

An act to repeal, add, and repeal Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code, and to amend Section 628.5 of the Penal Code, relating to healing arts.

SECURED
COPY



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The practice of massage therapy is a profession in need of regulation and that only qualified persons be permitted to engage in the practice of massage therapy.

(b) The practice of massage therapy contributes to choice in health care and is in need of regulation toward that end.

(c) It is the intent of the Legislature to comprehensively regulate the massage therapy profession by establishing the California Board of Massage Therapy in the Department of Consumer Affairs to issue licenses to practice massage therapy in accordance with this chapter, by defining the terminology describing competencies of massage therapy professionals, and by ensuring full compliance with, and execution of, the requirements of this act including prohibition of the practice of massage therapy within the state by individuals not licensed under the act.

(d) It is the intent of the Legislature that this act enable consumers and local governments to more easily identify qualified massage professionals, provide for consistent statewide licensing and oversight of massage professionals, ensure that schools approved by the board that are teaching massage therapy provide a sufficiently high level of training, and assist local governments and law enforcement in meeting their duty to maintain the highest standards of conduct by massage therapists by vetting and disciplining licensees when necessary, thereby assuring that massage therapy can no longer be used as a subterfuge to violate subdivision (a) or (b) of Section 647 of the Penal code.

(e) It is the intent of the Legislature that broad control over business licenses be vested in local governments so they may equitably manage those businesses to ensure massage therapy business licenses do not cost more than other business licenses in that community. In addition, the practice of the profession of massage therapy remains a matter of statewide concern, regulation, and oversight. It is further declared that this act is intended to fully occupy the entire field of massage therapy and that any city, county, or subdivision thereof is prohibited from adopting laws that infringe on the scope of this act. This act shall be liberally construed to effectuate the broad purpose of protecting the health, safety, and welfare of the public.

(f) It is the intent of the Legislature that local governments impose and enforce only reasonable and necessary fees and regulations, in keeping with the requirements of existing law and being mindful of the need to protect legitimate massage professional business owners, particularly sole providers, for the sake of developing a healthy and vibrant local economy.

(g) It is the intent of the Legislature that local governments, law enforcement, and the massage profession work together to improve communication and share information to further increase the value of statewide licensing and other aspects of implementation of this act, with particular attention to creation of an effective information exchange to enable local law enforcement inspecting a massage therapy license to be able to access in real time a statewide massage therapy license database.

(h) It is the intent of the Legislature to declare that the practice of massage therapy merit and receive the confidence of the public through the enforcement of this act, any applicable regulations, and other relevant laws.



SEC. 2. Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code is repealed.

SEC. 3. Chapter 10.5 (commencing with Section 4600) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 10.5. MASSAGE THERAPY LICENSURE ACT

Article 1. General Provisions

4600. (a) This chapter shall be known, and may be cited, as the Massage Therapy Licensure Act.

(b) This act supersedes the Massage Therapy Act, the voluntary certification program administered by the California Massage Therapy Council from September 1, 2009, to December 31, 2022. Any reference to the Massage Therapy Act shall be construed to refer to this act.

4601. There is in the Department of Consumer Affairs the California Board of Massage Therapy in which the administration of this chapter is vested.

4602. The following definitions apply for the purposes of this chapter:

(a) "Board" means the California Board of Massage Therapy.

(b) "Clock hour" means a full 60-minute period, with at least 50 minutes of instruction or learning activities.

(c) "License" means a license issued by the board pursuant to this chapter.

(d) "Licensee" means a person licensed to practice massage therapy pursuant to this chapter.

(e) "Manager" means a person managing a massage business.

(f) "Massage" or "massage therapy" means a service involving the external manipulation or pressure of soft tissue for therapeutic purposes, including, but not limited to, the following:

(1) Assessment, evaluation, or treatment.

(2) Pressure, friction, stroking, rocking, gliding, kneading, percussion or vibration.

(3) Active or passive stretching of the body within the normal anatomical range of movement.

