

A bill for an act
relating to health occupations; providing registration for massage therapists;
amending Minnesota Statutes 2008, section 116J.70, subdivision 2a; proposing
coding for new law in Minnesota Statutes, chapters 148; 325F; repealing
Minnesota Rules, part 2500.5000.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1
MESSAGE THERAPY REGISTRATION

Section 1. [148.981] CITATION.

Sections 148.981 to 148.989 may be cited as the "Minnesota Massage Therapy Act."

Sec. 2. [148.982] DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Advertise.** "Advertise" means to publish, display, or disseminate
information, and includes, but is not limited to, the issuance of any card, sign, direct mail,
Internet posting or the causing or permitting in one's name for any sign or marking on or in
a building, vehicle, or structure or in a newspaper, magazine, any listing in any directory
under a classification or heading that includes the words "massage," "massage therapist,"
"therapeutic massage," or "massage therapeutic," or commercials broadcast by any means.

Subd. 3. **Advisory council.** "Advisory council" means the Registered Massage
Therapist Advisory Council established under section 148.9861.

Subd. 4. **Applicant.** "Applicant" means an individual applying for massage therapy
registration or registration renewal.

Subd. 5. **Approved continuing education program.** "Approved continuing education program" means a continuing education program that meets the continuing education requirements in section 148.9881 and is approved by the board.

Subd. 6. **Approved massage therapy program.** "Approved massage therapy program" means a university, college, or other postsecondary education program leading to eligibility for state registration in massage therapy that meets the requirements of section 148.988.

Subd. 7. **Board.** "Board" means the Minnesota Board of Nursing.

Subd. 8. **Client.** "Client" means a recipient of massage therapy services.

Subd. 9. **Contact hour.** "Contact hour" means an instructional session of at least 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Subd. 10. **Credential.** "Credential" means a license, registration, or certification.

Subd. 11. **Competency exam.** "Competency exam" means a massage therapy competency assessment that is approved by the board and is psychometrically valid, based on a job task analysis, and administered by a national testing organization.

Subd. 12. **Health care provider.** "Health care provider" means a person who is credentialed to practice the following: medicine as defined in section 147.081, chiropractic as defined in section 148.01, podiatry as defined in section 153.01, dentistry as defined in section 150A.05, physical therapy as defined in section 148.65, advanced practice nursing as defined in section 148.171, or other state-credentialed providers.

Subd. 13. **Massage or massage therapy.** "Massage" or "massage therapy" means a health care service involving systematic and structured touch and palpation, pressure and movement of the muscles, tendons, ligaments, and fascia, in order to reduce muscle tension, relieve soft tissue pain, improve circulation, increase flexibility, increase activity of the parasympathetic branch of the autonomic nervous system, or to promote general wellness, by use of the techniques and applications described in section 148.983.

Subd. 14. **Massage therapist.** "Massage therapist" means a health care professional registered under this chapter for the practice of massage therapy.

Subd. 15. **Municipality.** "Municipality" means a county, town, city, or other municipal corporation or political subdivision of this state.

Subd. 16. **Physical agent modality.** "Physical agent modality" means modalities that use the properties of light, water, temperature, sound, and electricity to produce a response in soft tissue.

Subd. 17. **Practice of massage therapy.** "Practice of massage therapy" means to engage professionally for compensation or as a volunteer in massage therapy or the instruction of professional technique coursework.

Subd. 18. **Professional organization.** "Professional organization" means an organization that represents massage therapists, was established before the year 2000, offers professional liability insurance as a benefit of membership, has an established code of professional ethics, and is board-approved.

Subd. 19. **State.** "State" means any state in the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, Canadian province, or foreign country, except "this state" means the state of Minnesota.

Sec. 3. **[148.983] MASSAGE THERAPY.**

(a) The practice of massage therapy by a registered massage therapist includes the following:

(1) use of any or all of the following techniques using the hands, forearms, or elbows or handheld mechanical or electrical devices that mimic or enhance the actions of the human hands: effleurage or gliding; petrissage or kneading; vibration and jostling; friction; tapotement or percussion; compression; fascial manipulation; passive stretching within the normal anatomical range of motion; and

(2) application and use of any of the following: oils, lotions, gels, rubbing alcohol, or powders for the purpose of lubricating skin to be massaged; essential oils, or creams, with the exception of prescription-requiring medicinal creams; hot or cold stones; salt glows and wraps; and ice.

(b) The practice of massage therapy does not include any of the following:

(i) diagnosing any illness or disease; or

(ii) changing recommendations of a state-credentialed health care provider without consulting that health care provider prior to altering a course of recommended massage therapy;

(2) prescription of drugs or medicines;

(3) intentional adjusting, manipulating, or mobilizing any articulations of the body or spine, including by means of a high velocity, low amplitude thrusting force or as described in section 146.23 or 148.01; or

(4) application of physical agent modalities, injection therapy, or moxabustion.

Sec. 4. **[148.984] LIMITATIONS ON PRACTICE.**

Subdivision 1. **Referrals.** If a medical condition is beyond the scope of practice established by this chapter or by rules of the board for a registered massage therapist, the massage therapist must refer the client to a health care provider as defined in this chapter.

Subd. 2. **Prohibited from practicing.** A person whose registration under this chapter has been restricted, revoked, or application denied by the board, is restricted from practicing massage therapy in this state, up to and including being prohibited from practice.

Subd. 3. **Penalty.** A person who violates this section and section 148.983 is guilty of a misdemeanor and subject to section 214.11.

Sec. 5. [148.985] PROTECTED TITLES AND RESTRICTIONS ON USE.

Subdivision 1. **Designation.** An individual regulated by this chapter is designated as a "registered massage therapist" or "RMT."

Subd. 2. **Title protection.** No individual may use the title "registered massage therapist," or use, in connection with the individual's name, the letters "RMT," or any other titles, words, letters, abbreviations, or insignia indicating or implying that the individual is registered or eligible for registration by this state as a registered massage therapist unless the individual has been registered as a massage therapist according to this chapter.

