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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3575

02/20/2020 Authored by Pinto, Kiel, Schomacker and Becker-Finn
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health occupations; establishing licensure for massage therapy and
1.3 Asian bodywork therapy; establishing fees; providing criminal penalties; amending
1.4 Minnesota Statutes 2018, sections 146A.06, subdivision 3; 146A.09, by adding a
1.5 subdivision; proposing coding for new law in Minnesota Statutes, chapter 148.

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

1.7 ARTICLE 1
1.8 MASSAGE THERAPY AND ASIAN BODYWORK THERAPY

1.9 Section 1. [148.635] CITATION.

1.10 Sections 148.635 to 148.6363 may be cited as the "Minnesota Massage and Asian
1.11 Bodywork Therapy Act."

1.12 Sec. 2. [148.6351] DEFINITIONS.

1.13 Subdivision 1. Applicability. For purposes of sections 148.635 to 148.6363, the terms
1.14 defined in this section have the meanings given them.

1.15 Subd. 2. Advisory council. "Advisory council" means the Massage Therapy and Asian
1.16 Bodywork Therapy Advisory Council established under section 148.6357.

1.17 Subd. 3. Applicant. "Applicant" means an individual applying for licensure or renewal
1.18 according to sections 148.635 to 148.6363.

1.19 Subd. 4. Asian bodywork therapy. (a) "Asian bodywork therapy" means therapy based
1.20 upon Chinese medical principles with the intent of promoting, maintaining, and restoring
1.21 health and well-being by affecting the body and emotions.

2.1 (b) Asian bodywork therapy may use any of the following techniques:

2.2 (1) pressing;

2.3 (2) soothing;

2.4 (3) kneading;

2.5 (4) vibration;

2.6 (5) friction;

2.7 (6) passive stretching within the client's physiological range of motion;

2.8 (7) active assistive and resistive movement;

2.9 (8) stretching; and

2.10 (9) tapping, movement, exercising, or manipulation of the soft tissues.

2.11 (c) Methods of assessment and evaluation for Asian bodywork therapy are based on

2.12 Chinese medicine and may include a health history and intake interview, observation,

2.13 listening, questioning, and palpation.

2.14 Subd. 5. **Board.** "Board" means the Board of Nursing.

2.15 Subd. 6. **Client.** "Client" means a recipient of massage therapy or Asian bodywork
2.16 therapy services.

2.17 Subd. 7. **Credentialing examination.** "Credentialing examination" means an examination
2.18 administered by a national testing organization that is approved by the board and meets
2.19 recognized psychometric principles and standards.

2.20 Subd. 8. **Health care provider.** "Health care provider" means a person who has a state
2.21 credential to provide one or more of the following services: medical as defined in section
2.22 147.081, chiropractic as defined in section 148.01, podiatry as defined in section 153.01,
2.23 dentistry as defined in section 150A.01, physical therapy as defined in section 148.65, or
2.24 other state-credentialed providers.

2.25 Subd. 9. **Licensed Asian bodywork therapist.** "Licensed Asian bodywork therapist"
2.26 means an individual who meets the qualifications in sections 148.635 to 148.6363 for the
2.27 practice of Asian bodywork therapy and is licensed by the board.

2.28 Subd. 10. **Licensed massage therapist.** "Licensed massage therapist" means an individual
2.29 who meets the qualifications in sections 148.635 to 148.6363 for the practice of massage
2.30 therapy and is licensed by the board.

3.1 Subd. 11. **Massage therapy.** (a) "Massage therapy" means the manual manipulation of
 3.2 the soft tissues of the body for the promotion, maintenance, and restoration of health and
 3.3 well-being.

3.4 (b) Massage therapy may use any of the following techniques:

3.5 (1) stroking;

3.6 (2) gliding;

3.7 (3) lifting;

3.8 (4) kneading;

3.9 (5) jostling;

3.10 (6) vibration;

3.11 (7) percussion;

3.12 (8) compression;

3.13 (9) friction;

3.14 (10) holding;

3.15 (11) passive stretching within the client's physiological range of motion;

3.16 (12) movement or manipulation of the soft tissues;

3.17 (13) active assistive and resistive movement; and

3.18 (14) stretching.

