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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 644

02/05/2015 Authored by Zerwas, McDonald, Newton, Halverson, Schoen and others

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

03/05/2015 Adoption of Report: Amended and re-referred to the Committee on Government Operations and Elections Policy

03/14/2016 Adoption of Report: Amended and re-referred to the Committee on Civil Law and Data Practices

03/23/2016 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act

1.2 relating to health occupations; establishing registration for massage and

1.3 bodywork therapy; establishing fees; proposing coding for new law in Minnesota

1.4 Statutes, chapters 148; 325F.

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

1.6 ARTICLE 1

1.7 MASSAGE AND BODYWORK THERAPY

1.8 Section 1. [148.981] CITATION.

1.9 Sections 148.981 to 148.9885 may be cited as the "Minnesota Massage and

1.10 Bodywork Therapy Act."

1.11 Sec. 2. [148.982] DEFINITIONS.

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

1.13 148.981 to 148.9885.

1.14 Subd. 2. **Advertise.** "Advertise" means to publish, display, broadcast, or disseminate

1.15 information by any means that can be reasonably construed as an advertisement.

1.16 Subd. 3. **Advisory council.** "Advisory council" means the Registered Massage and

1.17 Bodywork Therapist Advisory Council established under section 148.9861.

1.18 Subd. 4. **Applicant.** "Applicant" means an individual applying for registration or

1.19 renewal according to sections 148.981 to 148.9885.

1.20 Subd. 5. **Board.** "Board" means the Minnesota Board of Nursing.

1.21 Subd. 6. **Client.** "Client" means a recipient of massage and bodywork therapy

1.22 services.

2.1 Subd. 7. **Competency exam.** "Competency exam" means a massage and bodywork
2.2 therapy competency assessment that is approved by the board and is psychometrically
2.3 valid, based on a job task analysis, and administered by a national testing organization.

2.4 Subd. 8. **Contact hour.** "Contact hour" means an instructional session of at least
2.5 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker,
2.6 and social activities.

2.7 Subd. 9. **Credential.** "Credential" means a license, registration, or certification.

2.8 Subd. 10. **Health care provider.** "Health care provider" means a person who has a
2.9 state credential to provide one or more of the following services: medical as defined in
2.10 section 147.081, chiropractic as defined in section 148.01, podiatry as defined in section
2.11 153.01, dentistry as defined in section 150A.01, physical therapy as defined in section
2.12 148.65, or other state-credentialed providers.

2.13 Subd. 11. **Massage and bodywork therapy.** "Massage and bodywork therapy"
2.14 means a health care service involving systematic and structured touch and palpation, and
2.15 pressure and movement of the muscles, tendons, ligaments, and fascia, in order to reduce
2.16 muscle tension, relieve soft tissue pain, improve circulation, increase flexibility, increase
2.17 activity of the parasympathetic branch of the autonomic nervous system, or to promote
2.18 general wellness, by use of the techniques and applications described in section 148.983.

2.19 Subd. 12. **Municipality.** "Municipality" means a county, town, or home rule
2.20 charter or statutory city.

2.21 Subd. 13. **Physical agent modality.** "Physical agent modality" means modalities
2.22 that use the properties of light, water, temperature, sound, and electricity to produce
2.23 a response in soft tissue.

2.24 Subd. 14. **Practice of massage and bodywork therapy.** "Practice of massage and
2.25 bodywork therapy" means to engage professionally for compensation or as a volunteer in
2.26 massage and bodywork therapy or the instruction of professional technique coursework.

2.27 Subd. 15. **Professional organization.** "Professional organization" means an
2.28 organization that represents massage and bodywork therapists, was established before
2.29 the year 2005, offers professional liability insurance as a benefit of membership, has an
2.30 established code of professional ethics, and is board approved.

2.31 Subd. 16. **Registered massage and bodywork therapist or registrant.** "Registered
2.32 massage and bodywork therapist" or "registrant" means a health care provider registered
2.33 according to sections 148.981 to 148.9885, for the practice of massage and bodywork
2.34 therapy.

2.35 Subd. 17. **State.** "State" means any state in the United States, the District of
2.36 Columbia, Puerto Rico, the United States Virgin Islands, or Guam; or any Canadian

province or similar political subdivision of a foreign country; except "this state" means the state of Minnesota.