Subd. 3. **Identification of practitioners.** (a) A massage therapist registered in Minnesota shall be identified as a "registered massage therapist." If not written in full, this must be designated as RMT. A student attending a massage therapy training program and providing massage therapy services to the public as part of the student's training must be identified as a "Student Massage Therapist." This abbreviated designation is "Student MT."

(b) The board may adopt rules for the implementation of this section, including the identification of terms or references that may be used only by registered massage therapists as necessary to protect the public.

(c) A practitioner who is credentialed by another state, or who holds certification from organizations, agencies, or educational providers is not prohibited from using those terms, letters, or any figures, signs, or insignia to indicate that credential in advertising, provided the state and the credentialing body are clearly identified in the advertisement.

(d) A practitioner who is licensed in another state may advertise as being a licensed practitioner provided the state and the licensing agency are clearly identified in the advertisement.

Subd. 4. **Other health care providers.** Nothing in this chapter may be construed to prohibit, nor restrict the practice of, nor require massage therapy registration of any of the following:

(1) a person holding a credential granted by this state, who utilizes massage therapy techniques within the scope of that credential, provided the practitioner does not imply that they are registered under this chapter; or

(2) the natural health procedures, practices, and treatments in section 146A.01, subdivision 4, provided that those services are not advertised, designated, or implied to be from a registered massage therapist or other terms or abbreviations protected under this chapter.

Subd. 5. **Penalty.** A person who violates this section is guilty of a misdemeanor and subject to section 214.11.

Sec. 6. [148.986] POWERS OF BOARD.

The board, acting with the advice of the Registered Massage Therapist Advisory Council, shall issue registrations to duly qualified applicants and shall exercise the following powers and duties:

(1) adopt rules necessary to effect the provisions of sections 148.982 to 148.989;

(2) conduct a competency exam that an applicant may use as the basis for establishing competence to be registered under section 148.987;

(3) cause the prosecution of all registrants or applicants for violating sections 148.982 to 148.989 and have power to incur any associated expense;

(4) impose discipline as described in section 148.9884;

(5) maintain a record of names and addresses of massage therapists registered by this chapter;

(6) keep a permanent record of all its proceedings; and

(7) employ and establish the duties of personnel necessary to carry on its work.

Sec. 7. [148.9861] REGISTERED MASSAGE THERAPIST ADVISORY COUNCIL.

Subdivision 1. **Creation; membership.** (a) The Registered Massage Therapist Advisory Council is created and is composed of seven members appointed by the board. All members must have been residents of this state for at least three years prior to appointment. The advisory council consists of:

(1) three public members, as defined in section 214.02; and

(2) four members who, except for initial appointees, are registered massage therapists.

(b) Initial appointees shall possess the qualifications necessary to become registered massage therapists and must do so as soon as applications for registration are available. A person may not be appointed to serve more than two consecutive full terms.

Subd. 2. **Administration.** The advisory council shall be organized and administered under section 15.059. The council shall not expire.

Subd. 3. **Duties.** The advisory council shall advise the board regarding:

(1) standards of practice and a code of ethics for registered massage therapists;

(2) distribution of information regarding massage therapist standards;

(3) enforcement of sections 148.982 to 148.989;

(4) applications and make recommendations of applicants for registration or registration renewal;

(5) complaints and recommendations regarding disciplinary matters and proceedings according to sections 214.10, 214.103, and 214.13, subdivisions 6 and 7;

(6) competency exams and approval of continuing education programs; and

(7) perform other duties authorized for advisory councils under chapter 214, or as directed by the board.

Sec. 8. [148.987] REGISTRATION REQUIREMENTS.

Subdivision 1. **Registration.** To be eligible for registration under this chapter, an applicant must:

(1) pay fees under section 148.989;

(2) submit to procedures specified by the board for obtaining a criminal background check. The applicant shall pay fees associated with obtaining the criminal background check. The background check shall include records of the Minnesota Bureau of Criminal Apprehension and the Federal Bureau of Investigation and the results shall be forwarded directly to the board; and

(3) file a written application on a form provided by the board that includes:

(i) the applicant's name, Social Security number, home address and telephone number, business address and telephone number, and business setting;

(ii) provide proof, as required by the board, of:

(A) having obtained a high school diploma or its equivalent;

(B) being 18 years of age or older;

(C) current cardiopulmonary resuscitation and first aid certification; and

(D) current professional liability insurance coverage, with a minimum of \$1,000,000 of coverage per occurrence;

(iii) unless registered under subdivision 3 or 4, evidence satisfactory to the board of the successful completion of an approved education program;

(iv) unless registered under subdivision 3 or 4, evidence satisfactory to the board of having passed a board-approved competency exam;

(v) a description of any continuing education programming in which the applicant claims or advertises competence;

(vi) a list of credentials or memberships held in other states or from private credentialing or professional organizations;

(vii) a description of any other state or municipality's refusal to credential the applicant;

(viii) a description of all professional disciplinary actions initiated against the applicant in any jurisdiction;

(ix) any history of drug or alcohol abuse, and any misdemeanor or felony conviction;

(x) additional information as requested by the board;

(xi) the applicant's signature on a statement that the information in the application is true and correct to the best of the applicant's knowledge; and

(xii) the applicant's signature on a waiver authorizing the board to obtain access to the applicant's records in this state or any other state in which the applicant has completed an education program approved by the board or engaged in the practice of massage therapy.