3.19 (c) Methods of assessment for massage therapy may include a health history and intake
 3.20 interview, observation of posture and movement, palpation, range of motion assessment,
 3.21 and, with the client's permission, consultation with the client's other health care providers.

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

3.24 **Sec. 3. [148.6352] REQUIREMENTS FOR LICENSURE.**

3.25 Subdivision 1. **Licensure.** To be eligible for licensure as a massage therapist or Asian
 3.26 bodywork therapist according to sections 148.635 to 148.6363, an applicant must:

3.27 (1) pay applicable fees;

3.28 (2) submit to a criminal background check, conducted in accordance with section 214.075,
 3.29 and pay fees associated with conducting the criminal background check; and

4.1 (3) file a written application on a form provided by the board that includes information
 4.2 required under subdivision 2.

4.3 Subd. 2. **Application.** The written application for licensure as a massage therapist or
 4.4 Asian bodywork therapist must include:

4.5 (1) the applicant's name, Social Security number, home address and telephone number,
 4.6 and business address and telephone number;

4.7 (2) proof, as required by the board, of current professional liability insurance coverage.
 4.8 The insurance must have a minimum of \$2,000,000 of coverage per occurrence, and
 4.9 \$6,000,000 annual aggregate;

4.10 (3) proof, as required by the board, that the applicant has completed a postsecondary
 4.11 program through a school or program that:

4.12 (i) is licensed by or registered with the Minnesota Office of Higher Education; and

4.13 (ii) is accredited by an agency recognized by the United States Department of Education;

4.14 (4) proof of educational training completed as required under subdivision 3;

4.15 (5) proof of successful passage of a credentialing examination selected by the board;

4.16 (6) a list of state or private credentials or memberships held;

4.17 (7) a description of any other state's or municipality's refusal to license or credential the
 4.18 applicant;

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

4.21 (9) any history of drug or alcohol abuse;

4.22 (10) any misdemeanor, gross misdemeanor, or felony convictions;

4.23 (11) additional information requested by the board; and

4.24 (12) the applicant's signature certifying that information in the application is true and
 4.25 correct to the best of the applicant's knowledge and authorizing the board to obtain access
 4.26 to the applicant's records in any state in which the applicant has practiced massage therapy
 4.27 or Asian bodywork therapy.

4.28 Subd. 3. **Education requirements.** (a) An applicant for licensure as a massage therapist
 4.29 between January 1, 2021, and December 31, 2023, must complete education and training
 4.30 in the following subjects:

- 5.1 (1) anatomy;
- 5.2 (2) physiology;
- 5.3 (3) pathology;
- 5.4 (4) massage therapy;
- 5.5 (5) massage therapy history, theory, and research;
- 5.6 (6) professional ethics;
- 5.7 (7) therapeutic interpersonal communications and standards of practice;
- 5.8 (8) business and legal practices related to massage therapy; and
- 5.9 (9) supervised practice demonstrating safe use of equipment and supplies.
- 5.10 (b) An applicant for licensure as a massage therapist on or after January 1, 2024, must
- 5.11 complete a minimum of 625 contact hours of education and training as follows:
- 5.12 (1) at least 500 contact hours of classroom instruction in:
- 5.13 (i) anatomy;
- 5.14 (ii) physiology;
- 5.15 (iii) pathology;
- 5.16 (iv) massage therapy;
- 5.17 (v) massage therapy history, theory, and research;
- 5.18 (vi) professional ethics;
- 5.19 (vii) therapeutic interpersonal communications and standards of practice;
- 5.20 (viii) business and legal practices related to massage therapy; and
- 5.21 (ix) supervised practice demonstrating safe use of equipment and supplies; and
- 5.22 (2) supervised student clinical practice that must not exceed 125 of the 625 contact hours.
- 5.23 (c) This subdivision must not prohibit a massage therapy school or program that requires
- 5.24 more than 625 total contact hours from requiring or offering more than 125 hours of
- 5.25 supervised clinical practice, if at least 500 contact hours are devoted to classroom instruction
- 5.26 in the subjects listed in paragraph (b).
- 5.27 (d) A student must not begin the supervised clinical practice of massage therapy without
- 5.28 professional liability insurance coverage of up to \$2,000,000 per occurrence.

