

2001 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB413)

Received: 02/28/2002

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Rodney Moen (608) 266-8546**

By/Representing: **Melissa**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Moen@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Certification of massage therapists and bodyworkers

Instructions:

Prepare companion to Underheim substitute amendment

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 02/28/2002	gilfokm 02/28/2002		_____			
/1			jfrantze 03/01/2002	_____	lrb_docadmin 03/01/2002	lrb_docadmin 03/01/2002	

FE Sent For:

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FE Sent For:

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D-NOTE

2001 - 2002 LEGISLATURE

LRB 0019/3
MDK:kmg/wlj/cs:rs

SSA to SB 413

STAYS

Companion
- no changes

S 0343/1

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 749**

By
Friday
4:30pm

D - NOTE

RM NOT
AMU

February 26, 2002 - Offered by Representatives KAUFERT and UNDERHEIM.

Gen. Cmt.

1 **AN ACT to repeal** 440.08 (2) (a) 67q., subchapter XI (title) of chapter 440
2 [precedes 440.98], 440.98 to 440.981, 440.982 (title) and (1) (intro.) and (a),
3 440.982 (1) (c) and (2) and 440.983 to 440.988; **to renumber and amend**
4 440.982 (1) (b) and 440.989; **to amend** 50.01 (2), 55.043 (4) (e), 103.10 (1) (e),
5 146.40 (1) (d), 146.81 (1) (hp), 146.997 (1) (d) 13., 180.1901 (1m) (ag), 252.15 (1)
6 (ar) 1., 895.48 (1m) (intro.) and 908.03 (6m) (a); and **to create** 15.407 (7), 20.485
7 (5) (h), 440.08 (2) (a) 46r. and chapter 460 of the statutes; **relating to:** the
8 regulation of massage therapists and bodyworkers, creating a massage therapy
9 and bodywork council, granting rule-making authority, making an
10 appropriation, and providing a penalty.

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

11 **SECTION 1.** 15.407 (7) of the statutes is created to read:

1 15.407 (7) MASSAGE THERAPY AND BODYWORK COUNCIL. (a) There is created a
2 massage therapy and bodywork council in the department of regulation and
3 licensing, serving the department in an advisory capacity. The council shall consist
4 of 7 members, appointed for 4-year terms, who are massage therapists or
5 bodyworkers certified under ch. 460 and who have engaged in the practice of
6 massage therapy or bodywork for at least 2 years preceding appointment.

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

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

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

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

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

16 SECTION 2. 20.485 (5) (h) of the statutes is created to read:

17 20.485 (5) (h) *Certification of massage therapists and bodyworkers.* Ninety
18 percent of all moneys received under s. 460.05 (3) (c) and 2001 Wisconsin Act (this
19 act), section 23 (5) for making determinations regarding applications for massage
20 therapist and bodyworker certificates.

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

22 50.01 (2) "Nurse's assistant" means a person who performs routine patient care
23 duties delegated by a registered nurse or licensed practical nurse who supervises the
24 person, for the direct health care of a patient or resident. "Nurse's assistant" does
25 not mean a person who is licensed, permitted, certified, or registered under subch.

1 ~~XI of ch. 440 or ch. 441, 448, 449, 450, 451, 455 or, 459, or 460~~ or a person whose duties
2 primarily involve skills that are different than those taught in instructional
3 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 if
6 the misappropriation of property or neglect or abuse involves an individual who is
7 required to hold a credential, as defined in s. 440.01 (2) (a), under chs. 440 to ~~459~~ 460.

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

9 103.10 (1) (e) "Health care provider" means a person described under s. 146.81
10 (1), but does not include a person described under s. 146.81 (1) (hp).

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

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

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

22 146.81 (1) (hp) A massage therapist or bodyworker ~~issued a license~~ certified
23 under subch. XI of ch. 440 ch. 460.

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

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

3 **SECTION 9.** 180.1901 (1m) (ag) of the statutes is amended to read:

4 180.1901 (1m) (ag) The department of regulation and licensing under subch.
5 ~~XI of ch. 440~~ ch. 460.

6 **SECTION 10.** 252.15 (1) (ar) 1. of the statutes is amended to read:

7 252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but does
8 not include a massage therapist or bodyworker issued a ~~license of registration~~
9 ~~certificate~~ under subch. XI of ch. ~~440~~ 460.