Subd. 2. **Registration prohibited.** The board may deny an application for registration if the applicant:

(1) has been convicted in this state of any of the following crimes, or in another state of equivalent crimes:

(i) prostitution as defined under section 609.321, 609.324, and 609.3242;

(ii) sexual attack as defined under section 611A.21;

(iii) criminal sexual conduct under sections 609.342 to 609.3451, or 609.3453; or

(iv) is a registered sex offender under section 243.166;

(2) has had the ability to practice the natural health procedures, practices, and treatments in chapter 146A revoked, suspended, or limited with conditions under the provisions of chapter 146A, if the board determines the denial is necessary to protect the public; or

(3) is charged or under investigation for complaints that would constitute a violation of the laws or rules established for the practice of massage therapy in this or any other state, the applicant shall not be registered until the complaints have been resolved in the applicant's favor. If a complaint is resolved in favor of the complainant, the application for registration may be denied.

8.1 Subd. 3. **Registration by endorsement.** (a) To be eligible for registration by
8.2 endorsement, the applicant shall:

8.3 (1) meet the requirements for registration in subdivision 1, clauses (1), (2), and (3),
8.4 items (i), (ii), and (v) to (xii); and

8.5 (2) provide proof of a current and unrestricted credential for the practice of massage
8.6 therapy in another state that has credentialing requirements at least equivalent to the
8.7 requirements under this chapter. Proof shall include records as required by rules of the
8.8 board.

8.9 (b) In the event that a disciplinary proceeding or unresolved complaint is pending
8.10 for a complaint regarding an action of the applicant that would constitute a violation
8.11 of sections 148.982 to 148.989, or rules adopted by the board, the applicant shall not
8.12 be registered in this state until the proceeding or complaint has been resolved in the
8.13 applicant's favor. If a complaint is resolved in favor of the complainant, the application for
8.14 licensure may be denied.

8.15 (c) Registrations issued by endorsement shall expire on the same schedule and be
8.16 renewed by the same procedures as registrations issued under subdivision 1.

8.17 (d) An applicant for registration by endorsement may apply to the board for a
8.18 temporary permit under subdivision 5.

8.19 Subd. 4. **Registration by grandfathering.** (a) To be eligible for registration by
8.20 grandfathering, the applicant shall:

8.21 (1) meet the requirements for registration in subdivision 1, clauses (1), (2), and (3),
8.22 items (i), (ii), and (v) to (xii); and

8.23 (2) provide proof specified by the board demonstrating the applicant has met at
8.24 least one of the following qualifications:

8.25 (i) successful completion of at least 500 hours of supervised classroom and hands-on
8.26 instruction relating to massage therapy which may be established by an official transcript,
8.27 certificate of completion, or other record as approved by the board;

8.28 (ii) successful completion of one of the board-approved competency exams which
8.29 shall be established by submitting records as required by the board;

8.30 (iii) employment for at least the previous two years prior to the effective date of
8.31 sections 148.981 to 148.989 in the practice of massage therapy which shall be established
8.32 by Internal Revenue Service income tax return forms, business records, or other records as
8.33 approved by the board; or

8.34 (iv) active membership in a professional organization for at least two years prior to
8.35 the effective date of sections 148.981 to 148.989 which shall be established by a letter

verifying the applicant's initial membership date and current standing sent directly to the board from the professional organization, or other records as approved by the board.

(b) Registrations issued by grandfathering shall expire on the same schedule and be renewed by the same procedures as registrations issued under subdivision 1.

(c) Registration by grandfathering is effective for one year after the first date the board has made applications available.

(d) An applicant for registration by grandfathering may apply to the board for a temporary permit under subdivision 5.

Subd. 5. **Temporary permit.** The board may issue a temporary permit to practice as a registered massage therapist to an applicant eligible for registration under this section if the application for registration is complete, all applicable requirements in this section have been met, and the fee required in section 148.989 has been paid. The temporary permit is valid until the board makes a decision on the massage therapist's application for registration.

Sec. 9. [148.9871] EXPIRATION AND RENEWAL.

Subdivision 1. **Registration expiration.** Registrations issued under section 148.987 expire annually.

Subd. 2. **Renewal.** To be eligible for registration renewal a registrant must:

(1) annually, or as determined by the board, complete a renewal application on a form provided by the board;

(2) submit the renewal fee;

(3) provide evidence every two years of a total of 12 contact hours of approved continuing education in section 148.9881; and

(4) submit any additional information requested by the board to clarify information presented in the renewal application. The information must be submitted within 30 days after the board's request, or the renewal request is nullified.

Subd. 3. **Change of address.** A registrant who changes addresses must inform the board within 30 days, in writing, of the change of address. Notices or other correspondence mailed to or served on a registrant at the registrant's current address on file shall be considered received by the registrant.

Subd. 4. **Registration renewal notice.** At least 60 days before the registration renewal date, the board shall send out a renewal notice to the last known address of the registrant on file. The notice must include a renewal application and a notice of fees required for renewal. The notice must inform the registrant that registration will expire without further action by the board if an application for registration renewal is not received

before the deadline for renewal. The registrant's failure to receive this notice shall not relieve the registrant of the obligation to meet the deadline and other requirements for registration renewal. Failure to receive this notice is not grounds for challenging expiration of registered status.

Subd. 5. **Renewal deadline.** The renewal application and fee must be postmarked on or before October 1 of the year of renewal or as determined by the board. If the postmark is illegible, the application shall be considered timely if received by the third working day after the deadline.

Subd. 6. **Inactive status and return to active status.** (a) A registration may be placed in inactive status upon application to the board by the registrant and upon payment of an inactive status fee.

(b) A registrant seeking restoration to active from inactive status must pay the current renewal fees and all unpaid back inactive fees. The registrant must meet the criteria for renewal specified in subdivision 7, including continuing education hours equivalent to one hour for each month of inactive status, prior to submitting an application to regain registered status. If the inactive status extends beyond five years, a qualifying score on a competency exam is required.

Subd. 7. **Registration following lapse of registration status for two years or less.** For an individual whose registration status has lapsed for two years or less, to regain registration status, the individual must:

(1) apply for registration renewal according to subdivision 2;

(2) document compliance with the continuing education requirements in section 148.9881 since the registrant's initial registration or last renewal; and

(3) submit the fees required in section 148.989 for the period not registered, including the fee for late renewal.