6.1 (e) An applicant for licensure as an Asian bodywork therapist between January 1, 2021,
6.2 and December 31, 2023, must complete education and training in the following subjects:

6.3 (1) anatomy;

6.4 (2) physiology;

6.5 (3) pathology;

6.6 (4) Asian bodywork therapy;

6.7 (5) traditional Chinese medicine theory;

6.8 (6) Asian bodywork history, theory, and research;

6.9 (7) professional ethics;

6.10 (8) therapeutic interpersonal communications and standards of practice;

6.11 (9) business and legal practices related to Asian bodywork therapy; and

6.12 (10) supervised practice demonstrating safe use of equipment and supplies.

6.13 (f) An applicant for licensure as an Asian bodywork therapist on or after January 1,
6.14 2024, must complete a minimum of 625 contact hours of education and training in the
6.15 subjects listed in paragraph (e).

6.16 Subd. 4. **Licensure prohibited.** (a) Except as provided in paragraph (b), the board must
6.17 deny an application for licensure if an applicant:

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

6.20 (i) labor or sex trafficking under section 609.281, 609.282, 609.283, or 609.322;

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

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

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

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

6.26 (4) is charged with or under investigation for a complaint in this state or any state that
6.27 would constitute a violation of statutes or rules established for the practice of massage
6.28 therapy or Asian bodywork therapy in this state, and the charge or complaint has not been
6.29 resolved in favor of the applicant.

7.1 (b) The board may establish criteria whereby an individual convicted of an offense listed
7.2 in paragraph (a) may become licensed provided that the criteria:

7.3 (1) utilize a rebuttable presumption that the applicant is not suitable for licensing or
7.4 credentialing;

7.5 (2) provide a standard for overcoming the presumption; and

7.6 (3) require that a minimum of ten years has elapsed since the applicant was released
7.7 from incarceration or supervisory jurisdiction related to the offense.

7.8 The board must not consider an application under this paragraph if the board determines
7.9 that the victim involved in the offense was a client of the applicant at the time of the offense.

7.10 Subd. 5. **Licensure by endorsement.** (a) To be eligible for licensure by endorsement,
7.11 an applicant must:

7.12 (1) meet the requirements for licensure in subdivisions 1 and 2; and

7.13 (2) provide proof of a current and unrestricted equivalent credential in another state that
7.14 has qualifications at least equivalent to the requirements of sections 148.635 to 148.6363.

7.15 The proof must include records as required by the board.

7.16 (b) Licenses issued by endorsement must expire on the same schedule and be renewed
7.17 by the same procedures as licenses issued under subdivision 1.

7.18 Subd. 6. **Licensure by prior experience.** (a) To be eligible for licensure by prior
7.19 experience, an applicant must submit proof of experience in the practice of massage therapy
7.20 or Asian bodywork therapy, whichever is applicable, for at least two of the previous five
7.21 years immediately preceding the application date. The applicant must apply for licensure
7.22 by prior experience within two years after the date applications are first made available by
7.23 the board.

7.24 (b) Licenses issued under this subdivision must expire on the same schedule and be
7.25 renewed by the same procedures as licenses issued under subdivision 1.

7.26 (c) This subdivision does not apply to a license that is canceled due to nonrenewal under
7.27 section 148.6358, subdivision 8.

7.28 Subd. 7. **Temporary permit.** The board may issue a temporary permit to practice
7.29 massage therapy or Asian bodywork therapy to an applicant eligible for licensure under
7.30 subdivision 1, 5, or 6 if the application for licensure is complete, all applicable requirements
7.31 in this section have been met, and applicable fees have been paid. The temporary permit
7.32 remains valid until the board takes action on the applicant's application, or 90 days from

8.1 the temporary permit's issuance, whichever is sooner. Practicing without a temporary license
8.2 is a violation of section 148.6355.

