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HOUSE BILL 423

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO LICENSING; AMENDING AND REPEALING SECTIONS OF THE
MESSAGE THERAPY PRACTICE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-12C-1 NMSA 1978 (being Laws 1991,
Chapter 147, Section 1, as amended) is amended to read:

"61-12C-1. SHORT TITLE. -- Chapter 61, Article 12C NMSA
1978 may be cited as the "Massage Therapy and Bodywork
Practice Act". "

Section 2. Section 61-12C-2 NMSA 1978 (being Laws 1991,
Chapter 147, Section 2) is amended to read:

"61-12C-2. LEGISLATIVE PURPOSE. -- [~~The legislature
recognizes that the practice of massage therapy is potentially
dangerous to the public. Therefore, it is necessary and~~] In
the interest of public health, safety and welfare [~~to regulate~~

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1 ~~the practice of massage therapy~~ and to protect the public
2 from unlawful, improper and incompetent practice of massage
3 therapy or bodywork, it is necessary to regulate that
4 practice. "

5 Section 3. Section 61-12C-3 NMSA 1978 (being Laws 1991,
6 Chapter 147, Section 3, as amended) is amended to read:

7 "61-12C-3. DEFINITIONS. -- As used in the Massage Therapy
8 and Bodywork Practice Act:

9 [A. ~~"approved massage therapy school" means a~~
10 ~~facility registered with the board that meets established~~
11 ~~standards of training and curriculum;~~

12 B.] A. "board" means the [board of] massage
13 therapy and bodywork board;

14 [C.] B. "department" means the regulation and
15 licensing department;

16 C. "jurisprudence" means the statutes and rules of
17 the state pertaining to the practice of massage therapy and
18 bodywork;

19 D. "massage therapist" or "bodyworker" means a
20 person [who uses the title of massage therapist, is] licensed
21 to practice massage therapy or bodywork pursuant to the
22 Massage Therapy and Bodywork Practice Act [and administers
23 ~~massage therapy for compensation~~];

24 E. "massage therapy" or "body work" means [the
25 ~~treatment of soft tissues for therapeutic purposes as defined~~

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1 ~~in Section 61-12C-4 NMSA 1978; and~~

2 F. ~~"jurisprudence" means the statutes and rules of~~
3 ~~the state pertaining to the practice of massage therapy]~~
4 conducting an assessment of or manipulating muscles,
5 ligaments, tendons, muscle attachments and pressure points to
6 effect a change in soft tissues of the human body to produce
7 comfort or the relief of pain primarily for therapeutic
8 purposes;

9 F. "massage therapy or body work school" means a
10 facility providing a curriculum in massage therapy that is
11 registered with the board; and

12 G. "massage therapy or body work training program"
13 means a program providing massage therapy training that is not
14 a massage therapy school and is registered with the board."

15 Section 4. Section 61-12C-5 NMSA 1978 (being Laws 1991,
16 Chapter 147, Section 5, as amended) is amended to read:

17 "61-12C-5. LICENSE OR REGISTRATION REQUIRED. -- [Effective
18 ~~April 30, 1992]~~

19 A. ~~[it is unlawful for any]~~ A person ~~[to practice]~~
20 shall not provide or offer to provide massage therapy or
21 bodywork for compensation ~~[to offer services as a massage~~
22 ~~therapist for compensation or to purport to be a massage~~
23 ~~therapist]~~ unless that person ~~[possesses a license to practice~~
24 ~~massage therapy under the provisions of the Massage Therapy~~
25 ~~Practice Act and]~~ is a massage therapist or bodyworker.

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1 B. ~~[no]~~ A person shall not use the title of or
2 represent himself to be a message therapist or bodyworker or
3 use any other title, abbreviations, letters, figures, signs or
4 devices that indicate ~~[that]~~ the person is a message therapist
5 or bodyworker unless he is ~~[licensed to practice message~~
6 therapy pursuant to the provisions of the ~~Message Therapy~~
7 Practice Act] a message therapist or bodyworker.

8 C. A person shall not provide or offer to provide
9 message therapy or bodywork training as a message therapy or
10 bodywork instructor unless he is registered as a message
11 therapy or bodywork instructor pursuant to Section 61-12C-9
12 NMSA 1978.

13 D. A person shall not maintain, manage or operate
14 a school or training program offering education, instruction
15 or training in message therapy or bodywork unless the school
16 or program is a message therapy or bodywork school or
17 instruction program."

18 Section 5. Section 61-12C-6 NMSA 1978 (being Laws 1991,
19 Chapter 147, Section 6, as amended) is amended to read:

20 "61-12C-6. EXEMPTIONS. -- Nothing in the ~~Message Therapy~~
21 and Bodywork Practice Act shall be construed to prevent:

22 A. qualified members of other recognized
23 professions that are licensed or regulated under New Mexico
24 law from rendering services within the scope of their license
25 or regulation, provided they do not represent themselves as

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1 massage therapists or bodyworkers;

2 B. students from rendering massage therapy or
3 bodywork services within the course of study of an approved
4 massage therapy or bodywork school and under the supervision
5 of a licensed massage therapy or bodywork instructor;

6 C. visiting massage therapy or bodywork
7 instructors from another state or territory of the United
8 States, the District of Columbia or any foreign nation from
9 teaching massage therapy or bodywork; provided the instructor
10 is duly licensed or registered, if required, and is qualified
11 in his place of residence for the practice of massage therapy
12 or bodywork. The board shall establish by rule the duration
13 of stay for a visiting massage therapy or bodywork instructor;
14 and

15 D. sobadores, [~~and~~] Hispanic traditional healers,
16 Native American healers [~~from using traditional Hispanic or~~
17 ~~Native American healing practices~~], reflexologists who are
18 limited to hands and feet or other healers who do not
19 manipulate the soft tissues for therapeutic purposes from
20 practicing those skills. Healers who use these practices but
21 apply for a license or registration pursuant to the Massage
22 Therapy and Bodywork Practice Act shall comply with all
23 licensure requirements of that act.

24 Section 6. Section 61-12C-7 NMSA 1978 (being Laws 1991,
25 Chapter 147, Section 7, as amended) is amended to read:

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1 "61-12C-7. BOARD CREATED- - MEMBERSHIP. - -

2 A. ~~[There is created]~~ The ~~[board of]~~ "massage
3 therapy and bodywork board" is created. The board ~~[shall be]~~
4 is administratively attached to the department.

5 B. The board ~~[shall consist]~~ consists of five
6 members who are New Mexico residents. Members of the board
7 shall be appointed by the governor to terms of four years.
8 The terms shall be staggered, and the governor shall make
9 appointments of two two-year terms, two three-year terms and
10 one four-year term, if necessary to produce staggered terms.
11 Three members of the board shall be massage therapists or
12 bodyworkers, each with at least five years of massage therapy
13 or bodywork practice ~~[in New Mexico]~~ and who are actively
14 engaged in the practice of massage therapy or bodywork during
15 their tenure as members. Two members of the board shall be
16 public members ~~[The initial three professional members~~
17 ~~appointed shall meet the requirements for licensure and be~~
18 ~~licensed by the deadline specified for licensure in the~~
19 ~~Massage Therapy Practice Act. The public members shall not]~~
20 who have not been licensed ~~[or]~~ and have ~~[any]~~ no financial
21 interest, direct or indirect, in the profession ~~[regulated]~~ of
22 massage therapy or bodywork.

23 C. Each member of the board shall hold office
24 ~~[until the expiration of the term for which appointed or]~~
25 until a successor has been appointed and qualified.

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1 D. No board member shall serve more than two full
2 consecutive terms.

