

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1643 Session of
2005

INTRODUCED BY McCALL, BEBKO-JONES, BELARDI, B. SMITH, BELFANTI, BIANCUCCI, BLACKWELL, BOYD, CALTAGIRONE, CLYMER, CORNELL, CORRIGAN, COSTA, CRAHALLA, CREIGHTON, CRUZ, DALEY, DALLY, DeLUCA, DENLINGER, EACHUS, FABRIZIO, FRANKEL, FREEMAN, GERGELY, GINGRICH, GOOD, GRUCELA, HABAY, HENNESSEY, JOSEPHS, KIRKLAND, LEACH, LEDERER, LESCOVITZ, LEVDANSKY, MACKERETH, MANN, McILHATTAN, MELIO, MUNDY, NAILOR, OLIVER, PETRARCA, PETRONE, QUIGLEY, READSHAW, REICHLEY, SAINATO, SHANER, STABACK, STURLA, TANGRETTI, THOMAS, WALKO, WATSON, WOJNAROSKI, YEWIC, YOUNGBLOOD, HARHAI, SIPTROTH, T. STEVENSON, SCAVELLO, HANNA, GEORGE, SAYLOR, McILHINNEY, KILLION, RUBLEY AND RAYMOND, JUNE 6, 2005

AS AMENDED, COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, JUNE 13, 2006

AN ACT

~~1 Regulating massage therapy; establishing the State Board of~~ <—
~~2 Professional Massage Therapists; providing for funds, for~~
~~3 licensure, for disciplinary action and for remedies; imposing~~
~~4 criminal penalties; and making an appropriation.~~

5 REGULATING MASSAGE THERAPY; ESTABLISHING THE STATE BOARD OF <—
6 MASSAGE THERAPY; PROVIDING FOR FUNDS, FOR LICENSURE, FOR
7 DISCIPLINARY ACTION, FOR REMEDIES AND FOR PENALTIES; AND
8 MAKING AN APPROPRIATION.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 ~~Section 1. Short title.~~ <—

12 ~~This act shall be known and may be cited as the Professional~~
13 ~~Massage Therapists Law.~~

14 ~~Section 2. Declaration of policy.~~

15 ~~The General Assembly finds and declares as follows:~~

~~(1) The practice of massage may cause public safety issues if the practice is not subject to responsible regulation.~~

~~(2) Reasonable regulation is in furtherance of public health, safety and welfare interests.~~

~~(3) Massage therapy is therapeutic.~~

~~(4) Regulation is necessary to set educational standards within the profession and to protect the public from unqualified massage therapy practitioners and unscrupulous individuals.~~

~~(5) Consumer protection with respect to both health and economic matters will be afforded the public through the regulation and associated legal remedies provided for in this act.~~

~~Section 3. Definitions.~~

~~The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Account." The Professional Licensure Augmentation Account.~~

~~"Applicant." An individual who applies for a license.~~

~~"Board." The State Board of Professional Massage Therapists established in section 4 (relating to board).~~

~~"Bureau." The Bureau of Professional and Occupational Affairs.~~

~~"Commissioner." The Commissioner of Professional and Occupational Affairs.~~

~~"Impaired professional." A licensee who is abusing a chemical substance, including alcohol.~~

~~"License." A license to practice massage therapy under section 6 (relating to licensure). The term does not include a~~

1 ~~temporary license under section 6(c).~~

2 ~~"Licensee." An individual who holds a license or a temporary~~
3 ~~license.~~

4 ~~"Massage therapy." The application of a system of structured~~
5 ~~touch, pressure, movement and holding to the soft tissue of the~~
6 ~~human body in which the primary intent is to enhance health and~~
7 ~~well being of the client. The term includes the external~~
8 ~~application of water, heat, cold, lubricants or other topical~~
9 ~~preparations and electro mechanical devices which mimic or~~
10 ~~enhance the actions of the hands. The term does not include the~~
11 ~~diagnosis of illness or disease, medical procedures,~~
12 ~~chiropractic adjustment, electrical stimulation, ultrasound or~~
13 ~~prescription of medicines, for which a license to practice~~
14 ~~medicine, chiropractic, physical therapy, occupational therapy,~~
15 ~~podiatry or other practice of the healing arts is required.~~

16 ~~"Massage therapist." An individual who is licensed under~~
17 ~~this act to administer massage or massage therapy and who refers~~
18 ~~clients to a medical doctor when a contraindication to massage~~
19 ~~therapy is present.~~

20 ~~"Person." Any individual, organization, association,~~
21 ~~partnership, company, trust or corporate body.~~

22 ~~"Reflexology." The physical act of using thumbs, fingers and~~
23 ~~hand techniques to apply specific pressure on the reflex area in~~
24 ~~the feet, hands or ears of the client.~~

25 ~~"Sexual behavior." Conduct which is or is intended to be~~
26 ~~sexual in nature or which may be construed by a reasonable~~
27 ~~person as sexual in nature.~~

28 ~~"Sexual exploitation." Sexual behavior with a current client~~
29 ~~which uses trust, knowledge, emotions or influence derived from~~
30 ~~the professional relationship.~~

~~Section 4.— Board.~~

~~(a) Establishment.— The State Board of Professional Massage Therapists is established as a board in the bureau.~~

~~(b) Membership.— The following shall be members of the board:~~

~~(1) The commissioner or a designee, who shall serve as the chairperson of the board.~~

~~(2) The Physician General or a designee.~~

~~(3) The Attorney General or a designee.~~

~~(4) Four members appointed by the Governor, with the advice and consent of the majority of the members elected to the Senate. Each member under this paragraph must:~~

~~(i) have been actively engaged as a massage therapist for not less than five years prior to appointment; and~~

~~(ii) have a well respected reputation in the field.~~

~~(c) Terms.—~~

~~(1) Members under subsection (b)(1) through (3) shall serve ex officio.~~

~~(2) Members under subsection (b)(4) shall serve initial terms as follows:~~

~~(i) One member shall be appointed for a term of two years.~~

~~(ii) One member shall be appointed for a term of three years.~~

~~(iii) One member shall be appointed for a term of four years.~~

~~(iv) One member shall be appointed for a term of five years.~~

~~(3) After the expiration of a term under paragraph (2),~~

~~a subsequent term shall be for five years.~~

~~(4) A replacement for a member appointed under subsection (b)(4) shall serve the remainder of the unexpired term.~~

~~(d) Procedure.~~

~~(1) A majority of the members of the board constitutes a quorum. A member must participate at a meeting of the board in person or by teleconference for purposes of meeting a quorum.~~

~~(2) Voting must be direct. Proxy voting is not permitted.~~

~~(e) Conflict of interest. A member of the board may not have a financial interest in a professional testing organization.~~

~~(f) Compensation. Each member of the board under subsection (b)(4), when performing functions of the board, shall receive all of the following:~~

~~(1) A per diem fee set by regulation of the bureau.~~

~~(2) Reasonable travel, hotel and other necessary expenses, as set by regulation of the bureau.~~

~~(g) Meetings. The board shall meet at least once every two months and at additional times as necessary to conduct the business of the board.~~

~~(h) Participation. A member of the board under subsection (b)(4) who fails to attend three consecutive meetings shall forfeit membership unless the chairperson, upon written request from the member, finds that the member should be excused for good cause.~~

~~(i) Powers and duties. The board has the following powers and duties to administer this act:~~

1 ~~(1) To issue orders.~~

2 ~~(2) To promulgate regulations. This paragraph includes~~
3 ~~all of the following:~~

4 ~~(i) Compensation under subsection (f).~~

5 ~~(ii) Education under section 6(b)(1) (relating to~~
6 ~~licensure). An increase in training or hours of~~
7 ~~instruction requirements shall not become effective~~
8 ~~within the first two years after the effective date of~~
9 ~~this subparagraph.~~

10 ~~(iii) Fees under sections 6(b)(3) and 7(b)(2)~~
11 ~~(relating to license renewal and continuing education).~~
12 ~~Initial fees shall be designed to recover the board's~~
13 ~~administrative costs. If the funds raised by fees and~~
14 ~~penalties under this act are not sufficient to meet the~~
15 ~~board's administrative costs over a two year period, the~~
16 ~~board may promulgate regulations to increase those fees~~
17 ~~so that the projected funds will meet the board's~~
18 ~~projected costs.~~

19 ~~(iv) Posting under section 9 (relating to display of~~
20 ~~license).~~

21 ~~(3) To promulgate statements of policy.~~

22 ~~(4) To establish a system which assures that licensees~~
23 ~~receive timely information from the board regarding issues~~
24 ~~affecting the education, practice and regulation of massage~~
25 ~~therapy. This paragraph includes the mailing of a renewal~~
26 ~~application under section 7(b)(1) to each licensee at the~~
27 ~~most recent address on the records of the board.~~

28 ~~(5) When it is prepared to implement this act, to~~
29 ~~transmit notice of that fact to the Legislative Reference~~
30 ~~Bureau for publication in the Pennsylvania Bulletin.~~

1 ~~Section 5.— Deposit of funds.~~

2 ~~Fees and penalties collected under this act shall be paid~~
3 ~~into the account and used by the bureau and the board to~~
4 ~~administer this act.~~

5 ~~Section 6.— Licensure.~~

6 ~~(a) Requirement.— Except as set forth in subsection (c)(2)~~
7 ~~or (3), a license or a temporary license is required in order to~~
8 ~~practice massage therapy.~~

9 ~~(b) Qualifications.— The following are the qualifications~~
10 ~~for licensure:~~

11 ~~(1) The applicant must complete massage studies with a~~
12 ~~minimum of 600 hours of in class, postsecondary education~~
13 ~~instruction approved by the State Board of Private Licensed~~
14 ~~Schools or by the board. This paragraph includes training in~~
15 ~~the human immunodeficiency virus and related risks and health~~
16 ~~care cardiopulmonary resuscitation.~~

17 ~~(2) The applicant must file an application.~~

18 ~~(3) The applicant must pay a fee as established by~~
19 ~~regulation of the board.~~

20 ~~(4) The applicant must pass an examination prepared and~~
21 ~~administered by a qualified professional testing organization~~
22 ~~approved by the bureau and approved by the board in~~
23 ~~accordance with section 812.1 of the act of April 9, 1929~~
24 ~~(P.L.177, No.175), known as The Administrative Code of 1929.~~

25 ~~(5) The applicant must demonstrate all of the following~~
26 ~~to the satisfaction of the board:~~