8.3 **Sec. 4. [148.6353] LIMITATIONS ON PRACTICE.**

8.4 (a) The practice of massage therapy and Asian bodywork therapy does not include:

8.5 (1) providing examinations for the purpose of diagnosis;

8.6 (2) providing treatments that are outside the scope of massage therapy and Asian
8.7 bodywork therapy practice;

8.8 (3) attempts to adjust, manipulate, or mobilize any articulation of the body or spine by
8.9 the use of high-velocity, low-amplitude thrusting force;

8.10 (4) prescriptive exercise;

8.11 (5) manual or mechanical traction when applied to the spine or extremities for the
8.12 purposes of joint mobilization or manipulation;

8.13 (6) injection therapy;

8.14 (7) laser therapy;

8.15 (8) microwave diathermy;

8.16 (9) electrical stimulation;

8.17 (10) ultrasound;

8.18 (11) iontophoresis; or

8.19 (12) phonophoresis.

8.20 (b) If a reasonably prudent massage therapist or Asian bodywork therapist finds a client's
8.21 medical condition is beyond the scope of practice established by sections 148.635 to 148.6363
8.22 or by rules of the board for a licensed massage therapist or Asian bodywork therapist, the
8.23 therapist must refer the client to a health care provider, but is not prohibited from comanaging
8.24 the client's care.

8.25 **Sec. 5. [148.6354] EXEMPTIONS; OTHER HEALTH CARE PROVIDERS.**

8.26 (a) Sections 148.635 to 148.6363 must not be construed to prohibit, restrict, or regulate
8.27 the practice of any person engaged in providing complementary and alternative health care
8.28 practices as defined in section 146A.01, subdivision 4, including but not limited to movement
8.29 or somatic education or therapy, provided that the practitioner does not advertise or imply

9.1 that the practitioner is licensed according to sections 148.635 to 148.6363, and if the practices
 9.2 are not designated or implied to be massage therapy or Asian bodywork therapy.

9.3 (b) Sections 148.635 to 148.6363 must not be construed to prohibit, restrict, or regulate
 9.4 the practice of nonresident massage therapists providing the following temporary services:

9.5 (1) massage emergency response team services working in conjunction with disaster
 9.6 relief officials;

9.7 (2) massage services incidental to specific events, such as amateur sports competitions,
 9.8 dance performances or events, or other similar athletic events;

9.9 (3) instruction of continuing education courses in massage therapy or Asian bodywork
 9.10 therapy;

9.11 (4) services provided as an employee of the United States government or any federal
 9.12 government entity while acting in the course and scope of such employment; or

9.13 (5) services provided by massage therapy or Asian bodywork therapy students practicing
 9.14 under supervision as part of a school-sanctioned activity.

9.15 **Sec. 6. [148.6355] UNLICENSED PRACTICE PROHIBITED; PROTECTED TITLES**
 9.16 **AND RESTRICTIONS ON USE.**

9.17 **Subdivision 1. Protected titles; unlicensed practice prohibited.** It is unlawful for any
 9.18 person, corporation, or association to practice or attempt to practice massage therapy or
 9.19 Asian bodywork therapy, or use any of the terms or titles "massage therapist," "MT," "Asian
 9.20 bodywork therapist," "ABT," or any other term or title that may lead the public to believe
 9.21 that the individual is engaged in the practice of massage therapy or Asian bodywork therapy
 9.22 unless licensed under sections 148.635 to 148.6363 as a massage therapist or Asian bodywork
 9.23 therapist.

9.24 **Subd. 2. Penalty.** Any person, corporation, or association found to be in violation of the
 9.25 provisions of subdivision 1 is guilty of a gross misdemeanor.

9.26 **Sec. 7. [148.6356] POWERS OF THE BOARD.**

9.27 The board, acting with the advice of the advisory council, must issue licenses to duly
 9.28 qualified applicants and must exercise the following powers and duties:

9.29 (1) adopt rules, including standards of practice and a professional code of ethics,
 9.30 consistent with the law, as necessary to implement the provisions of sections 148.635 to
 9.31 148.6363;