Subd. 8. **Cancellation due to nonrenewal.** The board shall not renew, reissue, reinstate, or restore a registration that has lapsed and has not been renewed within two years. A registrant whose registration is canceled for nonrenewal must obtain a new registration by applying for registration and fulfilling all requirements then in existence for initial registration as a massage therapist.

Subd. 9. **Cancellation of registration in good standing.** (a) A registrant holding active registration as a massage therapist in this state may, upon approval of the board, be granted registration cancellation if the board is not investigating the person as a result of a complaint or information received or if the board has not begun disciplinary proceedings against the registrant. This action by the board shall be reported as a cancellation of registration in good standing.

(b) A registrant who receives board approval for registration cancellation is not entitled to a refund of any registration fees paid for the registration period in which cancellation of the registration occurred.

(c) To obtain registration after cancellation, a registrant must obtain a new registration by applying for registration and fulfilling the requirements then in existence for obtaining initial registration as a massage therapist.

Sec. 10. [148.988] MASSAGE THERAPY PROGRAM.

Subdivision 1. **Initial approval.** An institution desiring to conduct a massage therapy program from which graduates will be eligible for registration under section 148.987 shall apply to the board, pay fees under section 148.989, and submit evidence that the institution is:

(1) teaching or prepared to teach a program of at least 500 contact hours of combined massage therapy theory and practice training;

(2) licensed by the Minnesota Office of Higher Education or equivalent agency in another state;

(3) accredited by an agency recognized by the United States Secretary of Education for accrediting such programs or institutions:

(i) schools without accreditation must meet the requirements of clauses (1) and (2), must be in the accreditation application process, and must gain accreditation within two years of the effective date of sections 148.981 to 148.989 or within two years of commencing operations as a massage therapy program, whichever is later; and

(ii) an applicant for registration who graduates from a program prior to the program becoming accredited must pass an approved competency exam; and

(4) prepared to meet other standards established by law and by the board.

Subd. 2. **Continuing approval.** An approved program shall annually make application to continue approval based on the conditions of subdivision 1.

Subd. 3. **Loss of approval.** If the board determines that an approved massage therapy program is not maintaining the standards required by applicable law and rules, notice in writing specifying the defect shall be given to the program. If a program fails to correct these conditions to the satisfaction of the board within a reasonable time set in the notice of defect, approval of the program may be revoked and the program shall be removed from the list of approved massage therapy programs.

Subd. 4. **Reinstatement of approval.** The board may reinstate approval of a massage therapy program upon submission of satisfactory evidence that its program of

12.1 theory and practice, state licensure, and accreditation meets the standards required by law
12.2 and rules then in effect.

12.3 Sec. 11. **[148.9881] CONTINUING EDUCATION.**

12.4 Subdivision 1. **Number of required contact hours.** A registered massage therapist
12.5 shall complete during every two-year period at least the equivalent of 12 contact hours of
12.6 continuing education in programs approved by the board.

12.7 Subd. 2. **Approved programs.** The board may approve continuing education
12.8 programs that have been taught, sponsored, or approved by:

- 12.9 (1) an approved credentialing or professional organization;
12.10 (2) state licensed health care facility;
12.11 (3) an accredited college or university; or
12.12 (4) a board-approved school.

12.13 Subd. 3. **Approval of continuing education programs.** The board may also
12.14 approve continuing education programs that do not meet the requirements of subdivision 2
12.15 but pay fees under section 148.989 and meet all of the following criteria:

- 12.16 (1) the program content directly relates to the practice of massage therapy;
12.17 (2) each member of the program faculty is knowledgeable in the subject matter as
12.18 demonstrated by a degree from an accredited education program, verifiable experience in
12.19 the field of massage therapy, special training in the subject matter, or experience teaching
12.20 in the subject area;
12.21 (3) the program lasts at least 50 minutes per contact hour;
12.22 (4) there are specific, measurable, written objectives, consistent with the program,
12.23 describing the expected outcomes for the participants; and
12.24 (5) the program sponsor has a mechanism to verify participation and maintains
12.25 attendance records for three years.

12.26 Subd. 4. **Accumulation of contact hours.** A registrant may not apply contact hours
12.27 acquired in one two-year reporting period to a future continuing education reporting
12.28 period.

12.29 Subd. 5. **Verification of continuing education.** The board shall periodically select
12.30 a random sample of registrants and require those registrants to supply the board with
12.31 evidence of having completed the continuing education to which they attested.

12.32 Subd. 6. **Continuing education topics.** Continuing education program topics may
12.33 include, but are not limited to, techniques, modalities, and theory directly relating to
12.34 the practice of massage therapy, business practices, pathology, prevention of spreading

disease and medical errors, treatment contraindications, anatomy and physiology, areas of professional ethics, research literacy, or other coursework as approved by the board.

Subd. 7. **Continuing education exemptions.** The board may exempt any person holding a registration under section 148.987 from some or all of the requirements of subdivision 1 upon application showing evidence satisfactory to the board of inability to comply with the requirements because of physical or mental condition or because of other unusual or extenuating circumstances. No person may be exempted from the requirements of subdivision 1 more than once in any five-year period.

Sec. 12. [148.9882] BOARD ACTION ON APPLICATIONS.

(a) The board shall act on each application for registration according to paragraphs (b) to (d).

(b) The board or advisory council shall determine if the applicant meets the requirements for registration or renewal under sections 148.987 and 148.9871. The board or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete, including requesting additional information or documentation.

(c) The board shall notify each applicant in writing of action taken on the application, the grounds for denying registration if registration is denied, and the applicant's right to review under paragraph (d).

(d) An applicant denied registration may make a written request to the board, within 30 days of the board's notice, to appear before the advisory council and for the advisory council to review the board's decision to deny the applicant's registration. After reviewing the denial, the advisory council shall make a recommendation to the board as to whether the denial shall be affirmed. An applicant is allowed only one request for review per registration period.