(4) Use of manual methods or mechanical or electrical devices or tools that mimic or enhance the action of human hands.

(5) Use of topical applications such as lubricants, scrubs, or herbal preparations.

(6) Use of hot or cold applications.

(7) Use of hydrotherapy.

(8) Client education.

(g) "Massage therapist" means an individual licensed to practice massage therapy.

(h) "Owner" means the person, partnership, limited partnership, or corporation that operates a massage business.

4603. (a) This chapter shall be liberally construed to effectuate its purposes.

(b) The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applicants that can be given effect without the invalid provision or application.

4604. (a) This act shall become operative on January 1, 2023.



(b) This chapter shall remain in effect only until January 1, 2027, and as of that date is repealed.

Article 2. Administration

4605. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

4606. The board shall be comprised of not fewer than seven members appointed by the Governor as follows:

(a) At least five members of the board shall be massage therapists licensed pursuant to this chapter and in good standing who shall have been engaged in the practice of massage therapy or the instruction of massage therapy in an approved massage therapy education program for at least three consecutive years before the date of appointment. No more than two members shall have been engaged in the instruction of massage therapy.

(b) Two members shall be consumer members. Each consumer member shall have been a resident of California for not fewer than three years, shall have attained 21 years of age, and shall not ever have been a massage therapist or the spouse thereof, or a person who has a material interest in the profession of massage therapy.

(c) Board member terms shall be for four years and vacancies shall be filled for unexpired terms. No person shall serve for more than two consecutive terms.

(d) The terms of the members of the board shall be staggered. The initial board shall be comprised of three members appointed for four-year terms, two members for three-year terms, and two members for two-year terms. Each appointee to the initial board shall only be eligible for reappointment for one additional four-year term.

4607. The board is authorized to implement, interpret, and enforce this chapter, including, but not limited to, all of the following:

(a) Evaluate the qualifications of applicants for licensure.

(b) Issue and renew a license to applicants who meet licensure requirements.

(c) Establish and enforce educational standards for recognition, approval and withdrawal of approval of programs or schools of massage therapy.

(d) Request that a licensed massage therapist present their license for verification.

(e) Maintain a database of all licensees, including disciplinary data.

(f) Employ personnel to carry out administrative work of the board and the necessary functions of this chapter and enter into contracts for services as necessary for enforcement of this chapter.

(g) Impose discipline in accordance with this chapter.

(h) Enter into appropriate data sharing information agreements according to state or federal law.

(i) Establish and enforce standards of practice and codes of conduct.

(j) Investigate and administratively prosecute any allegations of wrongdoing undertaken by any person, entity, licensee, or organization.

(k) Work with local law enforcement for discipline of acts that violate Section 628 of the Penal Code.



(l) Undertake other duties, powers, and authority as may be necessary to the enforcement of this chapter and regulations promulgated hereunder determined to be in the interest of public health, safety, and welfare.

4608. The board shall establish qualifications and uphold standards of competence for licensure pursuant to this chapter. These requirements shall include, but are not limited to, educational training and experience, examination requirements, and licensure requirements for individuals licensed in other states or jurisdictions.

4609. The board shall promulgate regulations deemed necessary by the board for the administration and enforcement of this chapter.

Article 3. Licensure and Registration

4610. (a) This act succeeds the Massage Therapy Act, a voluntary certification program administered by the California Massage Therapy Council, which issued certifications to practice massage therapy beginning September 1, 2009 to December 31, 2022.

(b) An individual certified in good standing by the council as of December 31, 2022, shall automatically qualify for licensure under this act and may practice massage therapy through the date on which their certificate issued by the council expires without paying additional fees related to their initial licensure period.

(c) Until March 31, 2023, a valid certificate issued by the council shall authorize the holder to practice massage therapy pursuant to this chapter.

