

2001 DRAFTING REQUEST

Bill

Received: **05/04/2001**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Joanne Huelsman (608) 266-2635**

By/Representing: **Pat Rasmussen**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact: **Vlad Thomas, 262-473-1083**

Addl. Drafters: **mlief**

Subject: **Occupational Reg. - misc**

Extra Copies: **MJL**

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Regulation of massage therapists and bodyworkers

Instructions:

Restore changes that were eliminated from 1997 SB 262 (1997 Act 156)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 05/09/2001 mlief 07/05/2001 kunkemd 08/10/2001	wjackson 08/21/2001		_____			S&L
/1	kunkemd 10/06/2001	wjackson 10/08/2001	pgreensl 08/22/2001	_____	lrb_docadmin 08/22/2001		S&L
/2	kunkemd	csicilia	jfrantze	_____	lrb_docadmin	lrb_docadmin	S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	11/01/2001	11/02/2001	10/09/2001	_____	10/09/2001	10/31/2001	
				_____		lrb_docadmin	
				_____		10/31/2001	
/3			kfollet	_____	lrb_docadmin	lrb_docadminS&L	
			11/02/2001	_____	11/02/2001	11/02/2001	
/4	kunkemd	csicilia	pgrcensl	_____	lrb_docadmin	lrb_docadmin	
	11/14/2001	11/15/2001	11/16/2001	_____	11/16/2001	01/17/2002	
				_____		lrb_docadmin	
				_____		01/17/2002	

FE Sent For:

LAT intro

<END>

2001 DRAFTING REQUEST

Bill

Received: **05/04/2001**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Joanne Huelsman (608) 266-2635**

By/Representing: **Pat Rasmussen**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact: **Vlad Thomas, 262-473-1083**

Addl. Drafters: **mlief**

Subject: **Occupational Reg. - misc**

Extra Copies: **MJL**

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Regulation of massage therapists and bodyworkers

Instructions:

Restore changes that were eliminated from 1997 SB 262 (1997 Act 156)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 05/09/2001 mlief 07/05/2001 kunkemd 08/10/2001	wjackson 08/21/2001		_____			S&L
/1	kunkemd 10/06/2001	wjackson 10/08/2001	pgreensl 08/22/2001	_____	lrb_docadmin 08/22/2001		S&L
/2	kunkemd	csicilia	jfrantze	_____	lrb_docadmin	lrb_docadmin	S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	11/01/2001	11/02/2001	10/09/2001	_____	10/09/2001	10/31/2001	
				_____		lrb_docadmin	
				_____		10/31/2001	
/3			kfollet	_____	lrb_docadmin	lrb_docadminS&L	
			11/02/2001	_____	11/02/2001	11/02/2001	
/4	kunkemd	csicilia	pgreensl	_____	lrb_docadmin		
	11/14/2001	11/15/2001	11/16/2001	_____	11/16/2001		

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: **05/04/2001**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Joanne Huelsman (608) 266-2635**

By/Representing: **Pat Rasmussen**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact: **Vlad Thomas, 262-473-1083**

Addl. Drafters: **mlief**

Subject: **Occupational Reg. - misc**

Extra Copies: **MJL**

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Regulation of massage therapists and bodyworkers

Instructions:

Restore changes that were eliminated from 1997 SB 262 (1997 Act 156)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 05/09/2001 mlief 07/05/2001 kunkemd 08/10/2001	wjackson 08/21/2001		_____			S&L
/1	kunkemd 10/06/2001	wjackson 10/08/2001	pgreensl 08/22/2001	<u>PS</u> / <u>RS</u>	lrb_docadmin 08/22/2001		S&L
/2	kunkemd 11/01/2001	csicilia 11/02/2001	jfrantze 10/09/2001	_____	lrb_docadmin 10/09/2001	lrb_docadminS&L 10/31/2001 lrb_docadmin	

11/15
PS

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				_____		10/31/2001	
/3			kfollet 11/02/2001	_____	lrb_docadmin 11/02/2001	lrb_docadminS&L 11/02/2001	
/4	kunkemd 11/14/2001	lrb_editor		_____			

FE Sent For:

1/4 gjs 11/15/01

<END>

2001 DRAFTING REQUEST

Bill

Received: **05/04/2001**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Joanne Huelsman (608) 266-2635**

By/Representing: **Pat Rasmussen**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact: **Vlad Thomas, 262-473-1083**

Addl. Drafters: **mlief**

Subject: **Occupational Reg. - misc**

Extra Copies: 

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Regulation of massage therapists and bodyworkers

Instructions:

Restore changes that were eliminated from 1997 SB 262 (1997 Act 156)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 05/09/2001 mlief 07/05/2001 kunkemd 08/10/2001	wjackson 08/21/2001		_____			S&L
/1	kunkemd 10/06/2001	wjackson 10/08/2001	pgreensl 08/22/2001	_____	lrb_docadmin 08/22/2001		S&L
/2			jfrantze _____	_____	lrb_docadmin	lrb_docadmin	

Handwritten notes:
 1/3 cjs 11/2
 11/2
 18/11/2001
 11/2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			10/09/2001	_____	10/09/2001	10/31/2001	
				_____		lrb_docadmin	
				_____		10/31/2001	

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: **05/04/2001**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Joanne Huelsman (608) 266-2635**

By/Representing: **Pat Rasmussen**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact: **Vlad Thomas, 262-473-1083**

Addl. Drafters: **mlief**

Subject: **Occupational Reg. - misc**

Extra Copies: ~~MSL~~

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Regulation of massage therapists and bodyworkers

Instructions:

Restore changes that were eliminated from 1997 SB 262 (1997 Act 156)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 05/09/2001 mlief 07/05/2001 kunkemd 08/10/2001	wjackson 08/21/2001		_____			S&L
/1	kunkemd 10/06/2001	wjackson 10/08/2001	pgreensl 08/22/2001	_____	lrb_docadmin 08/22/2001		S&L
/2			jfrantze	_____	lrb_docadmin		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			10/09/2001	_____	10/09/2001		

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 05/04/2001

Received By: kunkemd

Wanted: As time permits

Identical to LRB:

For: Joanne Huelsman (608) 266-2635

By/Representing: Pat Rasmussen

This file may be shown to any legislator: NO

Drafter: kunkemd

May Contact: Vlad Thomas, 262-473-1083

Addl. Drafters: mlief

Subject: Occupational Reg. - misc

Extra Copies: MJL

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Regulation of massage therapists and bodyworkers

Instructions:

Restore changes that were eliminated from 1997 SB 262 (1997 Act 156)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 05/09/2001	wjackson 08/21/2001		_____			S&L
	mlief 07/05/2001	1/2 wlj 10/8		_____			
	kunkemd 08/10/2001			_____			
/1							
			pgreensl 08/22/2001	_____	lrb_docadmin 08/22/2001		

Jo 10/9 *Jo / RA*
10/9

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 05/04/2001

Received By: kunkemd

Wanted: As time permits

Identical to LRB:

For: Joanne Huelsman (608) 266-2635

By/Representing: Pat Rasmussen

This file may be shown to any legislator: NO

Drafter: kunkemd

May Contact: Vlad Thomas, 262-473-1083

Addl. Drafters: mlief

Subject: Occupational Reg. - misc

Extra Copies: MJL

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Regulation of massage therapists and bodyworkers

Instructions:

Restore changes that were eliminated from 1997 SB 262 (1997 Act 156)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	kunkemd 05/09/2001 mlief 07/05/2001 kunkemd	/1 mlj 8/21	8/21 P8	8/21 P8HGR			

FE Sent For:

<END>

5/9 Tc w/ Vlad Thomas

(Tony Driscoll - Q+B)

① Examining board - 1997 SB 262

~~SSA via SB 262 sufficient credit~~

② Practice protection - 1997 SB 262

5/14 Tc w/ Vlad -

Will we fix the me stuff soon



VLAD I. THOMAS, CNMT

ST. JOHN NEUROMUSCULAR THERAPY

910 W. WALWORTH AVENUE

WHITEWATER, WI 53190

(414) 473-1083

FAX: (414) 473-1027

262

Number of pages including cover: 3

Date: May 15, 2001

To: Madelon Lief
Legislative Reference Bureau
Fax 608-264-6948

For: _____

Note: Dear Lonnie
Enclosed please find my
narrative on ¹⁹⁹⁷ Senate Bill 262
Question regarding item # 6
on page 2. Is it possible
to have the DORL approve
courses of instruction, but
give the regulatory board the
option of taking on that
responsibility? Vlad



VLAD I. THOMAS, CNMT

ST. JOHN NEUROMUSCULAR THERAPY

910 W. WALWORTH AVENUE
 WHITEWATER, WI 53190
 (262) 473-1083
 fax (262) 473-1027

May 15, 2001

Madelon Lief
 C/o Legislative Reference Bureau
 Fax #(608) 264-6948

*Sub 11 of ch 440
 Repeal*

Dear Lonnie,

Regarding our phone conversation on May 14, 2001 I appreciated your helpful suggestions about creating a narrative of what the Wisconsin Chapter of the American Massage Therapy Association (AMTA) seeks in a regulatory bill.