Sec. 13. [148.9883] GROUNDS FOR DISCIPLINARY ACTION; MALTREATMENT OF MINORS.

Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or condition the registration of a massage therapist registered or applying for registration as a massage therapist or may otherwise discipline a registrant as described in section 148.9884. The fact that massage therapy may be a less customary approach to health care shall not constitute the basis for disciplinary action per se. The following are grounds for disciplinary action:

14.1 (1) failure to demonstrate the qualifications or satisfy the requirements for
14.2 registration as a massage therapist contained in sections 148.982 to 148.989, or rules of
14.3 the board. A person applying for registration has the burden of demonstrating the required
14.4 qualifications or satisfy the requirements;

14.5 (2) engaging in false, fraudulent, deceptive, or misleading advertising, including,
14.6 but not limited to:

14.7 (i) advertising, representing, or presenting as a "Registered Massage Therapist" or
14.8 any abbreviation or derivative of this to indicate this title, when the registration is not
14.9 valid or current for any reason;

14.10 (ii) advertising, representing, or presenting as a "Licensed Massage Therapist" or
14.11 any abbreviation or derivative of this to indicate this title, unless the practitioner currently
14.12 holds a valid state license in another state and clearly indicates what state the credential
14.13 is held in;

14.14 (iii) advertising to offer a service that would constitute a violation of sections
14.15 148.981 to 148.989 or rules adopted by the board shall be considered grounds for
14.16 discipline, regardless of whether actual injury to a client is established; and

14.17 (iv) using fraud, deceit, or misrepresentation when communicating with the general
14.18 public, health care providers, or other business professionals;

14.19 (3) falsified information in a massage therapy registration or renewal application
14.20 or attempting to obtain registration, registration renewal, or reinstatement by fraud,
14.21 deception, or misrepresentation, or aided and abetted any of these acts;

14.22 (4) engaging in conduct with a client that is sexual or may reasonably be interpreted
14.23 by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning
14.24 to a client, or engaging in sexual exploitation of a client, without regard to who initiates
14.25 the behaviors;

14.26 (5) failure to refer a client to a general health care provider when the services
14.27 required by the client are beyond the level of competence of the massage therapist or
14.28 beyond the scope of practice of massage therapy in section 148.983;

14.29 (6) committing an act of gross malpractice, negligence, or incompetency, or failing
14.30 to practice massage therapy with the level of care, skill, and treatment that is recognized
14.31 by a reasonably prudent massage therapist as being acceptable under similar conditions
14.32 and circumstances, regardless of whether actual injury to the client occurs;

14.33 (7) actual or potential inability to practice massage therapy with reasonable skill
14.34 and safety to clients by reason of illness, as a result of any mental or physical condition,
14.35 or use of alcohol, drugs, chemicals, or any other material, regardless of whether actual
14.36 injury to the client occurs;

15.1 (8) being adjudicated as mentally incompetent, mentally ill, a chemically dependent
15.2 person, or a person dangerous to the public by a court of competent jurisdiction, within
15.3 or without this state may be considered as evidence of the inability to practice massage
15.4 therapy;

15.5 (9) being the subject of disciplinary action as a massage therapist by another state or
15.6 jurisdiction and the board or advisory council determines that the cause of the disciplinary
15.7 action would be a violation under this state's laws or rules if the violation occurred in
15.8 this state;

15.9 (10) failure to notify the board of having had a credential revoked, suspended,
15.10 or any other disciplinary action taken including restrictions on the right to practice, or
15.11 an application for credential refused, revoked, suspended, or otherwise disciplined by
15.12 authorities of another state, territory, or country; or surrendered or voluntarily terminated a
15.13 credential during a board investigation of a complaint, as part of a disciplinary order, or
15.14 while under a disciplinary order;

15.15 (11) being convicted of or pled guilty or nolo contendere to a felony or other
15.16 crime, an element of which is dishonesty or fraud, or proven to have engaged in acts
15.17 or practice showing that the applicant or registrant is incompetent or has engaged in
15.18 conduct reflecting adversely on the applicant's or registrant's ability or fitness to engage in
15.19 the practice of massage therapy;

15.20 (12) practicing or offering to practice beyond the scope of the practice of massage
15.21 therapy;

15.22 (13) improperly managing client records and information including, but not limited
15.23 to, failure to maintain adequate client records, comply with a client's request made under
15.24 sections 144.291 to 144.298, furnish a client record or report required by law;

15.25 (14) revealing a privileged communication from or relating to a client except when
15.26 otherwise required or permitted by law;

15.27 (15) providing massage therapy services that are in any way linked to the financial
15.28 gain of a referral source;

15.29 (16) obtaining money, property, or services from a client, other than reasonable
15.30 fees for services provided to the client, through the use of undue influence, harassment,
15.31 duress, deception, or fraud;

15.32 (17) engaging in abusive or fraudulent billing practices, including violations of
15.33 federal Medicare and Medicaid laws or state medical assistance laws;

15.34 (18) failure to consult the client's health care provider who recommended a course
15.35 of massage therapy treatment if the treatment needs to be altered from the original

written recommendations to conform with standards in the massage therapy field or the practitioner's level of training or experience;

(19) failure to cooperate with an investigation of the board or its representative, including responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation, executing all releases requested by the board, providing copies of client records, requested by the board to assist it in its investigation, and appearing at conferences or hearings scheduled by the board or its staff;

(20) interfering with an investigation or disciplinary proceeding, including by willful misrepresentation of facts or by the use of threats or harassment to prevent a person from providing evidence in a disciplinary proceeding or any legal action;

(21) violating a law, rule, order, or agreement for corrective action that the board issued or is otherwise authorized or empowered to enforce;

(22) failure to report to the board other massage therapists who commit violations of this chapter; or

(23) failure to notify the board, in writing, of the entry of a final judgment by a court of competent jurisdiction against the registrant for malpractice of massage therapy or any settlement by the registrant in response to charges or allegations of malpractice of massage therapy.