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

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

(1) use of any or all of the following techniques using the hands, forearms, elbows, knees, or feet, or handheld, nonpuncturing, 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 the skin to be massaged; creams, with the exception of prescription medicinal creams; hot or cold stones; essential oils as used in aromatherapy for inhalation or diluted for topical application; salt glows and wraps; or heat or ice.

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

(1) diagnosing any illness or disease;

(2) altering a course of recommended massage and bodywork therapy when recommended by a state-credentialed health care provider without first consulting that health care provider;

(3) prescription of drugs or medicines;

(4) intentional adjustment, manipulation, or mobilization of abnormal articulations, neurological disturbances, structural alterations, biomechanical alterations as described in section 148.01, including by means of a high-velocity, low-amplitude thrusting force or by means of manual therapy or mechanical therapy for the manipulation or adjustment of joint articulation as defined in section 146.23; or

(5) application of physical agent modalities, needles that puncture the skin, or injection therapy.

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

If a reasonably prudent massage and bodywork therapist finds a client's medical condition is beyond the scope of practice established by sections 148.981 to 148.9885, or by rules of the board for a registered massage and bodywork therapist, the massage and bodywork therapist must refer the client to a health care provider as defined in sections 148.981 to 148.9885, but is not prohibited from comanaging the client.

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

4.2 Subdivision 1. **Designation.** An individual regulated by sections 148.981 to
4.3 148.9885, is designated as a "registered massage and bodywork therapist" or "RMBT."

4.4 Subd. 2. **Title protection.** Effective July 1, 2017, no individual may use the title
4.5 "registered massage and bodywork therapist," or use, in connection with the individual's
4.6 name, the letters "RMBT," or any other titles, words, letters, abbreviations, or insignia
4.7 indicating or implying that the individual is registered or eligible for registration by this
4.8 state as a registered massage therapist unless the individual has been registered under
4.9 sections 148.981 to 148.9885.

4.10 Subd. 3. **Identification of registrants.** (a) A massage and bodywork therapist
4.11 registered according to sections 148.981 to 148.9885 shall be identified as a "registered
4.12 massage and bodywork therapist." If not written in full, this must be designated as "RMBT."

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

4.16 (c) A massage and bodywork therapist who is credentialed by another state, or who
4.17 holds a certification from organizations, agencies, or educational providers may advertise
4.18 using those terms or letters to indicate that credential, provided that the credentialing
4.19 body is clearly identified.

4.20 Subd. 4. **Other health care providers.** Nothing in sections 148.981 to 148.9885
4.21 may be construed to prohibit, restrict the practice of, or require massage and bodywork
4.22 therapy registration of any of the following:

4.23 (1) a health care provider credentialed by this state, using massage and bodywork
4.24 therapy techniques within the scope of the provider's credential, provided the provider does
4.25 not advertise or imply that they are registered according to sections 148.981 to 148.9885; or

4.26 (2) the natural health procedures, practices, and treatments in section 146A.01,
4.27 subdivision 4, provided that the provider does not advertise or imply that they are
4.28 registered according to sections 148.981 to 148.9885.

4.29 Sec. 6. **[148.986] POWERS OF BOARD.**

4.30 The board, acting with the advice of the advisory council, shall issue registrations to
4.31 duly qualified applicants and shall exercise the following powers and duties:

4.32 (1) adopt rules, including standards of practice and a professional code of ethics,
4.33 consistent with the law, as may be necessary to enable the board to implement the
4.34 provisions of sections 148.981 to 148.9885;

- 5.1 (2) assign duties to the advisory council that are necessary to implement the
5.2 provisions of sections 148.981 to 148.9885;
- 5.3 (3) approve or conduct a competency exam;
- 5.4 (4) appoint members to the advisory council according to section 148.9861 and
5.5 chapter 214;
- 5.6 (5) enforce sections 148.981 to 148.9885, including by causing the prosecution for
5.7 violations of section 148.9882 by a registrant or applicant; impose discipline as described
5.8 in section 148.9882, and incur any necessary expense;
- 5.9 (6) maintain a record of names and addresses of registrants;
- 5.10 (7) keep a permanent record of all its proceedings;
- 5.11 (8) distribute information regarding massage and bodywork therapy standards,
5.12 including applications and forms necessary to carry into effect the provisions of sections
5.13 148.981 to 148.9885;
- 5.14 (9) take action on applications according to section 148.9881; and
- 5.15 (10) employ and establish the duties of necessary personnel.

