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Tomorrow
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by NOON

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2001 ASSEMBLY BILL 749

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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~~ *council*, 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. ~~15.407 (7)~~ of the statutes is created to read:

13 ^{15.407} ~~15.405 (6)~~ MASSAGE THERAPY AND BODYWORK EXAMINING BOARD. (a) There is
 14 created a massage therapy and bodywork ~~examining board~~ ^{council} in the department of
 15 regulation and licensing. ^{serving the department in an advisory capacity} The ~~examining board~~ shall consist of the following
 16 ⁷ members, appointed for 4-year terms, who are ^{COUNCIL}
 17 ~~at least~~ ^{at least} five massage therapists or bodyworkers ~~who~~ ^{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~~ ^{council} 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 Q.R. 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:

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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 examinating board ^{✓ department} 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 [✓] examinating

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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 ⑧ **460.17 Local regulation.** A city, village, town, or county ^{of plain} 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:

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460.01 Definitions. In this chapter:

(1) ~~Examining board~~ ^{Council} means the massage therapy and bodywork ~~examining~~ ^{advisory council} board.

(2) ³ "Manual action" includes holding, positioning, rocking, kneading, compressing, decompressing, gliding, or percussing the soft tissue of the human body or applying a passive range of motion to the human body.

(3) ~~"Massage therapist or bodyworker" means a person who is certified as a massage therapist or bodyworker under this chapter.~~

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

(5) ⁵ "Physician's office" has the meaning given in s. 101.123 (1) (dg).

(6) ⁶ "Sexual contact" has the meaning given in s. 939.22 (34).

(7) ⁷ "Sexual intercourse" has the meaning given in s. 948.01 (7) (a).

460.02 Certificate required. Except as provided in s. 460.03, no person may

~~practice massage therapy or bodywork for compensation or in the expectation of compensation,~~ or designate himself or herself as a massage therapist or bodyworker, or use or assume the title "massage therapist and bodyworker" or "massage therapist" or "bodyworker" or append to the person's name the letters "M.T.," ² ~~"M.T.,"~~ "B.W.," or ³ ~~"B.W.,"~~ or use any other title or designation that represents or

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that he or she is certified under this chapter;

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.~~ *certified under this chapter*

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 ² ~~massage therapist or bodyworker~~ ^{PERSON} 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~~ ^{PERSON} who is certified under this
16 ~~chapter.~~ *certificate holder*

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~~ ^{department} shall assign
25 a unique certificate number to each person certified under this chapter.

1 (2) The ~~examining board~~ ^{department} shall promulgate rules that establish all of the
2 following:

3 (a) Standards that govern the professional conduct of ~~massage therapists or~~ ^{certificate holder}
4 ~~bodyworkers~~. The standards shall prohibit a ~~massage therapist or bodyworker~~ ^{certificate holders in} 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~~ ^{training program for purposes of}
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 ^{practicing massage}
9 ^{therapy or}
10 ^{bodywork.}

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

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

20 (e) A definition of "sexually oriented business" for purposes of s. 460.11 (3).

21 **460.05 Certification of massage therapists or bodyworkers.** (1) The
22 ~~examining board~~ ^{department} shall grant a certificate as a massage therapist or bodyworker to
23 a person who satisfies all of the following:

- 24 (a) The person is 18 years of age or older.
- 25 (b) The person has graduated from high school or attained high school
 graduation equivalency as determined by the department of public instruction under
 s. 115.29 (4).

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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~~ ^{department} 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~~ ^{department} under the rules
8 promulgated under s. 460.04 (2) (b). *has completed a training program approved*

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

12 3. Completed a minimum number of classroom hours, established by the
13 ~~examining board~~ ^{department} 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~~ ^{department}.

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

16 (g) The person submits evidence satisfactory to the ~~examining board~~ ^{department} 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~~ ^{department} may waive a requirement specified in sub. (1) (e) if
20 a person establishes, to the satisfaction of the ~~examining board~~ ^{department}, 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~~ ^{department} shall grant a certificate
25 as a massage therapist or bodyworker to a person if the educational approval board

1 notifies the ~~examining board~~ ^{department} 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~~ ^{department} 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~~ ^{department} 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 ^{department} 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~~ ^{department} 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~~ ^{department} shall promulgate rules
5 establishing requirements and procedures for a ~~massage therapist or bodyworker~~ ^{certificate holder} to
6 complete continuing education programs or courses of study to qualify for renewal
7 of his or her certificate. ~~by~~ ^{The} rules promulgated under this section shall require a
8 ~~massage therapist or bodyworker~~ ^{certificate holder} 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~~ ^{department} 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~~ ^{certificate holder}
13 from completing the requirement.

14 **460.11 Practice requirements.** (1) A ~~massage therapist or bodyworker~~ ^{certificate holder} 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.

certificate holder

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~~ ^{department} by rule.

4 **460.12 Duty to make reports.** (1) A ~~massage therapist or bodyworker~~ shall
5 submit a report to the ~~examining board~~ ^{department} 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~~ ^{department} may use a report made under sub. (1) as the basis for
12 an investigation under s. 460.14 (1). If, after an investigation, the ~~examining board~~ ^{department}
13 has reasonable cause to believe that a ~~massage therapist or bodyworker~~ ^{certificate holder} has
14 committed a crime, the ~~examining board~~ ^{department} shall report the belief to the district
15 attorney for the county in which the crime, in the opinion of the ~~examining board~~ ^{department},
16 occurred.