3 E. The board shall elect annually a [~~chairman~~]
4 chair and [~~such~~] other officers as it deems necessary. The
5 board shall meet as often as necessary for the conduct of
6 business, but no less than twice a year. Meetings shall be
7 [~~called by the chairman or upon the written request of three~~
8 ~~or more members of the board~~] held in accordance with the Open
9 Meetings Act. Three members, at least one of whom [~~is~~] must
10 be a public member, shall constitute a quorum.

11 F. [~~Any~~] A board member may be recommended for
12 removal as a member of the board for failing to attend, after
13 proper notice, three consecutive board meetings.

14 G. Members of the board shall be reimbursed as
15 provided for nonsalaried public officers in the Per Diem and
16 Mileage Act and shall receive no other compensation,
17 perquisite or allowance."

18 Section 7. Section 61-12C-8 NMSA 1978 (being Laws 1991,
19 Chapter 147, Section 8, as amended) is amended to read:

20 "61-12C-8. BOARD [~~DUTIES~~] POWERS. --The board [~~shall~~
21 ~~have~~] has the power to:

22 A. adopt and file, in accordance with the State
23 Rules Act, rules [~~and regulations~~] necessary to carry out the
24 provisions of the Massage Therapy and Bodywork Practice Act,
25 in accordance with the provisions of the Uniform Licensing

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1 Act;

2 B. provide for the evaluation of the
3 qualifications of applicants for licensure or registration
4 under the Massage Therapy and Bodywork Practice Act;

5 C. provide for the issuance of licenses or
6 registrations to applicants who meet the requirements of the
7 Massage Therapy and Bodywork Practice Act;

8 D. provide for the inspection, when required, of
9 the business premises of any licensee or registrant during
10 regular business hours;

11 E. establish minimum training and educational
12 standards for licensure as a massage therapist or bodyworker
13 or registration as a massage therapy or bodywork instructor;

14 F. establish a process for ~~[approval]~~ registration
15 of massage therapy and bodywork training programs and massage
16 therapy or bodywork schools;

17 ~~[G. provide for the investigation of persons~~
18 ~~engaging in practices that may violate the provisions of the~~
19 ~~Massage Therapy Practice Act;~~

20 ~~H. revoke, suspend or deny a license or~~
21 ~~registration in accordance with the provisions of the Uniform~~
22 ~~Licensing Act;]~~

23 G. pursuant to the Uniform Licensing Act, conduct
24 hearings on charges against applicants, licensees or
25 registrants and take actions described in Section 61-1-3 NMSA

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1 1978;

2 H. bring an action for injunctive relief in
3 district court seeking to enjoin a person from violating the
4 provisions of the Massage Therapy and Bodywork Practice Act;

5 I. issue cease and desist orders to persons
6 violating the provisions of the Massage Therapy and Bodywork
7 Practice Act or any rule adopted by the board pursuant to that
8 act;

9 [~~I.~~] J. adopt an annual budget;

10 [~~J.~~] K. adopt a code of [~~ethics and~~] professional
11 conduct;

12 [~~K.~~] L. provide for the investigation of
13 complaints against licensees [~~The board may issue~~
14 investigation subpoenas prior to the issuance of a notice of
15 contemplated action as set forth in Section 61-1-4 NMSA 1978-];
16 and

17 M. publish at least annually combined or separate
18 lists of licensed massage therapists or bodyworkers,
19 registered massage therapy or bodywork instructors, registered
20 massage therapy or bodywork schools and registered massage
21 therapy or bodywork training programs. "

22 Section 8. Section 61-12C-9 NMSA 1978 (being Laws 1991,
23 Chapter 147, Section 9, as amended) is amended to read:

24 "61-12C-9. REQUIREMENTS FOR LICENSURE [~~REGISTERED~~] OF
25 MESSAGE THERAPISTS AND BODYWORKERS AND REGISTRATION OF MESSAGE

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1 THERAPY AND BODYWORK INSTRUCTORS. --

2 A. The board shall issue a license to practice
3 massage therapy or bodywork to any person who files a
4 completed application, accompanied by the required fees, and
5 who submits satisfactory evidence that the applicant:

6 (1) has reached the age of majority;

7 (2) has completed all educational
8 requirements established by the board;

9 (3) has completed a curriculum at a massage
10 therapy or bodywork school or a massage therapy or bodywork
11 training program [~~approved by the board, at a school approved~~
12 ~~by the board, that program~~] being at least six hundred fifty
13 hours in length that includes at least five hundred hours of
14 massage therapy or bodywork instruction; [~~provided that if the~~
15 ~~approved training program is~~] if the applicant has completed a
16 curriculum of less than six hundred fifty hours, the applicant
17 shall provide documentation of up to [~~three~~] one hundred fifty
18 hours of alternative qualifying experience, including [~~but not~~
19 ~~limited to~~] professional massage therapy or bodywork
20 experience, apprenticeship training in massage therapy,
21 bodywork, clinical or internship training and prior experience
22 in a health career, to be approved by the board; and

23 (4) demonstrates professional competence by
24 passing [~~a written examination as~~] all examinations prescribed
25 by [~~the~~] board rule.

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~~[B. The board may also require a practical examination as a condition for licensure.]~~

~~C.]~~ B. The board shall register as a massage therapy or bodywork instructor any applicant who:

(1) is currently licensed as a massage therapist or bodyworker; and

~~[(2) proves to the board's satisfaction that he meets the minimum requirement of two years of experience in his area of instruction]~~

(2) has completed the educational and experience requirements established by the board, which requirements shall meet minimum standards of training and curriculum for massage therapy or bodywork instructors established by the board.

C. An initial license or registration issued pursuant to this section may be for a period of up to two years pursuant to board rule. "

Section 9. Section 61-12C-10 NMSA 1978 (being Laws 1991, Chapter 147, Section 10, as amended) is amended to read:

"61-12C-10. ~~[APPROVED]~~ REQUIREMENTS FOR REGISTRATION OF MASSAGE THERAPY AND BODYWORK SCHOOLS [REGISTRATION] AND MASSAGE THERAPY AND BODYWORK TRAINING PROGRAMS . . .

A. The board shall establish by rule procedures for ~~[approval]~~ the registration of massage therapy or bodywork schools and massage therapy and bodywork training programs and

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1 shall register massage therapy and bodywork schools and
2 massage therapy and bodywork training programs that meet the
3 [~~educational~~] requirements of the Massage Therapy and Bodywork
4 Practice Act and rules adopted by the board pursuant to that
5 act.

6 B. The board shall establish minimum standards of
7 training and curriculum for [~~approved training programs and~~
8 ~~for approved~~] massage therapy and bodywork schools. [~~At a~~
9 ~~minimum, approved~~] Massage therapy and bodywork schools shall
10 provide [~~training programs~~] a curriculum that [~~include~~]
11 includes a minimum of [~~three~~] six hundred fifty hours of
12 training [~~This~~] and shall include instruction in:

- 13 (1) anatomy;
- 14 (2) physiology;
- 15 (3) massage therapy or body work;
- 16 (4) business;
- 17 [~~(5) hydrotherapy;~~
- 18 ~~(6)~~] (5) first aid;
- 19 [~~(7)~~] (6) cardiopulmonary resuscitation; and
- 20 [~~(8)~~] (7) professional ethics.