The notice in clause (23) must be provided to the board within 60 days after the entry of the judgment or settlement and, in the case of a judgment, must contain the name of the court, the case number, and the names of all parties to the action.

Subd. 2. **Maltreatment of minors.** Nothing in sections 148.981 to 148.989 shall restrict the ability of a local or state agency to take action regarding the maltreatment of minors under section 609.378 or 626.556. A parent who obtains massage therapy services for the parent's minor child is not relieved of the duty to seek necessary medical care consistent with the requirements of sections 609.378 and 626.556. A registered massage therapist who is providing services to a child who is not receiving necessary medical care must make a report under section 626.556. A registered massage therapist is a mandated reporter under section 626.556, subdivision 3.

Subd. 3. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the judgment or proceeding is admissible into evidence without further authentication and constitutes prima facie evidence of the violation.

Subd. 4. **Examination; access to medical data.** (a) The board may take the following actions if it has probable cause to believe that grounds for disciplinary action exist under subdivision 1, clause (7) or (8):

(1) direct the applicant or massage therapist to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, when a massage therapist registered under sections 148.987 to 148.9871 is directed in writing by the board to submit to a mental or physical examination or chemical dependency evaluation, that person is considered to have consented and to have waived all objections to admissibility on the grounds of privilege. Failure of the applicant or massage therapist to submit to an examination when directed constitutes an admission of the allegations against the applicant or massage therapist, unless the failure was due to circumstances beyond the person's control, and the board may enter a default and final order without taking testimony or allowing evidence to be presented. A massage therapist affected under this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that the competent practice of massage therapy can be resumed with reasonable skill and safety to clients. Neither the record of proceedings nor the order entered by the board in a proceeding under this paragraph may be used against a massage therapist in any other proceeding; and

(2) notwithstanding sections 13.384, 144.651, and 595.02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a registered massage therapist or applicant for registration without that person's consent. The medical data may be requested from a provider as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released according to a written request under this subdivision unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private data on individuals as defined in section 13.02.

Sec. 14. [148.9884] FORMS OF DISCIPLINARY ACTION; AUTOMATIC SUSPENSION; TEMPORARY SUSPENSION; REISSUANCE.

Subdivision 1. **Forms of disciplinary action.** When the board finds that grounds for disciplinary action exist under section 148.9883, the board may take one or more of the following actions:

(1) deny the registration or registration renewal;

(2) revoke the registration;

(3) suspend the registration;

(4) impose limitations on the massage therapist's practice of massage therapy including, but not limited to, limitation of scope of practice or the requirement of practice under supervision;

(5) impose conditions on the retention of the registration including, but not limited to, the imposition of retraining or rehabilitation requirements or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination, monitoring, or other review;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed as to deprive the massage therapist of any economic advantage gained by reason of the violation charged, to reimburse the board for the cost of counsel, investigation, and proceeding, and to discourage repeated violations;

(7) order the massage therapist to provide unremunerated service;

(8) censure or reprimand the massage therapist; or

(9) any other action justified by the facts in the case.

Subd. 2. **Automatic suspension.** (a) Unless the board orders otherwise, a registration to practice massage therapy is automatically suspended if:

(1) a guardian of a massage therapist is appointed by court order under chapter 524;

(2) the massage therapist is committed by court order under chapter 253B; or

(3) the massage therapist is determined to be mentally incompetent, mentally ill, chemically dependent, or a person dangerous to the public by a court of competent jurisdiction within or without this state.

(b) The registration remains suspended until the massage therapist is restored to capacity by a court and, upon petition by the massage therapist, the suspension is terminated by the board after a hearing or upon agreement between the board and the massage therapist.

Subd. 3. **Temporary suspension of registration.** In addition to any other remedy provided by law, the board may, through its advisory council, designated board member, or representative under section 214.10, subdivision 2, temporarily suspend the registration of a massage therapist without a hearing if the board finds that there is probable cause to believe the massage therapist has violated a law or rule the board is empowered to enforce and continued practice by the massage therapist would create a serious risk of harm to others. The suspension shall take effect upon written notice to the massage therapist, serviced by first-class mail, specifying the law or rule violated. The suspension shall remain in effect until the board issues a temporary stay of suspension or a final order in the matter after a hearing or upon agreement between the board and the massage therapist. At the time the board issues the suspension notice, the board shall schedule a disciplinary

19.1 hearing to be held under chapter 14. The massage therapist shall be provided with at least
19.2 20 days' notice of any hearing held under this subdivision. The hearing shall be scheduled
19.3 to begin no later than 30 days after the issuance of the suspension order.

19.4 Subd. 4. **Reissuance.** The board may reinstate and reissue a registration for massage
19.5 therapy, but as a condition may impose any disciplinary or corrective measure that it might
19.6 originally have imposed. A person whose registration has been revoked, suspended, or
19.7 limited may have the registration reinstated and a new registration issued when, in the
19.8 discretion of the board, the action is warranted, provided that the person is required by
19.9 the board to pay the costs of the proceedings resulting in the revocation, suspension, or
19.10 limitation of the registration and reinstatement of the registration, and to pay the fee for
19.11 the current registration period. The cost of proceedings shall include, but not be limited
19.12 to, the cost paid by the board to the Office of Administrative Hearings and the Office of
19.13 the Attorney General for legal and investigative services, the costs of a court reporter and
19.14 witnesses, reproduction of records, board staff time, travel, and expenses, and board
19.15 members' per diem reimbursements, travel costs, and expenses.

19.16 **Sec. 15. [148.9885] REPORTING OBLIGATIONS.**

19.17 Subdivision 1. **Permission to report.** A person who has knowledge of any conduct
19.18 constituting grounds for discipline under section 148.9883 may report the alleged
19.19 violation to the board.

