

**SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION**

S.F. No. 1792

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DATE	D-PG	OFFICIAL STATUS
02/25/2014	5828	Introduction and first reading Referred to Health, Human Services and Housing
03/04/2014	5951a	Comm report: To pass as amended and re-refer to State and Local Government
03/10/2014	6038a	Comm report: To pass as amended and re-refer to Judiciary
03/17/2014	6256a	Comm report: To pass as amended and re-refer to Finance
03/20/2014	6413	Author stricken Hall

1.1 A bill for an act
1.2 relating to health occupations; establishing registration for massage and
1.3 bodywork therapy; establishing fees; amending Minnesota Statutes 2013
1.4 Supplement, section 116J.70, subdivision 2a; proposing coding for new law in
1.5 Minnesota Statutes, chapters 148; 325F.

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

1.7 **ARTICLE 1**

1.8 **MASSAGE AND BODYWORK THERAPY**

1.9 Section 1. **[148.981] CITATION.**

1.10 Sections 148.981 to 148.9885 may be cited as the "Minnesota Massage and
1.11 Bodywork Therapy Act."

1.12 Sec. 2. **[148.982] DEFINITIONS.**

1.13 Subdivision 1. **Applicability.** The definitions in this section apply to sections
1.14 148.981 to 148.9885.

1.15 Subd. 2. **Advertise.** "Advertise" means to publish, display, broadcast, or disseminate
1.16 information by any means that can be reasonably construed as an advertisement.

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

1.19 Subd. 4. **Applicant.** "Applicant" means an individual applying for registration or
1.20 renewal according to sections 148.981 to 148.9885.

1.21 Subd. 5. **Approved education provider.** "Approved education provider" means a
1.22 university, college, or other postsecondary education provider that meets the requirements

2.1 for approval under section 148.988 and which graduates students eligible for registration
2.2 according to sections 148.981 to 148.9885.

2.3 Subd. 6. **Board.** "Board" means the Minnesota Board of Nursing.

2.4 Subd. 7. **Client.** "Client" means a recipient of massage and bodywork therapy
2.5 services.

2.6 Subd. 8. **Competency exam.** "Competency exam" means a massage and bodywork
2.7 therapy competency assessment that is approved by the board based on meeting all of the
2.8 following criteria: psychometrically valid; based on a job task analysis; and administered
2.9 by a national testing organization.

2.10 Subd. 9. **Contact hour.** "Contact hour" means an instructional session of at least
2.11 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker,
2.12 and social activities.

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

2.14 Subd. 11. **Health care provider.** "Health care provider" means a person who is
2.15 state credentialed to provide the following: medicine as defined in section 147.081,
2.16 chiropractic as defined in section 148.01, podiatry as defined in section 153.01, dentistry
2.17 as defined in section 150A.01, physical therapy as defined in section 148.65, or other
2.18 state-credentialed providers.

2.19 Subd. 12. **Massage and bodywork therapy.** "Massage and bodywork therapy"
2.20 means a health care service involving systematic and structured touch and palpation;
2.21 pressure and movement of the muscles, tendons, ligaments, and fascia, in order to reduce
2.22 muscle tension, relieve soft tissue pain, improve circulation, increase flexibility, increase
2.23 activity of the parasympathetic branch of the autonomic nervous system, or to promote
2.24 general wellness, by use of the techniques and applications described in section 148.983.

2.25 Subd. 13. **Municipality.** "Municipality" means a county, town, or home rule
2.26 charter or statutory city.

2.27 Subd. 14. **Physical agent modality.** "Physical agent modality" means modalities
2.28 that use the properties of light, water, temperature, sound, and electricity to produce
2.29 a response in soft tissue.

2.30 Subd. 15. **Practice of massage and bodywork therapy.** "Practice of massage and
2.31 bodywork therapy" means to engage professionally for compensation or as a volunteer in
2.32 massage and bodywork therapy or the instruction of professional technique coursework.

2.33 Subd. 16. **Professional organization.** "Professional organization" means an
2.34 organization that represents massage and bodywork therapists, was established before
2.35 the year 2005, offers professional liability insurance as a benefit of membership, has an
2.36 established code of professional ethics, and is board approved.

3.1 Subd. 17. **Registered massage and bodywork therapist or registrant.** "Registered
3.2 massage and bodywork therapist" or "registrant" means a health care provider registered
3.3 according to sections 148.981 to 148.9885, for the practice of massage and bodywork
3.4 therapy.