Currently massage therapists and bodyworkers have a registration law with title protection and an advisory committee (1997 WI Act 156; 1999 WI Act 98; DORL Administrative Rules Chapters RL 90-94).

Now the Wisconsin AMTA chapter wants to create a licensure law with a regulatory board and with practice protection as well as title protection. The chapter's initial effort to achieve this goal is embodied in the 1997 Senate Bill 262 – before substitute bills #1 and #2 evolved.

Note: all subsequent citations are to 1997 Senate Bill 262 – except where noted.

1. 460.01 Definitions. We want included 460.01 Adjunctive therapies and all subsequent definitions. Note: in 1997 Wisconsin Act 156, Chapter 440, Subchapter X, we have no objection to 440.974(b)2 regarding physical therapy.
2. SB262, 460.03 Applicability. We want to retain every item except (4)(a) which should be cut. In (4)(c) we want to clarify "laying on of hands." New (4)(c): Restricts his or her touch to placing the palms of the hands on or above the human body to influence the energy fields within and around the body. *Done*
3. 460.04 Duties of examining board, include all sections. In 460.04 (c) there now is a 600 hour requirement. See DORL, RL 92.01(5).
4. 460.04(e), strike "sexually oriented business" and substitute "place of prostitution" ✓
 WI STATS 944.
5. In 460.04 (f): eliminate (f) because of 460.03(4)(a) as revised. ?

Vlad Thomas to Madelon Lief

May 15, 2001

Page 2 of 2

6. 460.05(1)(e)(1) See 1999 WI Act 98 and DORL-RL 92 on DORL approval of a course of instruction. At this point, I doubt that the AMTA chapter wants the Examining Board to approve courses of instruction or schools.] ?
7. 460.06 Examination, See 1999 WI Act 98 and DORL-RL 91, 91.01(d) regarding the requirement to pass the national certification examination. } ?
8. Keep 460.10 Continuing Education; ✓
9. Keep 460.11 Practice requirements. In 460.11(3) substitute "place of prostitution" for "sexually oriented business." ✓
10. Keep 460.12 Duty to Make Reports and 460.13 Employment, 460.14 Advertising ✓ and 460.15 Local regulation (1); cut 460.15(2)
11. Keep 460.16 Disciplinary proceedings and actions. (See DORL, chap. RL94) and 460.17 Penalties. Sections 18, 19, 20. ✓
12. Section 21 (1) – Keep; Section 21(2) cut. ✓
13. Section 22?
14. Section 23?

MJL p

WJ

O-NOTE

2001

~~1997~~ SENATE BILL ~~202~~

By Friday
E/24
Tuesday
8-21-2001
if possible

LPS: Please proof amended stats w/ stats.

LPS: Please check auto ref

July 17, 1997 - Introduced by Senators PLACHE, WIRCH, WEEDEN, ROESSLER, C. POTTER, FARROW, BURKE, HUELSMAN, GEORGE and A. LASEE, cosponsored by Representatives HARSDORF, SCHAFER, ROBSON, URBAN, WASSERMAN, NASS, BALDWIN, KAUFERT, MURAT, HANSON, SYKORA, PORTER and J. LEHMAN. Referred to Committee on Health, Human Services, Aging, Corrections, Veterans and Military Affairs.

2001

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

replaces the registration requirements of current law with

Analysis by the Legislative Reference Bureau

This bill ~~establishes~~ ^{replaces} requirements for the licensure of massage therapists and bodyworkers. The bill creates a 7-member massage therapy and bodywork examining board (examining board), attached to the department of regulation and licensing (DORL), to administer and enforce the requirements. *More specifically,*

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

In S
A
to go after handwritten on back of P. 2

Analysis starts here → 91 Current law

(more on next p.)

SENATE BILL 262

quotes outside period

of registration from the department of regulation and licensing (DRL)
license from using a title that represents that he or she is a massage therapist or bodyworker. ^{also call} DRL must promulgate rules establishing requirements and

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

1. Specifies the education, training, examination and other requirements and qualifications needed for licensure as a massage therapist or bodyworker, and allows the examining board to waive any of the requirements if an applicant has substantially equivalent education, training, or other experience. The bill also permits the examining board to promulgate rules that require a licensed massage therapist or bodyworker to complete at least 12 hours of continuing education every 2 years and requires 600 hours, instead of 500 hours, of classroom training for license applicants.

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

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

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

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

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

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

INSA (Cont'd)
Prohibits a person from practicing massage therapy or bodywork or designating himself or herself as a massage therapist or bodyworker unless the person is licensed by DRL

and replace the requirement that a person complete a national certification exam with a requirement that the examining board conduct its own licensure examination

restricts his or her touch

standards for the practice of ^{massage} therapy
and for the education, ^{training}, and
competency requirements that a person
must satisfy before being issued a license
of registration. The rules require ^{an} applicant for a license of registration to
have completed ⁵⁰⁰ ^{classroom} hours of
study in a course of instruction in massage
therapy approved by DRL or ^{at} a school
approved by the educational approval board.
In addition, ^{current} law ^{requires} an applicant
for a license of registration to have successfully
completed the national certification ^{examination}
for therapeutic massage and bodywork or a substantially
equivalent examination.

[TNS A]

SENATE BILL 262

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

Finally, the bill also does all of the following:

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

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

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

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

SENATE BILL 262

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

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

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

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

12 2. Two public members.

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

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

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

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

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

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

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

SENATE BILL 262

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

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

5 55.043 (4) (e) Refer the case to the department of regulation and licensing or

6 the appropriate examining board if the abuse, neglect or misappropriation of
7 property involves an individual who is required to be licensed, permitted, certified,
8 or registered under chs. 440 to 459 or 460. *hold a credential, as defined in s. 440.01 (2)(a),*

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

10 103.10 (1) (e) "Health care provider" means a person described under s. 146.81

11 (1), but does not include a person described under s. 146.81 (1) (hp).

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

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

22 SECTION 7. 146.81 (1) (hp) of the statutes is ~~created~~ ^{amended} to read:

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

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

INS
5-12-12

LPs:
Please
fix
Camp

issued a license

*subch. VI
of ch. 440*

SENATE BILL 262

SECTION 8

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

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

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

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

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

9 252.10 (7) Drugs necessary for the treatment of mycobacterium tuberculosis
10 shall be purchased by the department from the appropriation under s. 20.435 (2) (e)
11 and dispensed to patients through the public health dispensaries or through health
12 care providers, as defined in s. 146.81 (1), other than social workers, marriage and
13 family therapists or professional counselors certified under ch. 457,
14 speech-language pathologists or audiologists licensed under subch. II of ch. 459,
15 speech and language pathologists licensed by the department of education public
16 instruction, massage therapists or bodyworkers licensed under ch. 460 or, on or after
17 July 1, 1995, and no later than June 30, 1999, dietitians certified under subch. IV of
18 ch. 448.

(5) ← plain
physicians,
or
advanced
practice
nurse
prescribers

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

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

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

23 440.08 (2) (a) 46r. Massage therapist or bodyworker: July 1 of each
24 even-numbered year; ~~###~~ \$53

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

→ SEC II RP; Subch II of ch. 440

(precedes 440.98)
STET

Sec # RP; s. 440.08(2) (a) 67e. affected by 2001 Wisconsin Act 1155

INS 6-19-98 (5)

INS 6-19-98 (19)

SENATE BILL 262

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

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

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

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

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

SENATE BILL 262

1 SECTION 16. 451.02 (1)^x of the statutes is amended to read:

2 451.02 (1) An individual holding a license, permit or certificate under ch. 441,
3 446, 447, 448 ~~or~~, 449^s or 460^s who engages in a practice of acupuncture that is also
4 included within the scope of his or her license, permit or certificate.