(d) On or before March 31, 2023, the board shall issue a license and identification card to individuals identified in subdivision (b). The license shall be valid until the date on which the licensee's certification was scheduled to expire, at which time the licensee may apply for license renewal under Section 4611. The continuing education requirements otherwise required for a renewal shall be waived for this initial license renewal by previously certified individuals.

4611. The board shall issue a license to practice massage therapy to an applicant who satisfies all of the following:

(a) The applicant is at least 18 years of age.

(b) The applicant has successfully completed a curriculum in massage therapy at one or more approved massage therapy schools totaling a minimum of 500 hours, or the credit unit equivalent, that incorporates appropriate school assessment of student knowledge and skills. A minimum of 100 hours of instruction shall address anatomy and physiology, contraindications, health and hygiene, and business and ethics.

(c) The applicant has passed a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards that has been developed principally for the purpose of assessing readiness to begin practicing massage therapy, and that is approved by the board.

(d) The applicant has successfully passed a background investigation pursuant to Section 4616, and has not violated any of the provisions of this chapter.

(e) The applicant has paid all fees required by the board pursuant to this chapter.

4612. Notwithstanding Section 4611, the board shall issue a license to an applicant who meets the qualifications of this chapter if the applicant holds a current and valid registration or license from any other state whose licensure requirements meet or exceed those defined within this chapter. If an applicant has received education



at a school that is not approved by the board, the board shall have the discretion to give credit for comparable academic work completed by an applicant in a program outside of California.

4612.5. A license issued pursuant to this chapter and any identification card issued by the board shall be surrendered by any licenseholder whose license is suspended or revoked.

4613. Notwithstanding Section 4611, an applicant who is not certified as a massage therapist as of December 31, 2022, who has been practicing massage therapy in California for at least three of the immediately preceding five years may apply for licensure by demonstration of professional experience by complying with all of the following:

(a) Provide proof that they have been practicing massage therapy in California for at least three of the immediately previous five years. Proof of practice shall be evidenced by submitting income tax returns.

(b) Pass a background investigation pursuant to Section 4616 and has not violated any of the provisions of this chapter.

(c) Pay all fees required by the board pursuant to this chapter.

(d) Apply for licensure under this section on or before March 31, 2024.

4614. Notwithstanding Section 4611, a person who is not certified as a massage therapist as of December 31, 2022, but is currently practicing massage therapy in California alternatively may qualify for licensure by satisfying all of the following:

(a) On or before March 31, 2024, providing proof to the board of having attained a passing score on the Massage and Bodywork Licensing Exam (MBLEx).

(b) Passing a background investigation pursuant to Section 4616 and has not violated any of the provisions of this chapter.

(c) Paying all fees required by the board pursuant to this chapter.

4614.5. A licensee shall notify the board of their home address and the address of any business establishment where they regularly work as a licensed massage therapist, whether as an employee or as an independent contractor. A licensee shall notify the board within 30 days of the changing of either their home address or the business establishment where they regularly work as a massage therapist.

4615. (a) A massage business shall register with the board and shall provide the names and contact information of the massage business owners and managers. Solo practitioners or licensees who work alone in a business with no partners shall not be required to register pursuant to this section.

(b) The board may charge a registration fee for the board's reasonable costs to administer this section. The fee shall be not less than twenty-five dollars (\$25) and shall not exceed fifty dollars (\$50).

4616. (a) Before issuing a license to an applicant, the board shall require the applicant to submit fingerprint images and related information to the Department of Justice for the purpose of obtaining information as to the existence and nature of a record of state and federal level convictions and of state and federal level arrests for which the Department of Justice establishes that the applicant or candidate was released on bail or on their own recognizance pending trial. Requests for federal level criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. The Department of Justice shall review the information returned from the



Federal Bureau of Investigation and shall compile and disseminate to the board a fitness determination regarding the applicant or candidate.

(b) The Department of Justice shall provide information to the board pursuant to subdivision (p) of Section 11105 of the Penal Code.

(c) The Department of Justice and the board shall charge a fee sufficient to cover the cost of processing the request for state and federal level criminal offender record information.