10 **SECTION 11.** 440.08 (2) (a) 46r. of the statutes is created to read:

11 440.08 (2) (a) 46r. Massage therapist or bodyworker: July 1 of each
12 even-numbered year; \$53.

13 **SECTION 12.** 440.08 (2) (a) 67q. of the statutes, as affected by 2001 Wisconsin
14 Act 16, is repealed.

15 **SECTION 13.** Subchapter XI (title) of chapter 440 [precedes 440.98] of the
16 statutes is repealed.

17 **SECTION 14.** 440.98 to 440.981 of the statutes are repealed.

18 **SECTION 15.** 440.982 (title) and (1) (intro.) and (a) of the statutes are repealed.

19 **SECTION 16.** 440.982 (1) (b) of the statutes is renumbered 460.06 and amended
20 to read:

21 **460.06 Examinations.** ~~Promulgate rules establishing the education, training~~
22 ~~or competency requirements that an applicant for a license must satisfy in order to~~
23 ~~be issued a license of registration under this subchapter. The rules shall require an~~
24 ~~applicant to complete at least 500 classroom hours of study in a course of instruction~~
25 ~~in massage therapy or bodywork approved by the department or at a school approved~~

1 by the educational approval board under s. 45.54. The rules shall also require an The
2 department may not grant a certificate under this chapter unless the applicant
3 whose application is received after March 1, 2000, to successfully complete passes
4 the national certification examination for therapeutic massage and bodywork that
5 is offered by the National Certification Board for Therapeutic Massage and
6 Bodywork or ~~a substantially equivalent~~ an examination relating to the practice of
7 massage therapy or bodywork that is ~~approved~~ administered by a national board
8 that is accredited by the National Commission of ~~for~~ for Certifying Agencies of the
9 National Organization for Competency Assurance or that is developed, administered
10 or a substantially equivalent examination approved by the department. The
11 department shall promulgate rules ~~may~~ that also require an applicant to pass an
12 examination on state laws and administrative rules governing massage therapy or
13 bodywork.

14 SECTION 17. 440.982 (1) (c) and (2) of the statutes are repealed.

15 SECTION 18. 440.983 to 440.988 of the statutes are repealed.

16 SECTION 19. 440.989 of the statutes is renumbered 460.17 and amended to
17 read:

18 **460.17 Local regulation.** A city, village, town, or county may not enact an
19 ordinance that regulates the practice of massage therapy or bodywork by a person
20 who is issued a ~~license of registration~~ certificate by the department under this
21 ~~subchapter~~ chapter. No provision of any ordinance enacted by a city, village,
22 town, or county that is in effect before February 1, 1999, and that relates to the
23 practice of massage therapy or bodywork, may be enforced against a person who
24 is issued a ~~license of registration~~ certificate by the department under this
25 ~~subchapter~~ chapter.

1 any other title or designation that represents or may tend to represent that he or she
2 is certified under this chapter, unless the person is certified under this chapter.

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

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

9 (2) A person who is authorized to practice massage therapy or bodywork in
10 another state or country and is providing a consultation to or demonstration with a
11 certificate holder.

12 **460.04 Duties of department.** (1) The department shall assign a unique
13 certificate number to each person certified under this chapter.

14 (2) The department shall promulgate rules that establish all of the following:

15 (a) Standards that govern the professional conduct of certificate holders in
16 practicing massage therapy or bodywork. The standards shall prohibit a certificate
17 holder from having sexual contact or sexual intercourse with a client.

18 (b) Criteria for approving a training program for purposes of s. 460.05 (1) (e)
19 1. Rules promulgated under this paragraph shall require the training program to
20 consist of at least 600 classroom hours. The rules shall also require the criteria to
21 be consistent with the criteria of the Commission on Massage Therapy Accreditation
22 or the Accreditation Commission on Acupuncture and Oriental Medicine.

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

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

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

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

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

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

14 (4) When promulgating emergency rules under s. 227.24, the department shall
15 provide a copy of the rules to the council prior to publication of the rules in the official
16 state newspaper.

17 **460.05 Certification of massage therapists or bodyworkers.** (1) The
18 department shall grant a certificate 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 certificate to the department on
25 a form provided by the department.