21 C. The board shall establish a list of [~~approved~~]
22 registered massage therapy and bodywork schools and [~~shall~~
23 ~~register any institution that meets the requirements of the~~
24 ~~board and files a current curriculum and list of instructors.~~

25 D. ~~An approved massage therapy school shall~~

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1 ~~register annually with the board]~~ massage therapy and bodywork
2 training programs. "

3 Section 10. Section 61-12C-11 NMSA 1978 (being Laws
4 1991, Chapter 147, Section 11, as amended) is amended to read:

5 "61-12C-11. DISPLAY OF LICENSE OR REGISTRATION. -- A
6 massage therapy or bodywork license or registration issued by
7 the board shall at all times be posted in a conspicuous place
8 in the holder's principal place of business. "

9 Section 11. Section 61-12C-12 NMSA 1978 (being Laws
10 1991, Chapter 147, Section 12, as amended) is amended to read:

11 "61-12C-12. ASSIGNABILITY OF LICENSE. -- A license or
12 registration issued pursuant to the Massage Therapy and
13 Bodywork Practice Act is not assignable or transferable. "

14 Section 12. Section 61-12C-13 NMSA 1978 (being Laws
15 1991, Chapter 147, Section 13, as amended) is amended to read:

16 "61-12C-13. EXAMINATIONS. --

17 A. ~~[Examinations shall be held at least twice each~~
18 ~~year on a date and at a location established by the board.~~

19 ~~Applicants who have been found to meet the education and~~
20 ~~experience requirements for licensure shall be scheduled for~~
21 ~~the next examination following the filing of the application.]~~

22 The board shall establish by rule the [~~examination application~~
23 ~~deadline and other rules relating to~~] required examinations
24 and the procedures for taking and retaking [~~licensure~~
25 ~~examinations~~] them. The board shall determine the passing

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1 grade on examinations.

2 B. The board shall specify by rule the general
3 areas of competency to be covered by examinations for
4 licensure and ensure that the examinations measure adequately
5 both an applicant's competency and knowledge of related
6 statutory requirements. Professional testing services may be
7 utilized for the examinations.

8 ~~[C. After taking the written examination, each~~
9 ~~applicant may be tested in the practical application of~~
10 ~~massage therapy techniques in such a manner and by such~~
11 ~~methods as shall reveal the applicant's skill and knowledge.]~~

12 ~~D. All licensing examinations shall be conducted~~
13 ~~in such a manner that the applicants shall be known to the~~
14 ~~board by number until the examination is completed and the~~
15 ~~grade determined. A record of each examination shall be filed~~
16 ~~in the board office and available for inspection for a period~~
17 ~~of not less than two years immediately following the~~
18 ~~examination.]~~"

19 Section 13. Section 61-12C-14 NMSA 1978 (being Laws
20 1991, Chapter 147, Section 14, as amended) is amended to read:

21 "61-12C-14. TEMPORARY LICENSE. --

22 A. Prior to examination, an applicant for
23 licensure may obtain a temporary license to engage in the
24 practice of massage therapy [provided that] or bodywork if the
25 applicant meets all the requirements for licensure except

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1 completion of the examination.

2 B. The temporary license is valid until the
3 results of the next scheduled examination are available and a
4 license is issued or denied. [~~If approved, the applicant~~
5 ~~shall be issued the initial license for the remainder of the~~
6 ~~year.~~]

7 C. No more than one temporary license may be
8 issued to an individual, and no temporary license shall be
9 issued to an applicant who has previously failed the
10 examinations. "

11 Section 14. Section 61-12C-16 NMSA 1978 (being Laws
12 1991, Chapter 147, Section 16, as amended) is amended to read:

13 "61-12C-16. LICENSURE BY CREDENTIALS. --After successful
14 completion of a jurisprudence examination, the board may
15 license an applicant, provided that he possesses a valid
16 license or registration to practice massage therapy or
17 bodywork issued by the appropriate examining board under the
18 laws of any other state or territory of the United States, the
19 District of Columbia or any foreign nation and has met
20 educational and examination requirements [~~substantially~~
21 ~~equivalent~~] equal to or exceeding those established pursuant
22 to the Massage Therapy and Bodywork Practice Act. "

23 Section 15. Section 61-12C-17 NMSA 1978 (being Laws
24 1991, Chapter 147, Section 17, as amended) is amended to read:

25 "61-12C-17. LICENSE OR REGISTRATION RENEWAL-- CONTINUING

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EDUCATION. - -

A. Massage therapy licenses and ~~massage therapy or bodywork instructor registrations~~ shall expire biennially.
~~[and] Massage therapy or bodywork school registrations and~~
massage therapy or bodywork training program registrations
shall expire annually. ~~[on a date]~~ Expiration dates shall be
established by rule.

~~[B. Each licensee shall renew his license by submitting a renewal application on a form provided by the board. Initial licenses may be valid for one or two years, depending on assigned license number and board rule.]~~

~~C.]~~ B. The board may establish continuing educational requirements as a condition of the renewal of massage therapy or bodywork licenses

~~[D. Each massage therapy school shall renew its registration by submitting a renewal application and providing a description of its current curriculum and list of all instructors]~~ and massage therapy or bodywork instructor registrations.

C. A license or registration shall be renewed by submitting a renewal application on a form provided by the board.

~~[E.]~~ D. A sixty-day grace period shall be allowed each license or registration holder after the end of the renewal period, during which time a license or registration

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1 may be renewed upon payment of the renewal fee and a late fee
2 as prescribed by the board. "

3 Section 16. Section 61-12C-18 NMSA 1978 (being Laws
4 1991, Chapter 147, Section 18) is amended to read:

5 "61-12C-18. INACTIVE STATUS. --

6 A. [~~Any license~~] A massage therapy or bodywork
7 license or massage therapy or bodywork instructor registration
8 not renewed at the end of the sixty-day grace period shall be
9 placed on inactive status for a period not to exceed two
10 years. At the end of two years, if the license or
11 registration has not been reactivated, it shall automatically
12 expire.

13 B. If within a period of two years from the date
14 the license or registration was placed on inactive status the
15 massage therapist or bodyworker or massage therapy or bodywork
16 instructor wishes to resume practice, the board shall be
17 notified in writing, and, upon proof of completion of any
18 continuing education or refresher courses prescribed by
19 [~~regulation~~] rule of the board and payment of an amount set by
20 the board in lieu of all lapsed renewal fees, the license or
21 registration shall be restored in full. "

22 Section 17. Section 61-12C-20 NMSA 1978 (being Laws
23 1991, Chapter 147, Section 20, as amended) is amended to read:

24 "61-12C-20. LICENSE FEES. -- [~~A.~~] The board shall
25 establish by rule a schedule of reasonable fees for

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1 applications, examinations, licenses, registrations,
2 inspections, renewals, [~~placement on inactive status~~]
3 penalties, reactivation and necessary administrative fees,
4 [B. ~~The initial licensure application fee shall~~
5 ~~not exceed fifty dollars (\$50.00).~~
6 C. ~~The initial license fee shall not exceed one~~
7 ~~hundred fifty dollars (\$150).~~
8 D. ~~The examination fee shall not exceed four~~
9 ~~hundred dollars (\$400).~~
10 E. ~~The biennial renewal fee shall not exceed three~~
11 ~~hundred dollars (\$300).~~
12 F. ~~The fee for reactivation of an inactive license~~
13 ~~shall not exceed four hundred dollars (\$400).~~
14 G. ~~A late renewal fee shall not exceed one hundred~~
15 ~~dollars (\$100).~~
16 H. ~~The registration fee for an approved massage~~
17 ~~therapy school shall not exceed one hundred dollars (\$100).~~
18 I. ~~The registration fee for a massage therapy~~
19 ~~instructor shall not exceed fifty dollars (\$50.00)] but no
20 single fee shall exceed five hundred dollars (\$500). All fees
21 collected shall be deposited in the massage therapy and
22 bodywork fund. "~~

23 Section 18. Section 61-12C-21 NMSA 1978 (being Laws
24 1991, Chapter 147, Section 21, as amended) is amended to read:

25 "61-12C-21. ADVERTISING. -- [Each] A massage therapist,

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1 bodyworker, massage therapist or bodywork instructor, massage
2 therapy or bodywork school and massage therapy or bodywork
3 training program licensed [~~under the provisions of~~] or
4 registered pursuant to the Massage Therapy and Bodywork
5 Practice Act shall include the number of [~~his~~] the license or
6 registration, and the designation as [~~either~~] a [~~license or~~
7 ~~registration~~] "massage therapist", "bodyworker", "registered
8 massage therapy instructor", "registered massage therapy or
9 bodywork school" or "registered massage therapy or bodywork
10 training program" in any advertisement of massage therapy or
11 bodywork services [~~appearing in any newspaper, airwave~~
12 ~~transmission, telephone directory or other advertising medium~~]
13 as established by board rule."

