

MAINE STATE LEGISLATURE

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BUSINESS AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 494, L.D. 1525, Bill, "An Act to License Massage Therapists under the Board of Complementary Health Care Providers"

Amend the bill by striking out the title and substituting the following:

'An Act to License Massage Therapists'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 32 MRSA §14301, sub-§3, as amended by PL 1993, c. 245, §1, is further amended to read:

3. Massage therapist or massage practitioner. "Massage therapist" or "massage practitioner" means a person who provides or offers to provide massage therapy for a fee, monetary or otherwise. ~~This definition includes the use of different forms of the term "massage therapist" or "massage practitioner," such as "masseuse" or "masseur."~~

Sec. 2. 32 MRSA §14302, sub-§§5 and 6, as enacted by PL 1991, c. 403, §1, are amended to read:

5. Register. The commissioner shall make available, at cost, a register that contains the names of all individuals registered licensed under this chapter.

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6. **Hearings.** The commissioner may conduct hearings to assist with investigations and to determine whether grounds exist for denial of ~~reregistration~~ license renewal, suspension of registration license or other action necessary to the fulfillment of the commissioner's responsibilities under this chapter.

Sec. 3. 32 MRSA §14302, sub-§7, as amended by PL 1993, c. 245, §2, is further amended to read:

7. **Advisory council.** The commissioner, as necessary, may select members of the profession and other interested parties to serve on an advisory council to advise and consult with the commissioner concerning the regulation of massage therapists and ~~massage-practitioners~~. Service on the council is not in itself a conflict of interest regardless of the occupations or associations of the members.

Sec. 4. 32 MRSA §14304, as amended by PL 1993, c. 245, §3, is repealed.

Sec. 5. 32 MRSA §14305, as amended by PL 1993, c. 245, §§4 and 5, is repealed.

Sec. 6. 32 MRSA §§14306-A and 14306-B, as enacted by PL 1993, c. 245, §7, are repealed.

Sec. 7. 32 MRSA §§14306-C to 14306-F are enacted to read:

§14306-C. Licensing

1. License required. Beginning on the effective date of this section, a person may not, unless specifically exempted by this chapter, claim to be a massage therapist or a massage practitioner unless licensed in accordance with this chapter.

2. Individual licensing. Only an individual who is qualified under this chapter may be issued a license to practice massage therapy.

§14306-D. Requirements for licensure; massage therapists

Each applicant for licensure must demonstrate competence to engage in the practice of massage therapy in a manner that safeguards the interests of the public.

1. Requirements. The following requirements are considered minimum evidence satisfactory to the department that an applicant is qualified for licensure under this chapter. An applicant must:

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2 A. Pass the National Certification Examination for
4 Therapeutic Massage and Bodywork administered by the
6 Psychological Corporation or its successor organization; or
8 demonstrate completion of a course of training consisting of
10 500 or more hours approved by the department;

12 B. Be 18 years of age or older;

14 C. Possess a high school diploma or its equivalent;

16 D. Furnish to the department a signed photograph of the
18 applicant. The photograph must be a minimum of 5 inches by 3
20 inches; and

22 E. Pay a one time application fee of \$25 and a yearly
24 licensing fee of \$100. All fees are nonrefundable.

26 2. Existing certified massage therapists. Upon renewal of
28 duly issued certification as a massage therapist, a person who
30 remits appropriate fees within one year after the effective date
32 of this section may be issued a license by the department.

34 §14306-E. Requirements for licensure; registered massage
36 practitioners

38 1. Use of "registered massage practitioner" title until
40 December 31, 2001. A massage practitioner who is registered by
42 the State as of the effective date of this section may use the
44 title "registered massage practitioner" to practice massage
46 therapy pursuant to the renewal process until December 31, 2001.
48 After December 31, 2001, only licensed massage therapists may use
50 the title "massage therapist" or the term "massage therapy" to
identify the nature of their professional service.

2. Transition provisions. Prior to December 31, 2001, a
massage practitioner registered as of the effective date of this
section qualifies for licensure as a massage therapist if that
person:

A. Demonstrates that the person has actively practiced
massage therapy for a period of 5 years and has completed a
minimum of 250 hours of formal education relevant to the
profession of massage therapy; or

B. Demonstrates that the person has actively practiced
massage therapy for a period of 10 years.

3. Registration fee. Until December 31, 2001, massage
practitioners who maintain their status as registered massage
practitioners must pay a yearly registration fee of \$100.

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2 4. Effect of revocation or suspension. An individual may
3 not be licensed under this chapter when the individual's license
4 to practice massage therapy or any other professional health care
5 license has been revoked or suspended in this State or any other
6 state unless the period of revocation or suspension has been
7 completed and the department has determined that an acceptable
8 degree of rehabilitation has been accomplished.

9 **§14306-F. Terms of license**

10
11 1. Renewal. Each individual who applies for licensure must
12 fill out a form designated by the department. A license expires
13 yearly on the date of the individual's initial licensure or on
14 such other date as the commissioner determines. Notice of
15 expiration must be mailed to a licensed massage therapist's last
16 known address at least 30 days before the expiration of the
17 license. The notice must include requests for any information
18 necessary for renewal. A late fee of \$10 is assessed on any
19 license renewal that is postmarked later than the anniversary
20 date of the individual's initial licensure. If, after 90 days
21 from the anniversary date, an individual has not renewed the
22 license, the individual must reapply for licensure.