27 ~~(i) The applicant is of good moral character.~~

28 ~~(ii) The applicant has a high school diploma or its~~
29 ~~equivalent.~~

30 ~~(iii) The applicant is not addicted to the habitual~~

1 ~~use of alcohol, narcotics or other habit forming drugs.~~

2 ~~(iv) Except as set forth in subparagraph (v), the~~
3 ~~applicant has not been sentenced for a felony or for an~~
4 ~~offense under the law of another jurisdiction which, if~~
5 ~~committed in this Commonwealth, would constitute a~~
6 ~~felony. Compliance with this subparagraph must be~~
7 ~~documented by a report of criminal history record~~
8 ~~information from the Pennsylvania State Police or by a~~
9 ~~statement from the Pennsylvania State Police that its~~
10 ~~central repository contains no information relating to~~
11 ~~the applicant. The costs associated with the report or~~
12 ~~statement shall be paid by the applicant.~~

13 ~~(v) The applicant must not have been sentenced for a~~
14 ~~felony under the act of April 14, 1972 (P.L.233, No.64),~~
15 ~~known as The Controlled Substance, Drug, Device and~~
16 ~~Cosmetic Act, or for an offense under the law of another~~
17 ~~jurisdiction which, if committed in this Commonwealth,~~
18 ~~would be a felony under The Controlled Substance, Drug,~~
19 ~~Device and Cosmetic Act, unless the applicant satisfies~~
20 ~~all of the following criteria:~~

21 ~~(A) At least ten years have elapsed from the~~
22 ~~date of sentencing.~~

23 ~~(B) The applicant has made significant progress~~
24 ~~in personal rehabilitation since the sentencing such~~
25 ~~that licensure of the applicant would not be expected~~
26 ~~to create a substantial risk of harm to the health~~
27 ~~and safety of clients or the public or create a~~
28 ~~substantial risk of further criminal violations.~~

29 ~~(vi) The applicant must not have been sentenced for~~
30 ~~an offense under section 14 (relating to criminal~~

1 ~~penalties) unless five years have elapsed from the date~~
2 ~~of sentencing.~~

3 ~~(c) Issuance and term.—~~

4 ~~(1) Subject to subsections (d), (e) and (f), the board~~
5 ~~shall issue a license to an applicant who meets the~~
6 ~~qualifications under subsection (b).~~

7 ~~(2) Except as set forth in subsection (e)(3), the term~~
8 ~~of a license is two years. Renewal is subject to section 7~~
9 ~~(relating to license renewal and continuing education).~~

10 ~~(d) Existing practitioners.—The board shall issue a license~~
11 ~~to an applicant who, on the effective date of this subsection,~~
12 ~~complies with all of the following paragraphs:~~

13 ~~(1) Is an active professional practitioner of massage.~~

14 ~~(2) Meets the qualifications described in subsection~~
15 ~~(b)(2), (3) and (5).~~

16 ~~(3) Complies with one of the following subparagraphs:~~

17 ~~(i) Has:~~

18 ~~(A) been in active, continuous practice for at~~
19 ~~least five years immediately preceding the effective~~
20 ~~date of this section; and~~

21 ~~(B) completed 150 hours of instruction in~~
22 ~~massage and related subjects.~~

23 ~~(ii) Has passed an examination administered by a~~
24 ~~certifying agency which is approved by the National~~
25 ~~Commission of Certifying Agencies and is in good standing~~
26 ~~with the certifying agency or with the board.~~

27 ~~(iii) Has completed 500 hours of instruction in~~
28 ~~massage and related subjects from a massage therapy~~
29 ~~program approved by the State Board of Private Licensed~~
30 ~~Schools or by the board.~~

~~(c) Temporary license.—~~

~~(1) The board may issue a temporary license to an applicant who, on the effective date of this subsection, is an active practitioner of massage therapy who:~~

~~(i) meets the qualifications described in subsection~~

~~(b)(2), (3) and (5); but~~

~~(ii) does not meet the criteria in subsection (d).~~

~~(2) A temporary license permits a continuation of practice as a massage therapist for a period not to exceed two years. During this period, the licensee must fulfill the requirements of subsection (b)(1) and (4). A temporary license shall not be renewable.~~

~~(3) Unless revoked or suspended under section 11 (relating to sanctions) or 12 (relating to temporary suspension), a temporary license shall expire at the earlier of the following:~~

~~(i) The expiration of the specified period.~~

~~(ii) The board's issuance of a license upon determination that the licensee has fulfilled the requirements of subsection (b)(1) and (4).~~

~~(f) Licensure by endorsement. The board shall issue a license to an individual who meets all of the following:~~

~~(1) Complies with subsection (b)(2) and (3).~~

~~(2) Has a valid license in massage or similar practice from another state, territory, possession or country with a standard of qualifications substantially equivalent to or greater than that provided for in this act.~~

~~(3) Complies with applicable regulations.~~

~~(g) Deadline for initial applications.—~~

~~(1) In the initial regulations under this act, the board~~

1 ~~shall establish an application date for the filing of initial~~
2 ~~applications for licensure.~~

3 ~~(2) An active practitioner as of the effective date of~~
4 ~~this subsection may continue to practice massage therapy up~~
5 ~~until the application date under paragraph (1).~~

6 ~~(3) Beginning on the application date under paragraph~~
7 ~~(1), only an applicant may practice massage therapy. Practice~~
8 ~~under this paragraph is limited to the period during which~~
9 ~~the application is pending before the board.~~

10 ~~(h) Transferability. A license and a temporary license are~~
11 ~~not transferable.~~

12 ~~Section 7. License renewal and continuing education.~~

13 ~~(a) Scope.~~

14 ~~(1) This section applies to all of the following:~~

15 ~~(i) A licensee.~~

16 ~~(ii) An individual who was a licensee but who has~~
17 ~~not been a licensee for less than five years.~~

18 ~~(2) An individual who was a licensee but who has not~~
19 ~~been a licensee for at least five years is subject to section~~
20 ~~6 (relating to licensure).~~

21 ~~(b) Procedure. To renew a license, a licensee must do all~~
22 ~~of the following:~~

23 ~~(1) File a renewal application with the board. On the~~
24 ~~application, the applicant must verify all of the following:~~

25 ~~(i) Renewal of training in health care~~
26 ~~cardiopulmonary resuscitation.~~

27 ~~(ii) Successful completion of a minimum of 24 hours~~
28 ~~of study in the field of massage therapy during the~~
29 ~~immediately preceding two years as approved by the board.~~

30 ~~(2) Pay a fee established by regulation of the board.~~

~~(c) Board.~~

~~(1) Upon receipt of the application and fee, the board shall investigate the licensee to determine all of the following:~~

~~(i) The accuracy of the renewal application.~~

~~(ii) Action under section 11 (relating to sanctions) completed during the prior license term or pending at the time of renewal application.~~

~~(2) After investigation under paragraph (1), if the board is satisfied that the licensee is fit to continue the practice of massage therapy, the board shall renew the license.~~

~~Section 8. Title and utilization.~~

~~A licensee has the right to use the title "Massage Therapist" and the abbreviation "M.T."~~

~~Section 9. Display of license.~~

~~The board may, by regulation or order, require the posting of licenses or temporary licenses.~~

~~Section 10. Unprofessional conduct.~~

~~The following constitute unprofessional conduct:~~

~~(1) Failure to demonstrate the qualifications under section 6(b)(1) or (5) (relating to licensure).~~

~~(2) Failure to refer a client to a medical doctor when the client is presenting a contraindication to massage therapy.~~

~~(3) Gross incompetence, negligence or misconduct in carrying out the practice of massage therapy.~~

~~(4) Submission of a false or deceptive application to the board.~~

~~(5) Being sentenced for a felony in any jurisdiction.~~

~~(6) Being sanctioned by a massage therapy licensing authority within another jurisdiction.~~

~~(7) Inability to practice massage therapy with reasonable skill and safety to clients by reason of illness, abuse of alcohol or other chemical substances or a mental or physical condition.~~

~~(8) Violation of any regulation or order of the board.~~

~~(9) Knowingly aiding, assisting, hiring or advising unlawful practice of massage therapy contrary to section 14(a) (relating to criminal penalties).~~

~~(10) Practice or attempt to practice beyond the licensee's defined scope of practice.~~

~~(11) Sexual exploitation. Consent of the client is not a defense under this paragraph.~~

~~(12) Making misleading, deceptive, untrue or fraudulent representations in the practice of massage therapy.~~

~~(13) Conduct outside of but resulting from the professional relationship which the board, by regulation, declares to be unprofessional.~~

~~Section 11. Sanctions.~~

~~(a) Discretionary.—~~

~~(1) If the board finds that a licensee has engaged in conduct prohibited by section 10 (relating to unprofessional conduct), the board may administer the following sanctions:~~

~~(i) Suspend enforcement of its finding and place a licensee on probation with the right to vacate the probationary order for noncompliance.~~

~~(ii) Require a licensee to submit to the care, counseling or treatment of a physician or a psychologist designated by the board.~~

~~(iii) Administer a public reprimand.~~

~~(iv) Impose an administrative penalty of up to \$1,000.~~

~~(v) Suspend the license.~~

~~(vi) Revoke the license.~~

~~(2) The board may vacate a sanction if it determines that vacation is just and reasonable.~~

~~(b) Mandatory.~~

~~(1) The board shall suspend a license if any of the following apply:~~

~~(i) The licensee is committed to an institution because of mental incompetence from any cause.~~

~~(ii) The licensee is sentenced for a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or for an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act.~~

~~(2) Automatic suspension under this subsection shall not be stayed pending any appeal of a conviction.~~

~~(c) Administrative agency law. This section is subject to 2 Pa.C.S. Ch. 5 Subch A. (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).~~

~~(d) Return of license. The board shall require a licensee whose license has been suspended or revoked to return the license in such manner as the board directs.~~

~~Section 12. Temporary suspension.~~

~~(a) Authority. The board may temporarily suspend a license~~

~~under circumstances as determined by the board to be of an immediate and clear danger to the public health or safety.~~

~~(b) Procedure.~~

~~(1) Upon a determination under subsection (a), the board shall issue the licensee an order temporarily suspending the license. The order must:~~

~~(i) be sent to the licensee's last known address;~~

~~and~~

~~(ii) include a written statement of all allegations against the licensee.~~

~~(2) Upon issuance of the order, the board must commence an action under section 11 (relating to sanctions).~~