(d) The board shall request subsequent arrest notification service from the Department of Justice as provided under Section 11105.2 of the Penal Code for all applicants for licensure or custodians of records candidates for whom fingerprint images and related information are submitted, to conduct a search for the state and federal level criminal offender record information.

(e) This section shall become operative January 1, 2023. Individuals qualifying for licensure under Section 4610 shall be exempt from the provisions of this section because they have already satisfied identical background requirements to secure California Massage Therapy Council certification.

(f) The board is authorized to receive arrest notifications and other background materials about applicants and licenseholders from a city, county, or city and county.

(g) In addition to licensees, the board of directors, employees, or volunteers of a massage business shall be required to pass a background check in accordance with this section.

4617. The board shall establish by regulation the time and manner for renewal of licensure and renewal fees. The board may request additional information from renewal applicants. Renewal shall be every two years. Other than an exemption described in subdivision (d) of Section 4610 for a class of applicants, renewal shall be conditional upon the applicant having completed a minimum of 12 hours of continuing education meeting board requirements during the 24 months immediately preceding an applicant's renewal date.

4618. (a) This act shall not restrict a student who is enrolled in an approved massage therapy education program from engaging in the practice of massage therapy in a supervised setting as part of a required course of study in the program, so long as the student is identified as a student.

(b) This act shall not be construed to prohibit or affect the practice of a profession by persons who are licensed, certified, or registered under this division or other laws of this state and who are performing services within their authorized scope of practice.

4618.5. (a) An individual licensed and in good standing to practice massage therapy in another state is authorized to apply to the board for a temporary license that authorizes the holder to practice massage therapy in this state for a specified event, not to exceed 30 days per year, including for the purpose of practicing massage on persons participating in a sports or athletic event or an educational seminar. A temporary license authorizes the holder to practice massage therapy for the period of the event or 30 days, whichever is less, for the limited purpose for which the temporary license is authorized and does not authorize the holder to practice massage therapy on the general public.

(b) An applicant for a temporary license shall submit a written application prescribed by the board.

(c) A person may be issued only one temporary license authorizing the holder to practice massage therapy for not more than 30 days within one year. A person who



is issued a temporary license pursuant to this section is subject to regulation by the board and shall be bound by the laws of this state.

4619. This act shall not apply to a person who does not hold themselves out as a massage therapist and limits their work to one or more of the following practices:

(a) Using touch, words, and directed movement to deepen awareness of existing patterns of movement and suggesting new possibilities of movement, including, but not limited to, the Feldenkrais Method of somatic education, the Trager Approach to movement education, body-mind centering, and Ortho-bionomy.

(b) Using minimal touch over specific points on the body to facilitate balance in the nervous system, including Bowenwork.

(c) Using touch to affect the energy systems, acupoints, or qi meridians (channels of energy) of the human body, including, but not limited to, acupressure, Asian bodywork therapy, biodynamic craniosacral therapy, Jin Shin Do Bodymind Acupressure, polarity, polarity therapy, polarity therapy bodywork, qigong, reiki, shiatsu, and tuina.

(d) Applying pressure to reflex points on the feet, hands, and ears to bring the body into balance, thereby promoting the well-being of clients, including, but not limited to, reflexology.

Article 4. Massage Therapy Schools

4620. (a) The board shall approve a massage therapy education program that meets the minimum standards for training and curriculum in massage and related subjects, and that meets any of the following requirements:

(1) Is approved by the Bureau for Private Postsecondary Education.

(2) Is approved by the Department of Consumer Affairs.

(3) Is an institution accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges and that is one of the following:

(A) A public institution.

(B) An institution incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, and that is not managed by any entity for profit.

(C) A for-profit institution.

(D) An institution that does not meet all of the criteria in subparagraph (B) that is incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, that has been in continuous operation since April 15, 1997, and that is not managed by any entity for profit.

(4) Is a public postsecondary educational institution, as defined in Section 69950 of the Education Code.