5.16 **Sec. 7. [148.9861] REGISTERED MASSAGE AND BODYWORK THERAPIST**
5.17 **ADVISORY COUNCIL.**

5.18 Subdivision 1. **Creation; membership.** (a) The Registered Massage and Bodywork
5.19 Therapist Advisory Council is created and is composed of five members appointed by
5.20 the board. All members must have resided in this state for at least three years prior to
5.21 appointment. The advisory council consists of:

- 5.22 (1) two public members, as defined in section 214.02;
- 5.23 (2) three members who, except for initial appointees, are registered massage and
5.24 bodywork therapists. Initial appointees must practice massage and bodywork therapy.
5.25 An initial appointee shall be removed from the council if the appointee does not obtain
5.26 registration under section 148.987 within a reasonable time after registration procedures
5.27 are established.

- 5.28 (b) A person may not be appointed to serve more than two consecutive full terms.
- 5.29 (c) No more than one member of the advisory council may be an owner or
5.30 administrator of a massage and bodywork therapy education provider.

5.31 Subd. 2. **Vacancies.** When a vacancy occurs for a member who is a registered
5.32 massage and bodywork therapist, the board may appoint a member from among qualified
5.33 candidates or from a list of nominees submitted by professional organizations that contains
5.34 twice the number of nominees as vacancies. The board may fill vacancies occurring on

the advisory council for unexpired terms according to this section. Members shall retain membership until a qualified successor is appointed.

Subd. 3. **Administration.** The advisory council shall be organized and administered under section 15.059. The council shall not expire.

Subd. 4. **Duties.** The advisory council shall advise the board regarding:

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

(2) distribution of information regarding massage and bodywork standards;

(3) enforcement of sections 148.981 to 148.9885;

(4) applications and 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) approval or creation of a competency exam granting status as an approved education provider; and

(7) performance of other duties of 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 according to sections 148.981 to 148.9885, an applicant must:

(1) pay applicable fees;

(2) submit to a criminal background check and pay the fees associated with obtaining the criminal background check. The background check shall be conducted in accordance with section 214.075; 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) 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;

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

(E) proof, as required by the board, that the applicant has completed a postsecondary course of study that included a minimum of 500 contact hours of combined massage and bodywork therapy, theory, and practice training consisting of at least:

i. 120 combined hours of science, including anatomy and physiology, kinesiology, pathology, hygiene, and standard precautions; and

ii. 340 combined clinical and practice hours, including massage and bodywork therapy techniques; supervised practice; professional ethics and standards of practice; business and legal practices related to massage and bodywork therapy; and history, theory, and research related to massage and bodywork therapy;

(iii) unless registered under subdivision 3 or 4, successful completion of a competency exam;

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

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

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

(vii) any history of drug or alcohol abuse;

(viii) any misdemeanor or felony conviction;

(ix) additional information as requested by the board;

(x) 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

(xi) 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 engaged in the practice of massage and bodywork therapy.

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

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

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

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

(iii) a violent crime as defined under section 611A.08, subdivision 6;

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

(3) has been subjected to disciplinary action under section 146A.09, if the board determines such denial is necessary to protect the public; or

(4) if an applicant is charged with or under investigation for complaints in this state or any state that would constitute a violation of the statutes or rules established for the practice

of massage and bodywork therapy in this state, the applicant shall not be registered until the complaints have been resolved in the applicant's favor. Should a complaint be resolved in favor of the complainant, the application for registration in this state may be denied.

Subd. 3. Registration by endorsement. (a) To be eligible for registration by endorsement, an applicant shall:

(1) meet the requirements for registration in subdivision 1, clauses (1), (2), and (3), items (iv) to (xi); and

(2) provide proof of a current and unrestricted equivalent credential in another state that has qualifications at least equivalent to the requirements of sections 148.981 to 148.9885. The proof shall include records as required by rules of the board.

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

Subd. 4. Registration by grandfathering. (a) To be eligible for registration by grandfathering, an applicant shall:

(1) meet the requirements for registration in subdivision 1, clauses (1), (2), and (3), items (iv) to (xi); and

(2) provide documentation as specified by the board demonstrating the applicant has met at least one of the following qualifications:

(i) successful completion of at least 500 hours of supervised classroom and hands-on instruction relating to massage and bodywork therapy;

(ii) successful completion of a competency exam;

(iii) evidence of experience in the practice of massage and bodywork therapy for at least two of the previous five years immediately preceding application; or

(iv) active membership in a professional organization for at least two of the previous five years immediately preceding application.

