



State of Wisconsin  
2001 - 2002 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 413**

March 6, 2002 - Offered by COMMITTEE ON HEALTH, UTILITIES, VETERANS AND  
MILITARY AFFAIRS.

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           **SECTION 20.** Chapter 460 of the statutes is created to read:

2   **CHAPTER 460**

3   **MASSAGE THERAPY AND BODYWORK**

4           **460.01 Definitions.** In this chapter:

5           (1) “Certificate holder” means a person granted a certificate under this chapter.

6           (2) “Council” means the massage therapy and bodywork council.

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

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

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

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

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

20          **460.02 Certificate required.** Except as provided in s. 460.03, no person may  
21          designate himself or herself as a massage therapist or bodyworker, or use or assume  
22          the title “massage therapist and bodyworker” or “massage therapist” or  
23          “bodyworker” or any title that includes “massage therapist” or “bodyworker,” or  
24          append to the person’s name the letters “M.T.,” “C.M.T.,” “B.W.,” or “C.B.W.,” or use

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)