14 Section 19. Section 61-12C-22 NMSA 1978 (being Laws
15 1991, Chapter 147, Section 22) is amended to read:

16 "61-12C-22. POWER OF COUNTY OR MUNICIPALITY TO REGULATE
17 MASSAGE AND BODYWORK.--A county or municipality, within its
18 jurisdiction, may regulate persons licensed pursuant to the
19 Massage Therapy and Bodywork Practice Act. Regulation shall
20 not be inconsistent with the provisions of that act. This
21 section shall not be construed to prohibit a county or
22 municipality from enacting any regulation of persons not
23 licensed pursuant to that act."

24 Section 20. Section 61-12C-23 NMSA 1978 (being Laws
25 1991, Chapter 147, Section 23) is amended to read:

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1 "61-12C-23. FUND CREATED. -- There is created in the state
2 treasury the "massage therapy and bodywork fund". Money in
3 the fund is appropriated to the board for the purpose of
4 carrying out the provisions of the Massage Therapy and
5 Bodywork Practice Act. All funds received or collected by the
6 board or the department under the Massage Therapy and Bodywork
7 Practice Act shall be deposited with the state treasurer, who
8 shall place the money to the credit of the massage therapy and
9 bodywork fund. No balance in the fund at the end of any
10 fiscal year shall revert to the general fund. "

11 Section 21. Section 61-12C-24 NMSA 1978 (being Laws
12 1991, Chapter 147, Section 24, as amended) is amended to read:

13 "61-12C-24. DENIAL, SUSPENSION, REVOCATION AND
14 REINSTATEMENT OF LICENSES. --

15 ~~[A. The board may impose a fine not to exceed one~~
16 ~~thousand dollars (\$1,000), place on probation as specified by~~
17 ~~the board or refuse to issue or renew or may deny, suspend or~~
18 ~~revoke any license, temporary license or registration held or~~
19 ~~applied for under the Massage Therapy Practice Act in~~
20 ~~accordance with the procedures]~~

21 A. Pursuant to the Uniform Licensing Act, the
22 board may take disciplinary action against a person licensed
23 or registered pursuant to the Massage Therapy and Bodywork
24 Practice Act.

25 B. The board has authority to take an action set

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1 forth in [~~the Uniform Licensing Act~~] Section 61-1-3 NMSA 1978
2 upon a finding by the board that the licensee, registrant or
3 applicant:

4 (1) is guilty of fraud, deceit or
5 misrepresentation [~~in procuring or attempting to procure a~~
6 ~~license or registration provided for in the Massage Therapy~~
7 ~~Practice Act~~];

8 (2) attempted to use as his own the license
9 or registration of another;

10 (3) allowed the use of his license or
11 registration by another;

12 (4) has been adjudicated as mentally
13 incompetent by regularly constituted authorities;

14 (5) has been convicted [~~or found guilty,~~
15 ~~regardless of adjudication, of a crime, in any jurisdiction,~~
16 ~~that directly relates to the practice of massage therapy or to~~
17 ~~the ability to practice massage therapy. Any plea of nolo~~
18 ~~contendere shall be considered a conviction for the purposes~~
19 ~~of this section] of any offense punishable by incarceration in
20 a state penitentiary or federal prison. A copy of the record
21 of conviction, certified by the clerk of the court entering
22 the conviction, is conclusive evidence of conviction;~~

23 (6) is guilty of unprofessional or unethical
24 conduct or a violation of the code of ethics;

25 (7) is habitually or excessively using

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1 controlled substances or alcohol;

2 (8) is guilty of false, deceptive or
3 misleading advertising;

4 (9) is guilty of aiding, assisting or
5 advertising any unlicensed or unregistered person in the
6 practice of ~~massage~~ therapy;

7 (10) is grossly negligent or incompetent in
8 the practice of ~~massage~~ therapy; [~~or~~]

9 (11) has had a license or registration to
10 practice ~~massage~~ therapy revoked, suspended or denied in any
11 jurisdiction, territory or possession of the United States or
12 another country for acts of the licensee or registrant similar
13 to acts described in this section. A certified copy of the
14 record of conviction shall be conclusive evidence of [~~such~~]
15 the conviction; or

16 (12) is guilty of failing to comply with a
17 provision of the Massage Therapy and Bodywork Practice Act or
18 rules of the board adopted pursuant to that act and filed in
19 accordance with the State Rules Act.

20 [~~B.~~] C. Disciplinary proceedings may be instituted
21 by sworn complaint of any person, including members of the
22 board, and shall conform with the provisions of the Uniform
23 Licensing Act.

24 [~~C.~~] D. The board may establish the guidelines for
25 the disposition of [~~the~~] disciplinary cases. [~~Such~~]

underscored material = new
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1 Guidelines may include but shall not be limited to minimum and
2 maximum fines, periods of probation, conditions of probation
3 or reissuance of a license or registration.

4 ~~[D.]~~ E. License and registration holders who have
5 been found culpable and sanctioned by the board shall be
6 responsible for the payments of all costs of the disciplinary
7 proceedings. "

8 Section 22. Section 61-12C-25 NMSA 1978 (being Laws
9 1991, Chapter 147, Section 25) is amended to read:

10 "61-12C-25. CRIMINAL OFFENDER'S CHARACTER EVALUATION. --
11 The provisions of the Criminal Offender Employment Act shall
12 govern any consideration of criminal records required or
13 permitted by the Massage Therapy and Bodywork Practice Act. "

14 Section 23. Section 61-12C-27 NMSA 1978 (being Laws
15 1993, Chapter 173, Section 20) is amended to read:

16 "61-12C-27. OFFENSES--CRIMINAL PENALTIES. -- ~~[Any person
17 who violates any provision of the Massage Therapy Practice Act
18 is guilty of a misdemeanor and upon conviction shall be
19 punished by a fine not to exceed one thousand dollars (\$1,000)
20 or imprisonment for a period not to exceed one year or both.]~~

21 A person who does any of the following is guilty of a
22 misdemeanor and shall be sentenced pursuant to Section 31-19-1
23 NMSA 1978:

24 A. violates a provision of the Massage Therapy and
25 Bodywork Practice Act or rules adopted pursuant to that act;

underscored material = new
[bracketed material] = delete

1 B. renders or attempts to render massage therapy
2 or bodywork services, instruction as a massage therapy or
3 bodywork instructor, instruction as a massage therapy or
4 bodywork school or massage therapy or bodywork training
5 program without the required current valid license or
6 registration issued by the board; or

7 C. advertises or uses a designation, diploma or
8 certificate implying that he is a massage therapist,
9 bodyworker, massage therapy or bodywork instructor, massage
10 therapy or bodywork school or massage therapy or bodywork
11 training program unless he holds a current valid license or
12 registration issued by the board. "