~~(3) A hearing under section 11(c) must be conducted within 45 days of issuance of the order. If the board does not comply with the time limit under this paragraph, the order shall be void.~~

~~(c) Duration. A temporary suspension shall remain in effect until the earliest of the following:~~

~~(1) The board vacates the suspension.~~

~~(2) The order is vacated because of noncompliance with subsection (b)(3).~~

~~(3) The expiration of 180 days.~~

~~Section 13. Remedies.~~

~~(a) Civil penalty. Failure to provide a report under section 15(c) (relating to impaired professional) within a reasonable time from receipt of knowledge of impairment shall subject the person to a civil penalty payable to the board not to exceed \$1,000. The board may pursue this penalty in a court of competent jurisdiction.~~

~~(b) Injunction. The board may seek injunctive relief in a~~

~~court of competent jurisdiction to enjoin a person from committing any violation of this act. Relief under this section is in addition to and not in lieu of all remedies and penalties under sections 11 (relating to sanctions), 12 (relating to temporary suspension) and 14 (relating to criminal penalties) and other remedies in this act.~~

~~Section 14.—Criminal penalties.~~

~~(a) Unlawful practice.—Except as set forth in section 6(g)(2) or (3) (relating to licensure), an individual may not practice massage therapy unless the individual has a license or a temporary license.~~

~~(b) Fraud.—A person may not sell, fraudulently obtain or fraudulently furnish a license or a temporary license.~~

~~(c) Unlawful use of title.—Except as set forth in section 16(1) (relating to other professions):~~

~~(1) An individual who is not a licensee may not use the title "Massage Therapist" or the abbreviation "M.T." It is a violation of this section to hold oneself out to others in any manner, including advertising, as a massage therapist and adopt or use any title or description, including massage therapist, massage practitioner, masseur, masseuse, myotherapist, or any derivative of those terms and their related abbreviations, which implies directly or indirectly that therapeutic massage services are being provided.~~

~~(2) A business entity may not utilize in connection with a business name or activity the words, "massage," "massage therapist," "massage practitioner," "masseur," "masseuse" or "myotherapist," or any derivative of those terms and their related abbreviations, which imply directly or indirectly that massage therapy services are being provided.~~

~~(d) Failure to return license. An individual may not fail to return a license under section 11(d) (relating to sanctions).~~

~~(e) Grading.—~~

~~(1) A person that violates subsection (a), (b) or (c) commits a misdemeanor of the second degree.~~

~~(2) A person that violates subsection (d) commits a misdemeanor of the third degree.~~

~~Section 15.—Impaired professional.~~

~~(a) Consultant. The board, with the approval of the commissioner, shall appoint and fix the compensation of a professional consultant who is a licensee or such other professional as the board may determine, with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. The consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups, which are approved by the board and which provide services to licensees under this act.~~

~~(b) Treatment program.—~~

~~(1) The board shall approve program providers to treat impaired professionals.~~

~~(2) An impaired professional who enrolls in an approved treatment program must enter into an agreement with the board under which the impaired professional's license shall be suspended or revoked, but enforcement of that suspension or revocation may be stayed for the length of time the impaired professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and~~

1 ~~adheres to any limitations on this practice imposed by the~~
2 ~~board to protect the public. Failure to enter into such an~~
3 ~~agreement shall disqualify the professional from the impaired~~
4 ~~professional program and shall activate an immediate~~
5 ~~investigation and disciplinary proceeding by the board.~~

6 ~~(3) An approved program provider shall, upon request,~~
7 ~~disclose to the professional consultant information in its~~
8 ~~possession regarding an impaired professional in treatment~~
9 ~~which the program provider is not prohibited from disclosing~~
10 ~~by state law. This paragraph shall apply in the case of an~~
11 ~~impaired professional who:~~

12 ~~(i) enters an agreement in accordance with this~~
13 ~~subsection;~~

14 ~~(ii) is the subject of a board investigation or~~
15 ~~disciplinary proceeding; or~~

16 ~~(iii) voluntarily enters a treatment program other~~
17 ~~than under the provisions of this section but fails to~~
18 ~~complete the program successfully or to adhere to an~~
19 ~~aftercare plan developed by the program provider.~~

20 ~~(c) Effect of participation.—~~

21 ~~(1) Except as set forth in paragraph (2), the board may~~
22 ~~defer and ultimately vacate action under section 11 (relating~~
23 ~~to sanctions) for an impaired professional as long as the~~
24 ~~impaired professional is progressing satisfactorily in an~~
25 ~~approved treatment program. If, in the opinion of the~~
26 ~~professional consultant after consultation with the program~~
27 ~~provider, an impaired professional who is enrolled in an~~
28 ~~approved treatment program has not progressed satisfactorily,~~
29 ~~the professional consultant shall disclose to the board all~~
30 ~~information in the professional consultant's possession~~

1 ~~regarding the impaired professional, and the board shall~~
2 ~~institute proceedings to determine if the stay of the~~
3 ~~enforcement of the suspension or revocation of the impaired~~
4 ~~professional's license shall be vacated.~~

5 ~~(2) This subsection shall not apply to an impaired~~
6 ~~professional:~~

7 ~~(i) who has been sentenced for a felony under the~~
8 ~~act of April 14, 1972 (P.L.233, No.64), known as The~~
9 ~~Controlled Substance, Drug, Device and Cosmetic Act, or~~
10 ~~for a felony relating to a controlled substance in~~
11 ~~another jurisdiction; or~~

12 ~~(ii) has engaged in sexual exploitation.~~

13 ~~(d) Immunity. The following shall not be subject to civil~~
14 ~~liability or criminal prosecution for the disclosure or its~~
15 ~~consequences:~~

16 ~~(1) An approved program provider that makes a disclosure~~
17 ~~under subsection (b)(3) or (c)(1).~~

18 ~~(2) A person that reports under subsection (c) in good~~
19 ~~faith and without malice.~~

20 ~~(c) Impairment reports.—~~

21 ~~(1) Except as set forth in paragraph (2), this~~
22 ~~subsection applies to hospital or health care facilities and~~
23 ~~to any peer or colleague of a licensee.~~

24 ~~(2) This subsection does not apply to a person that acts~~
25 ~~in a treatment capacity to an impaired massage therapist in~~
26 ~~an approved treatment program.~~

27 ~~(3) A person subject to this subsection shall report to~~
28 ~~the board that a licensee is an impaired professional if the~~
29 ~~person has substantial evidence that a licensee:~~

30 ~~(i) has an active addictive disease for which the~~

~~licensee is not receiving treatment;~~

~~(ii) is diverting a controlled substance; or~~

~~(iii) is mentally or physically incompetent to carry~~

~~out the duties of a licensee.~~

~~Section 16.—Other professions.~~

~~Nothing in this act shall be construed as preventing,
restricting or requiring licensure of any of the following
activities:~~

~~(1) The practice of a profession by an individual who is
licensed, certified or registered by a Commonwealth agency
under other laws and who is performing services within the
authorized scope of practice.~~

~~(2) The practice of massage therapy by an individual
employed by the Federal Government while the person is
engaged in the performance of such duties under Federal law.~~

~~(3) The practice of massage therapy by an individual
licensed, registered or certified in another jurisdiction
when incidentally called into this Commonwealth to teach a
course related to massage therapy and bodywork therapy or to
consult with a licensee.~~

~~(4) A student who is:~~

~~(i) conducting massage therapy activities under the
supervision of a person licensed under this act; and~~

~~(ii) enrolled in a school approved by the State
Board of Private Licensed Schools or by the board.~~

~~(5) Except as set forth in section 14(c) (relating to
criminal penalties) the practice by an individual while
performing reflexology.~~

~~(6) Except as set forth in section 14(c), the practice
of an individual who uses touch, words and directed movement~~

~~to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged within the scope of practice of a profession with established standards and ethics.~~

~~(7) Except as set forth in section 14(c), the practice of an individual who uses touch to affect the energy systems, accupoints or Qi meridians (channels of energy) of the human body while engaged within the scope of practice of a profession with established standards and ethics.~~

~~(8) An individual providing service as part of an emergency response team working in conjunction with disaster relief officials.~~

~~(9) The practice of massage therapy at public events.~~

~~Section 49. Appropriation and repayment.~~

~~(a) Appropriation. The sum of \$95,000, or as much thereof as may be necessary is hereby appropriated from the Professional Licensure Augmentation Account for the fiscal year July 1, 2005, to June 30, 2006, for the operation of the State Board of Professional Massage Therapists to carry out the provisions of this act. This appropriation shall be a continuing appropriation until June 30, 2009, at which time any unexpended funds shall lapse into the account.~~

~~(b) Repayment. The appropriation shall be repaid by the board to the account within three years of the beginning of issuance of licenses by the board.~~

~~Section 50. Effective date.~~

~~This act shall take effect as follows:~~

~~(1) The following provisions shall take effect in 60 days:~~

~~(i) Section 3.~~

~~(ii) Section 4.~~

~~(iii) Section 49.~~

~~(2) This section shall take effect immediately.~~

~~(3) The remainder of this act shall take effect upon
publication of the notice under section 4(i)(5).~~

SECTION 1. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE MASSAGE
THERAPY LAW.

SECTION 2. DECLARATION OF POLICY.

THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

(1) THE PRACTICE OF MASSAGE MAY CAUSE PUBLIC SAFETY
ISSUES IF THE PRACTICE IS NOT SUBJECT TO RESPONSIBLE
REGULATION.

(2) REASONABLE REGULATION IS IN FURTHERANCE OF PUBLIC
HEALTH, SAFETY AND WELFARE INTERESTS.

(3) REGULATION IS NECESSARY TO SET EDUCATIONAL STANDARDS
WITHIN THE PROFESSION AND TO PROTECT THE PUBLIC FROM
UNQUALIFIED MASSAGE THERAPY PRACTITIONERS AND UNSCRUPULOUS
INDIVIDUALS.

(4) CONSUMER PROTECTION WITH RESPECT TO BOTH HEALTH AND
ECONOMIC MATTERS WILL BE AFFORDED THE PUBLIC THROUGH THE
REGULATION AND ASSOCIATED LEGAL REMEDIES PROVIDED FOR IN THIS
ACT.

SECTION 3. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

"ACCOUNT." THE PROFESSIONAL LICENSURE AUGMENTATION ACCOUNT.