3.5 Subd. 18. **State.** "State" means any state in the United States, the District of
3.6 Columbia, Puerto Rico, the United States Virgin Islands, Guam, Canadian province, or
3.7 foreign country; except "this state" means the state of Minnesota.

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

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

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

3.16 (2) application and use of any of the following: oils, lotions, gels, rubbing alcohol,
3.17 or powders for the purpose of lubricating the skin to be massaged; creams, with the
3.18 exception of prescription-requiring medicinal creams; hot or cold stones; essential oils
3.19 as used in aromatherapy for inhalation or diluted for topical application; salt glows and
3.20 wraps; or heat or ice.

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

3.23 (1) diagnosing any illness or disease;

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

3.27 (3) prescription of drugs or medicines;

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

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

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

4.2 If a reasonably prudent massage and bodywork therapist finds a client's medical
4.3 condition is beyond the scope of practice established by sections 148.981 to 148.9885, or
4.4 by rules of the board for a registered massage and bodywork therapist, the massage and
4.5 bodywork therapist must refer the client to a health care provider as defined in sections
4.6 148.981 to 148.9885, but is not prohibited from comanaging the client.

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

4.8 Subdivision 1. **Designation.** An individual regulated by sections 148.981 to
4.9 148.9885, is designated as a "registered massage and bodywork therapist" or "RMBT."

4.10 Subd. 2. **Title protection.** No individual may use the title "registered massage and
4.11 bodywork therapist," or use, in connection with the individual's name, the letters "RMBT,"
4.12 or any other titles, words, letters, abbreviations, or insignia indicating or implying that the
4.13 individual is registered or eligible for registration by this state as a registered massage
4.14 therapist unless the individual has been registered according to sections 148.981 to
4.15 148.9885.

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

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

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

4.26 Subd. 4. **Other health care providers.** Nothing in sections 148.981 to 148.9885
4.27 may be construed to prohibit, restrict the practice of, nor require massage and bodywork
4.28 therapy registration of any of the following:

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

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

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

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

5.4 (1) adopt rules, including standards of practice and a professional code of ethics,
5.5 not inconsistent with the law, as may be necessary to enable the board to implement the
5.6 provisions of sections 148.981 to 148.9885;

5.7 (2) assign duties to the advisory council that are necessary to implement the
5.8 provisions of sections 148.981 to 148.9885;

5.9 (3) approve or conduct a competency exam;

5.10 (4) grant status as an approved education provider according to approval criteria in
5.11 section 148.988 and maintain a list of approved education providers;

5.12 (5) appoint members to the advisory council according to section 148.9861 and
5.13 chapter 214;

5.14 (6) enforcement of sections 148.981 to 148.9885, including to cause the prosecution
5.15 for violations of section 148.9882 by a registrant or applicant, impose discipline as
5.16 described in section 148.9882, and have the power to incur any necessary expense;

5.17 (7) maintain a record of names and addresses of registrants;

5.18 (8) keep a permanent record of all its proceedings;

5.19 (9) distribution of information regarding massage and bodywork therapy standards,
5.20 including applications and forms necessary to carry into effect the provisions of sections
5.21 148.981 to 148.9885;

5.22 (10) taking action on applications according to section 148.9881; and

5.23 (11) employ and establish the duties of necessary personnel.

5.24 Sec. 7. **[148.9861] REGISTERED MASSAGE AND BODYWORK THERAPIST**
5.25 **ADVISORY COUNCIL.**

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

5.30 (1) two public members, as defined in section 214.02;

5.31 (2) three members who, except for initial appointees, are registered massage and
5.32 bodywork therapists. Initial appointees must practice massage and bodywork therapy.

5.33 An initial appointee shall be removed from the council if the appointee does not obtain
5.34 registration under section 148.987 within a reasonable time after registration procedures
5.35 are established.

6.1 (b) A person may not be appointed to serve more than two consecutive full terms.

6.2 (c) No more than one member of the advisory council may be an owner or
 6.3 administrator of a massage and bodywork therapy education provider.

6.4 Subd. 2. **Vacancies.** When a vacancy of a member who is a registered massage
 6.5 and bodywork therapist occurs, the board may appoint a member from among qualified
 6.6 candidates or from a list of nominees submitted by professional organizations that contains
 6.7 twice the number of nominees needed to fill vacancies. Vacancies occurring on the advisory
 6.8 council may be filled for unexpired terms by appointments by the board according to this
 6.9 section. Members shall retain membership until a successor is appointed and qualified.