13 Section 24. Section 61-12C-28 NMSA 1978 (being Laws
14 1993, Chapter 173, Section 21) is amended to read:

15 "61-12C-28. TERMINATION OF AGENCY LIFE--DELAYED
16 REPEAL. --The board of massage therapy and bodywork is
17 terminated on [~~July 1, 1999~~] July 1, 2006 pursuant to the
18 provisions of the Sunset Act. The board shall continue to
19 operate according to the provisions of Chapter 61, Article 12C
20 NMSA 1978 until [~~July 1, 2000~~] July 1, 2007. Effective [~~July~~
21 ~~1, 2000, Article 12C of~~] July 1, 2007, Chapter 61, Article 12C
22 NMSA 1978 is repealed. "

23 Section 25. REPEAL. --Sections 61-12C-4 and 61-12C-6 NMSA
24 1978 (being Laws 1991, Chapter 147, Sections 4 and 6, as
25 amended) are repealed.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 February 23, 1999

7
8 Mr. Speaker:

9
10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILL 423

14
15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, but that

17 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
18 FOR HOUSE BILL 423

19
20 DO PASS.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/HB 423

Page 27

4
5 Respectfully submitted,

8 _____
9 Debbie A. Rodella, Chairwoman

11 Adopted _____

12 (Chief Clerk)

11 Not Adopted _____

12 (Chief Clerk)

14 Date _____

15
16 The roll call vote was 9 For 0 Against

17 Yes: 9

18 Excused: Hobbs, Sanchez

19 Absent: Ki ssner

20 J: \99Billswp\H0423

25 . 126323. 3

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1 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
2 HOUSE BILL 423
3 **44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**
4
5
6
7
8

9 AN ACT

10 RELATING TO LICENSING; AMENDING AND REPEALING SECTIONS OF THE
11 MASSAGE THERAPY PRACTICE ACT.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

13 Section 1. Section 61-12C-1 NMSA 1978 (being Laws 1991,
14 Chapter 147, Section 1, as amended) is amended to read:

15 "61-12C-1. SHORT TITLE. -- Chapter 61, Article 12C NMSA
16 1978 may be cited as the "Massage Therapy Practice Act". "

17 Section 2. Section 61-12C-2 NMSA 1978 (being Laws 1991,
18 Chapter 147, Section 2) is amended to read:

19 "61-12C-2. LEGISLATIVE PURPOSE. -- [~~The legislature~~
20 ~~recognizes that the practice of massage therapy is potentially~~
21 ~~dangerous to the public. Therefore, it is necessary and]~~ In
22 the interest of public health, safety and welfare [~~to regulate~~
23 ~~the practice of massage therapy]~~ and to protect the public
24 from unlawful, improper and incompetent practice of massage
25 therapy, it is necessary to regulate that practice. "

Section 3. Section 61-12C-3 NMSA 1978 (being Laws 1991,

Chapter 147, Section 3, as amended) is amended to read:

"61-12C-3. DEFINITIONS. -- As used in the Massage Therapy Practice Act:

~~[A. "approved massage therapy school" means a facility registered with the board that meets established standards of training and curriculum;~~

B.] A. "board" means the ~~[board of]~~ massage therapy board;

~~[C.]~~ B. "department" means the regulation and licensing department;

C. "jurisprudence" means the statutes and rules of the state pertaining to the practice of massage therapy;

D. "massage therapist" means a person ~~[who uses the title of massage therapist, is]~~ licensed to practice massage therapy pursuant to the Massage Therapy Practice Act ~~[and administers massage therapy for compensation];~~

E. "massage therapy" means ~~[the treatment of soft tissues for therapeutic purposes as defined in Section 61-12C-4 NMSA 1978; and~~

~~F. "jurisprudence" means the statutes and rules of the state pertaining to the practice of massage therapy]~~ the treatment of soft tissues for therapeutic purposes, primarily comfort and relief of pain; it is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Synonymous terms for massage therapy include massage, therapeutic massage, body massage, myomassage, bodywork, body rub or any derivation of those terms. "Massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice

. 127300. 4

1 medicine, nursing, chiropractic, physical therapy,
2 occupational therapy, acupuncture or podiatry is required by
3 law; and

4 F. "massage therapy school" means a facility
5 providing an educational program in massage therapy that is
6 registered with the board."

7 Section 4. Section 61-12C-5 NMSA 1978 (being Laws 1991,
8 Chapter 147, Section 5, as amended) is amended to read:

9 "61-12C-5. LICENSE OR REGISTRATION REQUIRED. -- [~~Effective~~
10 ~~April 30, 1992]~~

11 A. [~~it is unlawful for any]~~ A person [~~to practice]~~
12 shall not provide or offer to provide massage therapy for
13 compensation [~~to offer services as a massage therapist for~~
14 ~~compensation or to purport to be a massage therapist]~~ unless
15 that person [~~possesses a license to practice massage therapy~~
16 ~~under the provisions of the Massage Therapy Practice Act and]~~
17 is a massage therapist.

18 B. [~~no~~] A person shall not use the title of or
19 represent himself to be a massage therapist or use any other
20 title, abbreviations, letters, figures, signs or devices that
21 indicate [~~that~~] the person is a massage therapist unless he is
22 [~~licensed to practice massage therapy pursuant to the~~
23 ~~provisions of the Massage Therapy Practice Act]~~ a massage
24 therapist.

25 C. A person shall not provide or offer to provide
26 massage therapy training as a massage therapy instructor
27 unless he is registered as a massage therapy instructor
28 pursuant to Section 61-12C-9 NMSA 1978.

1 D. A person shall not maintain, manage or operate
2 a massage therapy school offering education, instruction or
3 training in massage therapy unless the school is a registered
4 massage therapy school. "

5 Section 5. Section 61-12C-6 NMSA 1978 (being Laws 1991,
6 Chapter 147, Section 6, as amended) is amended to read:

7 "61-12C-6. EXEMPTIONS. -- Nothing in the Massage Therapy
8 Practice Act shall be construed to prevent:

9 A. qualified members of other recognized
10 professions that are licensed or regulated under New Mexico
11 law from rendering services within the scope of their license
12 or regulation, provided they do not represent themselves as
13 massage therapists;

14 B. students from rendering massage therapy
15 services within the course of study of an approved massage
16 therapy school and under the supervision of a licensed massage
17 therapy instructor;

18 C. visiting massage therapy instructors from
19 another state or territory of the United States, the District
20 of Columbia or any foreign nation from teaching massage
21 therapy; provided the instructor is duly licensed or
22 registered, if required, and is qualified in his place of
23 residence for the practice of massage therapy. The board
24 shall establish by rule the duration of stay for a visiting
25 massage therapy instructor; and

26 D. sobadores, [~~and~~] Hispanic traditional healers,
27 Native American healers [~~from using traditional Hispanic or~~
28 ~~Native American healing practices~~], reflexology, which is

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1 limited to hands, feet and ears or other healers who do not
2 manipulate the soft tissues for therapeutic purposes from
3 practicing those skills. Healers who use these practices but
4 apply for a license or registration pursuant to the Massage
5 Therapy Practice Act shall comply with all licensure
6 requirements of that act.

7 Section 6. Section 61-12C-7 NMSA 1978 (being Laws 1991,
8 Chapter 147, Section 7, as amended) is amended to read:

9 "61-12C-7. BOARD CREATED--MEMBERSHIP.--

10 A. [~~There is created~~] The [~~board of~~] "massage
11 therapy board" is created. The board [~~shall be~~] is
12 administratively attached to the department.