(5) Is a school requiring equal or greater training than what is required pursuant to this chapter and is recognized by the corresponding agency in another state or accredited by an agency recognized by the United States Department of Education.

(b) Education received outside of the United States must be substantially equivalent to the criteria of this chapter and must be recognized by the jurisdiction in which it is located.



4621. (a) The board shall determine whether the school from which an applicant has obtained the education required by this chapter meets the requirements of this article.

(1) If the board has any reason to question whether or not the applicant received the education that is required by this chapter from the school or schools that the applicant is claiming, the board shall investigate the facts to determine that the applicant received the required education prior to issuing a certificate.

(2) For purposes of this section and any other provision of this chapter that authorizes the board to receive factual information as a condition of taking any action, the board may conduct oral interviews of the applicant and others or conduct any investigation deemed necessary to establish that the information received is accurate and satisfies the criteria established by this chapter.

(b) The board shall develop policies, procedures, rules, or bylaws governing the requirements and process for approval of schools, including any corrective action required to return a school to approved status. The policies, procedures, rules, or bylaws shall address topics including, but not limited to, what constitutes an acceptable curriculum, facility requirements, student-teacher ratios, clinical practice requirements, and provisions for the acceptance of accreditation from a recognized accreditation body or other form of acceptance. The board shall exercise its authority to approve schools and specify corrective action.

(c) In developing a school approval process, the board shall work with the Bureau for Private and Postsecondary Education to draft an application that has consistent language for both approval applications.

(d) The board may charge a reasonable fee, not to exceed two thousand dollars (\$2,000) for initial approval for two years and not to exceed one thousand dollars (\$1,000) for each subsequent two-year renewal, for the inspection or approval of schools, provided the fees do not exceed the reasonable cost of the inspection or approval process.

Article 5. Enforcement

4625. (a) Any person who advertises or engages in massage for compensation without a current valid license pursuant to this chapter is guilty of a misdemeanor.

(b) It is unlawful to use the word "massage" or any other term that implies massage technique or method when advertising a service by a person who is not licensed under this chapter or another chapter of state law.

(c) A massage therapist shall provide a copy of the license issued pursuant to this chapter to practice massage therapy upon request by the board, a designate of the board, local law enforcement or local government representatives.

4626. (a) The board shall investigate complaints alleging a violation of this chapter.

(b) The board shall keep a record of all complaints received and the resolution of each complaint, including any final adverse action rendered.

(c) The board may impose an immediate suspension of licensure in cases where continued practice by a massage therapists poses an imminent and continuing threat to public health, welfare, or safety so long as the board schedules a hearing to occur within 60 days of the effective date of the suspension order.



4626.5. The board shall assume the authority of the California Massage Therapy Council to investigate and take action on any enforcement or disciplinary matters that are outstanding on and after January 1, 2023.

4627. (a) If the board receives notice that a licenseholder has been arrested and charges have been filed by the appropriate prosecuting agency against the licenseholder alleging a violation of Section 628 of the Penal Code or any other offense described in subdivision (i) of Section 4628, the board shall take all of the following actions:

- (1) Immediately suspend, on an interim basis, the license of that licenseholder.
- (2) Notify the licenseholder within 10 days at the address last filed with the board that the license has been suspended, and the reason for the suspension.
- (3) Notify within 10 days any business that the board has in its records as employing the licenseholder that the license has been suspended.

(b) Upon notice to the board that the charges described in subdivision (a) have resulted in a conviction, the suspended license shall become subject to permanent revocation. The board shall provide notice to the licenseholder within 10 days that it has evidence of a valid record of conviction and that the license will be revoked unless the licenseholder provides evidence within 30 days that the conviction is either invalid or that the information is otherwise erroneous.

(c) Upon notice that the charges have resulted in an acquittal, or have otherwise been dismissed prior to conviction, the license shall be immediately reinstated and the licenseholder and any business that received notice pursuant to subparagraph (C) of paragraph (1) shall be notified of the reinstatement within 10 days.