19.20 Subd. 2. **Institutions.** Any hospital, clinic, prepaid medical plan, or other health
19.21 care institution or organization located in this state shall report to the board any action
19.22 taken by the institution or organization or any of its administrators or committees to
19.23 revoke, suspend, limit, or condition a massage therapist's privilege to practice in the
19.24 institution, or as part of the organization, any denial of privileges, any dismissal from
19.25 employment, or any other disciplinary action. The institution or organization shall also
19.26 report the resignation of any massage therapist before the conclusion of any disciplinary
19.27 proceeding, or before commencement of formal charges, but after the massage therapist
19.28 has knowledge that formal charges are contemplated or in preparation. The reporting
19.29 described by this subdivision is required only if the action pertains to grounds for
19.30 disciplinary action under section 148.9883.

19.31 Subd. 3. **Credentialed professionals.** A person credentialed by a health-related
19.32 licensing board as defined in section 214.01, subdivision 2, shall report to the board
19.33 personal knowledge of any conduct the person reasonably believes constitutes grounds
19.34 for disciplinary action under sections 148.9883 to 148.9884 by any massage therapist
19.35 including conduct indicating that the massage therapist may be incompetent, may have

engaged in unprofessional or unethical conduct, or may be mentally or physically unable to engage safely in the practice of massage therapy.

Subd. 4. **Insurers.** Four times each year, by the first day of February, May, August, and November, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to registered massage therapists shall submit to the board a report concerning any registered massage therapist against whom a malpractice award has been made or who has been a party to a settlement. The report must contain at least the following information:

(1) the total number of settlements or awards;

(2) the date settlement or award was made;

(3) the allegations contained in the claim or complaint leading to the settlement or award;

(4) the dollar amount of each malpractice settlement or award and whether that amount was paid as a result of a settlement or of an award; and

(5) the name and address of the practice of the massage therapist against whom an award was made or with whom a settlement was made.

An insurer shall also report to the board any information the insurer possesses that tends to substantiate a charge that a massage therapist may have engaged in conduct violating section 148.9883.

Subd. 5. **Courts.** The court administrator of district court or another court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a massage therapist is a person who is mentally ill, mentally incompetent, chemically dependent, dangerous to the public, guilty of a felony or gross misdemeanor, guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of operating a motor vehicle while under the influence of alcohol or a controlled substance, or guilty of an abuse or fraud under Medicare or Medicaid, appoints a guardian of the massage therapist under chapter 524, or commits a massage therapist under chapter 253B.

Subd. 6. **Deadlines; forms.** Reports required by subdivisions 2 to 5 must be submitted no later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that the reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting. The advisory panel shall review all reports, including those submitted after the deadline, and make recommendations to the board.

Sec. 16. [148.9886] IMMUNITY.

21.1 Subdivision 1. **Reporting.** A person, health care facility, business, or organization is
21.2 immune from civil liability or criminal prosecution for submitting in good faith a report to
21.3 the board under section 148.9885 or for otherwise reporting in good faith to the board
21.4 violations or alleged violations of section 148.9883. The reports are investigative data
21.5 as defined in chapter 13.

21.6 Subd. 2. **Investigation.** (a) Members of the advisory council, board, and persons
21.7 employed by the board or engaged in the investigation of violations and in the preparation
21.8 and management of charges of violations of section 148.9883 on behalf of the advisory
21.9 council, board, or persons participating in the investigation or testifying regarding charges
21.10 of violations are immune from civil liability and criminal prosecution for any actions,
21.11 transactions, or publications in the execution of, or relating to, their duties under section
21.12 148.9885.

21.13 (b) Members of the advisory council, board, and persons employed by the board or
21.14 engaged in maintaining records and making reports regarding adverse health care events
21.15 are immune from civil liability and criminal prosecution for any actions, transactions,
21.16 or publications in the execution of or relating to their duties under sections 148.982 to
21.17 148.989.

21.18 Sec. 17. **[148.9887] MASSAGE THERAPIST COOPERATION.**

21.19 A massage therapist who is the subject of an investigation by or on behalf of the
21.20 board shall cooperate fully with the investigation. Cooperation includes responding fully
21.21 and promptly to all questions raised by or on behalf of the board relating to the subject of
21.22 the investigation and providing copies of client or other records in the massage therapist's
21.23 possession, requested by the advisory council or board, to assist the advisory council
21.24 or board's investigation, and to appear at conferences and hearings scheduled by the
21.25 advisory council or board. The board shall pay for copies requested. If the advisory
21.26 council or board does not have a written consent from a client permitting access to the
21.27 client's records, the massage therapist or employer of the massage therapist at the time
21.28 of the alleged violation shall delete any data in the record that identifies the client before
21.29 providing it to the advisory council or board. The board shall maintain any records
21.30 obtained under this section as investigative data under chapter 13. The massage therapist
21.31 shall not be excused from giving testimony or producing any documents, books, records,
21.32 or correspondence on the grounds of self-incrimination, but the testimony or evidence
21.33 may not be used against the massage therapist in any criminal case.

21.34 Sec. 18. **[148.9888] DISCIPLINARY RECORD ON JUDICIAL REVIEW.**

22.1 Upon judicial review of any board disciplinary action taken under section 148.9884,
22.2 the reviewing court shall seal the administrative record, except for the board's final
22.3 decision, and shall not make the administrative record available to the public.

22.4 Sec. 19. **[148.9889] EFFECT ON MUNICIPAL ORDINANCES.**

22.5 Subdivision 1. **License authority.** The provisions of sections 148.981 to 148.989
22.6 preempt the licensure and regulation of a registered massage therapist by a municipality,
22.7 including, without limitation, conducting a criminal background investigation and
22.8 examination of a massage therapist or applicant for a municipal credential to practice
22.9 massage therapy.