13 B. The board [~~shall consist~~] consists of five
14 members who are New Mexico residents. Members of the board
15 shall be appointed by the governor to terms of four years.
16 The terms shall be staggered, and the governor shall make
17 appointments of two two-year terms, two three-year terms and
18 one four-year term, if necessary to produce staggered terms.
19 Three members of the board shall be massage therapists, each
20 with at least five years of massage therapy practice [~~in New~~
21 ~~Mexico~~] and who are actively engaged in the practice of
22 massage therapy during their tenure as members. Two members
23 of the board shall be public members [~~The initial three~~
24 ~~professional members appointed shall meet the requirements for~~
25 ~~licensure and be licensed by the deadline specified for~~
26 ~~licensure in the Massage Therapy Practice Act. The public~~
27 ~~members shall not~~] who have not been licensed [or] and have
28 [~~any~~] no financial interest, direct or indirect, in the

1 profession [~~regulated~~] of massage therapy.

2 C. Each member of the board shall hold office
3 [~~until the expiration of the term for which appointed or~~]
4 until a successor has been appointed and qualified.

5 D. No board member shall serve more than two full
6 consecutive terms.

7 E. The board shall elect annually a [~~chairman~~]
8 chair and [~~such~~] other officers as it deems necessary. The
9 board shall meet as often as necessary for the conduct of
10 [~~called by the chairman or upon the written request of three~~
11 ~~or more members of the board~~] held in accordance with the Open
12 Meetings Act. Three members, at least one of whom [~~is~~] must
13 be a public member, shall constitute a quorum.

14 F. [~~Any~~] A board member may be recommended for
15 removal as a member of the board for failing to attend, after
16 proper notice, three consecutive board meetings.

17 G. Members of the board shall be reimbursed as
18 provided for nonsalaried public officers in the Per Diem and
19 Mileage Act and shall receive no other compensation,
20 perquisite or allowance. "

21 Section 7. Section 61-12C-8 NMSA 1978 (being Laws 1991,
22 Chapter 147, Section 8, as amended) is amended to read:

23 "61-12C-8. BOARD [~~DUTIES~~] POWERS. - -The board [~~shall~~
24 ~~have~~] has the power to:

25 A. adopt and file, in accordance with the State
Rules Act, rules [~~and regulations~~] necessary to carry out the
provisions of the Massage Therapy Practice Act, in accordance

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1 with the provisions of the Uniform Licensing Act;

2 B. provide for the evaluation of the
3 qualifications of applicants for licensure or registration
4 under the Massage Therapy Practice Act;

5 C. provide for the issuance of licenses or
6 registrations to applicants who meet the requirements of the
7 Massage Therapy Practice Act;

8 D. provide for the inspection, when required, of
9 the business premises of any licensee or registrant during
10 regular business hours;

11 E. establish minimum training and educational
12 standards for licensure as a massage therapist or registration
13 as a massage therapy instructor;

14 ~~[F. establish a process for approval of training
15 programs and massage therapy schools;~~

16 ~~G. provide for the investigation of persons
17 engaging in practices that may violate the provisions of the
18 Massage Therapy Practice Act;~~

19 ~~H. revoke, suspend or deny a license or
20 registration in accordance with the provisions of the Uniform
21 Licensing Act;]~~

22 F. pursuant to the Uniform Licensing Act, conduct
23 hearings on charges against applicants, licensees or
24 registrants and take actions described in Section 61-1-3 NMSA
25 1978;

G. bring an action for injunctive relief in
district court seeking to enjoin a person from violating the
provisions of the Massage Therapy Practice Act;

1 H. issue cease and desist orders to persons
2 violating the provisions of the Massage Therapy Practice Act
3 or any rule adopted by the board pursuant to that act;

4 I. adopt an annual budget;

5 J. adopt a code of [~~ethics and~~] professional
6 conduct;

7 K. provide for the investigation of complaints
8 against licensees [~~The board may issue investigation subpoenas~~
9 ~~prior to the issuance of a notice of contemplated action as~~
10 ~~set forth in Section 61-1-4 NMSA 1978~~]; and

11 L. publish at least annually combined or separate
12 lists of licensed massage therapists, registered massage
13 therapy instructors and registered massage therapy schools. "

14 Section 8. Section 61-12C-9 NMSA 1978 (being Laws 1991,
15 Chapter 147, Section 9, as amended) is amended to read:

16 "61-12C-9. REQUIREMENTS FOR LICENSURE [~~REGISTERED~~] OF
17 MASSAGE THERAPISTS AND REGISTRATION OF MASSAGE THERAPY
18 INSTRUCTORS. --

19 A. The board shall issue a license to practice
20 massage therapy to any person who files a completed
21 application, accompanied by the required fees, and who submits
22 satisfactory evidence that the applicant:

23 (1) has reached the age of majority;

24 (2) has completed all educational
25 requirements established by the board; and

 (3) has completed [~~a training program~~
~~approved by the board, at a school approved by the board, that~~
~~program being~~] at least six hundred fifty hours in length that

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1 includes at least five hundred hours of massage therapy
2 instruction. [~~provided that if the approved training program~~
3 ~~is less than six hundred fifty hours, the applicant shall~~
4 ~~provide documentation of up to three hundred fifty hours of~~
5 ~~alternative qualifying experience, including but not limited~~
6 ~~to professional massage therapy experience, apprenticeship~~
7 ~~training in massage therapy, clinical or internship training~~
8 ~~and prior experience in a health career, to be approved by the~~
9 ~~board; and~~

9 (4) ~~demonstrates professional competence by~~
10 ~~passing a written examination as prescribed by the board.~~

11 B. ~~The board may also require a practical~~
12 ~~examination as a condition for licensure.~~

13 C.] B. The board shall register as a massage
14 therapy instructor any applicant who:

14 (1) is currently licensed as a massage
15 therapist; and

16 [(2) ~~proves to the board's satisfaction that~~
17 ~~he meets the minimum requirement of two years of experience in~~
18 ~~his area of instruction]~~

19 (2) has completed the educational and
20 experience requirements established by the board, which
21 requirements shall meet minimum standards of training and
22 curriculum for massage therapy instructors established by the
23 board.

23 C. An initial license or registration issued
24 pursuant to this section may be for a period of up to two
25 years pursuant to board rule. "

1 Section 9. Section 61-12C-10 NMSA 1978 (being Laws 1991,
2 Chapter 147, Section 10, as amended) is amended to read:

3 "61-12C-10. ~~[APPROVED]~~ REQUIREMENTS FOR REGISTRATION OF
4 MASSAGE THERAPY SCHOOLS [REGISTRATION]. - -

5 A. The board shall establish by rule procedures
6 for ~~[approval]~~ the registration of massage therapy schools and
7 shall register massage therapy schools that meet the
8 ~~[educational]~~ requirements of the Massage Therapy Practice Act
9 and rules adopted by the board pursuant to that act.

10 B. The board shall establish minimum standards of
11 training and curriculum for ~~[approved training programs and~~
12 ~~for approved]~~ massage therapy schools. ~~[At a minimum,~~
13 ~~approved]~~ Massage therapy schools shall provide ~~[training~~
14 ~~programs]~~ an educational program that ~~[include]~~ includes a
15 minimum of ~~[three]~~ six hundred fifty hours of training ~~[This]~~
16 and shall include instruction in:

- 17 (1) anatomy;
- 18 (2) physiology;
- 19 (3) massage therapy;
- 20 (4) business;
- 21 (5) hydrotherapy;
- 22 (6) first aid;
- 23 (7) cardiopulmonary resuscitation; and
- 24 (8) professional ethics.

25 ~~[C. The board shall establish a list of approved~~
~~massage therapy schools and shall register any institution~~
~~that meets the requirements of the board and files a current~~
~~curriculum and list of instructors.~~

underscored material = new
[bracketed material] = delete

1 D. ~~An approved massage therapy school shall~~
2 ~~register annually with the board.]~~"

3 Section 10. Section 61-12C-11 NMSA 1978 (being Laws
4 1991, Chapter 147, Section 11, as amended) is amended to read:

5 "61-12C-11. DISPLAY OF LICENSE OR REGISTRATION. -- A
6 massage therapy license or registration issued by the board
7 shall at all times be posted in a conspicuous place in the
holder's principal place of business."