"APPLICANT." AN INDIVIDUAL WHO APPLIES FOR A LICENSE.

"BOARD." THE STATE BOARD OF MASSAGE THERAPY.

1 "BUREAU." THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL
2 AFFAIRS.

3 "COMMISSIONER." THE COMMISSIONER OF PROFESSIONAL AND
4 OCCUPATIONAL AFFAIRS.

5 "DEPARTMENT." THE DEPARTMENT OF STATE OF THE COMMONWEALTH.

6 "LICENSE." A LICENSE TO PRACTICE MASSAGE THERAPY UNDER THIS
7 ACT.

8 "LICENSEE." AN INDIVIDUAL WHO HOLDS A LICENSE TO PRACTICE
9 MASSAGE THERAPY.

10 "MASSAGE THERAPIST." AN INDIVIDUAL LICENSED BY THE BOARD TO
11 PRACTICE MASSAGE.

12 "MASSAGE THERAPY." THE APPLICATION OF A SYSTEM OF STRUCTURED
13 TOUCH, PRESSURE, MOVEMENT AND HOLDING TO THE SOFT TISSUE OF THE
14 HUMAN BODY IN WHICH THE PRIMARY INTENT IS TO ENHANCE HEALTH AND
15 WELL-BEING OF THE CLIENT. THE TERM INCLUDES THE EXTERNAL
16 APPLICATION OF WATER, HEAT, COLD, LUBRICANTS OR OTHER TOPICAL
17 PREPARATIONS AND ELECTRO-MECHANICAL DEVICES WHICH MIMIC OR
18 ENHANCE THE ACTIONS OF THE HANDS. THE TERM DOES NOT INCLUDE THE
19 DIAGNOSIS OF ILLNESS OR DISEASE, A MEDICAL PROCEDURE, A
20 CHIROPRACTIC MANIPULATION/ADJUSTMENT, JOINT MOBILIZATION,
21 ELECTRICAL STIMULATION, ULTRASOUND OR PRESCRIPTION OF MEDICINES,
22 FOR WHICH A LICENSE TO PRACTICE MEDICINE, CHIROPRACTIC, PHYSICAL
23 THERAPY, OCCUPATIONAL THERAPY, PODIATRY OR OTHER PRACTICE OF THE
24 HEALING ARTS IS REQUIRED.

25 "REFLEXOLOGY." THE PHYSICAL ACT OF USING THUMBS, FINGERS AND
26 HAND TECHNIQUES TO APPLY SPECIFIC PRESSURE ON THE REFLEX AREA IN
27 THE FEET, HANDS OR EARS OF THE CLIENT.

28 "SEXUAL BEHAVIOR." CONDUCT WHICH IS OR IS INTENDED TO BE
29 SEXUAL IN NATURE OR WHICH MAY BE CONSTRUED BY A REASONABLE
30 PERSON AS SEXUAL IN NATURE.

1 "SEXUAL EXPLOITATION." SEXUAL BEHAVIOR WITH A CURRENT CLIENT
2 WHICH USES TRUST, KNOWLEDGE, EMOTIONS OR INFLUENCE DERIVED FROM
3 THE PROFESSIONAL RELATIONSHIP.

4 "SEXUAL OFFENSE." AN OFFENSE UNDER ANY OF THE FOLLOWING
5 PROVISIONS OF 18 PA.C.S. (RELATING TO CRIMES AND OFFENSES):

6 SECTION 2910 (RELATING TO LURING A CHILD INTO A MOTOR
7 VEHICLE OR STRUCTURE).

8 SECTION 3126 (RELATING TO INDECENT ASSAULT).

9 SECTION 3127 (RELATING TO INDECENT EXPOSURE).

10 SECTION 5901 (RELATING TO OPEN LEWDNESS).

11 SECTION 5903(H)(1) (RELATING TO OBSCENE AND OTHER SEXUAL
12 MATERIALS AND PERFORMANCES).

13 SECTION 6318(B)(2) (RELATING TO UNLAWFUL CONTACT WITH
14 MINOR).

15 SECTION 4. BOARD.

16 (A) ESTABLISHMENT.--THERE IS ESTABLISHED THE STATE BOARD OF
17 MASSAGE THERAPY, AN ADMINISTRATIVE BOARD WITHIN THE DEPARTMENT.
18 THE BOARD SHALL CONSIST OF NINE MEMBERS WHO ARE CITIZENS OF THE
19 UNITED STATES AND WHO HAVE BEEN RESIDENTS OF THIS COMMONWEALTH
20 FOR AT LEAST A TWO-YEAR PERIOD. TWO MEMBERS SHALL BE PUBLIC
21 MEMBERS, FIVE MEMBERS SHALL BE INDIVIDUALS WHO MEET THE
22 EDUCATIONAL AND EXPERIENCE QUALIFICATIONS FOR LICENSURE UNDER
23 SECTION 6, ONE MEMBER SHALL BE THE PHYSICIAN GENERAL OR A
24 DESIGNEE AND ONE MEMBER SHALL BE THE COMMISSIONER OR A DESIGNEE.

25 (B) TERM OF OFFICE.--EXCEPT AS PROVIDED IN SUBSECTION (C),
26 THE MEMBERS OF THE BOARD SHALL SERVE FOR FOUR-YEAR TERMS AND
27 SHALL BE APPOINTED BY THE GOVERNOR BY AND WITH THE ADVICE AND
28 CONSENT OF A MAJORITY OF THE MEMBERS ELECTED TO THE SENATE.

29 (C) INITIAL APPOINTMENTS.--WITHIN 90 DAYS OF THE EFFECTIVE
30 DATE OF THIS SECTION, THE GOVERNOR SHALL NOMINATE TWO

1 PROFESSIONAL MEMBERS TO SERVE FOUR-YEAR TERMS, ONE PUBLIC MEMBER
2 AND ONE PROFESSIONAL MEMBER TO SERVE THREE-YEAR TERMS, ONE
3 PUBLIC MEMBER AND ONE PROFESSIONAL MEMBER TO SERVE TWO-YEAR
4 TERMS AND ONE PROFESSIONAL MEMBER TO SERVE A ONE-YEAR TERM. FOR
5 THE INITIAL APPOINTMENT OF PROFESSIONAL MEMBERS, APPOINTEES MUST
6 HAVE PRACTICED MASSAGE THERAPY FOR AT LEAST FIVE CONSECUTIVE
7 YEARS IMMEDIATELY PRECEDING THE APPOINTMENTS AND MUST HAVE
8 PASSED AN EXAMINATION UNDER SECTION 8.

9 (D) CONTINUATION IN OFFICE.--EACH BOARD MEMBER SHALL
10 CONTINUE IN OFFICE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED
11 BUT NO LONGER THAN SIX MONTHS AFTER THE EXPIRATION OF THE TERM.
12 IF A BOARD MEMBER SHALL DIE, RESIGN OR OTHERWISE BECOME
13 DISQUALIFIED DURING THE TERM OF OFFICE, A SUCCESSOR SHALL BE
14 APPOINTED IN THE SAME WAY AND WITH THE SAME QUALIFICATIONS AS
15 SET FORTH IN THIS SECTION AND SHALL HOLD OFFICE FOR THE
16 UNEXPIRED PORTION OF THE TERM.

17 (E) LIMIT ON TERMS.--NO BOARD MEMBER SHALL BE ELIGIBLE FOR
18 REAPPOINTMENT TO SERVE MORE THAN TWO CONSECUTIVE FOUR-YEAR
19 TERMS.

20 (F) FORFEITURE OF MEMBERSHIP.--A BOARD MEMBER WHO FAILS TO
21 ATTEND THREE CONSECUTIVE MEETINGS WITHOUT PERMISSION OF THE
22 COMMISSIONER SHALL FORFEIT THE MEMBER'S SEAT UNLESS THE
23 COMMISSIONER, UPON WRITTEN REQUEST FROM THE MEMBER, FINDS THAT
24 THE MEMBER SHOULD BE EXCUSED FROM A MEETING BECAUSE OF ILLNESS
25 OR THE DEATH OF A FAMILY MEMBER.

26 (G) COMPENSATION.--A MEMBER OF THE BOARD, EXCEPT THE
27 COMMISSIONER, SHALL RECEIVE PER DIEM COMPENSATION AT THE RATE OF
28 \$60 WHEN ACTUALLY ATTENDING TO THE WORK OF THE BOARD. MEMBERS
29 SHALL ALSO RECEIVE REASONABLE TRAVELING, HOTEL AND OTHER
30 NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES

1 IN ACCORDANCE WITH REGULATIONS.

2 (H) FORFEITURE FOR NONATTENDANCE.--A PUBLIC MEMBER WHO FAILS
3 TO ATTEND TWO CONSECUTIVE STATUTORILY MANDATED TRAINING SEMINARS
4 IN ACCORDANCE WITH SECTION 813(E) OF THE ACT OF APRIL 9, 1929
5 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929,
6 SHALL FORFEIT THE PUBLIC MEMBER'S SEAT UNLESS THE COMMISSIONER,
7 UPON WRITTEN REQUEST FROM THE PUBLIC MEMBER, FINDS THAT THE
8 PUBLIC MEMBER SHOULD BE EXCUSED FROM A MEETING BECAUSE OF
9 ILLNESS OR THE DEATH OF A FAMILY MEMBER.

10 (I) QUORUM.--A MAJORITY OF THE MEMBERS OF THE BOARD SHALL
11 CONSTITUTE A QUORUM FOR THE PURPOSES OF CONDUCTING THE BUSINESS
12 OF THE BOARD. EXCEPT FOR AUTOMATIC SUSPENSIONS UNDER SECTION
13 10(E) AND TEMPORARY SUSPENSIONS UNDER SECTION 10(D), A MEMBER
14 MAY NOT BE COUNTED AS PART OF A QUORUM OR VOTE ON ANY ISSUE
15 UNLESS THE MEMBER IS PHYSICALLY IN ATTENDANCE AT THE MEETING.

16 (J) CHAIRPERSON.--THE BOARD SHALL ANNUALLY SELECT A
17 CHAIRPERSON FROM AMONG ITS MEMBERS.

18 (K) MEETINGS.--THE BOARD SHALL MEET AT LEAST FOUR TIMES A
19 YEAR IN HARRISBURG AND AT OTHER TIMES AND PLACES AS THE BOARD
20 SHALL DETERMINE IS NECESSARY TO CONDUCT BOARD BUSINESS.