17 (3) If, after an investigation, the ~~examining board~~ ^{department} 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.~~

13
1 **460.12 Advertising.** A ~~massage therapist or bodyworker~~ *certificate holder* 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."

14
6 **460.13 Disciplinary proceedings and actions.** (1) Subject to the rules
7 promulgated under s. 440.03 (1), the ~~examining board~~ *department* 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~~ *department*
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~~ ^{department} may restore a certificate that has been suspended or
10 revoked on such terms and conditions as the ~~examining board~~ ^{department} may deem
11 appropriate.

12 ~~460.18~~ ¹⁵ 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.

INSERT 18-11

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.~~ *board. advisory council*

(a) "Department" means the department of regulation and licensing.

15 ~~(b)~~ *SET* (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 (a) of the statutes, as created by this
19 *message therapy and bodywork council* 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~~ *Two* for
23 terms expiring on July 1, 2003.

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

1 3. ^{Two} ~~One~~ massage therapist or bodyworker member and ^S ~~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 15.40⁽⁷⁾ ~~(a)~~ ⁽⁷⁾ (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~~ ^{council}, 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~~ ^{department} 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~~ ^{department} 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~~ ^{department} 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~~ ^{department} 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~~ ^{department} shall issue a certificate
25 as a massage therapist or bodyworker to a person if the educational approval board

1 notifies the ~~examining board~~ ^{department} 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 460.05 (1) (e) of the statutes, as created by this act.

23 **SECTION 30. Initial applicability.**

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

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

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

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

11 (1) The treatment of section ~~15.405 (6)~~ ^{15.407 (7)} of the statutes and SECTION 29 (1), (2),
12 and (3) of this act take effect on the day after publication.

13 (END)

a.r.

a.r.
↓
↓
↓

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0319/3ins
MDK:.....

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INSERT 4-16: ✓

SECTION 1. 180.1901 (1m) (ag) of the statutes is amended to read:

180.1901 (1m) (ag) The department of regulation and licensing under subch.
~~XI~~ of ch. 440 ch. 460. ✓

History: 1989 a. 303; 1993 a. 473; 1995 a. 167; 1997 a. 75, 156, 175; 1999 a. 9, 32, 180.

INSERT 8-1: ✓

(1) "Certificate holder" means a person granted a certificate under this chapter. ✓

INSERT 8-23:

NO A or any title that includes "massage therapist" or "bodyworker" ✓

INSERT 10-18: ✓

(3) In addition to any other procedure under ch. 227 relating to the promulgation of rules, when promulgating a rule under this chapter, other than an emergency rule under s. 227.24, the department shall do all of the following:

massage therapy and bodywork
(a) Submit the proposed rule to the council at least 60 days before the proposed rule is submitted to the legislative council staff under s. 227.15 (1). ✓

(b) Consider any comments on a proposed rule made by the council, if the council submits the comments to the department within 30 days after a public hearing on the proposed rule under s. 227.18 or, if no hearing is held, within 30 days after the proposed rule is published under s. 227.16 (2) (e). ✓

(c) Include, in the report submitted to the legislature under s. 227.19 (2), any comments on the proposed rule submitted by the council under par. (b) and the department's responses to those comments. ✓

Barman, Mike

From: Peer, Adam
Sent: Tuesday, February 26, 2002 4:44 PM
To: Lightbourn, George
Cc: Rep.Kaufert; Eberle, Ed; Scocos, John; Uecker, Deborah; Barman, Mike
Subject: Request for Supplemental Fiscal Estimate
Importance: High

Secretary Lightbourn,

The Speaker has approved a request for a supplemental fiscal estimate. Please find the approving letter attached.

Please let me know if you have any questions.

Sincerely,

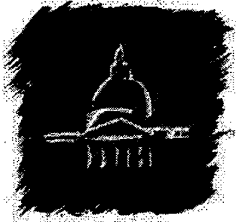
ADAM S. PEER
Legislative Assistant

OFFICE OF ASSEMBLY
SPEAKER SCOTT R. JENSEN
State of Wisconsin, USA

Direct Line: 608.261.9483

Visit our website online at:
<http://www.legis.state.wi.us/assembly/asm32/news/>

02/27/2002



SCOTT R. JENSEN
ASSEMBLY SPEAKER

February 26, 2002

The Honorable George Lightbourn
Department of Administration
George.Lightbourn@doa.state.wi.us

Dear Secretary Lightbourn,

As Assembly Speaker, I have approved a request for a supplemental fiscal estimate for Assembly Substitute Amendment (LRBs0319/3) to 2001 Assembly Bill 749 from Representative Kaufert per Joint Rule 41 (3)(b). Please direct the appropriate agency to submit their supplemental estimate to the Legislative Reference Bureau per the Joint Rules.

If you have any questions, please contact Adam Peer in my office. Thank you in advance.

Sincerely,

Scott R. Jensen
Assembly Speaker

SRJ:asp

cc: The Honorable Dean Kaufert, 55th Assembly District
The Honorable John A. Scocos, Assembly Chief Clerk
Debra Uecker, Department of Administration
Mike Borman, Legislative Reference Bureau