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

(c) This subdivision is effective for two years after the first date the board has made applications available.

Subd. 5. Temporary permit. A temporary permit to practice as a registered massage and bodywork therapist may be issued to an applicant eligible for registration under subdivision 1, 3, or 4, if the application for registration is complete, all applicable requirements in this section have been met, and applicable fees have been paid. The temporary permit remains valid until the board takes action on the applicant's application.

Sec. 9. [148.9871] EXPIRATION AND RENEWAL.

9.1 Subdivision 1. **Registration expiration.** Registrations issued according to this
9.2 chapter expire annually.

9.3 Subd. 2. **Renewal.** To be eligible for registration renewal, a registrant must
9.4 annually, or as determined by the board:

9.5 (1) complete a renewal application on a form provided by the board;

9.6 (2) submit applicable fees; and

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

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

9.14 Subd. 4. **Registration renewal notice.** At least 60 days before the registration
9.15 renewal date, the board shall send out a renewal notice to the last known address of the
9.16 registrant on file. The notice must include a renewal application and a notice of fees
9.17 required for renewal. It must also inform the registrant that registration will expire without
9.18 further action by the board if an application for registration renewal is not received before
9.19 the deadline for renewal. The registrant's failure to receive this notice shall not relieve the
9.20 registrant of the obligation to meet the deadline and other requirements for registration
9.21 renewal. Failure to receive this notice is not grounds for challenging expiration of
9.22 registered status.

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

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

9.30 (b) A registrant seeking restoration to active status from inactive status must pay
9.31 the current renewal fees and all unpaid back inactive fees. The registrant must meet
9.32 the criteria for renewal under subdivision 7 prior to submitting an application to regain
9.33 registered status. If the registrant has been in inactive status for more than five years, a
9.34 qualifying score on a competency exam is required.

10.1 Subd. 7. **Registration following lapse of registration status for two years or less.**

10.2 In order for an individual whose registration status has lapsed for two years or less, to
10.3 regain registration status, the individual must:

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

10.5 (2) submit applicable fees for the period not registered, including the fee for late
10.6 renewal.

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

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

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

10.21 (c) To obtain registration after cancellation, an applicant must obtain a new
10.22 registration by applying for initial registration and fulfilling the requirements then in
10.23 existence for obtaining initial registration according to sections 148.981 to 148.9885.

10.24 Sec. 10. **[148.9881] BOARD ACTION ON APPLICATIONS.**

10.25 (a) The board shall act on each application for registration or renewal according
10.26 to paragraphs (b) and (d).

10.27 (b) The board or advisory council shall determine if the applicant meets the
10.28 requirements for registration or renewal under section 148.987 or 148.9871. The board
10.29 or advisory council may investigate information provided by an applicant to determine
10.30 whether the information is accurate and complete, and may request additional information
10.31 or documentation.

10.32 (c) The board shall notify each applicant, in writing, of action taken on the
10.33 application, the grounds for denying registration if registration is denied, and the
10.34 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. Each applicant is allowed only one request for review per registration period.

Sec. 11. **[148.9882] GROUNDS FOR DISCIPLINARY ACTION.**

Subdivision 1. **Grounds listed.** (a) The board may deny, revoke, suspend, limit, or condition the registration of a registrant or registered massage and bodywork therapist, or may otherwise discipline a registrant. The fact that massage and bodywork therapy may be considered a less customary approach to health care shall not constitute the basis for disciplinary action per se.

(b) The following are grounds for disciplinary action, regardless of whether injury to a client is established:

(1) failing to demonstrate the qualifications or to satisfy the requirements for registration contained in sections 148.981 to 148.9885, or rules of the board. In the case of an applicant, the burden of proof is on the applicant to demonstrate the qualifications or satisfy the requirements;

(2) advertising in a false, fraudulent, deceptive, or misleading manner, including, but not limited to:

(i) advertising or holding oneself out as a "registered massage and bodywork therapist" or any abbreviation or derivative thereof to indicate such a title, when such registration is not valid or current for any reason;

(ii) advertising or holding oneself out as a "licensed massage and bodywork therapist" or any abbreviation or derivative thereof to indicate such a title, unless the registrant currently holds a valid state license in another state and provided that the state is clearly identified;