21 (L) NOTICE.--REASONABLE NOTICE OF ALL MEETINGS SHALL BE
22 GIVEN IN CONFORMITY WITH 65 PA.C.S. CH. 7 (RELATING TO OPEN
23 MEETINGS).

24 (M) OPERATING PROCEDURES.--THE BOARD SHALL MEET WITHIN 30
25 DAYS AFTER THE APPOINTMENT OF ITS INITIAL MEMBERS AND SHALL
26 INSTITUTE OPERATING PROCEDURES AND AN APPLICATION FORM FOR
27 LICENSING MASSAGE THERAPISTS. IT SHALL BE THE RESPONSIBILITY OF
28 THE BOARD TO EDUCATE THE PUBLIC AS TO THE REQUIREMENTS OF
29 LICENSING IN ORDER TO HOLD ONESELF OUT OR TO PRACTICE AS A
30 LICENSED MASSAGE THERAPIST WITHIN THIS COMMONWEALTH.

1 SECTION 5. POWERS AND DUTIES OF BOARD.

2 THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

3 (1) TO PASS UPON THE QUALIFICATIONS AND FITNESS OF
4 APPLICANTS FOR LICENSES AND RECIPROCAL LICENSES AND TO
5 PROMULGATE REGULATIONS REQUIRING APPLICANTS TO PASS
6 EXAMINATIONS RELATING TO QUALIFICATIONS AS A PREREQUISITE TO
7 THE ISSUANCE OF A LICENSE.

8 (2) TO PROMULGATE REGULATIONS NOT INCONSISTENT WITH THIS
9 ACT AND ONLY AS NECESSARY TO CARRY OUT THIS ACT.

10 (3) TO EXAMINE, DENY, APPROVE, ISSUE, REVOKE, SUSPEND OR
11 RENEW LICENSES OF MASSAGE THERAPISTS UNDER THIS ACT AND TO
12 CONDUCT HEARINGS IN CONNECTION WITH THOSE POWERS AND DUTIES.

13 (4) TO CONDUCT HEARINGS UPON COMPLAINTS CONCERNING
14 VIOLATIONS OF THIS ACT AND THE REGULATIONS PROMULGATED UNDER
15 THIS ACT AND TO SEEK THE PROSECUTION AND ENJOINER OF
16 VIOLATIONS.

17 (5) TO PROMULGATE REGULATIONS ESTABLISHING REQUIREMENTS
18 FOR CONTINUING EDUCATION UNDER THIS ACT.

19 (6) TO EXPEND MONEY NECESSARY TO THE PROPER CARRYING OUT
20 OF ITS ASSIGNED DUTIES.

21 (7) TO SUBMIT ANNUALLY A REPORT TO THE CONSUMER
22 PROTECTION AND PROFESSIONAL LICENSURE COMMITTEE OF THE SENATE
23 AND THE PROFESSIONAL LICENSURE COMMITTEE OF THE HOUSE OF
24 REPRESENTATIVES CONTAINING A DESCRIPTION OF THE TYPES OF
25 COMPLAINTS RECEIVED, STATUS OF THE CASES, BOARD ACTION WHICH
26 HAS BEEN TAKEN AND LENGTH OF TIME FROM THE INITIAL COMPLAINT
27 TO FINAL BOARD RESOLUTION.

28 (8) TO SUBMIT ANNUALLY TO THE APPROPRIATIONS COMMITTEE
29 OF THE SENATE AND THE APPROPRIATIONS COMMITTEE OF THE HOUSE
30 OF REPRESENTATIVES, WITHIN 15 DAYS AFTER THE GOVERNOR HAS

1 SUBMITTED A BUDGET TO THE GENERAL ASSEMBLY, A COPY OF THE
2 BUDGET REQUEST FOR THE UPCOMING FISCAL YEAR WHICH THE BOARD
3 PREVIOUSLY SUBMITTED TO THE DEPARTMENT.

4 SECTION 6. QUALIFICATION FOR LICENSURE.

5 (A) APPLICANTS.--AN APPLICANT SHALL BE CONSIDERED TO BE
6 QUALIFIED FOR A LICENSE IF THE APPLICANT SUBMITS PROOF
7 SATISFACTORY TO THE BOARD OF ALL OF THE FOLLOWING:

8 (1) THE APPLICANT IS OF GOOD MORAL CHARACTER.

9 (2) THE APPLICANT HAS A HIGH SCHOOL DIPLOMA OR ITS
10 EQUIVALENT.

11 (3) THE APPLICANT HAS COMPLETED A MASSAGE PROGRAM OF AT
12 LEAST 600 HOURS OF IN-CLASS, POSTSECONDARY EDUCATION
13 INSTRUCTION APPROVED BY THE STATE BOARD OF PRIVATE LICENSED
14 SCHOOLS OR BY THE BOARD. THE PROGRAM UNDER THIS PARAGRAPH
15 MUST INCLUDE TRAINING IN THE HUMAN IMMUNODEFICIENCY VIRUS AND
16 RELATED RISKS AND TRAINING IN CARDIOPULMONARY RESUSCITATION.

17 (4) THE APPLICANT HAS PASSED AN EXAMINATION UNDER
18 SECTION 8.

19 (5) THE APPLICATION IS ACCOMPANIED BY THE APPLICATION
20 FEE AS ESTABLISHED BY THE BOARD BY REGULATION.

21 (6) THE APPLICANT IS NOT ADDICTED TO THE HABITUAL USE OF
22 ALCOHOL, NARCOTICS OR OTHER HABIT-FORMING DRUGS.

23 (7) THE FOLLOWING APPLY:

24 (I) THE APPLICANT HAS NOT BEEN CONVICTED OF A FELONY
25 UNDER THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN
26 AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC
27 ACT, OR OF AN OFFENSE UNDER THE LAWS OF ANOTHER
28 JURISDICTION WHICH, IF COMMITTED IN THIS COMMONWEALTH,
29 WOULD BE A FELONY UNDER THE CONTROLLED SUBSTANCE, DRUG,
30 DEVICE AND COSMETIC ACT, UNLESS THE FOLLOWING APPLY:

1 (A) AT LEAST TEN YEARS HAVE ELAPSED FROM THE
2 DATE OF CONVICTION.

3 (B) THE APPLICANT SATISFACTORILY DEMONSTRATES TO
4 THE BOARD THAT THE APPLICANT HAS MADE SIGNIFICANT
5 PROGRESS IN PERSONAL REHABILITATION SINCE THE
6 CONVICTION AND THAT LICENSURE OF THE APPLICANT SHOULD
7 NOT BE EXPECTED TO CREATE A SUBSTANTIAL RISK OF HARM
8 TO THE HEALTH AND SAFETY OF THE APPLICANT'S CLIENTS
9 OR THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER
10 CRIMINAL VIOLATIONS.

11 (C) THE APPLICANT OTHERWISE SATISFIES THE
12 QUALIFICATIONS REQUIRED UNDER THIS ACT.

13 (II) AS USED IN THIS PARAGRAPH, THE TERM "CONVICTED"
14 INCLUDES A JUDGMENT, ADMISSION OF GUILT OR A PLEA OF NOLO
15 CONTENDERE.

16 (8) THE APPLICANT HAS NOT BEEN CONVICTED OF AN OFFENSE
17 UNDER THE LAW OF ANOTHER JURISDICTION WHICH, IF COMMITTED IN
18 THIS COMMONWEALTH, WOULD CONSTITUTE A SEXUAL OFFENSE OR A
19 FELONY. COMPLIANCE WITH THIS PARAGRAPH MUST BE DOCUMENTED BY
20 A REPORT OF CRIMINAL HISTORY RECORD INFORMATION FROM THE
21 PENNSYLVANIA STATE POLICE OR BY A STATEMENT FROM THE
22 PENNSYLVANIA STATE POLICE THAT ITS CENTRAL REPOSITORY
23 CONTAINS NO INFORMATION RELATING TO THE APPLICANT. THE COSTS
24 ASSOCIATED WITH THE REPORT OR STATEMENT SHALL BE PAID BY THE
25 APPLICANT.

26 (B) EXISTING PRACTITIONERS.--THE BOARD SHALL ISSUE A LICENSE
27 TO AN APPLICANT WHO, ON THE EFFECTIVE DATE OF THIS SUBSECTION,
28 COMPLIES WITH ALL OF THE FOLLOWING PARAGRAPHS:

29 (1) IS AN ACTIVE PROFESSIONAL PRACTITIONER OF MASSAGE.

30 (2) MEETS THE QUALIFICATIONS DESCRIBED IN SUBSECTION

(A)(1), (2), (5), (6), (7) AND (8).

(3) COMPLIES WITH ONE OF THE FOLLOWING SUBPARAGRAPHS:

(I) HAS:

(A) BEEN IN ACTIVE, CONTINUOUS PRACTICE FOR AT
LEAST FIVE YEARS IMMEDIATELY PRECEDING THE EFFECTIVE
DATE OF THIS SECTION; AND

(B) COMPLETED 150 HOURS OF INSTRUCTION IN
MASSAGE AND RELATED SUBJECTS.

(II) HAS PASSED AN EXAMINATION ADMINISTERED BY A
CERTIFYING AGENCY WHICH IS APPROVED BY THE NATIONAL
COMMISSION OF CERTIFYING AGENCIES AND IS IN GOOD STANDING
WITH THE CERTIFYING AGENCY OR WITH THE BOARD.

(III) HAS COMPLETED 500 HOURS OF INSTRUCTION IN
MASSAGE AND RELATED SUBJECTS FROM A MASSAGE THERAPY
PROGRAM APPROVED BY THE STATE BOARD OF PRIVATE LICENSED
SCHOOLS OR BY THE BOARD.

(C) TEMPORARY PRACTICE PERMIT.--

(1) THE BOARD MAY ISSUE A TEMPORARY PRACTICE PERMIT TO
AN APPLICANT IN ORDER TO PERMIT THE APPLICANT TO PRACTICE
MASSAGE THERAPY DURING THE SIX-MONTH PERIOD AFTER COMPLETION
OF THE APPLICANT'S EDUCATION PROGRAM.

(2) THE TEMPORARY PRACTICE PERMIT ISSUED UNDER PARAGRAPH
(1) SHALL BE NONRENEWABLE AND SHALL EXPIRE ON THE EARLIER OF:

(I) SIX MONTHS FROM THE DATE OF ISSUANCE; OR

(II) THE DATE THE APPLICANT FAILS THE LICENSING
EXAMINATION.