5 SECTION 17. Chapter 460^x of the statutes is created to read:

6 CHAPTER 460

7 MASSAGE THERAPY AND BODYWORK

8 EXAMINING BOARD

9 460.01 Definitions. In this chapter:

10 (1) "Adjunctive therapy" includes the use of a device that simulates or enhances
11 a manual action; the application of heat, cold, water, a mild abrasive^s or a topical
12 preparation; and heliotherapy.

13 (2) "Examining board" means the massage therapy and bodywork examining
14 board.

15 (3) "Manual action" includes holding, positioning, rocking, kneading,
16 compressing, decompressing, gliding^s or percussing the soft tissue of the human body
17 and applying friction to soft tissue.

18 (4) "Massage therapist or bodyworker" means a person who is licensed as a
19 massage therapist or bodyworker under this chapter.

20 (5) "Massage therapy or bodywork"^{g h} ^(Not)
21 ~~and~~ Means the science and healing art that uses manual actions to palpate and
22 manipulate the soft tissue of the human body, and adjunctive therapies, to improve
23 circulation, reduce tension, relieve soft tissue pain, or increase flexibility, and
24 includes determining whether massage therapy or bodywork is appropriate or

SENATE BILL 262

1 contraindicated, or whether a referral to another health care practitioner is
2 appropriate. "Massage therapy or bodywork" ^{Not}

3 ~~(5)~~ Does not include making a medical diagnosis.

4 (6) "Physician's office" has the meaning given in s. 101.123 (1) (dg).[↓]

5 (7) "Sexual contact" has the meaning given in s. 939.22 (34).[↓]

6 (8) "Sexual intercourse" has the meaning given in s. 948.01 (7) (a).[↓]

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

LPS: Please force spacing to keep "L.M.T." together

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

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

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

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

SENATE BILL 262

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

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

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

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

9 ~~(b) Uses a laying on of hands to influence energy fields within or around the~~
10 *restricts his or her touch to placing the palms of the hands on or above the human body*
11 human body.

12 **460.04 Duties of examining board.** (1) The examining board shall assign
13 a unique license number to each person licensed under this chapter.

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

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

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

23 (c) Criteria for approving the courses of instruction required under s. 460.05
24 (1) (e) 2. and 3. Rules promulgated under this paragraph shall require the course of
instruction required under s. 460.05 (1) (e) 3. to consist of at least 300 classroom
hours.

6

SENATE BILL 262

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

(e) A definition of ^{"place of prostitution"} ~~sexually-oriented business~~ for purposes of s. 460.11 (3).

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

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

(a) ^{The person} Is 18 years of age or older.

(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). ^{The person}

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

(d) ^{The person} Pays the fee specified in s. 440.05 (1).

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

1. Graduated from a school of massage therapy or bodywork approved under

~~s. 460.03~~ **4s. 514** ✓

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

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

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

SENATE BILL 262

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

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

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

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

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

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

SENATE BILL 262

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

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

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

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

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

SENATE BILL 262

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

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

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

15 (2) The examining board may use a report made under sub. (1) as the basis for
16 an investigation under s. ~~460.12~~ ^{460.15} (1). If, after an investigation, the examining board
17 has reasonable cause to believe that a massage therapist or bodyworker has
18 committed a crime, the examining board shall report the belief to the district
19 attorney for the county in which the crime, in the opinion of the examining board,
20 occurred.

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

SENATE BILL 262

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

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

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

SENATE BILL 262

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

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

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

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

SENATE BILL 262

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

ⓑ
460.15

~~460.16~~ **Disciplinary proceedings and actions.**

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

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

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

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

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

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

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

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

21 (1).

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

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

SENATE BILL 262

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

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

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

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

8 ~~460.17~~ ^{460.16} Penalties. (1) Except as provided in sub. (2), any person who violates
9 this chapter or any rule promulgated under this chapter shall forfeit not more than
10 \$1,000 for each violation.

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

INS 18-14

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

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

SENATE BILL 262

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

FNS
1935

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

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

10 A.R. (A) SECTION 21. Nonstatutory provisions.

11 (1) INITIAL APPOINTMENTS.

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

16 1. Two massage therapist or bodyworker members and one public member, for
 17 terms expiring on July 1, ²⁰⁰³ ~~1999~~.

18 2. One massage therapist or bodyworker member, for a term expiring on July
 19 1, 200⁴.

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

22 4. One massage therapist or bodyworker member, for a term expiring on July
 23 1, 200⁶.

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

SENATE BILL 262

INSERT 20-3

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

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

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

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

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

18 SECTION 22. Initial applicability.

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

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

SENATE BILL 262

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

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

6 **SECTION 23. Effective dates.** This act takes effect on the first day of the ^{13th} ~~9th~~
7 month beginning after publication, except as follows:

8 (1) The treatment of section 15.405 (6r)[✓] and SECTION 21^{A.R. (A) 9} of this act take effect
9 on the day after publication.

10

(END)

of the statutes

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB
.....

FNS 4-22

~~SECTION 4.~~ ^{*} 50.01 (2) ^x of the statutes is amended to read:

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

History: 1975 c. 413; 1977 c. 170, 418; 1979 c. 111; 1983 a. 189 s. 329 (18); 1985 a. 29, 276; 1985 a. 332 s. 251 (1); 1987 a. 127, 161; 1989 a. 31, 136, 199; 1991 a. 39; 1993 a. 327, 446, 491; 1995 a. 27; 1997 a. 13, 27, 156, 237; 1999 a. 22, 32.

~~SECTION 2.~~ 146.40 (1) (d) of the statutes is amended to read:

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

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32.

~~SECTION 3.~~ 146.997 (1) (d) 13. of the statutes is amended to read:

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

History: 1999 a. 176, 186.

~~SECTION 4.~~ 180.1901 (1m) (ag) ^x of the statutes is repealed.

*FNS
5-
12*

FNS 6-5

INS 679

~~SECTION 252.15~~ ^{*} 252.15 (1) (ar) 1. ^{*} of the statutes is amended to read:

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

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 164, 188; s. 13.93 (2) (c).

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

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

History: 1977 c. 164; 1987 a. 14; 1989 a. 31; 1993 a. 109; 1995 a. 227; 1997 a. 67, 156, 191; 1999 a. 7, 9, 32, 56, 186.

~~SECTION 908.03~~ (6m) (a) of the statutes is amended to read:

908.03 (6m) (a) *Definition.* In this subsection, "health care provider" means a massage therapist or bodyworker issued a license of registration under subch. ~~XI~~ of ch. 440 460, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a physician assistant licensed under ch. 448 or a health care provider as defined in s. 655.001 (8).

History: Sup. Ct. Order, 59 Wis. 2d R250; Sup. Ct. Order, 67 Wis. 2d vii (1975); 1983 a. 447; Sup. Ct. Order, 158 Wis. 20d xxv (1990); 1991 a. 32, 269; 1993 a. 105; 1995 a. 27 s. 9126 (19); 1997 a. 67, 156; 1999 a. 32, 85, 162.

INS
18-14

INS
19-5

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3246/1insMK
MDK.....

LPS:
Please
check
spacing

1
2
3
4
5
6
7
8
9

INSERT 20-3:

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3246/1dn

MDK:/:....

WLj

Senator Huelsman:

Please review this bill very carefully to make sure that it achieves your intent. In particular, please note the following:

1. The bill goes into effect 13 months after publication. This gives the examining board time to organize and promulgate rules that are necessary for administration of the bill's requirements. It may be advisable to get DRL's input on whether 13 months is sufficient. Also, the bill allows the examining board to use emergency rules to establish the initial requirements.
2. The bill contains no "grandfather" provisions. Is that okay?
3. The bill does not include local regulation language that is comparable to s. 440.989, ✓ stats. Is that okay, or should such language be included?
4. The renewal fee (\$53) is the standard renewal fee for the current biennium.