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

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

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

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

6.16 (3) enforcement of sections 148.981 to 148.9885;

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

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

6.21 (6) approval of or conducting a competency exam and granting status as an approved
 6.22 education provider; and

6.23 (7) performance of other duties of advisory councils under chapter 214, or as
 6.24 directed by the board.

6.25 **Sec. 8. [148.987] REGISTRATION REQUIREMENTS.**

6.26 Subdivision 1. **Registration.** To be eligible for registration according to sections
 6.27 148.981 to 148.9885, an applicant must:

6.28 (1) pay applicable fees;

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

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

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

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

- 7.1 (A) having obtained a high school diploma or its equivalent;
 7.2 (B) being 18 years of age or older;
 7.3 (C) current cardiopulmonary resuscitation and first aid certification; and
 7.4 (D) current professional liability insurance coverage, with a minimum of \$1,000,000
 7.5 of coverage per occurrence;
 7.6 (iii) unless registered under subdivision 3 or 4, successful completion of a curriculum
 7.7 from an approved education provider;
 7.8 (iv) unless registered under subdivision 3 or 4, successful completion of a
 7.9 competency exam;
 7.10 (v) a list of credentials or memberships held in this state or other states or from
 7.11 private credentialing or professional organizations;
 7.12 (vi) a description of any other state or municipality's refusal to credential the
 7.13 applicant;
 7.14 (vii) a description of all professional disciplinary actions initiated against the
 7.15 applicant in any jurisdiction;
 7.16 (viii) any history of drug or alcohol abuse, and any misdemeanor or felony conviction;
 7.17 (ix) additional information as requested by the board;
 7.18 (x) the applicant's signature on a statement that the information in the application is
 7.19 true and correct to the best of the applicant's knowledge; and
 7.20 (xi) the applicant's signature on a waiver authorizing the board to obtain access to
 7.21 the applicant's records in this state or any other state in which the applicant has engaged in
 7.22 the practice of massage and bodywork therapy.
- 7.23 Subd. 2. **Registration prohibited.** The board may deny any application for
 7.24 registration if an applicant:
 7.25 (1) has been convicted in this state with any of the following, or in another state of
 7.26 equivalent crimes:
 7.27 (i) prostitution as defined under section 609.321, 609.324, or 609.3242;
 7.28 (ii) criminal sexual conduct under sections 609.342 to 609.3451, or 609.3453;
 7.29 (iii) is a registered sex offender under section 243.166; or
 7.30 (iv) a violent crime as defined under section 611A.08, subdivision 6;
 7.31 (2) has been subjected to disciplinary action under section 146A.09, if the board
 7.32 determines such denial is necessary to protect the public; or
 7.33 (3) is charged with or under investigation for complaints in this state or any state
 7.34 that would constitute a violation of the statutes or rules established for the practice of
 7.35 massage and bodywork therapy in this state, the applicant shall not be registered until the

8.1 complaints have been resolved in the applicant's favor. Should a complaint be resolved in
8.2 favor of the complainant, the application for registration in this state may be denied.

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

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

8.7 (2) provide proof of a current and unrestricted equivalent credential in another
8.8 state that has qualifications at least equivalent to the requirements of sections 148.981 to
8.9 148.9885. The proof shall include records as required by rules of the board.

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

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

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

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

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

8.20 (ii) successful completion of a competency exam;

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

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

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

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

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

8.34 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 (1) annually, or as determined by the board, complete a renewal application on a
9.5 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 nullified.

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. They must meet the criteria
9.32 for renewal specified in subdivision 7, prior to submitting an application to regain
9.33 registered status. If the inactive status extends beyond five years, a qualifying score on
9.34 a competency exam is required.

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

10.2 For any individual whose registration status has lapsed for two years or less, to regain
 10.3 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 registration and fulfilling all requirements then in existence
 10.11 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 registration and fulfilling the requirements then in existence
 10.23 for obtaining initial registration according to sections 148.981 to 148.9885.

