (1) Except as provided in sub. (2), any person who violates
13 this chapter or any rule promulgated under this chapter shall forfeit not more than
14 \$1,000 for each violation.

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

18 **SECTION 27.** 895.48 (1m) (intro.) of the statutes is amended to read:

19 895.48 (1m) (intro.) Any physician or athletic trainer licensed under ch. 448,
20 chiropractor licensed under ch. 446, dentist licensed under ch. 447, emergency
21 medical technician licensed under s. 146.50, first responder certified under s. 146.50
22 (8), physician assistant licensed under ch. 448, registered nurse licensed under ch.
23 441, or a massage therapist or bodyworker issued a ~~license of registration~~ certificate
24 under subch. XI of ch. ~~440~~ 460 who renders voluntary health care to a participant
25 in an athletic event or contest sponsored by a nonprofit corporation, as defined in s.

1 46.93 (1m) (c), a private school, as defined in s. 115.001 (3r), a public agency, as
2 defined in s. 46.93 (1m) (e), or a school, as defined in s. 609.655 (1) (c), is immune from
3 civil liability for his or her acts or omissions in rendering that care if all of the
4 following conditions exist:

5 **SECTION 28.** 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 massage therapist or bodyworker issued a ~~license of registration certificate~~ under
8 subch. XI of ch. 440 ~~460~~, a chiropractor licensed under ch. 446, a dentist licensed
9 under ch. 447, a physician assistant licensed under ch. 448, or a health care provider
10 as defined in s. 655.001 (8).

11 **SECTION 29. Nonstatutory provisions.**

12 (1) DEFINITIONS. In this SECTION:

13 (a) “Examining board” means the massage therapy and bodywork examining
14 board.

15 (b) “Massage therapy or bodywork” has the meaning given in section 460.01 (4)
16 of the statutes, as created by this act.

17 (2) INITIAL APPOINTMENTS.

18 (a) Notwithstanding section 15.405 (6r) (a) of the statutes, as created by this
19 act, the initial members of the examining board shall be appointed by the first day
20 of the 3rd month beginning after the effective date of this paragraph for the following
21 terms:

22 1. Two massage therapist or bodyworker members and one public member, for
23 terms expiring on July 1, 2003.

24 2. One massage therapist or bodyworker member, for a term expiring on July
25 1, 2004.

1 3. One massage therapist or bodyworker member and one public member, for
2 terms expiring on July 1, 2005.

3 4. One massage therapist or bodyworker member, for a term expiring on July
4 1, 2006.

5 (b) Notwithstanding section 15.405 (6r) (a) of the statutes, as created by this
6 act, for the purpose of being appointed and serving as members of the examining
7 board, the members need not be certified under chapter 460 of the statutes, as
8 created by this act, until the first day of the 15th month beginning after the effective
9 date of this paragraph.

10 (3) EMERGENCY RULES. The examining board may use the procedure under
11 section 227.24 of the statutes to promulgate rules required under section 460.04 (2)
12 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (a), (2) (b),
13 and (3) of the statutes, the examining board is not required to provide evidence that
14 promulgating a rule under this subsection as an emergency rule is necessary for the
15 preservation of public peace, health, safety, or welfare and is not required to provide
16 a finding of emergency for a rule promulgated under this subsection.

17 (4) TRANSITIONAL PROVISIONS; REGISTRANTS. Notwithstanding section 460.05 (1)
18 of the statutes, as created by this act, the examining board shall, no later than the
19 first day of the 7th month beginning after the effective date of this subsection, issue
20 a certificate as a massage therapist or bodyworker to a person who holds a valid
21 license of registration as a massage therapist or bodyworker issued by the
22 department of regulation and licensing under section 440.983, 1999 stats.

23 (5) TRANSITIONAL PROVISIONS; NONREGISTRANTS. Notwithstanding section 460.05
24 (1) of the statutes, as created by this act, the examining board shall issue a certificate
25 as a massage therapist or bodyworker to a person if the educational approval board

1 notifies the examining board that the educational approval board has determined all
2 of the following:

3 (a) That the person submitted, no later than the first day of the 25th month
4 beginning after the effective date of this paragraph, an application to the educational
5 approval board on a form provided by the educational approval board that describes
6 the person's education, training, and experience in the practice of massage therapy
7 or bodywork and provides evidence satisfactory to the educational approval board of
8 all of the following:

9 1. That the person is 18 years of age or older.

10 2. That the person graduated from high school or attained high school
11 graduation equivalency as determined by the department of public instruction under
12 section 115.29 (4) of the statutes.

13 3. That, on the effective date of this subdivision, the person was actively
14 engaged in the practice of massage therapy or bodywork.

15 4. That the person has in effect malpractice liability insurance coverage in an
16 amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all
17 occurrences in one year.

18 (b) That the person paid the fee specified in section 440.05 (1) (a) of the statutes
19 to the educational approval board.

20 (c) That the person's education, training, and experience in the practice of
21 massage therapy or bodywork are substantially equivalent to the education required
22 under section 160.05 (1) (e) of the statutes, as created by this act.

23 **SECTION 30. Initial applicability.**

Sweeney, Pat

From: ANTHONY H. DRIESSEN [AHD@quarles.com]
 Sent: Wednesday, February 13, 2002 3:59 PM
 To: Pat.Sweeney@eab.state.wi.us
 Cc: Krzenesky@aol.com; TOM J. FONFARA
 Subject: Re: The Good Public Policy Solution

Thanks, Pat! Tom Fonfara and I have already conferred re this (after you called earlier, and we discussed the language options) and we are comfortable with the language refinement you have put forward. We therefore will include the change you recommend in the Sub Amendment that is being drafted.

>>> "Sweeney, Pat" <Pat.Sweeney@eab.state.wi.us> 02/13/02 03:35PM >>>
 Tom:

The EAB and the Schools do not believe the Massage Therapy and Bodywork Examining Board ought to be in the school approval business. The Examining Board ought to be in the massage therapy and bodywork program approval business. Boards should have professional expertise on the standards and competencies required for the profession not knowledge on school approval criteria. The good public policy solution would be as follows:

1. rewrite 460.04 (2) (b): "Standards and competencies for approving a 600-hour massage therapy or bodywork program as required under s. 460.05 (1) (e) 1."
2. Rewrite 460.05 (1) (e) 1: "Graduate from a school of massage therapy or bodywork approved by the educational approval board under ~~45.45~~ ⁵⁴ or an approved program by the examining board under the rules promulgated under s. 460.04 (2) (b)."

I believe this solution allows everyone to win. It would also make the processing of the non-certified folks be more rational.

Pat Sweeney

2/22/02 meeting with Fonfara, Rep. Underheim's & Sen. Moen's staff:

- Sub. amendment should:*
- create 7 member council
 - retain grandfathering
 - DRL to certify
 - Title protection, no practice protection
 - other changes in prior version of 50319/2 are okay
- create companion sub. amendments to SB714 & AB 749*