

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA(LRBs0343/1)-SB413)

Received: 03/05/2002

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Tom Fonfara**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - misc**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to: **myra.shelton@drl.state.wi.us**
william.dusso@drl.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Grandfathering current license holders; effective date of bill; continuing education; certificate renewal date; eliminating temporary certificates; DRL approval of required training

Instructions:

See Attached

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 03/05/2002	gilfokm 03/05/2002	jfrantze 03/06/2002	_____	lrb_docadmin 03/06/2002	lrb_docadmin 03/06/2002	

FE Sent For:

<END>

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Carbon copy (CC:) to:

*PA:
also email to
William Dusso &
Myra Shelton at
the Dept of Reg &
Licensing.*

Pre Topic:

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Topic:

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1?	kunkemd	1-3/4 kmp	9/6/16	Jb/Pg 3/4			

FE Sent For:

<END>

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

Scott McCallum
Governor
Oscar Herrera
Secretary



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FACSIMILE TRANSMITTAL SHEET

From the Office of the Secretary

Mark Kunkel 3-5-02
COMPANY: DATE:

Mark Kunkel Bill Black
TO: FROM:

264-6948 7
FAX NUMBER: NO. OF PAGES INCLUDING COVER:

266-1790
PHONE NUMBER: SENDER'S PHONE NUMBER:

RE: Sub Am 1 - AB749

SubAm. 1-15749 sugg. revisions

Section 11 p. 4 ln 11-12

sect 20 p. 7 ln 20-22

sect 20 p. 11 ln 4-16
p. 11 ln 23 - "may"

sect 23 p. 17 ln 24-25
p. 18 1 -
see change

3-5-02

✓ WAB

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 ~~year-numbered year; \$53.~~ *March 1, 2003*

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 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 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 ^{may} 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 (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~~

2001 - 2002 Legislature

- 18 -

LRBs0319/3
MDK:kmg/wlj/cs:rs
SECTION 23

upon the renewal date specified in S. 440.08(2)(b)?

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, *OR 1997 Wis. Act 156 section 16(1)(a)*

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.

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

Scott McCallum
Governor
Oscar Herrera
Secretary



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FACSIMILE TRANSMITTAL SHEET

From the Office of the Secretary

Mark Kunkel
COMPANY:

3-5-02
DATE:

Mark Kunkel
TO:

Bill Black
FROM:

264-6948
FAX NUMBER:

2
NO. OF PAGES INCLUDING COVER:

PHONE NUMBER:

266-1790
SENDER'S PHONE NUMBER:

RE: → page 12 / re 1-2-CE
requirement
add to AB 749
revisions

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



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBa1469/1

MDK:.....

tomorrow
3/6
1030am

D-NOTE

SENATE AMENDMENT,
TO SENATE SUBSTITUTE AMENDMENT (LRBs0343/1),
TO 2001 SENATE BILL 413

1 At the locations indicated, amend the substitute amendment as follows:

- 2 ✓ 1. Page 4, line 11: delete "July" and substitute "March".
- 3 ✓ 2. Page 4, line 12: delete "even-numbered" and substitute "odd-numbered".
- 4 ✓ 3. Page 7, line 20: delete the material beginning with "The rules ~~shall~~" and
- 5 ending with the period on page ~~11~~ line 22.
- 6 ✓ 4. Page 10, line 24: delete the material beginning with the comma and ending
- 7 with the comma on page ~~11~~ line 25.
- 8 ✓ 5. Page 11, line 8: delete lines 8 to 16.
- 9 ✓ 6. Page 11, line 23: delete "shall promulgate" and substitute "may
- 10 promulgate".

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✓ 7. Page 12, line 1: delete the material beginning with "The rules" and ending with the period on ~~page 12~~ ^{line 3}.

✓ 8. Page 17, line 24: delete the material beginning with that line and ending with page 18, line 4, and substitute:

~~(4)~~ TRANSITIONAL PROVISIONS; REGISTRANTS. Notwithstanding section 460.05 (1) of the statutes, as created by this act, the department shall issue a certificate as a massage therapist or bodyworker to a person who holds a valid license of registration as a massage therapist or bodyworker issued by the department under section 440.983, 1999 stats., or 1997 Wisconsin Act 156, section 16 (1) (a), and who applies to renew such a license of registration that expires on March 1, 2003, under section 440.08 (2) (a) 67q., 1999 stats., if the person satisfies the requirements under section 440.985, 1999 stats."

✓ 9. Page 19, line 15: ~~delete the material beginning with "the first day" and ending with "publication" on page 19, line 18 and substitute "March 1, 2003".~~

(END)

nonstat

delete lines 15 to 18 and

substitute:

A "SECTION 25m. Effective date.

A (1x) This act takes effect on March 1, 2003."

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1469/1dn

MDK:1.2...

King

Senator Moen:

This amendment does all of the following:

1. Makes the renewal date consistent with the renewal date under current law.
2. Eliminates the requirement that DRL's rules regarding approving training programs ~~will~~ be consistent with the private organizations specified in the substitute amendment. *e*
3. Eliminates temporary certificates.
4. Allows, but does not require, DRL to promulgate continuing education rules.
5. Eliminates the requirement that the continuing education rules ~~will~~ require completion of 24 hours every 2 years.
6. Changes the "grandfather" provision for current registrants so that it applies only to registrations under current law that are renewable. The amendment also coordinates this "grandfather" provision with DRL's renewal of registrations under current law.
7. Changes the delayed effective date to March 1, 2003, which is consistent with the renewal date under current law (and under this amendment). This change eliminates some practical problems that would arise if the bill were to go into effect shortly before the renewal date under current law.

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**

LRBa1469/1dn
MDK:kmg:jf

March 6, 2002

Senator Moen:

This amendment does all of the following:

1. Makes the renewal date consistent with the renewal date under current law.
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3. Eliminates temporary certificates.
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