(D) TRANSFERABILITY.--A LICENSE AND A TEMPORARY PRACTICE
PERMIT ARE NOT TRANSFERABLE.

SECTION 7. LICENSE STATUS AND CONTINUING EDUCATION.

(A) DURATION OF LICENSE.--A LICENSE SHALL BE ON A BIENNIAL

1 BASIS. THE BIENNIAL EXPIRATION DATE SHALL BE ESTABLISHED BY
2 REGULATION OF THE BOARD. APPLICATION FOR RENEWAL OF A LICENSE
3 SHALL BIENNIALLY BE FORWARDED TO AN INDIVIDUAL HOLDING A CURRENT
4 LICENSE PRIOR TO THE EXPIRATION DATE OF THE CURRENT RENEWAL
5 BIENNIUM.

6 (B) PROCEDURE.--TO RENEW A LICENSE, A LICENSEE MUST DO ALL
7 OF THE FOLLOWING:

8 (1) FILE A RENEWAL APPLICATION WITH THE BOARD. THE
9 LICENSEE MUST PROVIDE ALL OF THE FOLLOWING:

10 (I) CURRENT CERTIFICATION TO ADMINISTER
11 CARDIOPULMONARY RESUSCITATION.

12 (II) SUCCESSFUL COMPLETION OF A MINIMUM OF 24 HOURS
13 OF STUDY IN THE FIELD OF MASSAGE THERAPY DURING THE
14 IMMEDIATELY PRECEDING TWO YEARS AS APPROVED BY THE BOARD.

15 (2) PAY A FEE ESTABLISHED BY REGULATION OF THE BOARD.

16 (C) INACTIVE STATUS.--A LICENSEE MAY REQUEST AN APPLICATION
17 FOR INACTIVE STATUS. THE APPLICATION FORM MUST BE COMPLETED AND
18 RETURNED TO THE BOARD. UPON RECEIPT OF AN APPLICATION, THE
19 INDIVIDUAL SHALL BE MAINTAINED ON INACTIVE STATUS WITHOUT FEE
20 AND SHALL BE ENTITLED TO APPLY FOR A LICENSURE RENEWAL AT ANY
21 TIME. AN INDIVIDUAL WHO REQUESTS THE BOARD TO ACTIVATE HIS
22 LICENSE AND WHO HAS BEEN ON INACTIVE STATUS FOR A PERIOD OF FIVE
23 CONSECUTIVE YEARS MUST, PRIOR TO RECEIVING AN ACTIVE LICENSE,
24 SATISFY THE REQUIREMENTS OF THE BOARD'S REGULATIONS FOR ENSURING
25 CONTINUED COMPETENCE, INCLUDING HOLDING CURRENT CERTIFICATION TO
26 ADMINISTER CARDIOPULMONARY RESUSCITATION AND REMITTING THE
27 REQUIRED FEE. THE BOARD SHALL PROMULGATE REGULATIONS TO CARRY
28 INTO EFFECT THE PROVISIONS OF THIS SUBSECTION.

29 (D) REPORTING OF MULTIPLE LICENSURE.--A LICENSEE WHO IS ALSO
30 LICENSED TO PRACTICE MASSAGE THERAPY IN ANOTHER JURISDICTION

1 SHALL REPORT THIS INFORMATION TO THE BOARD ON THE BIENNIAL
2 REGISTRATION APPLICATION. ANY DISCIPLINARY ACTION TAKEN IN
3 ANOTHER JURISDICTION SHALL BE REPORTED TO THE BOARD ON THE
4 BIENNIAL REGISTRATION APPLICATION OR WITHIN 90 DAYS OF FINAL
5 DISPOSITION, WHICHEVER IS SOONER. MULTIPLE LICENSURE SHALL BE
6 NOTED BY THE BOARD ON THE LICENSEE'S RECORD, AND THE OTHER
7 LICENSING JURISDICTION SHALL BE NOTIFIED BY THE BOARD OF ANY
8 DISCIPLINARY ACTIONS TAKEN AGAINST THE LICENSEE IN THIS
9 COMMONWEALTH.

10 SECTION 8. EXAMINATIONS.

11 THE BOARD SHALL CONTRACT WITH A PROFESSIONAL TESTING
12 ORGANIZATION FOR THE EXAMINATION OF QUALIFIED APPLICANTS FOR
13 LICENSURE. THE BOARD MUST APPROVE THE EXAMINATION BEFORE IT IS
14 ADMINISTERED. ALL WRITTEN, ORAL AND PRACTICAL EXAMINATIONS SHALL
15 BE PREPARED AND ADMINISTERED BY A QUALIFIED AND APPROVED
16 PROFESSIONAL TESTING ORGANIZATION IN THE MANNER PRESCRIBED FOR
17 WRITTEN EXAMINATIONS BY SECTION 812.1 OF THE ACT OF APRIL 9,
18 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
19 1929.

20 SECTION 9. RECIPROCITY.

21 THE BOARD HAS THE POWER TO GRANT A RECIPROCAL LICENSE TO AN
22 APPLICANT WHO IS LICENSED OR CERTIFIED AS A MASSAGE THERAPIST OR
23 SIMILAR PRACTICE IN ANOTHER STATE AND HAS DEMONSTRATED
24 QUALIFICATIONS WHICH EQUAL OR EXCEED THOSE REQUIRED UNDER THIS
25 ACT IN THE DETERMINATION OF THE BOARD. NO LICENSE SHALL BE
26 GRANTED UNDER THIS SECTION TO AN APPLICANT UNLESS THE STATE IN
27 WHICH THE APPLICANT IS LICENSED AFFORDS RECIPROCAL TREATMENT TO
28 INDIVIDUALS WHO ARE RESIDENTS OF THIS COMMONWEALTH AND WHO ARE
29 LICENSED UNDER THIS ACT.

30 SECTION 10. REFUSAL, SUSPENSION AND REVOCATION OF LICENSES.

1 (A) GROUNDS.--THE BOARD MAY REFUSE, SUSPEND, REVOKE, LIMIT
2 OR RESTRICT A LICENSE OR REPRIMAND A LICENSEE FOR ANY OF THE
3 FOLLOWING:

4 (1) BEING CONVICTED UNDER FEDERAL LAW, UNDER THE LAW OF
5 ANY STATE OR UNDER THE LAW OF ANY FOREIGN JURISDICTION OF AN
6 OFFENSE OF MORAL TURPITUDE OR OF AN OFFENSE WHICH, IF
7 COMMITTED IN THIS COMMONWEALTH, WOULD CONSTITUTE A SEXUAL
8 OFFENSE OR A FELONY. AS USED IN THIS PARAGRAPH, THE TERM
9 "CONVICTED" INCLUDES A FINDING OR VERDICT OF GUILT, AN
10 ADMISSION OF GUILT OR A PLEA OF NOLO CONTENDERE OR RECEIVING
11 PROBATION WITHOUT VERDICT, DISPOSITION IN LIEU OF TRIAL OR AN
12 ACCELERATED REHABILITATIVE DISPOSITION IN THE DISPOSITION OF
13 FELONY CHARGES.

14 (2) BEING FOUND TO HAVE ENGAGED IN IMMORAL OR
15 UNPROFESSIONAL CONDUCT. IN PROCEEDINGS BASED ON THIS
16 PARAGRAPH, ACTUAL INJURY TO THE CLIENT NEED NOT BE
17 ESTABLISHED. AS USED IN THIS PARAGRAPH, THE TERM
18 "UNPROFESSIONAL CONDUCT" INCLUDES:

19 (I) A DEPARTURE FROM OR FAILURE TO CONFORM TO THE
20 STANDARDS OF ACCEPTABLE AND PREVAILING PRACTICE; AND

21 (II) SEXUAL EXPLOITATION OF A CLIENT.

22 (3) VIOLATING STANDARDS OF PROFESSIONAL PRACTICE OR
23 CONDUCT ADOPTED BY THE BOARD.

24 (4) PRESENTING FALSE CREDENTIALS OR DOCUMENTS OR MAKING
25 A FALSE STATEMENT OF FACT IN SUPPORT OF THE APPLICANT'S
26 APPLICATION FOR A LICENSE.

27 (5) SUBMITTING A FALSE OR DECEPTIVE BIENNIAL RENEWAL TO
28 THE BOARD.

29 (6) HAVING A LICENSE SUSPENDED, REVOKED OR REFUSED OR
30 RECEIVING OTHER DISCIPLINARY ACTION BY THE PROPER LICENSING

1 AUTHORITY OF ANY OTHER JURISDICTION.

2 (7) VIOLATING A REGULATION PROMULGATED BY THE BOARD,
3 INCLUDING STANDARDS OF PROFESSIONAL PRACTICE AND CONDUCT OR
4 VIOLATING AN ORDER OF THE BOARD PREVIOUSLY ENTERED IN A
5 DISCIPLINARY PROCEEDING.

6 (8) FAILING TO REFER A CLIENT TO A PHYSICIAN WHEN THE
7 CLIENT IS PRESENTING A CONTRADICTION TO MASSAGE THERAPY.

8 (9) INCOMPETENCE, NEGLIGENCE OR MISCONDUCT IN CARRYING
9 OUT THE PRACTICE OF MASSAGE THERAPY.

10 (10) PRACTICING BEYOND THE LICENSEE'S DEFINED SCOPE OF
11 PRACTICE.

12 (11) KNOWINGLY AIDING, ASSISTING, HIRING OR ADVISING
13 SOMEONE IN THE UNLAWFUL PRACTICE OF MASSAGE THERAPY.