10.24 Sec. 10. **[148.988] APPROVED EDUCATION PROVIDER.**

10.25 Subdivision 1. **Initial approval.** To become an approved education provider, the
 10.26 education provider shall pay applicable fees and apply to the board, submitting evidence
 10.27 of the following:

10.28 (1) teaching a curriculum of at least 500 contact hours of combined massage and
 10.29 bodywork therapy theory and practice training consisting of at least:

10.30 (i) 120 combined hours of science subjects, including anatomy and physiology,
 10.31 kinesiology, pathology, hygiene, and standard precautions; and

10.32 (ii) 340 combined clinical and practical hours, including massage and bodywork
 10.33 therapy technique, techniques related to massage and bodywork therapy, supervised
 10.34 practice, professional ethics and standards of practice, massage and bodywork therapy

11.1 history, theory, research, and business and legal practices relating to massage and
 11.2 bodywork therapy; and

11.3 (2) licensure or registration by the Minnesota Office of Higher Education or
 11.4 membership in the Minnesota State College and University system, or similar approval
 11.5 by an equivalent agency in another state.

11.6 Subd. 2. **Continuing approval.** The board shall, as determined necessary, survey
 11.7 all approved education providers in the state. If the survey results show that an approved
 11.8 education provider meets all the criteria in subdivision 1 and all adopted rules, the board
 11.9 shall continue the approved education provider status.

11.10 Subd. 3. **Loss of approval.** If the board determines that an approved education
 11.11 provider is not maintaining the standards required by the statutes and board rules, notice
 11.12 thereof in writing specifying the defect shall be given to the approved education provider.
 11.13 If the provider fails to correct these conditions to the satisfaction of the board within a
 11.14 reasonable time set forth in the notice of defect, the provider may be removed from the list
 11.15 of approved education providers.

11.16 Subd. 4. **Reinstatement of approval.** The board may reinstate approved education
 11.17 provider status upon submission of satisfactory evidence that the standards required by
 11.18 statute and board rules then in effect are being met.

11.19 Sec. 11. **[148.9881] BOARD ACTION ON APPLICATIONS.**

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

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

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

11.29 (d) Applicants denied registration may make a written request to the board, within
 11.30 30 days of the board's notice, to appear before the advisory council and for the advisory
 11.31 council to review the board's decision to deny the applicant's registration. After reviewing
 11.32 the denial, the advisory council shall make a recommendation to the board as to whether
 11.33 the denial shall be affirmed. Each applicant is allowed only one request for review per
 11.34 registration period.

12.1 Sec. 12. [148.9882] GROUNDS FOR DISCIPLINARY ACTION.

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

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

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

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

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

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

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

12.23 (iv) use of fraud, deceit, or misrepresentation when communicating with the general
12.24 public, health care, or other business professionals;

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

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

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

13.1 (6) actual or potential inability to practice massage and bodywork therapy with
13.2 reasonable skill and safety to clients by reason of illness, as a result of any mental or
13.3 physical condition, or use of alcohol, drugs, chemicals, or any other material;

13.4 (7) being adjudicated as mentally incompetent, mentally ill, a chemically dependant
13.5 person, or a person dangerous to the public by a court of competent jurisdiction, within
13.6 or without this state may be considered as evidence of the inability to practice massage
13.7 and bodywork therapy;

13.8 (8) being the subject of disciplinary action as a massage and bodywork therapist by
13.9 another state or jurisdiction and the board or advisory council determines that the cause of
13.10 the disciplinary action would be a violation under this state's statutes or rules of the board
13.11 if the violation had occurred in this state;

13.12 (9) failing to notify the board of having had a credential revoked, suspended, or any
13.13 other disciplinary action taken including any restrictions on the right to practice, or an
13.14 application for credential refused, revoked, suspended, or otherwise disciplined by this or
13.15 any other state, territory, or country; or surrendered or voluntarily terminated a credential
13.16 during a board investigation of a complaint, as part of a disciplinary order, or while under
13.17 a disciplinary order;

13.18 (10) being convicted of or has pled guilty to a felony or other crime, an element of
13.19 which is dishonesty or fraud, or being shown to have engaged in acts or practices tending
13.20 to show that the applicant or registrant is incompetent or has engaged in conduct reflecting
13.21 adversely on the applicant's or registrant's ability or fitness to engage in the practice of
13.22 massage and bodywork therapy;

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

13.24 (12) practicing or offering to practice beyond the scope of the practice of massage
13.25 and bodywork therapy;

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

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

13.31 (15) providing massage and bodywork therapy services that are in any way linked
13.32 to the financial gain of a referral source;