4628. The following shall be grounds for the board to impose one of more disciplinary actions:

(a) Conduct that violates any provision of this chapter or board rules adopted hereunder, including a violation of the standards of practice and codes of conduct adopted by the board.

(b) Aiding or abetting another person in the violation of this chapter or board rules.

(c) Fraud, deceit, or misrepresentation in obtaining or attempting to obtain or renew a license.

(d) Aiding and or abetting another person or entity in the unlicensed practice of massage therapy.

(e) Misuse of a license, including sale or barter of a license; use of another's license; or allowing use of a license by an unlicensed person or entity.

(f) Practicing outside the scope of authority, training, and education.

(g) Delegation of professional responsibilities to a person who is not educated or trained to undertake such responsibilities.

(h) Incapacity or impairment that prevents such licensee from engaging in the practice of massage therapy with reasonable skill, competence, and safety.

(i) Conviction of a felony or misdemeanor related to the practice of massage therapy, including, but not limited to, Section 236.1 or 628 of the Penal Code.

(j) Violations of the laws or rules of this state, violations of laws or rules of any other state, or violations of the laws or rules of the federal government.

(k) Failure to pay the costs or fines assessed by the board.

(l) Conduct that violates the security of any licensure examination, including but not limited to obtaining access to examination questions prior to the exam,



reproduction of examination questions, dissemination of examination questions whether for or not for compensation, or any other conduct that breaches the security of a licensure examination or any other examination used to qualify Applicants for licensure or renewal.

(m) Being subject to any disciplinary sanction from this or any other jurisdiction against any professional license, including any license related to the practice of massage therapy.

(n) Engaging in unprofessional conduct as determined by the board.

(o) Negligence, gross negligence, incompetence, or gross incompetence.

(p) Deceptive, untrue, or fraudulent billing, charges, use of titles, terms, or representations in the practice of massage therapy.

(q) Failure to cooperate in any investigation including the submission of documents duly requested by the board.

(r) Failure to comply with any board order, including a final adverse action.

4629. (a) The board may discipline a licenseholder by any, or a combination, of the following methods:

(1) Placing the licenseholder on probation.

(2) Suspending the license and the rights conferred by this chapter on a licenseholder for a period not to exceed one year.

(3) Revoking the license.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Taking other actions as the board, as authorized by this chapter or its bylaws, deems proper.

(b) The board may issue an initial license on probation, with specific terms and conditions, to any applicant.

4630. (a) A denial of a license or discipline of a licenseholder shall be in accordance with this section.

(b) Any license applicant denial or licenseholder discipline shall be done in good faith and in a fair and reasonable manner. Any procedure that conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the license denial or licenseholder discipline are considered.

(c) A procedure is fair and reasonable when the procedures in Section 4627 are followed, or if all of the following apply:

(1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of those provisions are sent annually to all the members as required by the articles or bylaws.

(2) It provides the giving of 15 days prior notice of the license denial or licenseholder discipline and the reasons therefor.

(3) It provides an opportunity for the license applicant or licenseholder to be heard, orally or in writing, not less than five days before the effective date of the license denial or licenseholder discipline by a person or body authorized to decide that the proposed license denial or licenseholder discipline not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class



or certified mail sent to the last address of the license applicant or licenseholder shown on the board's records.

(e) Any action challenging a license denial or licenseholder discipline, including any claim alleging defective notice, shall be commenced within one year after the date of the license denial or licenseholder discipline. If the action is successful, the court may order any relief, including reinstatement, that it finds equitable under the circumstances.

(f) This section governs only the procedures for license denial or licenseholder discipline and not the substantive grounds therefor. A license denial or licenseholder discipline based upon substantive grounds that violates contractual or other rights of the member or is otherwise unlawful is not made valid by compliance with this section.