If you have any questions or redraft instructions, please contact me.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3246/1dn
MDK:wlj:pg

August 21, 2001

Senator Huelsman:

Please review this bill very carefully to make sure that it achieves your intent. In particular, please note the following:

1. The bill goes into effect 13 months after publication. This gives the examining board time to organize and promulgate rules that are necessary for administration of the bill's requirements. It may be advisable to get DRL's input on whether 13 months is sufficient. Also, the bill allows the examining board to use emergency rules to establish the initial requirements.
2. The bill contains no "grandfather" provisions. Is that okay?
3. The bill does not include local regulation language that is comparable to s. 440.989, stats. Is that okay, or should such language be included?
4. The renewal fee (\$53) is the standard renewal fee for the current biennium.

If you have any questions or redraft instructions, please contact me.

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

Kunkel, Mark

From: alanw@mailbag.com
Sent: Wednesday, September 26, 2001 6:55
To: Kunkel, Mark
Cc: Betsy Krizenesky
Subject: Fw: LRB-3246/1 Drafting changes

Good day Mark,
How is the draft coming along? Our committee leader Betsy Krizenesky is wondering when the revised draft might be available. Can you please forward her a copy as soon it is ready. You may also want to send her a quick e-mail just to let her know the timeframe.
Thank you,
Alan Weld

----- Original Message -----

From: alanw@mailbag.com
To: mark.kunkel@legis.state.wi.us
Cc: Betsy Krizenesky ; VLAD THOMAS AND BARB MILLER ; Sally Hacking ; ANTHONY H. DRIESSEN
Sent: Thursday, September 13, 2001 9:10 PM
Subject: LRB-3246/1 Drafting changes

Mark,
My name is Alan Weld and I am working with Vlad on the drafting of the LRB-3246/1 2001 Bill requested by Sen. Huelsman.
Please do not hesitate to contact me or our Lobbyist Tony Driessen with any questions you have.
Thank you
Alan Weld

Here are the changes to the draft:
I am attaching an MSWord document or you can read the text below:

September 13, 2001 results from the L&L sub-committee on drafting changes

Drafter's note #1 - Page 19, line 14

✓ Delete "13th" and replace with "6th".

Drafter's note #2 The "grandfathering" provision from 1997 Wisconsin Act 156, Section 16:

Allow the NCTMB exam to be used for practitioners that can not meet the 600 hr. requirement.
Allow 2 years subsequent to passage for them to get the additional 100 hrs. (NCTMB requires 500 hrs.)

Should we allow the existing WI RMTs to automatically be licensed?

Yes. The 600 hr requirement applies only to new applicants.

Drafter's note #3. Regarding 440.979 Local regulation, 1997 Wisconsin Act 156.

Include this language.

Original 1997 Senate Bill 262. 460.03 Applicability, pp.9-10

09/26/2001

Pg 9 Add: "Restricts his or her manipulation of soft tissue to the hands or feet."

Lines 22-23 change to: "Restricts his or her touch to placing the hands on or above the human body to influence the energy fields within or around the body."

In the 1997 Senate Bill 262 under 460.01 Definitions, item (1)

Pg 8 lines 1-3 Replace this section with:

Adjunctive therapy" Includes the use of adjunctive devices that simulate or enhance a manual action, the application of heat and cold, water, and light including the use of a topical preparation.

Pg 8, line 6-8 - 460.01 Definitions (3)

Change to:

"Manual action" includes holding, positioning, rocking, kneading, compressing, decompressing, gliding or percussing the soft tissue of the human body, and applying passive range of motion.

Regarding 460.04(e) and 460.11(3),

pg 13, line 18 - use "sexually oriented business" instead of "place of prostitution"

Pg 10, line 16 - please delete entire line

7. 460.12 Pg 15, line 7 - Duty to Make Reports (5)(b).

Add the word "if" before "the circumstances."

8. 460.14 Should license numbers be required in advertising?

Yes, the license # should be required.

460.06 Pg 11 line 17-19

Examination: 460.06 which to me makes the NCE's status very questionable. The way it is described in the analysis (page 2, item 3) it sounds like the NCE is actually replaced with a state exam.

Add language from 1999 WI ACT 98 (Assembly bill 237)

Refer to page 2, item 2 of the 2001 bill.

We do not want to lose the NCE examination option.

Section 460.15 (d) Pg 16, line 13 - add "or license" after "another's name".



Betsy Krizenesky

Nationally Certified in Therapeutic Massage and Bodywork
Professional Member, American Massage Therapy Assn Since 1983
Wisconsin Registered Massage Therapist

Shoreside Medical Building
111 East North Water Street
Neenah, WI 54956-2758

Krizenesky@aol.com

920-725-0224 or 725-0843

Wisconsin Massage Therapy Regulation and Licensing Legislation

October 2001

Common Questions

What does the proposal do?

The legislation proposes to license and regulate massage therapists who practice in the State of Wisconsin.

This legislation is an updating of current Wisconsin law. It also conforms with the majority of laws governing massage therapy and bodywork across the United States.

Today, 31 states regulate the massage profession and 23 of those license massage therapists. This Wisconsin proposal will facilitate reciprocity among the states. It will also provide an accepted standard of care for massage therapy, especially for mobile consumers.

Who will benefit from the legislation?

Passage of the legislation will benefit:

- Consumers - who will be assured that all massage therapists in Wisconsin meet appropriate standards of education and training.
- Local Municipal and Law Enforcement Officials - who will be able to distinguish clearly between legitimate massage therapists and those who operate illicit "massage parlors."
- Professional Massage Therapists - who will meet statewide standards and be subject to accepted regulatory and licensing requirements. Reciprocity between Wisconsin and other states would be an important result, in a larger number of states. It is now lacking for many Wisconsin massage therapists.

What about chiropractors and physical therapists?

The legislation expressly exempts from the licensing requirements any other profession currently licensed by the State of Wisconsin where the scope of practice includes skills associated with massage therapy. This includes chiropractors and physical therapists.

Are there standards for schools that teach massage therapy?

The present massage therapy registration statutes in Wisconsin contain provisions recommended by the Educational Approval Board and the Department of Regulation and Licensing to ensure necessary educational oversight of schools that teach massage therapy.

Would massage therapists "diagnose" healthcare conditions?

No, the legislation expressly excludes "diagnosis" from the scope of practice. Instead, the focus is on the principles of massage therapy and bodywork and the application of manual actions to the soft tissues of the human body.

Will the legislation have any effect on insurance coverage for massage therapy?

No. The legislation contains no provisions concerning insurance coverage. Current law applies: The health care plan and the contracting payor continue to decide in the private marketplace whether to cover massage therapy.

What does the term "bodywork" mean?

"Bodywork" is a generic term used by national certification boards and others to refer to a variety of modalities that employ manual manipulation of the body's soft tissues. Rolfing, myofascial release, orthobionomy, and polarity therapy are some of the bodywork modalities available to consumers in Wisconsin.

What about continuing education?

The Board is authorized, by administrative rule and with related legislative oversight, to establish a requirement for continuing education. If the Board does so, a minimum of 12 hours every two years would be required.

What would happen to people currently providing massage therapy?

Individuals who today have been issued a license of registration as a massage therapist would be immediately eligible for licensing under the proposed legislation. Current requirements are: at least 600 classroom hours of instruction, having passed the National Certification exam and having passed the exam covering Wisconsin law and rules .

Persons who hold the title of Wisconsin Registered Massage Therapist or Bodyworker on the date of enactment will automatically be granted the title Licensed Massage Therapist or Bodyworker.

Persons who do not hold the title of Wisconsin Registered Massage Therapist or Bodyworker on the date of enactment will be required to meet the following provisional requirements within the first six months following enactment:

- ◆ Submit an application to the Department of Regulation and Licensing describing his or her education in massage therapy or bodywork. ✓
- ◆ Provide evidence of having earned at least 300 hours of instruction in massage therapy or bodywork. ✓
- ◆ Have malpractice liability insurance coverage - \$1 million per occurrence and \$1 million for all occurrences in one year. ✓
- ◆ Pay the required fee. ✓

Persons meeting the provisional requirements and under current Wisconsin law will receive a two year non-renewable license and then fulfill the current educational requirements for a license:

- ◆ Satisfactorily complete a 600 hour course of instruction in massage therapy or bodywork,
- ◆ Pass the National Certification Examination for Therapeutic Massage and Bodywork or its equivalent, and
- ◆ Pass an examination on state laws and administrative rules governing massage therapy or bodywork.