8 Section 11. Section 61-12C-13 NMSA 1978 (being Laws 1991,
9 Chapter 147, Section 13, as amended) is amended to read:

10 "61-12C-13. EXAMINATIONS. --

11 A. ~~[Examinations shall be held at least twice each~~
12 ~~year on a date and at a location established by the board.~~
13 ~~Applicants who have been found to meet the education and~~
14 ~~experience requirements for licensure shall be scheduled for~~
15 ~~the next examination following the filing of the application.]~~
16 The board shall establish by rule the ~~[examination application~~
17 ~~deadline and other rules relating to]~~ required examinations
18 and the procedures for taking and retaking ~~[licensure~~
19 ~~examinations]~~ them. The board shall determine the passing
20 grade on examinations.

21 B. The board shall specify by rule the general
22 areas of competency to be covered by examinations for
23 licensure and ensure that the examinations measure adequately
24 both an applicant's competency and knowledge of related
statutory requirements. Professional testing services may be
utilized for the examinations.

25 ~~[C. After taking the written examination, each~~

1 ~~applicant may be tested in the practical application of~~
2 ~~massage therapy techniques in such a manner and by such~~
3 ~~methods as shall reveal the applicant's skill and knowledge.~~

4 D. ~~All licensing examinations shall be conducted~~
5 ~~in such a manner that the applicants shall be known to the~~
6 ~~board by number until the examination is completed and the~~
7 ~~grade determined. A record of each examination shall be filed~~
8 ~~in the board office and available for inspection for a period~~
9 ~~of not less than two years immediately following the~~
10 ~~examination.]"~~

11 Section 12. Section 61-12C-14 NMSA 1978 (being Laws
12 1991, Chapter 147, Section 14, as amended) is amended to read:

13 "61-12C-14. TEMPORARY LICENSE. --

14 A. Prior to examination, an applicant for
15 licensure may obtain a temporary license to engage in the
16 practice of massage therapy [~~provided that~~] if the applicant
17 meets all the requirements for licensure except completion of
18 the examination.

19 B. The temporary license is valid until the
20 results of the next scheduled examination are available and a
21 license is issued or denied. [~~If approved, the applicant~~
22 ~~shall be issued the initial license for the remainder of the~~
23 ~~year.]~~

24 C. No more than one temporary license may be
25 issued to an individual, and no temporary license shall be
26 issued to an applicant who has previously failed the
27 examinations. "

28 Section 13. Section 61-12C-16 NMSA 1978 (being Laws 1991,

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1 Chapter 147, Section 16, as amended) is amended to read:

2 "61-12C-16. LICENSURE BY CREDENTIALS. -- After successful
3 completion of a jurisprudence examination, the board may
4 license an applicant, provided that he possesses a valid
5 license or registration to practice massage therapy issued by
6 the appropriate examining board under the laws of any other
7 state or territory of the United States, the District of
8 Columbia or any foreign nation and has met educational and
9 examination requirements [~~substantially equivalent~~] equal to
10 or exceeding those established pursuant to the Massage Therapy
11 Practice Act. "

12 Section 14. Section 61-12C-17 NMSA 1978 (being Laws
13 1991, Chapter 147, Section 17, as amended) is amended to read:

14 "61-12C-17. LICENSE OR REGISTRATION RENEWAL-- CONTINUING
15 EDUCATION. --

16 A. Massage therapy licenses and massage therapy
17 instructor registrations shall expire biennially. [~~and~~]
18 Massage therapy school registrations shall expire annually.
19 [~~on a date~~] Expiration dates shall be established by rule.

20 [~~B. Each licensee shall renew his license by~~
21 ~~submitting a renewal application on a form provided by the~~
22 ~~board. Initial licenses may be valid for one or two years,~~
23 ~~depending on assigned license number and board rule.~~

24 ~~C.] B.~~ The board may establish continuing
25 educational requirements as a condition of the renewal of
massage therapy licenses

[~~D. Each massage therapy school shall renew its~~
~~registration by submitting a renewal application and providing~~

1 ~~a description of its current curriculum and list of all~~
2 ~~instructors]~~ and massage therapy instructor registrations.

3 C. A license or registration shall be renewed by
4 submitting a renewal application on a form provided by the
5 board.

6 [E.] D. A sixty-day grace period shall be allowed
7 each license or registration holder after the end of the
8 renewal period, during which time a license or registration
9 may be renewed upon payment of the renewal fee and a late fee
as prescribed by the board."

10 Section 15. Section 61-12C-18 NMSA 1978 (being Laws
11 1991, Chapter 147, Section 18) is amended to read:

12 "61-12C-18. INACTIVE STATUS. --

13 A. [~~Any license]~~ A massage therapy license or
14 massage therapy instructor registration not renewed at the end
15 of the sixty-day grace period shall be placed on inactive
16 status for a period not to exceed two years. At the end of
17 two years, if the license or registration has not been
reactivated, it shall automatically expire.

18 B. If within a period of two years from the date
19 the license or registration was placed on inactive status the
20 massage therapist or massage therapy instructor wishes to
21 resume practice, the board shall be notified in writing, and,
22 upon proof of completion of any continuing education or
23 refresher courses prescribed by [~~regulation]~~ rule of the board
24 and payment of an amount set by the board in lieu of all
25 lapsed renewal fees, the license or registration shall be
restored in full."

underscored material = new
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1 Section 16. Section 61-12C-20 NMSA 1978 (being Laws
2 1991, Chapter 147, Section 20, as amended) is amended to read:

3 "61-12C-20. LICENSE FEES. -- ~~[A.]~~ The board shall
4 establish by rule a schedule of reasonable fees for
5 applications, examinations, licenses, registrations,
6 inspections, renewals, ~~[placement on inactive status]~~
7 penalties, reactivation and necessary administrative fees,
8 ~~[B. The initial licensure application fee shall~~
9 ~~not exceed fifty dollars (\$50.00).-~~
10 ~~C. The initial license fee shall not exceed one~~
11 ~~hundred fifty dollars (\$150).-~~
12 ~~D. The examination fee shall not exceed four~~
13 ~~hundred dollars (\$400).-~~
14 ~~E. The biennial renewal fee shall not exceed three~~
15 ~~hundred dollars (\$300).-~~
16 ~~F. The fee for reactivation of an inactive license~~
17 ~~shall not exceed four hundred dollars (\$400).-~~
18 ~~G. A late renewal fee shall not exceed one hundred~~
19 ~~dollars (\$100).-~~
20 ~~H. The registration fee for an approved massage~~
21 ~~therapy school shall not exceed one hundred dollars (\$100).-~~
22 ~~I. The registration fee for a massage therapy~~
23 ~~instructor shall not exceed fifty dollars (\$50.00)]~~ but no
24 single fee shall exceed five hundred dollars (\$500). All fees
25 collected shall be deposited in the massage therapy fund. "

23 Section 17. Section 61-12C-21 NMSA 1978 (being Laws
24 1991, Chapter 147, Section 21, as amended) is amended to read:

25 "61-12C-21. ADVERTISING. -- ~~[Each]~~ A massage therapist,

1 massage therapist instructor or massage therapy school
 2 licensed ~~[under the provisions of]~~ or registered pursuant to
 3 the Massage Therapy Practice Act shall include the number of
 4 ~~[his]~~ the license or registration, and the designation as
 5 ~~[either]~~ a ~~[license or registration]~~ "massage therapist",
 6 "registered massage therapy instructor" or "registered massage
 7 therapy school" in any advertisement of massage therapy
 8 services ~~[appearing in any newspaper, airwave transmission,~~
 9 ~~telephone directory or other advertising medium]~~ as
 established by board rule."