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

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

14.3 (18) failing to consult with the client's health care provider who prescribed a course
14.4 of massage and bodywork therapy treatment if the treatment needs to be altered from the
14.5 original written order to conform with standards in the massage and bodywork therapy
14.6 field or the registrant's level of training or experience;

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

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

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

14.17 (22) aiding or abetting in any manner a person in violating sections 148.981 to
14.18 148.9885;

14.19 (23) failing to report to the board other massage and bodywork therapists who
14.20 commit violations of sections 148.981 to 148.9885; and

14.21 (24) failing to notify the board, in writing, of the entry of a final judgment by a
14.22 court of competent jurisdiction against the registrant for malpractice of massage and
14.23 bodywork therapy or any settlement by the registrant in response to charges or allegations
14.24 of malpractice of massage and bodywork therapy. The notice must be provided to the
14.25 board within 60 days after the entry of a judgment, must contain the name of the court,
14.26 case number, and the names of all parties to the action.

14.27 Subd. 2. Evidence. In disciplinary actions alleging a violation of subdivision 1,
14.28 a copy of the judgment or proceeding under the seal of the court administrator or of the
14.29 administrative agency that entered the same shall be admissible into evidence without
14.30 further authentication and shall constitute prima facie evidence of the violation concerned.

14.31 Subd. 3. Examination; access to medical data. The board may take the actions
14.32 described in section 148.261, subdivision 5, if it has probable cause to believe that grounds
14.33 for disciplinary action exist under subdivision 1. The requirements and limitations
14.34 described in section 148.261, subdivision 5, shall apply.

14.35 **Sec. 13. [148.9883] DISCIPLINE; REPORTING.**

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

15.3 **Sec. 14. [148.9884] EFFECT ON MUNICIPAL ORDINANCES.**

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

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

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

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

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

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

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

15.24 **Sec. 15. [148.9885] FEES.**

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

15.26 (1) initial registration with application, \$285;

15.27 (2) annual registration renewal, \$185;

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

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

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

15.31 (6) late fee, \$50;

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

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

15.34 (9) returned check, \$35.

16.1 Subd. 3. **Penalty fee for late renewals.** An application for registration renewal
 16.2 submitted after the deadline must be accompanied by a late fee in addition to the required
 16.3 fees.

16.4 Subd. 4. **Nonrefundable fees.** All of the fees in subdivision 1 are nonrefundable.

16.5 Subd. 5. **Deposit.** Fees collected by the board under this section shall be deposited
 16.6 into the state government special revenue fund.

16.7 Sec. 16. **EFFECTIVE DATE.**

16.8 This article is effective August 1, 2014.

16.9 **ARTICLE 2**

16.10 **CONFORMING AMENDMENTS**

16.11 Section 1. Minnesota Statutes 2013 Supplement, section 116J.70, subdivision 2a,
 16.12 is amended to read:

16.13 Subd. 2a. **License; exceptions.** "Business license" or "license" does not include
 16.14 the following:

16.15 (1) any occupational license or registration issued by a licensing board listed in
 16.16 section 214.01 or any occupational registration issued by the commissioner of health
 16.17 pursuant to section 214.13;

16.18 (2) any license issued by a county, home rule charter city, statutory city, township, or
 16.19 other political subdivision;

16.20 (3) any license required to practice the following occupation regulated by the
 16.21 following sections:

16.22 (i) abstracters regulated pursuant to chapter 386;

16.23 (ii) accountants regulated pursuant to chapter 326A;

16.24 (iii) adjusters regulated pursuant to chapter 72B;

16.25 (iv) architects regulated pursuant to chapter 326;

16.26 (v) assessors regulated pursuant to chapter 270;

16.27 (vi) athletic trainers regulated pursuant to chapter 148;

16.28 (vii) attorneys regulated pursuant to chapter 481;

16.29 (viii) auctioneers regulated pursuant to chapter 330;

16.30 (ix) barbers and cosmetologists regulated pursuant to chapter 154;

16.31 (x) boiler operators regulated pursuant to chapter 326B;

16.32 (xi) chiropractors regulated pursuant to chapter 148;

16.33 (xii) collection agencies regulated pursuant to chapter 332;