22.10 Subd. 2. **Business license or permit.** The provisions of this chapter do not prohibit
22.11 a municipality from requiring a massage therapist to obtain a license or permit to transact
22.12 business within the jurisdiction of the municipality, if the license or permit is required of
22.13 other persons, regardless of occupation or profession, who transact business within the
22.14 jurisdiction of the municipality. A massage therapist working under a business license or
22.15 permit must follow the requirement in section 325F.816.

22.16 Subd. 3. **Prosecuting authority.** The provisions of this chapter do not prohibit any
22.17 municipality of this state from prosecuting:

- 22.18 (1) an unregistered person engaged in the practice of massage therapy; or
22.19 (2) a registered massage therapist who is engaged in unlawful conduct.

22.20 Sec. 20. **[148.989] FEES.**

22.21 Subdivision 1. **Fees.** Fees are as follows:

- 22.22 (1) initial registration with application, \$272;
22.23 (2) annual registration renewal, \$172;
22.24 (3) initial school approval with accreditation, \$300;
22.25 (4) initial school approval without accreditation, \$450;
22.26 (5) school approval renewal, \$175;
22.27 (6) continuing education program approval, \$40;
22.28 (7) duplicate registration certificate, \$30;
22.29 (8) late fee, \$40;
22.30 (9) inactive status and inactive to active status reactivation, \$100;
22.31 (10) temporary permit, \$50; and
22.32 (11) returned check, \$35.

22.33 Subd. 2. **Proration of fees.** The board may prorate the initial registration fee. All
22.34 registrants are required to pay the full fee upon registration renewal.

- 24.1 (xiii) dentists, registered dental assistants, and dental hygienists regulated pursuant
24.2 to chapter 150A;
- 24.3 (xiv) detectives regulated pursuant to chapter 326;
- 24.4 (xv) electricians regulated pursuant to chapter 326;
- 24.5 (xvi) mortuary science practitioners regulated pursuant to chapter 149A;
- 24.6 (xvii) engineers regulated pursuant to chapter 326;
- 24.7 (xviii) insurance brokers and salespersons regulated pursuant to chapter 60A;
- 24.8 (xix) certified interior designers regulated pursuant to chapter 326;
- 24.9 (xx) midwives regulated pursuant to chapter 147D;
- 24.10 (xxi) nursing home administrators regulated pursuant to chapter 144A;
- 24.11 (xxii) optometrists regulated pursuant to chapter 148;
- 24.12 (xxiii) osteopathic physicians regulated pursuant to chapter 147;
- 24.13 (xxiv) pharmacists regulated pursuant to chapter 151;
- 24.14 (xxv) physical therapists regulated pursuant to chapter 148;
- 24.15 (xxvi) physician assistants regulated pursuant to chapter 147A;
- 24.16 (xxvii) physicians and surgeons regulated pursuant to chapter 147;
- 24.17 (xxviii) plumbers regulated pursuant to chapter 326;
- 24.18 (xxix) podiatrists regulated pursuant to chapter 153;
- 24.19 (xxx) practical nurses regulated pursuant to chapter 148;
- 24.20 (xxxi) professional fund-raisers regulated pursuant to chapter 309;
- 24.21 (xxxii) psychologists regulated pursuant to chapter 148;
- 24.22 (xxxiii) real estate brokers, salespersons, and others regulated pursuant to chapters
24.23 82 and 83;
- 24.24 (xxxiv) registered nurses regulated pursuant to chapter 148;
- 24.25 (xxxv) securities brokers, dealers, agents, and investment advisers regulated
24.26 pursuant to chapter 80A;
- 24.27 (xxxvi) steamfitters regulated pursuant to chapter 326;
- 24.28 (xxxvii) teachers and supervisory and support personnel regulated pursuant to
24.29 chapter 125;
- 24.30 (xxxviii) veterinarians regulated pursuant to chapter 156;
- 24.31 (xxxix) water conditioning contractors and installers regulated pursuant to chapter
24.32 326;
- 24.33 (xl) water well contractors regulated pursuant to chapter 103I;
- 24.34 (xli) water and waste treatment operators regulated pursuant to chapter 115;
- 24.35 (xlii) motor carriers regulated pursuant to chapter 221;
- 24.36 (xliii) professional firms regulated under chapter 319B;

25.1 (xlv) real estate appraisers regulated pursuant to chapter 82B;
25.2 (xlv) residential building contractors, residential remodelers, residential roofers,
25.3 manufactured home installers, and specialty contractors regulated pursuant to chapter 326;
25.4 (xlvi) licensed professional counselors regulated pursuant to chapter 148B; or
25.5 (xlvii) registered massage therapists regulated pursuant to chapter 148;
25.6 (4) any driver's license required pursuant to chapter 171;
25.7 (5) any aircraft license required pursuant to chapter 360;
25.8 (6) any watercraft license required pursuant to chapter 86B;
25.9 (7) any license, permit, registration, certification, or other approval pertaining to a
25.10 regulatory or management program related to the protection, conservation, or use of or
25.11 interference with the resources of land, air, or water, which is required to be obtained
25.12 from a state agency or instrumentality; and
25.13 (8) any pollution control rule or standard established by the Pollution Control
25.14 Agency or any health rule or standard established by the commissioner of health or any
25.15 licensing rule or standard established by the commissioner of human services.

25.16 Sec. 2. **[325F.816] MUNICIPAL OR CITY BUSINESS LICENSE; MASSAGE.**
25.17 An individual who is issued a municipal or city business license to practice massage
25.18 is prohibited from advertising as a licensed massage therapist unless the individual has
25.19 received a professional credential from another state; is current in licensure; and remains
25.20 in good standing under the credentialing state's requirements.

25.21 Sec. 3. **REPEALER.**
25.22 Minnesota Rules, part 2500.5000, is repealed.

APPENDIX
Article locations in H1503-1

ARTICLE 1 MESSAGE THERAPY REGISTRATION Page.Ln 1.7
ARTICLE 2 CONFORMING AMENDMENTS Page.Ln 23.9