10 Section 18. Section 61-12C-24 NMSA 1978 (being Laws
 11 1991, Chapter 147, Section 24, as amended) is amended to read:

12 "61-12C-24. DENIAL, SUSPENSION, REVOCATION AND
 REINSTATEMENT OF LICENSES. --

13 ~~[A. The board may impose a fine not to exceed one~~
 14 ~~thousand dollars (\$1,000), place on probation as specified by~~
 15 ~~the board or refuse to issue or renew or may deny, suspend or~~
 16 ~~revoke any license, temporary license or registration held or~~
 17 ~~applied for under the Massage Therapy Practice Act in~~
 18 ~~accordance with the procedures]~~

19 A. Pursuant to the Uniform Licensing Act, the
 20 board may take disciplinary action against a person licensed
or registered pursuant to the Massage Therapy Practice Act.

21 B. The board has authority to take an action set
 22 forth in [the Uniform Licensing Act] Section 61-1-3 NMSA 1978
 23 upon a finding by the board that the licensee, registrant or
 24 applicant:

25 (1) is guilty of fraud, deceit or

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 [bracketed material] = delete

1 ~~misrepresentation [in procuring or attempting to procure a~~
2 ~~license or registration provided for in the Massage Therapy~~
3 ~~Practice Act];~~

4 (2) attempted to use as his own the license
5 or registration of another;

6 (3) allowed the use of his license or
7 registration by another;

8 (4) has been adjudicated as mentally
9 incompetent by regularly constituted authorities;

10 (5) has been convicted [~~or found guilty,~~
11 ~~regardless of adjudication, of a crime, in any jurisdiction,~~
12 ~~that directly relates to the practice of massage therapy or to~~
13 ~~the ability to practice massage therapy. Any plea of nolo~~
14 ~~contendere shall be considered a conviction for the purposes~~
15 ~~of this section] of any offense punishable by incarceration in
16 a state penitentiary or federal prison. A copy of the record
17 of conviction, certified by the clerk of the court entering
18 the conviction, is conclusive evidence of conviction;~~

19 (6) is guilty of unprofessional or unethical
20 conduct or a violation of the code of ethics;

21 (7) is habitually or excessively using
22 controlled substances or alcohol;

23 (8) is guilty of false, deceptive or
24 misleading advertising;

25 (9) is guilty of aiding, assisting or
advertising any unlicensed or unregistered person in the
practice of massage therapy;

(10) is grossly negligent or incompetent in

1 the practice of massage therapy; [~~or~~]

2 (11) has had a license or registration to
3 practice massage therapy revoked, suspended or denied in any
4 jurisdiction, territory or possession of the United States or
5 another country for acts of the licensee or registrant similar
6 to acts described in this section. A certified copy of the
7 record of conviction shall be conclusive evidence of [~~such~~]
8 the conviction; or

9 (12) is guilty of failing to comply with a
10 provision of the Massage Therapy Practice Act or rules of the
11 board adopted pursuant to that act and filed in accordance
12 with the State Rules Act.

13 [~~B.-~~] C. Disciplinary proceedings may be instituted
14 by sworn complaint of any person, including members of the
15 board, and shall conform with the provisions of the Uniform
16 Licensing Act.

17 [~~C.-~~] D. The board may establish the guidelines for
18 the disposition of [~~the~~] disciplinary cases. [~~Such~~]
19 Guidelines may include but shall not be limited to minimum and
20 maximum fines, periods of probation, conditions of probation
21 or reissuance of a license or registration.

22 [~~D.-~~] E. License and registration holders who have
23 been found culpable and sanctioned by the board shall be
24 responsible for the payments of all costs of the disciplinary
25 proceedings. "

26 Section 19. Section 61-12C-27 NMSA 1978 (being Laws
27 1993, Chapter 173, Section 20) is amended to read:

"61-12C-27. OFFENSES--CRIMINAL PENALTIES. -- [~~Any person~~

underscored material = new
[bracketed material] = delete

1 ~~who violates any provision of the Massage Therapy Practice Act~~
2 ~~is guilty of a misdemeanor and upon conviction shall be~~
3 ~~punished by a fine not to exceed one thousand dollars (\$1,000)~~
4 ~~or imprisonment for a period not to exceed one year or both.]~~

5 A person who does any of the following is guilty of a
6 misdemeanor and shall be sentenced pursuant to Section 31-19-1
7 NMSA 1978:

8 A. violates a provision of the Massage Therapy
9 Practice Act or rules adopted pursuant to that act;

10 B. renders or attempts to render massage therapy
11 services, instruction as a massage therapy instructor or
12 instruction as a massage therapy school without the required
13 current valid license or registration issued by the board; or

14 C. advertises or uses a designation, diploma or
15 certificate implying that he is a massage therapist, massage
16 therapy instructor or massage therapy school unless he holds a
17 current valid license or registration issued by the board. "

18 Section 20. Section 61-12C-28 NMSA 1978 (being Laws
19 1993, Chapter 173, Section 21) is amended to read:

20 "61-12C-28. TERMINATION OF AGENCY LIFE- - DELAYED
21 REPEAL. --The board of massage therapy is terminated on [~~July~~
22 ~~1, 1999]~~ July 1, 2005 pursuant to the provisions of the Sunset
23 Act. The board shall continue to operate according to the
24 provisions of Chapter 61, Article 12C NMSA 1978 until [~~July 1,~~
25 ~~2000]~~ July 1, 2006. Effective [~~July 1, 2000, Article 12C of]~~
July 1, 2006, Chapter 61, Article 12C NMSA 1978 is repealed. "

Section 21. REPEAL. --Sections 61-12C-4 and 61-12C-6 NMSA
1978 (being Laws 1991, Chapter 147, Sections 4 and 6, as

1 amended) are repealed.

2 Section 22. EFFECTIVE DATE. --The effective date of the
3 provisions of this act is July 1, 1999.

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HBIC/HB 423

FORTY- FOURTH LEGISLATURE
FIRST SESSION

February 27, 1999

HOUSE FLOOR AMENDMENT number _____ to HOUSE BUSINESS AND INDUSTRY
COMMITTEE SUBSTITUTE FOR HOUSE
BILL 423

Amendment sponsored by Representative Rick Meira

- 1. On page 22, lines 1 through 9, strike Section 20 in its entirety.
- 2. Renumber the succeeding sections accordingly.

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

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HF1/ HBIC 423

Page 49

Rick Meira

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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FORTY-FOURTH LEGISLATURE
FIRST SESSION

HBIC/HB 423

Page 50

1 HF1/HBIC 423

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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March 5, 1999

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9 Mr. President:

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Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

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HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE

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FOR HOUSE BILL 423, as amended

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has had it under consideration and reports same with recommendation

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that it DO PASS, and thence referred to the CORPORATIONS &

17

TRANSPORTATION COMMITTEE.

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Respectfully submitted,

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Shannon Robinson, Chairman

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

1 HF1/ HBIC 423

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2 Adopted _____ Not Adopted _____
3 (Chief Clerk) (Chief Clerk)

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5 Date _____
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8 The roll call vote was 5 For 0 Against

9 Yes: 5

10 No: 0

11 Excused: Feldman, Garcia, Stockard, Smith

12 Absent: None
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HBIC/HB 423

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**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 11, 1999

Mr. President:

**Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
whom has been referred**

**HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
FOR HOUSE BILL 423, as amended**

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Roman M. Maes, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, McKibben, Rawson, Robinson

Absent: None

H0423CT1

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