- 10.1 (2) assign duties to the advisory council that are necessary to implement the provisions
 10.2 of sections 148.635 to 148.6363;
- 10.3 (3) approve and select a competency examination;
- 10.4 (4) establish educational requirements, approve schools or programs preparing individuals
 10.5 for licensure, and conduct or provide for surveys of schools, programs, and courses;
- 10.6 (5) appoint members to the advisory council according to section 148.6357 and chapter
 10.7 214;
- 10.8 (6) enforce sections 148.635 to 148.6363 and investigate violations of section 148.636
 10.9 by a licensee or applicant;
- 10.10 (7) impose discipline as described in section 148.6362 and incur any necessary expense;
- 10.11 (8) maintain a record of names and addresses of licensees;
- 10.12 (9) keep a permanent record of all proceedings;
- 10.13 (10) distribute information regarding massage therapy and Asian bodywork therapy
 10.14 standards, including applications and forms necessary to carry into effect the provisions of
 10.15 sections 148.635 to 148.6363;
- 10.16 (11) take action on applications according to section 148.6359; and
- 10.17 (12) employ and establish the duties of necessary personnel.

10.18 **Sec. 8. [148.6357] MASSAGE THERAPY AND ASIAN BODYWORK THERAPY**
 10.19 **ADVISORY COUNCIL.**

10.20 Subdivision 1. **Creation; membership.** (a) The Massage Therapy and Asian Bodywork
 10.21 Therapy Advisory Council is created and is composed of five members appointed by the
 10.22 board. All members must have resided in this state for at least three years prior to
 10.23 appointment. The advisory council consists of:

- 10.24 (1) two public members, as defined in section 214.02; and
- 10.25 (2) two members who are licensed massage therapists and one member who is a licensed
 10.26 Asian bodywork therapist, except for initial appointees. Initial appointees must practice
 10.27 massage therapy and Asian bodywork therapy. An initial appointee must be removed from
 10.28 the council if the appointee does not obtain licensure under section 148.6352 within a
 10.29 reasonable time after licensure procedures are established.
- 10.30 (b) No more than one member of the advisory council may be an owner or administrator
 10.31 of a massage therapy and Asian bodywork therapy education provider.

11.1 Subd. 2. **Initial appointments; meeting.** The board must make initial appointments to
11.2 the advisory council by October 1, 2020, and must designate one member to call the first
11.3 meeting of the advisory council by November 15, 2020.

11.4 Subd. 3. **Vacancies.** When a vacancy occurs for a member who is a licensed massage
11.5 therapist or Asian bodywork therapist, the board may appoint a member from among qualified
11.6 candidates. The board may fill vacancies occurring on the advisory council for unexpired
11.7 terms according to this section. Members must retain membership until a qualified successor
11.8 is appointed.

11.9 Subd. 4. **Administration.** The advisory council is established and administered under
11.10 section 15.059, except each member must be appointed for a two-year term, with no member
11.11 serving more than two consecutive terms.

11.12 Subd. 5. **Chair.** The advisory council must elect a chair from among its members.

11.13 Subd. 6. **Staffing.** The board must provide meeting space and administrative support
11.14 for the advisory council.

11.15 Subd. 7. **Duties.** The advisory council must advise the board regarding:

11.16 (1) establishing standards of practice and a code of ethics for licensed massage therapists
11.17 and Asian bodywork therapists;

11.18 (2) distributing information regarding massage therapy and Asian bodywork therapy
11.19 standards;

11.20 (3) enforcing sections 148.635 to 148.6363;

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

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

11.25 (6) performing other duties of advisory councils under chapter 214 or as directed by the
11.26 board.

11.27 Sec. 9. **[148.6358] EXPIRATION AND RENEWAL.**

11.28 Subdivision 1. **Licensure expiration.** Licenses issued according to sections 148.635 to
11.29 148.6363 expire biennially.

11.30 Subd. 2. **Renewal.** To be eligible for licensure renewal, an applicant must biennially,
11.31 or as determined by the board:

- 12.1 (1) complete a renewal application on a form provided by the board;
 12.2 (2) submit applicable fees; and
 12.3 (3) submit any additional information requested by the board to clarify information
 12.4 presented in the renewal application. The information must be submitted within 30 days
 12.5 after the board's request or the renewal request is canceled.

12.6 Subd. 3. **Change of address.** A licensee or applicant who changes addresses must inform
 12.7 the board in writing within 30 days of the change of address. Notices or other correspondence
 12.8 mailed to or served on a licensee or applicant at the licensee or applicant's current address
 12.9 on file must be considered as received by the licensee or applicant.