(iii) advertising a service, the provision of which would constitute a violation of this chapter or rules established by the board; and

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

(3) falsifying information in a massage and bodywork therapy registration or renewal application or attempting to obtain registration, registration renewal, or reinstatement by fraud, deception, or misrepresentation, or aiding and abetting any of these acts;

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

12.5 (5) committing an act of gross malpractice, negligence, or incompetency, or failing
12.6 to practice massage and bodywork therapy with the level of care, skill, and treatment
12.7 that is recognized by a reasonably prudent massage and bodywork therapist as being
12.8 acceptable under similar conditions and circumstances;

12.9 (6) having an actual or potential inability to practice massage and bodywork therapy
12.10 with reasonable skill and safety to clients by reason of illness, as a result of any mental
12.11 or physical condition, or use of alcohol, drugs, chemicals, or any other material. Being
12.12 adjudicated as mentally incompetent, mentally ill, a chemically dependent person, or a
12.13 person dangerous to the public by a court of competent jurisdiction, inside or outside
12.14 of this state, may be considered as evidence of an inability to practice massage and
12.15 bodywork therapy;

12.16 (7) being the subject of disciplinary action as a massage and bodywork therapist by
12.17 another state or jurisdiction where the board or advisory council determines that the cause
12.18 of the disciplinary action would be a violation under this state's statutes or rules of the
12.19 board if the violation had occurred in this state;

12.20 (8) failing to notify the board of revocation or suspension of a credential, or any
12.21 other disciplinary action taken by this or any other state, territory, or country, including
12.22 any restrictions on the right to practice; or the surrender or voluntary termination of a
12.23 credential during a board investigation of a complaint, as part of a disciplinary order, or
12.24 while under a disciplinary order;

12.25 (9) conviction of a crime, including a finding or verdict of guilt, an admission of
12.26 guilt, or a no-contest plea, in any court in Minnesota or any other jurisdiction in the
12.27 United States, reasonably related to engaging in massage and bodywork therapy practices.
12.28 Conviction, as used in this clause, includes a conviction of an offense which, if committed
12.29 in this state, would be deemed a felony, gross misdemeanor, or misdemeanor, without
12.30 regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of
12.31 guilty is made or returned but the adjudication of guilt is either withheld or not entered;

12.32 (10) if a registrant is on probation, failing to abide by terms of that probation;

12.33 (11) practicing or offering to practice beyond the scope of the practice of massage
12.34 and bodywork therapy;

- 13.1 (12) managing client records and information improperly, including, but not limited
13.2 to failing to maintain adequate client records, comply with a client's request made according
13.3 to sections 144.291 to 144.298, or furnish a client record or report required by law;
- 13.4 (13) revealing a privileged communication from or relating to a client except when
13.5 otherwise required or permitted by law;
- 13.6 (14) providing massage and bodywork therapy services that are linked to the
13.7 financial gain of a referral source;
- 13.8 (15) obtaining money, property, or services from a client, other than reasonable
13.9 fees for services provided to the client, through the use of undue influence, harassment,
13.10 duress, deception, or fraud;
- 13.11 (16) engaging in abusive or fraudulent billing practices, including violations of
13.12 federal Medicare and Medicaid laws or state medical assistance laws;
- 13.13 (17) failing to consult with a client's health care provider who prescribed a course of
13.14 massage and bodywork therapy treatment if the treatment needs to be altered from the
13.15 original written order to conform with standards in the massage and bodywork therapy
13.16 field or the registrant's level of training or experience;
- 13.17 (18) failing to cooperate with an investigation of the board or its representatives,
13.18 including failing to respond fully and promptly to any question raised by or on behalf
13.19 of the board relating to the subject of the investigation, failing to execute all releases
13.20 requested by the board, failing to provide copies of client records, as reasonably requested
13.21 by the board to assist in its investigation, and failing to appear at conferences or hearings
13.22 scheduled by the board or its staff;
- 13.23 (19) interfering with an investigation or disciplinary proceeding, including by willful
13.24 misrepresentation of facts or by the use of threats or harassment to prevent a person from
13.25 providing evidence in a disciplinary proceeding or any legal action;
- 13.26 (20) violating a statute, rule, order, or agreement for corrective action that the board
13.27 issued or is otherwise authorized or empowered to enforce;
- 13.28 (21) aiding or abetting a person in violating sections 148.981 to 148.9885;
- 13.29 (22) failing to report to the board other massage and bodywork therapists who
13.30 commit violations of sections 148.981 to 148.9885; and
- 13.31 (23) failing to notify the board, in writing, of the entry of a final judgment by a
13.32 court of competent jurisdiction against the registrant for malpractice of massage and
13.33 bodywork therapy, or any settlement by the registrant in response to charges or allegations
13.34 of malpractice of massage and bodywork therapy. The notice must be provided to the
13.35 board within 60 days after the entry of a judgment, and must contain the name of the
13.36 court, case number, and the names of all parties to the action.

