

HOUSE RESEARCH

Bill Summary

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Section

Article 1: Massage Therapy Registration

Overview

This article provides for the regulation of massage therapists by registration with the Board of Nursing.

- 1 Citation.** Creates § 148.981. Provides that §§ 148.981 to 148.989 may be cited as the Minnesota Massage Therapy Act.
- 2 Definitions.** Creates § 148.982. Defines the following terms: “advertise,” “advisory council,” “applicant,” “approved continuing education program,” “approved massage therapy program,” “board,” “client,” “contact hour,” “credential,” “competency exam,” “massage or massage therapy,” “massage therapist,” “municipality,” “practice of massage therapy,” “professional organization,” and “state.”
- 3 Massage therapy.** Creates § 148.983. Paragraph (a) lists the permitted massage techniques and the substances that can be applied to and used on the client.

Paragraph (b) lists the prohibited practices. These practices include diagnosing illness or disease; changing prescribed therapies or exercises issued by a credentialed health care provider; prescribing drugs or medicines; performing chiropractic techniques; applying microwave, ultrasound, or laser or injection therapy.
- 4 Limitations on practice; referrals.** Creates § 148.984. Requires a massage therapist to refer a client to a health care provider if the client’s medical condition is beyond the scope of practice established by this chapter or the rules of the board.

5 Protected titles and restrictions on use. Creates § 148.985.

Subd. 1. Designation. States that an individual regulated by this chapter is designated a registered massage therapist or “RMT.”

Subd. 2. Title protection. Prohibits use of “registered massage therapist” or “RMT” or any other words or symbols that indicate a person is a registered massage therapist unless the individual is registered under this chapter.

Subd. 3. Identification of practitioners. Paragraph (a) requires the registered practitioner to identify oneself as a “registered massage therapist” or “RMT.” A massage therapy student who is attending a training program and providing massage therapy services must be identified as a “Student Massage Therapist” or “Student MT.”

Paragraph (b) requires the board to adopt rules to implement this section.

Paragraph (c) permits a practitioner who is credentialed by another state or holds certifications from professional agencies or educational providers to so indicate in advertising. Requires the name of the state and credentialing body to be clearly identified.

Paragraph (d) permits a practitioner who is licensed in another state to advertise as a licensed practitioner if the state and licensing agency are clearly identified in the advertisement.

Subd. 4. Other health care providers. Permits other credentialed practitioners to use massage therapy techniques as long as the practitioner does not imply that they are registered under this act.

6 Powers of the board. Creates § 148.986. Empowers the board, with the advice of the Registered Massage Therapist Advisory Council, to issue registrations. Lists the powers and duties of the board related to regulation of the profession.

7 Registered massage therapist advisory council. Creates § 148.9861.

Subd. 1. Creation; membership. Creates a seven member advisory council with three public members and four registered massage therapists.

Subd. 2. Administration. Requires the council to be organized under section 15.059 (Advisory Councils and Committees).

Subd. 3. Duties. Lists the duties of the council.

8 Registration requirements. Creates § 248.987.

Subd. 1. Registration. Requires an applicant to pay the required fees and file a written application. Lists the items that must be included on the application form.

Subd. 2. Registration prohibited. Permits the board to deny an application for registration if an applicant has had the ability to practice under chapter 146A revoked, suspended, or limited, or is under investigation for complaints related to the practice of massage therapy.

Subd. 3. Registration by endorsement. Lists the requirements for registration by endorsement, including proof of a current and unrestricted massage therapy credential in another state. Prohibits registration if a disciplinary action is pending or there is an unresolved complaint in another state until the proceeding is resolved in the applicant's favor.

Subd. 4. Registration by grandfathering. Lists the requirements for registration by grandfathering. Permits application for registration by this method for one year after the first date the board has made applications for registration available. The applicant must pay the required fees, have a criminal background check, file a written application, and provide proof that the applicant is qualified to practice. Lists acceptable proof.

Subd. 5. Temporary permit. Allows the board to issue a temporary permit to an applicant eligible for registration that is valid until the board makes a decision on the application for registration.