23 2. Continuing education and supervision. The department,
24 by rule, may establish continuing education and supervision
25 requirements. An applicant for a renewal of a license must show
26 proof of satisfying the continuing education requirements set
27 forth by the department. Rules adopted pursuant to this
28 subsection are routine technical rules as defined in Title 5,
29 chapter 375, subchapter II-A.

30
31 **Sec. 8. 32 MRSA §14308**, as amended by PL 1993, c. 600, Pt. A,
32 **§278**, is further amended to read:

33 **§14308. Disciplinary action; grounds; procedure; complaints**

34
35 1. Grounds. The commissioner may suspend, revoke or refuse
36 to renew ~~registration or certification~~ a license under the same
37 grounds as contained in Title 5, section 10004. In addition, the
38 commissioner may take the same action granted to bureaus, boards
39 and commissions pursuant to Title 10, section 8003, subsection
40 5. The commissioner's actions may be based on any of the
41 following grounds:

42
43 A. The practice of fraud or deceit in obtaining
44 ~~registration or certification status~~ a license under this
45 chapter or in connection with service rendered within the
46 scope of the registration or certificate issued;
47
48

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2 B. Habitual substance abuse that has resulted or is
 4 foreseeable likely to result in the regulated person
 performing services in a manner that endangers the health or
 safety of clients;

6 C. A current medical finding of mental incompetence that
 8 affects the ~~registrant's or certified~~ the licensed person's
 ability to perform that person's occupation in a healthy and
 safe manner;

10 D. Aiding or abetting persons not duly ~~registered--or~~
 12 ~~certified~~ licensed under this chapter who profess to be
 14 ~~registered-or-certified~~ licensed;

16 E. Subject to the limitations of Title 5, chapter 341,
 conviction of a crime that involves dishonesty or false
 18 statement or that directly relates to the practice of
 massage therapy or conviction of a crime for which
 incarceration for one year or more may be imposed;

20 F. Revocation in any state of a professional or
 22 occupational license, certification or registration for
 disciplinary reasons, or rejection of any application for
 24 reasons related to untrustworthiness, within 3 years of the
 date of application; and

26 G. Violating any provisions of this chapter or any rule of
 28 the department.

30 **2. Procedure.** Except as provided in Title 5, section
 10004, a ~~registration-or-certification~~ license may not be denied,
 32 suspended, revoked or refused for renewal for the reasons set
 forth in subsection 1 without prior written notice and
 34 opportunity for hearing on that denial, suspension or
 revocation. A ~~registration-or-certification~~ license may not be
 36 denied, suspended or revoked under this section except by a
 decision of the commissioner or the commissioner's designee.

38 **3. Complaints.** Any person may file a complaint with the
 40 commissioner seeking disciplinary action against a massage
 therapist or massage practitioner concerning violations of this
 42 chapter or rules adopted by the department. Complaints must be
 in writing. If the commissioner determines that a complaint
 44 alleges facts that, if true, would require denial, revocation,
 suspension or nonrenewal of the license or other disciplinary
 46 action of a ~~registered-practitioner-or-certified~~ licensed massage
 therapist, the commissioner or the commissioner's designee may
 48 conduct a hearing pursuant to the Maine Administrative Procedure
 Act. Whenever the commissioner establishes that a complaint does
 50 not state facts that warrant action, the complaint may be
 dismissed.

2 The commissioner shall conduct proceedings under this subsection
4 in accordance with the provisions of Title 5, chapter 375,
subchapter IV.

6 **Sec. 9. Disciplinary actions; registered massage practitioners.**
8 Registered massage practitioners are subject to the same
disciplinary provisions of the Maine Revised Statutes, Title 32,
section 14308 as are licensed massage therapists.'

10 Further amend the bill by inserting at the end before the
12 summary the following:

14 **FISCAL NOTE**

16 **1998-99**

18 **REVENUES**

20 Other Funds (\$7,500)

22 The prohibition on the registration of any new massage
24 practitioners will reduce application and registration fees
collected by the Department of Professional and Financial
26 Regulation. The estimated annual reduction of dedicated revenue
is \$7,500 beginning in fiscal year 1998-99. This revenue loss
28 may be partially offset by additional revenue from an increase in
the number of licensed massage therapists. The net effect on
dedicated revenue can not be determined at this time.

30 The Division of Licensing and Registration within the
32 Department of Professional and Financial Regulation will incur
some minor additional costs to adopt rules pertaining to the
34 licensure of massage therapists. These costs can be absorbed
within the division's existing budgeted resources.

36 This bill may increase prosecutions for Class E crimes. If
38 a jail sentence is imposed, the additional costs to the counties
are estimated to be \$86.45 per day per prisoner. These costs are
40 not reimbursed by the State. The number of prosecutions that may
result in a jail sentence and the resulting costs to the county
42 jail system are expected to be insignificant.

44 The additional workload and administrative costs associated
with the minimal number of new cases filed in the court system
46 can be absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may increase
48 General Fund revenue by minor amounts.'

50

SUMMARY

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4 This amendment modifies the licensure of massage therapists
6 by removing oversight and involvement with the Board of
8 Complementary Health Care Providers and by providing for license
10 administration by the Commissioner of Professional and Financial
12 Regulation. The amendment also modifies the licensure
14 requirements by allowing applicants to demonstrate completion of
a 500 hour training program approved by the Department of
Professional and Financial Regulation. The amendment extends to
December 31, 2001 the time during which currently registered
massage practitioners may use the title "registered massage
therapist" or demonstrate that they have the necessary experience
or education to become licensed massage therapists.

16

The amendment also adds a fiscal note to the bill.