12.10 Subd. 4. **Licensure renewal notice.** (a) At least 60 days before the licensure renewal
 12.11 date, the board must send out a renewal notice to the last known address of the licensee.
 12.12 The notice must include:

- 12.13 (1) a renewal application;
 12.14 (2) a notice of fees required for renewal; and
 12.15 (3) information stating that registration will expire without further action by the board
 12.16 if an application for licensure renewal is not received before the deadline for renewal.

12.17 (b) The licensee's failure to receive the renewal notice must not relieve the licensee of
 12.18 the obligation to meet the deadline and other requirements for licensure renewal. Failure to
 12.19 receive the notice is not grounds for challenging expiration of licensed status.

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

12.24 Subd. 6. **Inactive status and return to active status.** (a) A license may be placed in
 12.25 inactive status upon application to the board by the licensee and upon annual payment of
 12.26 an inactive status fee. Failure to pay the annual inactive status fee results in a lapse of
 12.27 licensure.

12.28 (b) A licensee seeking restoration to active status from inactive status must pay the
 12.29 current renewal fees. The licensee must meet the criteria for renewal under subdivision 7
 12.30 prior to submitting an application to regain licensed status. If the licensee has been in inactive
 12.31 status for more than five years, a qualifying score on a competency examination is required.

13.1 Subd. 7. **Licensure following lapse for two years or less.** To regain active licensure
 13.2 status, an individual whose licensure status has lapsed for two years or less must:

13.3 (1) apply for licensure renewal according to subdivision 2; and

13.4 (2) submit applicable fees for the period not licensed, including the fee for late renewal.

13.5 Subd. 8. **Cancellation due to nonrenewal.** The board must not renew, reissue, reinstate,
 13.6 or restore a license that has lapsed and has not been renewed within two years. A licensee
 13.7 whose license is canceled for nonrenewal must obtain a new license by applying for initial
 13.8 licensure and fulfilling all requirements for initial licensure as a massage therapist or Asian
 13.9 bodywork therapist.

13.10 Sec. 10. **[148.6359] BOARD ACTION ON APPLICATIONS; DATA PRACTICES.**

13.11 (a) The board must act on each application for licensure or renewal according to
 13.12 paragraphs (b) and (d).

13.13 (b) The board or advisory council must determine if the applicant meets the requirements
 13.14 for licensure or renewal under section 148.6352 or 148.6358. The board or advisory council
 13.15 may investigate information provided by an applicant to determine whether the information
 13.16 is accurate and complete, and may request additional information or documentation.

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

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

13.25 (e) Section 13.41 applies to data on applicants and licensees collected and maintained
 13.26 by the board.

13.27 Sec. 11. **[148.636] GROUNDS FOR DISCIPLINARY ACTION.**

13.28 Subdivision 1. **Grounds listed.** (a) The board may deny, revoke, suspend, limit, or
 13.29 condition the licensure of a licensed massage therapist or Asian bodywork therapist or may
 13.30 otherwise discipline a licensee. The fact that massage therapy and Asian bodywork therapy

14.1 may be considered less customary approaches to health care shall not constitute the basis
14.2 for disciplinary action per se.

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

14.5 (1) failing to demonstrate the qualifications or to satisfy the requirements for licensure
14.6 under sections 148.635 to 148.6363 or rules of the board. In the case of an applicant, the
14.7 burden of proof is on the applicant to demonstrate the qualifications or satisfy the
14.8 requirements;

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

14.11 (i) advertising or holding oneself out as a "licensed massage therapist" or "licensed Asian
14.12 bodywork therapist" or any abbreviation or derivative thereof to indicate such a title, when
14.13 such licensure is not valid or current for any reason;

14.14 (ii) advertising or holding oneself out as a "licensed massage therapist" or "licensed
14.15 Asian bodywork therapist" or any abbreviation or derivative thereof to indicate such a title,
14.16 except if the individual holds a license in another state or jurisdiction and does not provide
14.17 services in Minnesota;

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

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

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

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

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

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

15.8 (7) being the subject of disciplinary action as a massage therapist or Asian bodywork
15.9 therapist in another state or jurisdiction if the board or advisory council determines that the
15.10 cause of the disciplinary action would be a violation under this state's statutes or rules of
15.11 the board had the violation occurred in this state;