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 department that he or she has done all of the following:

4 1. Graduated from a school of massage therapy or bodywork approved by the
5 educational approval board under s. 45.54 or completed a training program approved
6 by the department under the rules promulgated under s. 460.04 (2) (b).

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

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

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

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

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

22 (a) That the person submitted an application to the educational approval board
23 on a form provided by the educational approval board that describes the person's
24 education, training, and experience in the practice of massage therapy or bodywork

1 and includes evidence satisfactory to the educational approval board of all of the
2 following:

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

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

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

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

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

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

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

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

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

1 Renewal applications shall be submitted to the department on a form provided by the
2 department and shall include all of the following:

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

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

5 (c) Evidence satisfactory to the department that the applicant has in effect
6 malpractice liability insurance coverage in an amount that is not less than
7 \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

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

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

23 **460.10 Continuing education.** The department shall promulgate rules
24 establishing requirements and procedures for a certificate holder to complete
25 continuing education programs or courses of study to qualify for renewal of his or her

1 certificate. The rules shall require a certificate holder to complete 24 hours of
2 continuing education programs or courses of study every 2 years to qualify for
3 renewal. The department may waive all or part of any requirement established in
4 rules promulgated under this section if it determines that prolonged illness,
5 disability, or other exceptional circumstances have prevented a certificate holder
6 from completing the requirement.

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

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

17 (3) A certificate holder may not, whether for compensation or not, practice
18 massage therapy or bodywork for a sexually oriented business, as defined by the
19 department by rule.

20 **460.12 Duty to make reports.** (1) A certificate holder shall submit a report
21 to the department if he or she has reasonable cause to believe that another certificate
22 holder has committed a crime relating to prostitution under ss. 944.30 to 944.34 or
23 has had sexual contact or sexual intercourse with a client. If the report relates to
24 sexual contact or sexual intercourse with a client, the report may not identify the

1 client unless the client has provided written consent for disclosure of this
2 information.

3 (2) The department may use a report made under sub. (1) as the basis for an
4 investigation under s. 460.14 (1). If, after an investigation, the department has
5 reasonable cause to believe that a certificate holder has committed a crime, the
6 department shall report the belief to the district attorney for the county in which the
7 crime, in the opinion of the department, occurred.

8 (3) If, after an investigation, the department determines that a report
9 submitted under sub. (1) is without merit, the department shall remove the report
10 from the record of the certificate holder who is the subject of the report.

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

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

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

9 **460.13 Advertising.** A certificate holder may not advertise that he or she
10 practices massage therapy or bodywork unless the advertisement includes his or her
11 certificate number and a statement that the certificate holder is a “certified massage
12 therapist and bodyworker” or “certified massage therapist” or “certified
13 bodyworker.”

14 **460.14 Disciplinary proceedings and actions.** (1) Subject to the rules
15 promulgated under s. 440.03 (1), the department may make investigations and
16 conduct hearings to determine whether a violation of this chapter or any rule
17 promulgated under this chapter has occurred.

18 (2) Subject to the rules promulgated under s. 440.03 (1), the department may
19 reprimand a certificate holder or deny, limit, suspend, or revoke a certificate under
20 this chapter if it finds that the applicant or certificate holder has done any of the
21 following:

22 (a) Made a material misstatement in an application for a certificate or for
23 renewal of a certificate.

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

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

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

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

8 (f) Intentionally made a false statement in a report submitted under s. 460.12
9 (1).

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

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

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

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

18 (3) The department may restore a certificate that has been suspended or
19 revoked on such terms and conditions as the department may deem appropriate.

20 (4) Before taking any action under this section, the department shall consult
21 with the council and consider any recommendations of the council.

22 **460.15 Penalties.** (1) Except as provided in sub. (2), any person who violates
23 this chapter or any rule promulgated under this chapter shall forfeit not more than
24 \$1,000 for each violation.