Subd. 2. **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 same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the violation.

Subd. 3. **Examination; access to medical data.** The board may take the actions described in section 148.261, subdivision 5, if it has probable cause to believe that grounds for disciplinary action exist under subdivision 1, paragraph (b), clause (6). The requirements and limitations described in section 148.261, subdivision 5, shall apply.

Sec. 12. **[148.9883] DISCIPLINE; REPORTING.**

For purposes of sections 148.981 to 148.9885, registered massage and bodywork therapists and applicants are subject to sections 148.262 to 148.266.

Sec. 13. **[148.9884] EFFECT ON MUNICIPAL ORDINANCES.**

Subdivision 1. **License authority.** The provisions of sections 148.981 to 148.9885 preempt the licensure and regulation of registered massage and bodywork therapists by a municipality, including, without limitation, conducting a criminal background investigation and examination of a massage and bodywork therapist or applicant for a municipality's credential to practice massage and bodywork therapy.

Subd. 2. **Municipal regulation.** Nothing in sections 148.981 to 148.9885 shall be construed to limit a municipality from:

(1) requiring a massage business establishment to obtain a business license or permit in order to transact business in the jurisdiction regardless of whether the massage business establishment is operated by a registered or unregistered massage and bodywork therapist;

(2) enforcing the provisions of health codes related to communicable diseases;

(3) requiring a criminal background check of any unregistered massage and bodywork therapist applying for a license to conduct massage and bodywork therapy in the municipality; and

(4) otherwise regulating massage business establishments by ordinance regardless of whether the massage business establishment is operated by a registered or unregistered massage and bodywork therapist.

Subd. 3. **Prosecuting authority.** A municipality may prosecute violations of sections 148.981 to 148.9885, a local ordinance, or any other law by a registered or unregistered massage and bodywork therapist in its jurisdiction.

Sec. 14. **[148.9885] FEES.**

15.1 Subdivision 1. Fees. Fees are as follows:

15.2 (1) initial registration with application fee must not exceed \$285;

15.3 (2) annual registration renewal fee must not exceed \$185;

15.4 (3) initial school approval, \$300;

15.5 (4) school approval renewal, \$200;

15.6 (5) duplicate registration certificate, \$15;

15.7 (6) late fee, \$50;

15.8 (7) inactive status and inactive to active status reactivation, \$50;

15.9 (8) temporary permit, \$50; and

15.10 (9) returned check, \$35.

15.11 Subd. 2. **Penalty fee for late renewals.** An application for registration renewal

15.12 submitted after the deadline must be accompanied by a late fee in addition to the required

15.13 fees.

15.14 Subd. 3. **Nonrefundable fees.** All of the fees in subdivision 1 are nonrefundable.

15.15 Subd. 4. **Deposit.** Fees collected by the board under this section shall be deposited

15.16 into the state government special revenue fund.

15.17 **Sec. 15. EFFECTIVE DATE.**

15.18 This article is effective August 1, 2016.

15.19 ARTICLE 2

15.20 **CONFORMING AMENDMENTS**

15.21 Section 1. ~~[325F.816]~~ **MUNICIPAL OR CITY BUSINESS LICENSE; MASSAGE.**

15.22 An individual who is issued a municipal or city business license to practice massage

15.23 is prohibited from advertising as a licensed massage and bodywork therapist unless the

15.24 individual has received a professional credential from another state, is current in licensure,

15.25 and remains in good standing under the credentialing state's requirements.

15.26 **Sec. 2. EFFECTIVE DATE.**

15.27 This article is effective August 1, 2016.

APPENDIX
Article locations in H0644-3

ARTICLE 1 MESSAGE AND BODYWORK THERAPY Page.Ln 1.6
ARTICLE 2 CONFORMING AMENDMENTS Page.Ln 15.19