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

15.17 (9) conviction of a crime, including a finding or verdict of guilt, an admission of guilt,
15.18 or a no-contest plea, in any court in Minnesota or any other jurisdiction in the United States,
15.19 reasonably related to engaging in massage therapy or Asian bodywork therapy practices.
15.20 Conviction, as used in this clause, includes a conviction for an offense that, if committed
15.21 in this state, would be deemed a felony, gross misdemeanor, or misdemeanor regardless of
15.22 its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is
15.23 made or returned but the adjudication of guilt is either withheld or not entered;

15.24 (10) if a licensee is on probation, failing to abide by terms of probation;

15.25 (11) practicing or offering to practice beyond the scope of the practice of massage therapy
15.26 or Asian bodywork therapy;

15.27 (12) managing client records and information improperly, including but not limited to
15.28 failing to maintain adequate client records, comply with a client's request made according
15.29 to sections 144.291 to 144.298, or furnish a client record or report required by law;

15.30 (13) revealing a privileged communication from or relating to a client except when
15.31 otherwise required or permitted by law;

15.32 (14) providing massage therapy or Asian bodywork therapy services that are linked to
15.33 the financial gain of a referral source;

16.1 (15) obtaining money, property, or services from a client, other than reasonable fees for
16.2 services provided to the client, through the use of undue influence, harassment, duress,
16.3 deception, or fraud;

16.4 (16) engaging in abusive or fraudulent billing practices, including violations of federal
16.5 Medicare and Medicaid laws or state medical assistance laws;

16.6 (17) failing to consult with a client's health care provider who prescribed a course of
16.7 massage therapy or Asian bodywork therapy treatment if the treatment needs to be altered
16.8 from the original written order to conform with standards in the massage therapy or Asian
16.9 bodywork therapy field or the licensee's level of training or experience;

16.10 (18) failing to cooperate with an investigation of the board or its representatives, including
16.11 failing to: respond fully and promptly to any question raised by or on behalf of the board
16.12 relating to the subject of the investigation; execute all releases requested by the board;
16.13 provide copies of client records as reasonably requested by the board to assist in its
16.14 investigation; and appear at conferences or hearings scheduled by the board or its staff;

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

16.18 (20) violating a statute, rule, order, or agreement for corrective action that the board
16.19 issued or is otherwise authorized or empowered to enforce;

16.20 (21) aiding or abetting a person in violating sections 148.635 to 148.6363;

16.21 (22) failing to report to the board other massage therapists or Asian bodywork therapists
16.22 who commit violations of sections 148.635 to 148.6363; and

16.23 (23) failing to notify the board in writing of the entry of a final judgment by a court of
16.24 competent jurisdiction against the licensee for malpractice of massage or Asian bodywork
16.25 therapy, or any settlement by the licensee in response to charges or allegations of malpractice
16.26 of massage therapy or Asian bodywork therapy. The notice must be provided to the board
16.27 within 60 days after the entry of a judgment or date of settlement, and must contain the
16.28 name of the court, case number, and the names of all parties to the action.

16.29 Subd. 2. Evidence. In disciplinary actions alleging a violation of subdivision 1, a copy
16.30 of the judgment or proceeding under the seal of the court administrator or of the
16.31 administrative agency must be admissible into evidence without further authentication and
16.32 must constitute prima facie evidence of the violation.

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

17.5 Sec. 12. **[148.6361] DISCIPLINE; REPORTING.**

17.6 For purposes of sections 148.635 to 148.6363, massage therapists or Asian bodywork
17.7 therapists and applicants for licensure are subject to sections 148.262 to 148.266.

17.8 Sec. 13. **[148.6362] EFFECT ON MUNICIPAL ORDINANCES.**

17.9 Subdivision 1. **License authority.** The provisions of sections 148.635 to 148.6363
17.10 preempt the licensure and regulation of massage therapists and Asian bodywork therapists
17.11 by a municipality, including, without limitation, conducting a criminal background
17.12 investigation and examination of a massage therapist, Asian bodywork therapist, or applicant
17.13 for a municipality's credential to practice massage therapy or Asian bodywork therapy.