14 (12) BEING UNABLE TO PRACTICE WITH REASONABLE SKILL AND
15 SAFETY BY REASON OF ILLNESS; DRUNKENNESS; EXCESSIVE USE OF
16 DRUGS, NARCOTICS, CHEMICALS OR ANY OTHER TYPE OF MATERIAL; OR
17 AS A RESULT OF ANY MENTAL OR PHYSICAL CONDITION. IN ENFORCING
18 THIS PARAGRAPH, THE BOARD, UPON PROBABLE CAUSE, HAS AUTHORITY
19 TO COMPEL A LICENSEE TO SUBMIT TO A MENTAL OR PHYSICAL
20 EXAMINATION BY A PHYSICIAN APPROVED BY THE BOARD. FAILURE OF
21 A LICENSEE TO SUBMIT TO AN EXAMINATION WHEN DIRECTED BY THE
22 BOARD, UNLESS THE FAILURE IS DUE TO CIRCUMSTANCES BEYOND THE
23 LICENSEE'S CONTROL, SHALL CONSTITUTE AN ADMISSION OF THE
24 ALLEGATIONS AGAINST THE LICENSEE, CONSEQUENT UPON WHICH A
25 DEFAULT AND FINAL ORDER MAY BE ENTERED WITHOUT THE TAKING OF
26 TESTIMONY OR PRESENTATION OF EVIDENCE. A LICENSEE AFFECTED
27 UNDER THIS PARAGRAPH SHALL AT REASONABLE INTERVALS, AS
28 DETERMINED BY THE BOARD, BE AFFORDED AN OPPORTUNITY TO
29 DEMONSTRATE THAT THE LICENSEE CAN RESUME COMPETENT PRACTICE
30 WITH REASONABLE SKILL AND SAFETY.

1 (B) BOARD ACTION.--IF THE BOARD FINDS THAT THE LICENSE OR
2 APPLICATION FOR LICENSE MAY BE REFUSED, REVOKED, RESTRICTED OR
3 SUSPENDED UNDER THE TERMS OF SUBSECTION (A), THE BOARD MAY DO
4 ANY OF THE FOLLOWING:

5 (1) DENY THE APPLICATION FOR A LICENSE.

6 (2) ADMINISTER A PUBLIC REPRIMAND.

7 (3) REVOKE, SUSPEND, LIMIT OR OTHERWISE RESTRICT A
8 LICENSE.

9 (4) REQUIRE A LICENSEE TO SUBMIT TO THE CARE, COUNSELING
10 OR TREATMENT OF A PHYSICIAN DESIGNATED BY THE BOARD.

11 (5) SUSPEND ENFORCEMENT OF ITS FINDINGS AND PLACE A
12 LICENSEE ON PROBATION WITH THE RIGHT TO VACATE THE
13 PROBATIONARY ORDER FOR NONCOMPLIANCE.

14 (6) RESTORE A SUSPENDED LICENSE AND IMPOSE ANY
15 DISCIPLINARY OR CORRECTIVE MEASURE WHICH IT MIGHT ORIGINALLY
16 HAVE IMPOSED.

17 (C) ADMINISTRATIVE AGENCY LAW.--ACTIONS OF THE BOARD UNDER
18 SUBSECTIONS (A) AND (B) ARE SUBJECT TO 2 PA.C.S. CH. 5 SUBCH. A
19 (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES)
20 AND CH. 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH
21 AGENCY ACTION).

22 (D) TEMPORARY SUSPENSION.--THE BOARD SHALL TEMPORARILY
23 SUSPEND A LICENSE UNDER CIRCUMSTANCES AS DETERMINED BY THE BOARD
24 TO BE AN IMMEDIATE AND CLEAR DANGER TO THE PUBLIC HEALTH AND
25 SAFETY. THE BOARD SHALL ISSUE AN ORDER TO THAT EFFECT WITHOUT A
26 HEARING, BUT UPON NOTICE TO THE LICENSEE CONCERNED AT THE
27 LICENSEE'S LAST KNOWN ADDRESS, WHICH MUST INCLUDE A WRITTEN
28 STATEMENT OF ALL ALLEGATIONS AGAINST THE LICENSEE. SUBSECTION

29 (C) SHALL NOT APPLY TO TEMPORARY SUSPENSION. UPON ISSUANCE OF AN
30 ORDER UNDER THIS SUBSECTION THE BOARD SHALL COMMENCE FORMAL

1 ACTION TO SUSPEND, REVOKE OR RESTRICT THE LICENSE AS OTHERWISE
2 PROVIDED FOR IN THIS ACT. ALL ACTIONS SHALL BE TAKEN PROMPTLY.
3 WITHIN 30 DAYS FOLLOWING THE ISSUANCE OF AN ORDER TEMPORARILY
4 SUSPENDING A LICENSE, THE BOARD SHALL CONDUCT A PRELIMINARY
5 HEARING TO DETERMINE THAT THERE IS A PRIMA FACIE CASE SUPPORTING
6 THE SUSPENSION. THE LICENSEE WHOSE LICENSE HAS BEEN TEMPORARILY
7 SUSPENDED MAY BE PRESENT AT THE PRELIMINARY HEARING AND MAY BE
8 REPRESENTED BY COUNSEL, CROSS-EXAMINE WITNESSES, INSPECT
9 PHYSICAL EVIDENCE, CALL WITNESSES, OFFER EVIDENCE AND TESTIMONY
10 AND MAKE A RECORD OF THE PROCEEDINGS. IF IT IS DETERMINED THAT
11 THERE IS NOT A PRIMA FACIE CASE, THE SUSPENDED LICENSE SHALL BE
12 IMMEDIATELY RESTORED. THE TEMPORARY SUSPENSION SHALL REMAIN IN
13 EFFECT UNTIL VACATED BY THE BOARD, BUT IN NO EVENT LONGER THAN
14 180 DAYS.

15 (E) AUTOMATIC SUSPENSION.--

16 (1) A LICENSE SHALL AUTOMATICALLY BE SUSPENDED UPON THE
17 LEGAL COMMITMENT OF A LICENSEE TO AN INSTITUTION BECAUSE OF
18 MENTAL INCOMPETENCE FROM ANY CAUSE UPON FILING WITH THE BOARD
19 OF A CERTIFIED COPY OF THE COMMITMENT.

20 (2) A LICENSE SHALL AUTOMATICALLY BE SUSPENDED UPON
21 CONVICTION OF A FELONY UNDER THE ACT OF APRIL 14, 1972
22 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,
23 DEVICE AND COSMETIC ACT, OR CONVICTION OF AN OFFENSE UNDER
24 THE LAWS OF ANOTHER JURISDICTION, WHICH, IF COMMITTED IN THIS
25 COMMONWEALTH, WOULD BE A FELONY UNDER THE CONTROLLED
26 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. AS USED IN THIS
27 PARAGRAPH, THE TERM "CONVICTION" INCLUDES A JUDGMENT, AN
28 ADMISSION OF GUILT OR A PLEA OF NOLO CONTENDERE.

29 (3) AUTOMATIC SUSPENSION UNDER THIS SECTION SHALL NOT BE
30 STAYED PENDING AN APPEAL.

(4) REINSTATEMENT OF A LICENSE SHALL BE MADE UNDER
SECTION 11.

(5) SUBSECTION (C) SHALL NOT APPLY TO AUTOMATIC
SUSPENSION.

SECTION 11. REINSTATEMENT OF LICENSE.

UNLESS ORDERED TO DO SO BY A COURT OF COMPETENT JURISDICTION,
THE BOARD SHALL NOT REINSTATE THE LICENSE OF AN INDIVIDUAL WHICH
HAS BEEN REVOKED. AN INDIVIDUAL WHOSE LICENSE HAS BEEN REVOKED
MAY REAPPLY FOR A LICENSE AFTER A PERIOD OF AT LEAST FIVE YEARS,
BUT MUST MEET ALL OF THE LICENSING REQUIREMENTS OF THIS ACT.

SECTION 12. LICENSE RENEWAL; RECORDS AND FEES.

(A) RECORDS.--A RECORD OF ALL LICENSEES SHALL BE KEPT IN THE
OFFICE OF THE BOARD AND SHALL BE OPEN TO PUBLIC INSPECTION AND
COPYING UPON PAYMENT OF A REASONABLE FEE FOR COPYING THE RECORD.

(B) FEES.--

(1) ALL FEES REQUIRED UNDER THIS ACT SHALL BE FIXED BY
THE BOARD BY REGULATION. IF THE REVENUE RAISED BY FEES, FINES
AND CIVIL PENALTIES IMPOSED UNDER THIS ACT ARE NOT SUFFICIENT
TO MEET EXPENDITURES OVER A TWO-YEAR PERIOD, THE BOARD SHALL
INCREASE THOSE FEES BY REGULATION SO THAT THE PROJECTED
REVENUES WILL MEET OR EXCEED PROJECTED EXPENDITURES.

(2) IF THE BUREAU DETERMINES THAT THE FEES ESTABLISHED
BY THE BOARD UNDER PARAGRAPH (1) ARE INADEQUATE TO MEET THE
MINIMUM ENFORCEMENT EFFORTS REQUIRED BY THIS ACT, THE BUREAU,
AFTER CONSULTATION WITH THE BOARD, SHALL INCREASE THE FEES BY
REGULATION IN AN AMOUNT SO THAT ADEQUATE REVENUES ARE RAISED
TO MEET THE REQUIRED ENFORCEMENT EFFORT.

SECTION 13. DUTY OF LICENSEE.

A LICENSEE SHALL REFER A CLIENT TO A PHYSICIAN WHEN THE
CLIENT IS PRESENTING A CONTRADICTION TO MASSAGE THERAPY.

1 SECTION 14. OTHER PROFESSIONS.

2 NOTHING IN THIS ACT SHALL BE CONSTRUED AS PREVENTING,
3 RESTRICTING OR REQUIRING LICENSURE OF ANY OF THE FOLLOWING
4 ACTIVITIES:

5 (1) THE PRACTICE OF A PROFESSION BY AN INDIVIDUAL WHO IS
6 LICENSED, CERTIFIED OR REGISTERED BY A COMMONWEALTH AGENCY
7 UNDER OTHER LAW AND WHO IS PERFORMING SERVICES WITHIN THE
8 AUTHORIZED SCOPE OF PRACTICE.

9 (2) THE PRACTICE OF MASSAGE THERAPY BY AN INDIVIDUAL
10 EMPLOYED BY THE FEDERAL GOVERNMENT WHILE THE INDIVIDUAL IS
11 ENGAGED IN THE PERFORMANCE OF DUTIES UNDER FEDERAL LAW.

12 (3) THE PRACTICE OF MASSAGE THERAPY BY AN INDIVIDUAL
13 LICENSED, REGISTERED OR CERTIFIED IN ANOTHER JURISDICTION
14 WHEN INCIDENTALLY CALLED INTO THIS COMMONWEALTH TO TEACH A
15 COURSE RELATED TO MASSAGE THERAPY AND BODYWORK THERAPY OR TO
16 CONSULT WITH A LICENSEE.