(g) A license applicant or licenseholder who is denied or disciplined shall be liable for any charges incurred, services or benefits actually rendered, dues, assessments, or fees incurred before the license denial or licenseholder discipline or arising from contract or otherwise.

4632. (a) It is unlawful for any person or entity to:

(1) Practice massage therapy without a valid license.

(2) Own, operate, or manage a business which employs, contracts with, or allows one or more unlicensed persons to offer or provide massage therapy.

(3) Represent, hold out, offer, or advertise that they are a licensed massage therapist unless licensed by the board.

(4) Advertise or use the words massage therapy, massage, massage therapist, licensed massage therapist, masseur, masseuse, the letters "LMT," or any other words, abbreviations, or insignia indicating or implying that massage therapy is provided, unless they are licensed pursuant to this chapter.

(5) Advertise a service, the provision of which would constitute a violation of this chapter or rules established by the board.

(b) In addition to any other available remedies, engaging in any of the prohibited behaviors described in subdivision (a) constitutes unfair competition under Section 17200.

(c) The board may:

(1) Fine any individual whom or entity which, after a hearing, is found by the board to have unlawfully engaged in the practice of massage therapy; such fine is not to exceed one thousand dollars (\$1,000) for each offense.

(2) Fine any owner or manager which, after a hearing, is found by the board to have unlawfully hired or engaged individuals who are unlicensed in the practice of massage therapy; such fine is not to exceed five thousand dollars (\$5,000) for each offense.

(3) Seek a civil penalty, seek an injunction, issue a cease and desist order or make a criminal referral in order to restrain a violation of the chapter.

(d) The board shall cooperate with local law enforcement and local government in investigating and prosecuting violations of Section 628 of the Penal Code, including the unlawful practice of massage therapy or owners and managers employing individuals who are not licensed pursuant to this chapter.

4633. (a) Upon request of any law enforcement agency or any other representative of a local government agency with responsibility for regulating or administering a local ordinance relating to massage or massage establishments, the



board shall provide information concerning a licenseholder, including, but not limited to, the current status of the license, any history of disciplinary actions taken against the licenseholder, the home and work address of the licenseholder, and any other information in the board's possession that is necessary to verify facts relevant to administering the local ordinance.

(b) The board shall accept information provided by any law enforcement agency or any other representative of a local government agency with responsibility for regulating or administering a local ordinance relating to massage or massage establishments. The board shall have the responsibility to review any information received and to take any actions authorized by this chapter that are warranted by that information.

4634. (a) Notwithstanding any other law, a city, county, or city and county shall not enact or enforce an ordinance that conflicts with this chapter or Section 51034 of the Government Code.

(b) Nothing in this chapter shall prevent a city, county, or city and county from regulating or prohibiting from practice an individual who provides massage for compensation without a valid license issued by the board pursuant to this chapter.

4635. The board shall be sued only in the county of its principal office, which shall be in Sacramento, unless otherwise designated by the board.

4636. The superior court of a county of competent jurisdiction may, upon petition by any person, issue an injunction or any other relief the court deems appropriate for a violation of this chapter by any person or establishment operating in that county subject to the provisions of this chapter. An injunction proceeding under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

4637. The Legislature finds and declares that due to important health, safety, and welfare concerns that affect the entire state, establishing a uniform standard of licensure for massage practitioners and massage therapists upon which consumers may rely to identify individuals who have achieved specified levels of education, training, and skill is a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter shall apply to all cities, counties, and cities and counties, including charter cities and charter counties.

Article 6. Revenue

4645. There is hereby established in the state treasury the Massage Therapy Licensure Fund, which shall be available to the board to administer this chapter upon appropriation by the Legislature.

4646. The board shall establish by regulation a schedule of fees sufficient to cover the costs of administering this chapter, including a license fee of at least one hundred dollars (\$100), not to exceed two hundred dollars (\$200), for each two-year license period.

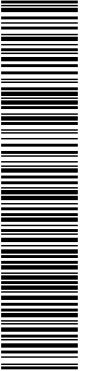
4647. All remaining funds collected by the California Massage Therapy Council pursuant to the former Massage Therapy Act, which is superceded by this act, shall be transferred to the board for the administration of this act.