What harm will result if we don't pass the bill?

- ◆ A vote **for** this legislation recognizes that ethical therapeutic massage providers contribute to the health and well-being of many Wisconsin citizens. Furthermore, additional protections of the public's health and safety are provided.
- ◆ A vote **for** this bill is a commitment to public decency and to a clear distinction between legitimate massage therapists and "massage parlors."
- ◆ A vote **against** this proposal means:
 - Continuing to frustrate city officials and law enforcement officials by perpetuating the confusion among well-trained, legitimate massage therapists;
 - Untrained or inadequately trained persons legally doing massage by avoiding the protected titles; and
 - Persons engaged in illicit sexuality in the guise of massage.

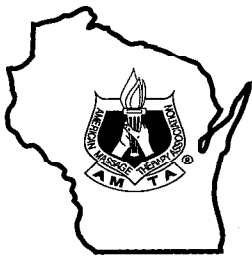
Conclusion

This proposal to license and regulate all professional massage therapists in Wisconsin is well thought out. It follows national regulatory trends that provide additional consumer protections and is the result of 4 years experience under existing Wisconsin laws.

The bill merits early consideration and passage by the Wisconsin Legislature.

Alan Weld, WRMT
President, AMTA-WI Chapter
alanw@mailbag.com
(608)231-9797

cc: Tony Driessen, Lobbyist
Tom Fonfara, Lobbyist



*American Massage Therapy Association
Wisconsin Chapter*

Voice Mail 414-299-9201

"Promoting Wellness Through Massage"

**EXECUTIVE SUMMARY
OF MESSAGE THERAPY LEGISLATIVE INITIATIVE**

October 2001

Current Law

In 1997 Wisconsin Act 156, Wisconsin policy makers, on a bi-partisan basis, provided for the registration of massage therapists and bodyworkers. A definition of massage therapy was provided, education standards were specified, malpractice insurance coverages were set (\$1 million) and restrictions on who may use the title "massage therapist" were imposed.

The new law has proven to be successful, with well over two thousand individuals having been issued a license of registration by the Wisconsin Department of Regulation and Licensing. Attaining compliance with the 1997 law was accomplished with few implementation problems.

Updating Needed

While the law enacted 4 years ago has definitely benefited both consumers and the regulated profession, the experience gained has shown a need for the existing law to be improved and "tightened up". Specifically:

- ◆ Consumers of legitimate massage therapy services want **greater assurances** that the person providing those services is in fact **qualified** to do so.
- ◆ Under current law, it is possible for anyone to simply avoid the protected titles and claims, and then provide massage services, even though the person may have **little or no education, training or experience** in the area.
- ◆ In the absence of a more comprehensive regulatory approach to massage therapists and bodyworkers, the term "massage" continues to have negative connotations of **illicit services** or of **non-therapeutic** "back rubs".

The Harm

Maintaining the current regulatory situation is not the preferred public policy option for the following groups:

- **Consumers** who are confused by the many titles and do not know the qualifications of the person doing massage.

(For example review of the Yellow Pages listing and advertising massage in the Milwaukee, Madison, and the Fox Cities telephone books reveals a confusing variety of titles: "Licensed Certified Massage Therapists," "Certified Massage Therapy," "State Licensed Massage Therapist," "Wisc. Reg.#1356-046," "RMT," "LMT," "Certified Massage Therapist.")

- Local **municipal and law enforcement officials** who have difficulty distinguishing between legitimate massage therapists, practitioners who may be legally avoiding educational and professional standards, and persons who are evading public decency laws.
- **Massage therapists** who are properly educated and trained to provide therapeutic massage for beneficial health care purposes.

The Affirmative Initiative

The massage therapy regulation and licensing legislation to be introduced very soon will accomplish three key objectives:

- It will establish certain **minimum education, training or other experience requirements** for individuals wishing to practice massage therapy.
- It will authorize only **properly qualified individuals** with documented education and training, and with demonstrated competency, to represent themselves to the public as practicing massage therapy or bodywork.
- It **prohibits** Wisconsin licensed massage therapists from performing massage therapy or bodywork in the service of a "**sexually oriented business**" (i.e., "massage parlor").

Professions such as physical therapy and chiropractic are expressly exempt from these licensing requirements.

The Action Sought

The 1452 members of the Wisconsin Chapter of the American Massage Therapy Association seeks to expeditiously introduce and pass this legislation to **license and regulate legitimate and professional massage therapists** in our state.

Existing Wisconsin laws need to be improved and "tightened up" from the perspective of consumers, local municipal and law enforcement officials, and massage therapists.

Please support, author and expeditiously pass this important legislation!

Alan Weld, WRMT
President, AMTA-WI Chapter
alanw@mailbag.com
(608)231-9797

cc: Tony Driessen, Lobbyist
Tom Fonfara, Lobbyist

Major Features of the Proposed 2001 Massage Therapy and Bodywork Bill

1. A Massage Therapy and Bodywork Governing Board

Replacing the present Massage Therapists and Bodyworkers Advisory Committee to the Wisconsin Department of Regulation and Licensing is a regulatory board made up of representative members of the profession and public members, all of whom are appointed by the Governor with the consent of the Senate.

2. Scope of Practice Protection Added to the Current Title Protection

Under the present law, persons who do not have a Wisconsin license of registration may continue to practice massage therapy and bodywork as long as they do not use the protected titles. Practice protection defines the work of massage therapists and bodyworkers in a scope of practice statement and requires all persons engaged in these actions to be licensed by the State of Wisconsin. The main exception would be members of other healthcare professions with massage therapy in their scope of practice.

3. Scope of Practice Statement

In the proposed legislation "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, and adjunctive therapies, 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 diagnosis.

4. Status of Current License of Registration Holders

Persons who hold the title of Wisconsin Registered Massage Therapist or Bodyworker on the date of enactment of this bill will automatically be granted the title of Licensed Massage Therapist or Bodyworker.

5. Status of Non-Titled Persons Engaged in Massage Therapy or Bodywork

Persons who currently practice massage therapy or bodywork but who do not hold the title of Wisconsin Registered Massage Therapist or Bodyworker on the date of enactment, those persons may qualify for a two year provisional license to practice if, within the first six months following enactment of the bill, they meet certain conditions. The two most important requirements are (a) to provide evidence of having received at least 300 hours of instruction in massage therapy or bodywork (b) to have malpractice liability insurance - \$1 million per occurrence and \$1 million for occurrences in one year.

6. Educational Requirements for Provisional Licensees

Persons meeting the provisional requirements have two years to fulfill the current educational requirements for a license: (a) satisfactorily complete a 600 hour course of instruction in massage therapy or bodywork, (b) pass the National Certification Examination for Therapeutic Massage and Bodywork or its equivalent, and (c) pass an examination on Wisconsin laws and administrative rules governing massage therapy and bodywork.

7. Exempt Professions

In addition to those professions whose scope of practice includes massage therapy, such as physical therapy and chiropractic, the following groups of practitioners are exempt from the licensing law for massage therapists and bodyworkers:

- a. Reflexologists whose "manipulation of soft tissues" is confined "to the hands or feet."
- b. Somatic educators who use "touch and spoken words to increase awareness of existing or potential patterns of movement in the human body."
- c. Energy workers who limit their touch "to placing the palms of the hands on or above the human body to influence energy fields within or around the human body."

8. Status of Unlicensed Persons

Persons not holding a State of Wisconsin license but practicing massage therapy or bodywork for compensation are acting illegally and are subject to prosecution.

9. Local Regulation Provision

An important carryover section from the current law exempts licensed massage therapists or bodyworkers from restrictive city, village, town or county ordinances intended to regulate prostitution. This provision, along with licensure as healthcare providers, draws a clear line between the offices of massage therapists or bodyworkers and the so-called "massage parlors." Note, however, that local authorities still have jurisdiction over the location of businesses and offices.