17 (4) A STUDENT WHO IS:

18 (I) CONDUCTING MASSAGE THERAPY ACTIVITIES UNDER THE
19 SUPERVISION OF:

20 (A) A LICENSEE; OR

21 (B) INSTRUCTORS OR SUPERVISORS WHO MEET THE
22 LICENSING CRITERIA OF THE STATE BOARD OF PRIVATE
23 LICENSED SCHOOLS OR THE BOARD; AND

24 (II) ENROLLED IN A SCHOOL APPROVED BY THE STATE
25 BOARD OF PRIVATE LICENSED SCHOOLS OR BY THE BOARD.

26 (5) THE PRACTICE BY AN INDIVIDUAL WHILE PERFORMING
27 REFLEXOLOGY.

28 (6) THE PRACTICE OF AN INDIVIDUAL WHO USES TOUCH, WORDS
29 AND DIRECTED MOVEMENT TO DEEPEN AWARENESS OF EXISTING
30 PATTERNS OF MOVEMENT IN THE BODY AND TO SUGGEST NEW

1 POSSIBILITIES OF MOVEMENT, WHILE ENGAGED WITHIN THE SCOPE OF
2 PRACTICE OF A PROFESSION WITH ESTABLISHED STANDARDS AND
3 ETHICS.

4 (7) THE PRACTICE OF AN INDIVIDUAL WHO USES TOUCH TO
5 AFFECT THE ENERGY SYSTEMS, ACCUPOINTS, QI MERIDIANS OR
6 CHANNELS OF ENERGY OF THE HUMAN BODY WHILE ENGAGED WITHIN THE
7 SCOPE OF PRACTICE OF A PROFESSION WITH ESTABLISHED STANDARDS
8 AND ETHICS.

9 (8) AN INDIVIDUAL PROVIDING SERVICE AS PART OF AN
10 EMERGENCY RESPONSE TEAM WORKING IN CONJUNCTION WITH DISASTER
11 RELIEF OFFICIALS.

12 SECTION 15. UNLAWFUL PRACTICE.

13 (A) GENERAL RULE.--EXCEPT AS SET FORTH IN SECTION 14(1), AN
14 INDIVIDUAL MAY NOT PRACTICE MASSAGE THERAPY OR HOLD ONESELF OUT
15 AS A MASSAGE THERAPIST UNLESS LICENSED BY THE BOARD.

16 (B) TITLE.--AN INDIVIDUAL WHO HOLDS A LICENSE OR IS
17 MAINTAINED ON INACTIVE STATUS MAY USE THE TITLE "LICENSED
18 MASSAGE THERAPIST" AND THE ABBREVIATION "L.M.T." NO OTHER
19 INDIVIDUAL MAY USE THE TITLE "LICENSED MASSAGE THERAPIST" OR THE
20 TITLE "MASSAGE THERAPIST" OR HOLD ONESELF OUT TO OTHERS AS A
21 MASSAGE THERAPIST. THIS SUBSECTION INCLUDES ADVERTISING AS A
22 MASSAGE THERAPIST AND ADOPTING OR USING ANY TITLE OR
23 DESCRIPTION, INCLUDING MASSAGE THERAPIST, MASSAGE PRACTITIONER,
24 MASSEUR, MASSEUSE, MYOTHERAPIST OR A DERIVATIVE OF THESE TERMS
25 AND THEIR RELATED ABBREVIATIONS, WHICH IMPLIES DIRECTLY OR
26 INDIRECTLY THAT MASSAGE SERVICES ARE BEING PROVIDED. OF THOSE
27 TERMS AND THEIR RELATED ABBREVIATIONS, WHICH IMPLIES DIRECTLY OR
28 INDIRECTLY THAT MASSAGE SERVICES ARE BEING PROVIDED.

29 (C) EMPLOYMENT.--AN INDIVIDUAL, CORPORATION, PARTNERSHIP,
30 FIRM OR OTHER ENTITY MAY NOT EMPLOY AN INDIVIDUAL IN MASSAGE

1 THERAPY UNLESS THE INDIVIDUAL IS LICENSED BY THE BOARD.

2 (D) TERMINOLOGY.--EXCEPT AS SET FORTH IN SECTION 14(1), A
3 BUSINESS ENTITY MAY NOT UTILIZE IN CONNECTION WITH A BUSINESS
4 NAME OR ACTIVITY THE WORDS, "MASSAGE," "MASSAGE THERAPIST,"
5 "MASSAGE PRACTITIONER," "MASSEUR," "MASSEUSE" OR "MYOTHERAPIST,"
6 OR ANY DERIVATIVE OF THESE TERMS AND THEIR RELATED
7 ABBREVIATIONS, WHICH IMPLY DIRECTLY OR INDIRECTLY THAT MASSAGE
8 THERAPY SERVICES ARE BEING PROVIDED.

9 (E) INJUNCTION.--UNLAWFUL PRACTICE MAY BE ENJOINED BY THE
10 COURTS UPON PETITION OF THE COMMISSIONER OR THE BOARD. IN A
11 PROCEEDING UNDER THIS SECTION, IT SHALL NOT BE NECESSARY TO SHOW
12 THAT AN INDIVIDUAL HAS BEEN INJURED. IF THE COURT FINDS THAT THE
13 RESPONDENT HAS VIOLATED THIS SECTION, IT SHALL ENJOIN THE
14 RESPONDENT FROM PRACTICING UNTIL THE RESPONDENT HAS BEEN
15 LICENSED. PROCEDURE IN SUCH CASES SHALL BE THE SAME AS IN ANY
16 OTHER INJUNCTION SUIT.

17 (F) REMEDY CUMULATIVE.--THE INJUNCTIVE REMEDY PROVIDED IN
18 THIS SECTION SHALL BE IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL
19 PROSECUTION AND PUNISHMENT.

20 SECTION 16. VIOLATION OF ACT.

21 (A) GENERAL RULE.--A PERSON THAT VIOLATES A PROVISION OF
22 THIS ACT OR A REGULATION OF THE BOARD COMMITS A MISDEMEANOR OF
23 THE THIRD DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY
24 A FINE OF NOT MORE THAN \$1,000 OR TO IMPRISONMENT FOR NOT MORE
25 THAN SIX MONTHS FOR THE FIRST VIOLATION AND TO PAY A FINE OF NOT
26 MORE THAN \$2,000 OR TO IMPRISONMENT FOR NOT LESS THAN SIX MONTHS
27 OR MORE THAN ONE YEAR, OR BOTH, FOR EACH SUBSEQUENT VIOLATION.

28 (B) CIVIL PENALTY.--IN ADDITION TO ANY OTHER CIVIL REMEDY OR
29 CRIMINAL PENALTY PROVIDED FOR IN THIS ACT, THE BOARD, BY A VOTE
30 OF THE MAJORITY OF THE MAXIMUM NUMBER OF THE AUTHORIZED

1 MEMBERSHIP OF THE BOARD OR BY A VOTE OF THE MAJORITY OF THE
2 QUALIFIED AND CONFIRMED MEMBERSHIP OR A MINIMUM OF FIVE MEMBERS,
3 WHICHEVER IS GREATER, MAY LEVY A CIVIL PENALTY OF UP TO \$1,000
4 ON ANY OF THE FOLLOWING:

5 (1) A MASSAGE THERAPIST WHO VIOLATES A PROVISION OF THIS
6 ACT.

7 (2) A PERSON THAT EMPLOYS A MASSAGE THERAPIST IN
8 VIOLATION OF THIS ACT.

9 (3) AN INDIVIDUAL WHO HOLDS HIMSELF OUT AS A LICENSEE
10 WITHOUT BEING PROPERLY LICENSED AS PROVIDED IN THIS ACT.

11 (4) THE RESPONSIBLE OFFICERS OR EMPLOYEES OF A
12 CORPORATION, PARTNERSHIP, FIRM OR OTHER ENTITY THAT VIOLATES
13 A PROVISION OF THIS ACT.

14 (C) ADMINISTRATIVE AGENCY LAW.--ACTION OF THE BOARD UNDER
15 SUBSECTION (B) IS SUBJECT TO 2 PA.C.S. CH. 5 SUBCH. A (RELATING
16 TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES) AND CH. 7
17 SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY
18 ACTION).

19 SECTION 49. APPROPRIATION AND REPAYMENT.

20 (A) APPROPRIATION.--THE SUM OF \$85,000, OR AS MUCH THEREOF
21 AS MAY BE NECESSARY, IS HEREBY APPROPRIATED FROM THE
22 PROFESSIONAL LICENSURE AUGMENTATION ACCOUNT TO THE DEPARTMENT
23 FOR THE PAYMENT OF COSTS ASSOCIATED WITH PROCESSING LICENSES AND
24 RENEWING LICENSES, FOR THE OPERATION OF THE BOARD AND FOR OTHER
25 COSTS ASSOCIATED WITH THIS ACT. THE APPROPRIATION SHALL BE
26 REPAID BY THE BOARD WITHIN THREE YEARS OF THE BEGINNING OF
27 ISSUANCE OF LICENSES BY THE BOARD.

28 (B) REPAYMENT.--THE APPROPRIATION SHALL BE REPAID BY THE
29 BOARD TO THE ACCOUNT WITHIN THREE YEARS OF THE BEGINNING OF
30 ISSUANCE OF LICENSES BY THE BOARD.

1 SECTION 50. REGULATIONS.

2 THE BOARD SHALL PROMULGATE REGULATIONS TO CARRY OUT THIS ACT.
3 PUBLICATION OF THE FINAL-FORM REGULATIONS UNDER THIS SECTION
4 SHALL TAKE PLACE WITHIN 18 MONTHS OF THE EFFECTIVE DATE OF THIS
5 SECTION. THE BOARD SHALL REPORT, WITHIN 60 DAYS OF THE EFFECTIVE
6 DATE OF THIS SECTION, AND EVERY 30 DAYS THEREAFTER, ON THE
7 STATUS OF THE REGULATIONS TO THE CONSUMER PROTECTION AND
8 PROFESSIONAL LICENSURE COMMITTEE OF THE SENATE AND THE
9 PROFESSIONAL LICENSURE COMMITTEE OF THE HOUSE OF
10 REPRESENTATIVES.

11 SECTION 51. EFFECTIVE DATE.

12 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

13 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
14 IMMEDIATELY:

15 (I) SECTION 50.

16 (II) THIS SECTION.

17 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN TWO
18 YEARS.