SEC. 4. Section 628.5 of the Penal Code is amended to read:



628.5. For any person that is criminally prosecuted for a violation of law in connection with massage therapy, including for crimes relating to prostitution, the arresting law enforcement agency may provide to the ~~California Massage Therapy Council, created pursuant to Section 4600.5 of the Business and Professions Code,~~ information concerning the massage therapy instruction received by the person prosecuted, including the name of the school attended, ~~if any.~~ any, to the California Board of Massage Therapy established pursuant to the Massage Therapy Licensure Act (Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code).

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



LEGISLATIVE COUNSEL'S DIGEST

Bill No. _____
as introduced, _____.
General Subject: Massage Therapy Licensure Act.

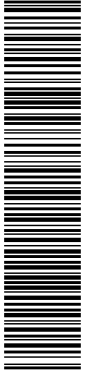
(1) Existing law, the Massage Therapy Act, provides for the voluntary certification of massage therapists by the California Massage Therapy Council, a private nonprofit entity, and requires the council to issue a certificate to practice massage therapy to a person who meets certain requirements, including successful completion of 500 hours in massage and related subjects at a school approved by the council, as specified. Existing law authorizes the council to take disciplinary action against certificate holders for, among other things, unprofessional conduct, and requires the council to provide certain information to law enforcement agencies or other representatives of a local governmental agency responsible for regulating massage or massage establishments. Existing law authorizes the council to establish fees, including initial and renewal certification fees and fees for the inspection and approval of schools.

(2) This bill would repeal those provisions and instead would enact the Massage Therapy Licensure Act, under which the practice of massage therapy, as defined, would be licensed and regulated by the California Board of Massage Therapy in the Department of Consumer Affairs. The bill would require the board to be composed of at least 7 members appointed by the Governor, as specified.

(3) The bill would require the board to issue a license to practice massage therapy to an applicant who satisfies specified requirements, including successfully completing a curriculum in massage therapy at an approved massage therapy school, passing a massage and bodywork competency assessment examination approved by the board, passing a background check conducted by the Department of Justice, and paying a licensure fee of at least \$100 but not to exceed \$200, for a 2-year license period.

(4) The bill would exempt certain persons from the act, including a person who does not hold themselves out as a massage therapist and who limits their work to specified practices, including acupressure, shiatsu, and reflexology. The bill would provide automatic qualification for licensure to individuals who hold valid certificates and are certified in good standing by the California Massage Therapy Council, and would provide alternate pathways for licensure for applicants who have been practicing massage therapy in California, as specified. The bill would authorize the board to issue a temporary license to practice massage therapy for up to 30 days a year to a person licensed to practice massage therapy in another state who is in good standing for specified limited purposes, including to practice massage therapy on individuals participating in an athletic event.

(5) The bill would require the board to establish an approval process for massage therapy schools and to establish, by regulation, curriculum, facility, and clinical practice requirements for massage therapy schools. The bill would authorize the board to charge a reasonable fee, not to exceed \$2,000, for initial approval of a massage therapy school



and a renewal fee not to exceed \$1,000. The bill would require a massage business to register with the board and pay a registration fee of at least \$25 and not to exceed \$50.

(6) The bill would require all fees and revenue collected by the board to be deposited in the Massage Therapy Licensure Fund, which would be created in the state treasury by the bill, and would make the funds available to the board for administering the act upon appropriation by the Legislature. The bill would require any remaining fees collected by the California Massage Therapy Council to be transferred to the board for the administration of the act.

(7) The bill would require the board to take disciplinary action for specified conduct, including aiding or abetting another person in the violation of the act. The bill would make it a misdemeanor to advertise or engage in the practice of massage therapy without a license, and would make specified other acts relating to the practice of massage therapy unlawful. By creating a new crime, the bill would impose a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