If questions arise regarding this bill, please feel free to contact either of the following AMTA-WI Chapter Law and Legislation Committee members:

Betsy Krizenesky, WRMT and Chair, AMTA-WI L&L Committee
(920) 725-0224
Krizenesky@aol.com
or
Vlad Thomas, WRMT
(262) 473-1083
vladbarb@idcnet.com

By TUES
10/9

D-NOTE

oops,
RM NOT
RUN

2001 BILL

LPG:
Please
check
autorefs

REGEN

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

Analysis by the Legislative Reference Bureau

Current law prohibits a person who is not issued a license of registration from the department of regulation and licensing (DORL) from using a title that represents that he or she is a massage therapist, also called "bodyworker." DORL must promulgate rules establishing requirements and standards for the practice of massage therapy and for the education, training, and competency requirements that a person must satisfy before being issued a license of registration. The rules require, among other things an applicant for a license of registration to have completed 500 classroom hours of study in a course of instruction in massage therapy approved by DORL or at a school approved by the educational approval board. In addition,

BILL

The bill maintains

current law requires an applicant for a license of registration to have successfully completed the national certification examination for therapeutic massage and bodywork or a substantially equivalent examination.

This bill replaces the registration requirements of current law with licensure requirements and creates a seven-member massage therapy and bodywork examining board (examining board), attached to DORL, to administer and enforce the requirements. More specifically, the bill does all of the following with respect to the regulation of massage therapists and bodyworkers:

1. Prohibits a person from practicing massage therapy or bodywork or designating or titling himself or herself as a massage therapist or bodyworker unless the person is licensed by DORL.

2. Specifies the education, training, examination and other requirements and qualifications needed for licensure as a massage therapist or bodyworker, ^{and} allows the examining board to waive any of the requirements if an applicant has substantially equivalent education, training, or other experience, ~~and replaces the requirement that a person complete a national certification examination with a requirement that the examining board conduct its own licensure examination.~~ The bill permits the examining board to promulgate rules that require a licensed massage therapist or bodyworker to complete at least 12 hours of continuing education every two years and requires 600 hours, instead of 500 hours, of classroom training for license applicants.

examination under current law

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

sexually oriented business

4. Prohibits a massage therapist or bodyworker from practicing massage therapy or bodywork at a "place of prostitution," as defined by rule by the examining board.

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

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

Finally, the bill also does all of the following:

restricts his or her manipulation of soft tissue to hands or feet;

INSERT
2A

BILL

INSERT
3A

1. Makes state law regarding the confidentiality of patient health care records applicable to records of a massage therapist or bodyworker about his or her clients.

2. Allows massage therapists or bodyworkers to organize and be shareholders in a health care professional service corporation. Current law allows only certain other health care providers to organize and be members of such a corporation.

3. Exempts, under certain circumstances, massage therapists or bodyworkers from civil liability for rendering voluntary care to participants at certain athletic events and contests. Current law exempts only certain other health care providers from such liability.

4. Expands the exception to the hearsay rule under current law that applies to records of certain health care providers so that it also applies to records of massage therapists or bodyworkers.

5. Expands the applicability of certain requirements under current law pertaining to subpoenas of health care records so that they also apply to records of massage therapists and bodyworkers.

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

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

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

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

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

BILL

1 15.405 (6r) MASSAGE THERAPY AND BODYWORK EXAMINING BOARD. (a) There is
2 created a massage therapy and bodywork examining board in the department of
3 regulation and licensing. The examining board shall consist of the following
4 members appointed for 4-year terms:

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

8 2. Two public members.

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

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

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

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

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

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

19 50.01 (2) "Nurse's assistant" means a person who performs routine patient care
20 duties delegated by a registered nurse or licensed practical nurse who supervises the
21 person, for the direct health care of a patient or resident. "Nurse's assistant" does
22 not mean a person who is licensed, permitted, certified, or registered under subch.
23 ~~XI of ch. 440 or ch. 441, 448, 449, 450, 451, 455 or, 459, or 460~~ or a person whose duties
24 primarily involve skills that are different than those taught in instructional
25 programs for nurse's assistants.

BILL

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

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

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

6 103.10 (1) (e) “Health care provider” means a person described under s. 146.81
7 (1), but does not include a person described under s. 146.81 (1) (hp).

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

9 146.40 (1) (d) “Nurse’s assistant” means an individual who performs routine
10 patient care duties delegated by a registered nurse or licensed practical nurse who
11 supervises the individual, for the direct health care of a patient or resident. “Nurse’s
12 assistant” does not mean an individual who is licensed, permitted, certified, or
13 registered under subch. XI of ch. ~~440 or~~ ch. 441, 448, 449, 450, 451, 455 ~~or~~, 459, or
14 460 or an individual whose duties primarily involve skills that are different than
15 those taught in instructional and competency evaluation programs for nurse’s
16 assistants certified under sub. (3) or evaluated by competency evaluation programs
17 for nurse’s assistants approved under sub. (3m).

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

19 146.81 (1) (hp) A massage therapist or bodyworker ~~issued a license~~ licensed
20 under subch. XI of ch. ~~440~~ ch. 460.

21 **SECTION 8.** 146.997 (1) (d) 13. of the statutes is amended to read:

22 146.997 (1) (d) 13. A massage therapist or bodyworker issued a license of
23 ~~registration~~ under subch. XI of ch. ~~440~~ 460.

24 **SECTION 9.** 180.1901 (1m) (ag) of the statutes is repealed.

25 **SECTION 10.** 180.1901 (1m) (h) of the statutes is created to read:

BILL

INSERT
6-13

1 180.1901 (1m) (h) Massage therapy and bodywork examining board under ch.
2 460.

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

4 252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but does
5 not include a massage therapist or bodyworker issued a license of registration under
6 subch. XI of ch. 440 460.

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

8 440.08 (2) (a) 46r. Massage therapist or bodyworker: July 1 of each
9 even-numbered year; \$53.

10 SECTION 13. 440.08 (2) (a) 67q. of the statutes, as affected by 2001 Wisconsin
11 Act ~~1~~ (Senate Bill 55), is repealed. (title)

12 SECTION 14. Subchapter XI of chapter 440² [precedes 440.98] of the statutes is
13 repealed.

14 SECTION 15. 448.03 (2) (a) of the statutes is amended to read:

15 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
16 permit, registration, certificate or certification granted to practice professional or
17 practical nursing or nurse-midwifery under ch. 441, to practice chiropractic under
18 ch. 446, to practice dentistry or dental hygiene under ch. 447, to practice optometry
19 under ch. 449, to practice acupuncture under ch. 451, to practice massage therapy
20 or bodywork under ch. 460 or under any other statutory provision, or as otherwise
21 provided by statute.

22 SECTION 16. 448.10 (4) of the statutes is amended to read:

23 448.10 (4) MASSAGE AND HYDROTHERAPY. Any Notwithstanding s. 460.02, any
24 person who, on July 11, 1953, was practicing massage and hydrotherapy in this state
25 under a certificate of registration issued pursuant to s. 147.185, 1951 stats., as it

BILL

1 existed prior to July 11, 1953, or who had applied for a certificate of registration in
2 massage and hydrotherapy before said date, shall have the right to continue to so
3 practice under such certificate, and the term "massage and hydrotherapy" shall be
4 deemed to include the use of galvanic generator, diathermy, infrared ray and
5 ultraviolet light for massage purposes. Nothing contained in this subsection shall
6 limit the existing authority of the board to revoke such certificate for cause, and in
7 addition, the board may require the holder of such certificate to demonstrate by
8 examination fitness to use the instrumentalities enumerated in this subsection. A
9 lack of such fitness shall constitute cause for revocation of such certificate. No such
10 certificate holder shall treat a specific disease except on the advice of a licensed
11 physician.

12 **SECTION 17.** 448.21 (1) (f) of the statutes is created to read:

13 448.21 (1) (f) The practice of massage therapy or bodywork within the meaning
14 of ch. 460.

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

16 451.02 (1) An individual holding a license, permit or certificate under ch. 441,
17 446, 447, 448 ~~or~~, 449, or 460 who engages in a practice of acupuncture that is also
18 included within the scope of his or her license, permit, or certificate.

19 **SECTION 19.** Chapter 460 of the statutes is created to read:

20 **CHAPTER 460**

21 **MASSAGE THERAPY AND BODYWORK**

22 **EXAMINING BOARD**

23 **460.01 Definitions.** In this chapter:

BILL

1 (1) "Adjunctive therapy" includes the use of a device that simulates or enhances
 2 a manual action, ^{and} the application of heat, cold, water, ~~and~~ ^{light} abrasive, or a topical
 3 preparation, ~~and heliotherapy~~.