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

4 **SECTION 21.** 895.48 (1m) (intro.) of the statutes is amended to read:

5 895.48 (1m) (intro.) Any physician or athletic trainer licensed under ch. 448,
6 chiropractor licensed under ch. 446, dentist licensed under ch. 447, emergency
7 medical technician licensed under s. 146.50, first responder certified under s. 146.50
8 (8), physician assistant licensed under ch. 448, registered nurse licensed under ch.
9 441, or a massage therapist or bodyworker issued a license of registration certificate
10 under ~~subch. XI of ch. 440~~ 460 who renders voluntary health care to a participant
11 in an athletic event or contest sponsored by a nonprofit corporation, as defined in s.
12 46.93 (1m) (c), a private school, as defined in s. 115.001 (3r), a public agency, as
13 defined in s. 46.93 (1m) (e), or a school, as defined in s. 609.655 (1) (c), is immune from
14 civil liability for his or her acts or omissions in rendering that care if all of the
15 following conditions exist:

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

17 908.03 (6m) (a) *Definition.* In this subsection, “health care provider” means
18 a massage therapist or bodyworker issued a license of registration certificate under
19 ~~subch. XI of ch. 440~~ 460, a chiropractor licensed under ch. 446, a dentist licensed
20 under ch. 447, a physician assistant licensed under ch. 448, or a health care provider
21 as defined in s. 655.001 (8).

22 **SECTION 23. Nonstatutory provisions.**

23 (1) **DEFINITIONS.** In this SECTION:

24 (a) “Department” means the department of regulation and licensing.

1 (b) "Massage therapy or bodywork" has the meaning given in section 460.01 (4)
2 of the statutes, as created by this act.

3 (2) INITIAL APPOINTMENTS.

4 (a) Notwithstanding section 15.407 (7) (a) of the statutes, as created by this act,
5 the initial members of the massage therapy and bodywork council shall be appointed
6 by the first day of the 3rd month beginning after the effective date of this paragraph
7 for the following terms:

8 1. Two members, for terms expiring on July 1, 2003.

9 2. Two members, for terms expiring on July 1, 2004.

10 3. Two members, for terms expiring on July 1, 2005.

11 4. One member, for a term expiring on July 1, 2006.

12 (b) Notwithstanding section 15.407 (7) (a) of the statutes, as created by this act,
13 for the purpose of being appointed and serving as members of the massage therapy
14 and bodywork council, the members need not be certified under chapter 460 of the
15 statutes, as created by this act, until the first day of the 15th month beginning after
16 the effective date of this paragraph.

17 (3) EMERGENCY RULES. The department may use the procedure under section
18 227.24 of the statutes to promulgate rules required under section 460.04 (2) of the
19 statutes, as created by this act. Notwithstanding section 227.24 (1) (a), (2) (b), and
20 (3) of the statutes, the department is not required to provide evidence that
21 promulgating a rule under this subsection as an emergency rule is necessary for the
22 preservation of public peace, health, safety, or welfare and is not required to provide
23 a finding of emergency for a rule promulgated under this subsection.

24 (4) TRANSITIONAL PROVISIONS; REGISTRANTS. Notwithstanding section 460.05 (1)
25 of the statutes, as created by this act, the department shall, no later than the first

1 day of the 7th month beginning after the effective date of this subsection, issue a
2 certificate as a massage therapist or bodyworker to a person who holds a valid license
3 of registration as a massage therapist or bodyworker issued by the department under
4 section 440.983, 1999 stats.

5 (5) TRANSITIONAL PROVISIONS; NONREGISTRANTS. Notwithstanding section 460.05
6 (1) of the statutes, as created by this act, the department shall issue a certificate as
7 a massage therapist or bodyworker to a person if the educational approval board
8 notifies the department that the educational approval board has determined all of
9 the following:

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

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

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

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

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

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

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

6 **SECTION 24. Initial applicability.**

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

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

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

15 **SECTION 25. Effective dates.** This act takes effect on the first day of the 7th
16 month beginning after publication, except as follows:

17 (1) The treatment of section 15.407 (7) of the statutes and SECTION 23 (1), (2),
18 and (3) of this act take effect on the day after publication.

19 (END)

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

LRBs0343/1dn

MDK: k...

mg

Senator Moen:

This substitute amendment is identical to Rep. Underheim's LRBs0319/3.

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

LRBs0343/1dn
MDK:kmg:jf

March 1, 2002

Senator Moen:

This substitute amendment is identical to Rep. Underheim's LRBs0319/3.

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