- 17.1 (xiii) dentists, registered dental assistants, and dental hygienists regulated pursuant
17.2 to chapter 150A;
- 17.3 (xiv) detectives regulated pursuant to chapter 326;
- 17.4 (xv) electricians regulated pursuant to chapter 326B;
- 17.5 (xvi) mortuary science practitioners regulated pursuant to chapter 149A;
- 17.6 (xvii) engineers regulated pursuant to chapter 326;
- 17.7 (xviii) insurance brokers and salespersons regulated pursuant to chapter 60A;
- 17.8 (xix) certified interior designers regulated pursuant to chapter 326;
- 17.9 (xx) midwives regulated pursuant to chapter 147D;
- 17.10 (xxi) nursing home administrators regulated pursuant to chapter 144A;
- 17.11 (xxii) optometrists regulated pursuant to chapter 148;
- 17.12 (xxiii) osteopathic physicians regulated pursuant to chapter 147;
- 17.13 (xxiv) pharmacists regulated pursuant to chapter 151;
- 17.14 (xxv) physical therapists regulated pursuant to chapter 148;
- 17.15 (xxvi) physician assistants regulated pursuant to chapter 147A;
- 17.16 (xxvii) physicians and surgeons regulated pursuant to chapter 147;
- 17.17 (xxviii) plumbers regulated pursuant to chapter 326B;
- 17.18 (xxix) podiatrists regulated pursuant to chapter 153;
- 17.19 (xxx) practical nurses regulated pursuant to chapter 148;
- 17.20 (xxxi) professional fund-raisers regulated pursuant to chapter 309;
- 17.21 (xxxii) psychologists regulated pursuant to chapter 148;
- 17.22 (xxxiii) real estate brokers, salespersons, and others regulated pursuant to chapters
17.23 82 and 83;
- 17.24 (xxxiv) registered nurses regulated pursuant to chapter 148;
- 17.25 (xxxv) securities brokers, dealers, agents, and investment advisers regulated
17.26 pursuant to chapter 80A;
- 17.27 (xxxvi) steamfitters regulated pursuant to chapter 326B;
- 17.28 (xxxvii) teachers and supervisory and support personnel regulated pursuant to
17.29 chapter 125;
- 17.30 (xxxviii) veterinarians regulated pursuant to chapter 156;
- 17.31 (xxxix) water conditioning contractors and installers regulated pursuant to chapter
17.32 326B;
- 17.33 (xl) water well contractors regulated pursuant to chapter 103I;
- 17.34 (xli) water and waste treatment operators regulated pursuant to chapter 115;
- 17.35 (xlii) motor carriers regulated pursuant to chapter 221;
- 17.36 (xliii) professional firms regulated under chapter 319B;

- 18.1 (xiv) real estate appraisers regulated pursuant to chapter 82B;
- 18.2 (xlv) residential building contractors, residential remodelers, residential roofers,
- 18.3 manufactured home installers, and specialty contractors regulated pursuant to chapter
- 18.4 326B;
- 18.5 (xlvi) licensed professional counselors regulated pursuant to chapter 148B; or
- 18.6 (xlvii) registered massage and bodywork therapists regulated according to chapter
- 18.7 148;
- 18.8 (4) any driver's license required pursuant to chapter 171;
- 18.9 (5) any aircraft license required pursuant to chapter 360;
- 18.10 (6) any watercraft license required pursuant to chapter 86B;
- 18.11 (7) any license, permit, registration, certification, or other approval pertaining to a
- 18.12 regulatory or management program related to the protection, conservation, or use of or
- 18.13 interference with the resources of land, air, or water, which is required to be obtained
- 18.14 from a state agency or instrumentality; and
- 18.15 (8) any pollution control rule or standard established by the Pollution Control
- 18.16 Agency or any health rule or standard established by the commissioner of health or any
- 18.17 licensing rule or standard established by the commissioner of human services.

18.18 Sec. 2. **[325F.816] MUNICIPAL OR CITY BUSINESS LICENSE; MASSAGE.**

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

18.20 is prohibited from advertising as a licensed massage therapist unless the individual has

18.21 received a professional credential from another state; is current in licensure; and remains

18.22 in good standing under the credentialing state's requirements.

18.23 Sec. 3. **EFFECTIVE DATE.**

18.24 This article is effective August 1, 2014.

APPENDIX
Article locations in S1792-3

ARTICLE 1 MASSAGE AND BODYWORK THERAPY Page.Ln 1.7
ARTICLE 2 CONFORMING AMENDMENTS Page.Ln 16.9