4 (2) "Examining board" means the massage therapy and bodywork examining
 5 board.

6 (3) "Manual action" includes holding, positioning, rocking, kneading,
 7 compressing, decompressing, gliding, or percussing the soft tissue of the human body
 8 ~~and applying friction to soft tissues~~ ^{or applying a passive range of motion to}
 9 ^{the human body}

10 (4) "Massage therapist or bodyworker" means a person who is licensed as a
 11 massage therapist or bodyworker under this chapter.

12 (5) "Massage therapy or bodywork" means the science and healing art that uses
 13 manual actions to palpate and manipulate the soft tissue of the human body, and
 14 adjunctive therapies, to improve circulation, reduce tension, relieve soft tissue pain,
 15 or increase flexibility, and includes determining whether massage therapy or
 16 bodywork is appropriate or contraindicated, or whether a referral to another health
 17 care practitioner is appropriate. "Massage therapy or bodywork" does not include
 18 making a medical diagnosis.

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

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

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

22 **460.02 License required.** Except as provided in s. 460.03, no person may
 23 practice massage therapy or bodywork for compensation or in the expectation of
 24 compensation, or designate himself or herself as a massage therapist or bodyworker,
 25 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.,"

BILL

1 "L.M.T.," "B.W.," or "L.B.W.," or use any other title or designation that represents or
2 may tend to represent the person as a massage therapist or bodyworker, unless the
3 person is licensed under this chapter.

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

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

11 (2) A massage therapy or bodywork student practicing massage therapy or
12 bodywork, without compensation, within the scope of the student's education or
13 training, and under the on-premises supervision of an instructor.

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

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

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

22 (b) Restricts his or her touch to placing the ^cpalms of the hands on or above the
23 human body to influence ^{the}energy fields within or around the ^{human}body.

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

BILL

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

3 (a) A code of ethics that governs the professional conduct of massage therapists
4 or bodyworkers. The code of ethics shall prohibit a massage therapist or bodyworker
5 from 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. Rules promulgated under this
8 paragraph shall define the curricula and qualifications of instructors that are
9 required for approval of a school.

10 (c) Criteria for approving the courses of instruction required under s. 460.05
11 (1) (e) 2. and 3. Rules promulgated under this paragraph shall require the course of
12 instruction required under s. 460.05 (1) (e) 3. to consist of at least 600 classroom
13 hours.

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

16 (e) A definition of "~~place of prostitution~~" for purposes of s. 460.11 (3).

17 **460.05 Licensure of massage therapists or bodyworkers.** (1) The
18 examining board shall grant a license as a massage therapist or bodyworker to a
19 person who satisfies all of the following:

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

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

24 (c) The person submits an application for the license to the department on a
25 form provided by the department.

sexually oriented business

BILL

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

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

4 1. Graduated from a school of massage therapy or bodywork approved under
5 s. 45.54.

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

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

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

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

17 ~~460.06 Examination. (1) The examining board shall conduct or arrange for~~
18 ~~examinations for massage therapist or bodyworker licensure at least semiannually~~
19 ~~and at times and places determined by the examining board.~~

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

23 **460.07 Issuance of license; expiration and renewal.** (1) The department
24 shall issue a certificate of licensure to each person who is licensed under this chapter.

25 The person shall conspicuously display the certificate in the place of business where

BILL

1 he or she practices massage therapy or bodywork so that the certificate can easily be
2 seen and read.

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

8 **460.08 Temporary license.** Upon application and payment of the fee
9 specified in s. 440.05 (6), the examining board may grant a temporary massage
10 therapist or bodyworker license to a person who satisfies the requirements under s.
11 460.05 (1) (a) to (e), has submitted an application to take the next available
12 examination under s. 460.06, and has not previously failed the examination. A
13 temporary license granted under this section shall expire on the date on which the
14 person receives the results of the examination and may not be renewed.

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

21 **460.10 Continuing education.** The examining board may promulgate rules
22 establishing requirements and procedures for a massage therapist or bodyworker to
23 complete continuing education programs or courses of study to qualify for renewal
24 of his or her license. Any rules promulgated under this section shall require a
25 massage therapist or bodyworker to complete at least 12 hours of continuing

BILL

1 education programs or courses of study to qualify for renewal. The examining board
2 may waive all or part of any requirement established in rules promulgated under this
3 section if it determines that prolonged illness, disability, or other exceptional
4 circumstances have prevented a massage therapist or bodyworker from completing
5 the requirement.

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

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

17 (3) A massage therapist or bodyworker may not, whether for compensation or
18 not, practice massage therapy or bodywork for a ~~place of prostitution~~, as defined by
19 the examining board by rule.

20 **460.12 Duty to make reports.** (1) A massage therapist or bodyworker shall
21 submit a report to the examining board if he or she has reasonable cause to believe
22 that another massage therapist or bodyworker has committed a crime relating to
23 prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual
24 intercourse with a client. If the report relates to sexual contact or sexual intercourse

Sexually oriented
business

BILL

1 with a client, the report may not identify the client unless the client has provided
2 written consent for disclosure of this information.

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

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

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

BILL

1 a law enforcement agency within this state for purposes of investigation or
2 prosecution.

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

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

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

18 **460.14 Advertising.** A massage therapist or bodyworker may not advertise
19 that he or she practices massage therapy or bodywork unless the advertisement
20 includes his or her license number and a statement that the massage therapist or
21 bodyworker is a "licensed massage therapist and bodyworker" or "licensed massage
22 therapist" or "licensed bodyworker."

23 **460.15 Disciplinary proceedings and actions.** (1) Subject to the rules
24 promulgated under s. 440.03 (1), the examining board may make investigations and

BILL

1 conduct hearings to determine whether a violation of this chapter or any rule
2 promulgated under this chapter has occurred.

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

7 (a) Made a material misstatement in an application for a license or for renewal
8 of a license.

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

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

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

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

16 (f) Intentionally made a false statement in a report submitted under s. 460.12
17 (1).

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

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

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

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

BILL

1 (3) The examining board may restore a license 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 20.** 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 under
16 ~~subch. XI of ch. 440~~ 460 who renders voluntary health care to a participant in an
17 athletic event or contest sponsored by a nonprofit corporation, as defined in s. 46.93
18 (1m) (c), a private school, as defined in s. 115.001 (3r), a public agency, as defined in
19 s. 46.93 (1m) (e), or a school, as defined in s. 609.655 (1) (e), is immune from civil
20 liability for his or her acts or omissions in rendering that care if all of the following
21 conditions exist:

22 **SECTION 21.** 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 under ~~subch. XI~~
25 of ch. ~~440~~ 460, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447,

BILL

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

SECTION 22. Nonstatutory provisions.**(1) INITIAL APPOINTMENTS.**

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

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

11 2. One massage therapist or bodyworker member, for a term expiring on July
12 1, 2004.

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

15 4. One massage therapist or bodyworker member, for a term expiring on July
16 1, 2006.

17 (b) Notwithstanding section 15.405 (6r) (a) of the statutes, as created by this
18 act, for the purpose of being appointed and serving as members of the massage
19 therapy and bodywork examining board, the members need not be licensed under
20 chapter 460 of the statutes, as created by this act, until the first day of the 15th month
21 beginning after the effective date of this paragraph.

22 (2) EMERGENCY RULES. The massage therapy and bodywork examining board
23 may use the procedure under section 227.24 of the statutes to promulgate rules
24 required under section 460.04 (2) of the statutes, as created by this act.
25 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the examining

BILL

INSERT 19-4

1 board is not required to provide evidence that promulgating a rule under this
2 subsection as an emergency rule is necessary for the preservation of public peace,
3 health, safety, or welfare and is not required to provide a finding of emergency for a
4 rule promulgated under this subsection.

5 **SECTION 23. Initial applicability.**

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

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

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

14 **SECTION 24. Effective dates.** This act takes effect on the first day of the ~~first~~
15 month beginning after publication, except as follows:

16 (1) The treatment of section 15.405 (6r) of the statutes and SECTION 22 of this
17 act take effect on the day after publication.