17.14 Subd. 2. **Municipal regulation.** Sections 148.635 to 148.6363 must not be construed
17.15 to limit a municipality from:

17.16 (1) requiring a massage therapy or Asian bodywork therapy establishment to obtain a
17.17 business license or permit to conduct business in the municipality; and

17.18 (2) regulating other health care providers identified in section 148.6354.

17.19 Sec. 14. **[148.6363] FEES.**

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

17.21 (1) initial licensure with application fee must not exceed \$285;

17.22 (2) biennial licensure renewal fee must not exceed \$185;

17.23 (3) duplicate licensure certificate, \$15;

17.24 (4) late fee, \$50;

17.25 (5) inactive status and inactive to active status reactivation, \$50;

17.26 (6) temporary permit, \$50; and

17.27 (7) returned check, \$35.

17.28 Subd. 2. **Late renewal fee.** An application for licensure renewal submitted after the
17.29 deadline must be accompanied by a late fee in addition to the required fees.

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

18.2 Subd. 4. **Deposit.** Fees collected by the board under this section must be deposited into
 18.3 the state government special revenue fund.

18.4 Sec. 15. **EFFECTIVE DATE.**

18.5 Sections 1 to 14 are effective January 1, 2021.

18.6 **ARTICLE 2**

18.7 **CONFORMING AMENDMENTS**

18.8 Section 1. Minnesota Statutes 2018, section 146A.06, subdivision 3, is amended to read:

18.9 Subd. 3. **Exchanging information.** (a) The office shall establish internal operating
 18.10 procedures for:

18.11 (1) exchanging information with state boards; agencies, including the Office of
 18.12 Ombudsman for Mental Health and Developmental Disabilities; health-related and law
 18.13 enforcement facilities; departments responsible for licensing health-related occupations,
 18.14 facilities, and programs; and law enforcement personnel in this and other states; and

18.15 (2) coordinating investigations involving matters within the jurisdiction of more than
 18.16 one regulatory agency.

18.17 (b) The procedures for exchanging information must provide for the forwarding to the
 18.18 entities described in paragraph (a), clause (1), of information and evidence, including the
 18.19 results of investigations, that are relevant to matters within the regulatory jurisdiction of
 18.20 the organizations in paragraph (a). The data have the same classification in the hands of the
 18.21 agency receiving the data as they have in the hands of the agency providing the data.

18.22 (c) The office shall establish procedures for exchanging information with other states
 18.23 regarding disciplinary action against unlicensed complementary and alternative health care
 18.24 practitioners.

18.25 (d) The office shall forward to another governmental agency any complaints received
 18.26 by the office that do not relate to the office's jurisdiction but that relate to matters within
 18.27 the jurisdiction of the other governmental agency. The agency to which a complaint is
 18.28 forwarded shall advise the office of the disposition of the complaint. A complaint or other
 18.29 information received by another governmental agency relating to a statute or rule that the
 18.30 office is empowered to enforce must be forwarded to the office to be processed in accordance
 18.31 with this section.

19.1 (e) The office shall furnish to a person who made a complaint a description of the actions
19.2 of the office relating to the complaint.

19.3 (f) The office shall report to the Board of Nursing all final disciplinary actions against
19.4 individuals practicing massage therapy or Asian bodywork therapy as unlicensed
19.5 complementary and alternative health care practitioners. Upon request by the Board of
19.6 Nursing, the office may share all complaint, investigatory, and disciplinary data regarding
19.7 a named individual who has practiced or is practicing massage therapy or Asian bodywork
19.8 therapy as an unlicensed complementary and alternative health care practitioner.

19.9 **EFFECTIVE DATE.** This section is effective January 1, 2021.

19.10 Sec. 2. Minnesota Statutes 2018, section 146A.09, is amended by adding a subdivision to
19.11 read:

19.12 **Subd. 8. Licensed massage therapists and Asian bodywork therapists.** Persons whose
19.13 licensure as a massage therapist or Asian bodywork therapist under sections 148.635 to
19.14 148.6363 has been suspended or revoked by the Board of Nursing must not practice as
19.15 unlicensed complementary and alternative health care practitioners under this chapter during
19.16 a period of suspension or revocation.

19.17 **EFFECTIVE DATE.** This section is effective January 1, 2021.