18 (END)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

INSERT 2A:

3. Requires the examining board to issue licenses to persons who are registered under current law and to issue ^{two} 2-year temporary licenses to certain people who have not yet satisfied all of the bill's requirements for licensure.

INSERT 3A:

6. Prohibits cities, villages, towns, and counties from regulating the practice of massage therapy and bodywork by persons licensed under the bill. This prohibition is similar to a prohibition under current law regarding persons who are registered.

INSERT 6-13:

~~SECTION 4.~~ 440.98 to 440.981 of the statutes are repealed.

~~SECTION 5.~~ 440.982 (title) and (1) (intro.) and (a) of the statutes are repealed.

~~SECTION 6.~~ 440.982 (1) (b) of the statutes is renumbered 460.06 and amended

to read:

460.06 Examination. ~~Promulgate rules establishing the education, training or competency requirements that an applicant for a license must satisfy in order to be issued a license of registration under this subchapter. The rules shall require an applicant to complete at least 500 classroom hours of study in a course of instruction in massage therapy or bodywork approved by the department or at a school approved by the educational approval board under s. 45.54. The rules shall also require an~~ The examining board may not grant a license under this chapter unless the applicant whose application is received after March 1, 2000, to successfully complete completes the national certification examination for therapeutic massage and bodywork that is offered by the National Certification Board for Therapeutic Massage and Bodywork or a substantially equivalent examination relating to the practice of massage therapy or bodywork that is approved by the National

1 Commission of Certifying Agencies of the National Organization for Competency
2 Assurance or that is developed, administered or approved by the department
3 examining board. The examining board may promulgate rules may that also require
4 an applicant to pass an examination on state laws and administrative rules
5 governing massage therapy or bodywork.

History: 1997 a. 156; 1999 a. 9; 1999 a. 32 s. 303; 1999 a. 98, 186.

6 SECTION ~~4~~. 440.982 (1) (c) and (2) of the statutes are repealed.

7 SECTION ~~5~~. 440.983 to 440.988 of the statutes are repealed.

8 SECTION ~~6~~. 440.989 of the statutes is renumbered 460.17 and amended to read:

9 **460.17 Local regulation.** A city, village, town or county may not enact an
10 ordinance that regulates the practice of massage therapy or bodywork by a person

11 who is issued a license of registration by the department examining board under this

12 ~~subchapter~~ ^{chapter}. No provision of any ordinance enacted by a city, village, town or county
13 that is in effect before February 1, 1999, and that relates to the practice of massage

14 therapy or bodywork, may be enforced against a person who is issued a license of
15 registration by the department examining board under this ~~subchapter~~ ^{chapter}.

History: 1997 a. 156; 1999 a. 32 s. 310.

16 **INSERT 9-19:**

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

INSERT 19-41

1 of ch. 440, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
2 physician assistant certified under ch. 448 or a health care provider as defined in s.
3 655.001 (8).

No later than the first day of the 7th month beginning after the effective date of this paragraph

SECTION 16. Nonstatutory provisions.

NONSTATS
SUB.

A.R. ①

5 → (3) ^{TRANSITIONAL PROVISIONS} Notwithstanding section ~~440.973~~ ^{460.05 (1)} of the statutes, as created by this act, the
6 department of regulation and licensing shall do each of the following:

A.R. ②

7 → (a) Issue a license of registration as a massage therapist or bodyworker to a
8 person who ~~not~~ later than the last day of the 12th month beginning after the effective
9 date of this paragraph, does all of the following:

10 1. Submits an application to the department on a form approved by the
11 department that describes the person's education and his or her experience in the
12 practice of massage therapy and bodywork.

13 2. Passes an oral or written examination administered or approved by the
14 department that determines fitness to practice massage therapy or bodywork, or
15 provides evidence satisfactory to the department that he or she has passed a massage
16 therapy or bodywork examination administered by a national organization that
17 establishes standards for the practice of massage therapy or bodywork and that is
18 recognized by the department.

19 3. Pays the fee specified in section 440.05 (1) of the statutes.

A.R. ③

20 → (b) Issue a license of registration as a massage therapist or bodyworker to a
21 person who, no later than the 7th month beginning after the effective date of this
22 paragraph, does all of the following:

23 1. Submits an application to the ~~department~~ ^{examining board} on a form approved by the
24 ~~department~~ ^{examining board} that describes the person's education and his or her experience in the
25 practice of massage therapy or bodywork.

holds a valid license of registration as a massage therapist or bodyworker issued by the department of regulation and licensing under section 440.983, 1999 stats

INSERT 19-4
(continued)

examining board

1 2. Provides evidence satisfactory to the ~~department~~ that he or she satisfies each
2 of the following:

3 a. Has completed at least ~~100~~³⁰⁰ classroom hours of instruction in the practice of
4 massage therapy or bodywork, ~~or has practiced massage therapy or bodywork for~~
5 ~~compensation for at least 2 years during the 5-year period immediately preceding~~
6 ~~the date of the application.~~

7 b. Has in effect malpractice liability insurance coverage in an amount that is
8 not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one
9 year.

10 3. Pays the fee specified in section 440.05 (1) of the statutes.

11 (2) A license of registration issued under subsection ~~(4)~~ ~~(5)~~ ^{A.R.1 A.R.2} may be renewed
12 under section ~~440.05~~ ^{460.07(2)} of the statutes, as created by this act. A license of registration
13 issued under subsection ~~(4)~~ ~~(5)~~ ^{A.R.1 A.R.3} is valid until ~~2~~ ² years after that date that it is issued
14 and may not be renewed.

END of INSERT

SECTION 17. Initial applicability.

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

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

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

SECTION 18. Effective date.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3246/2dn

MDK:./:....

WJ

Senator Huelsman:

Please review this version carefully to make sure that it achieves your intent. In particular, please note the following:

1. This version is based on instructions received from Alan Weld, Betsy Krizenesky, and Vlad Thomas.

2. The definition of "manual action" includes "applying a passive range of motion to the human body". I understand that this language refers to assisting a person in stretching or similar activities.

3. Under current law, DORL is allowed, but not required, to require an applicant to pass an examination on state laws and rules governing massage therapy or bodywork. This version takes the same approach and allows the examining board to promulgate rules that require the ~~same thing~~. Therefore, someone who receives a temporary license under the grandfather provisions will have to pass the examination on state laws and rules only if the examining board promulgates rules that impose such a requirement. I'm pointing this out because your description in the document titled "Common Questions" says something a bit different, i.e., that such an examination will, rather than may be required. Therefore, I'm wondering whether I need to correct this version of the bill or not.

4. The effective date is the first day of the ^{seventh}~~7th~~ month, not ^{sixth}~~6th~~ month, beginning after publication. The reason is that if the bill is published near the end of the month, the first day of the ^{seventh}~~7th~~ month will result in a ^{six}~~6~~-month delayed effective date.

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

No
B

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3246/2dn
MDK:wlj:jf

October 9, 2001

Senator Huelsman:

Please review this version carefully to make sure that it achieves your intent. In particular, please note the following:

1. This version is based on instructions received from Alan Weld, Betsy Krizenesky, and Vlad Thomas.
2. The definition of "manual action" includes "applying a passive range of motion to the human body." I understand that this language refers to assisting a person in stretching or similar activities.
3. Under current law, DORL is allowed, but not required, to require an applicant to pass an examination on state laws and rules governing massage therapy or bodywork. This version takes the same approach and *allows* the examining board to promulgate rules that require the same thing. Therefore, someone who receives a temporary license under the grandfather provisions will have to pass the examination on state laws and rules only if the examining board promulgates rules that impose such a requirement. I'm pointing this out because your description in the document titled "Common Questions" says something a bit different, i.e., that such an examination *will*, rather than *may*, be required. Therefore, I'm wondering whether I need to correct this version of the bill or not.
4. The effective date is the first day of the seventh month, not sixth month, beginning after publication. The reason is that if the bill is published near the end of the month, the first day of the seventh month will result in a six-month delayed effective date.

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



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

October 9, 2001

MEMORANDUM

To: Senator Huelsman

From: Mark D. Kunkel, Legislative Attorney

Re: LRB-3246/2 Regulation of massage therapists and bodyworkers

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

_____ JACKET FOR ASSEMBLY ~~X~~ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0131 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.