9 Expiration and renewal. Creates § 148.9871.

Subd. 1. Registration expiration. States that registrations expire annually.

Subd. 2. Renewal. Requires the registrant to complete a renewal application, submit the renewal fee, provide proof of compliance with continuing education requirements, and submit any other information requested by the board.

Subd. 3. Change of address. Requires the registrant to inform the board of any change in address within 30 days of the change.

Subd. 4. Registration renewal notice. Requires the board to send a renewal notice to the registrant at least 60 days before the registration renewal date.

Subd. 5. Renewal deadline. Provides that the renewal application and fee must be postmarked on or before the renewal deadline date, but if the postmark is illegible, then the application is considered timely if it is received by the third working day after the deadline.

Subd. 6. Inactive status and return to active status. Allows a registrant to place a registration on inactive status and sets the criteria for reactivating the registration.

Subd. 7. Registration following lapse of registration status for two years or less. Requires an individual to apply for registration renewal; pay the required fees,

including the fee for late renewal; and document compliance with continuing education requirements.

Subd. 8. Cancellation due to nonrenewal. Prohibits the board from renewing, restoring, or reissuing a registration that has not been renewed for two years. A former registrant must apply and meet the requirements then in existence for initial registration.

Subd. 9. Cancellation of registration in good standing. Allows a registrant in good standing to request registration cancellation. If the individual seeks to re-register, the individual must complete a new application and fulfill all requirements then in existence for initial registration.

10 **Massage therapy program.** Creates § 148.988.

Subd. 1. Initial approval. Lists requirements a program must meet in order for its graduates to be eligible for registration. Requires each program to apply to the board, pay fees, and submit evidence that it complies with the requirements.

Subd. 2. Continuing approval. Requires a program to make an application each year to maintain approval.

Subd. 3. Loss of approval. Requires the board to issue a notice of defects to the program before the board can take action to deny approval of the program.

Subd. 4. Reinstatement of approval. Permits the board to reinstate approval upon the program's submission of evidence that it is in compliance with statute and rules.

11 **Continuing education.** Creates § 148.9881.

Subd. 1. Number of required contact hours. Provides that a registered massage therapist must complete at least 12 contact hours of approved continuing education during every two year period.

Subd. 2. Approved programs. Lists requirements for programs.

Subd. 3. Approval of continuing education programs. Allows the board to approve continuing education programs that do not meet the requirements in subdivision 2, if the programs pay required fees, and comply with specified criteria.

Subd. 4. Accumulation of contact hours. Provides that a registrant cannot carry over excess continuing education hours from one reporting period to the next.

Subd. 5. Verification of continuing education. Requires the board to periodically select a random sample of registrants who must submit evidence of completion of continuing education requirements.

Subd. 6. Continuing education topics. Lists the subject areas that may be approved for continuing education.

Subd. 7. Continuing education exemptions. Permits the board to exempt a registrant from the continuing education requirements upon a satisfactory showing

that the registrant is unable to comply with the requirements due to physical or mental condition or other extenuating circumstances. Allows this exemption only once in a five year period.

- 12 Board action on applications.** Creates § 148.9882. Instructs the board to take action on all applications for registration and determine if an applicant meets the requirements for registration or renewal. Permits the board to investigate the information submitted by the applicant. Requires the board to provide written notification to the applicant on action taken on the application. Provides the process for an applicant to appeal an adverse action.
- 13 Grounds for disciplinary action.** Creates § 148.9883.
- Subd. 1. Grounds listed.** Provides a list of the grounds for disciplinary action. Disciplinary action may be registration denial, revocation, suspension, limitation, or placing limitations on the registration.
- Subd. 2. Maltreatment of minors.** Clarifies that nothing in this act limits the ability of a state or local agency to taken action against a registrant for maltreating a child. Adds registered massage therapists to the list of mandated reporters of suspected child abuse and neglect. Clarifies that massage therapy services provided to a child are not a substitute for necessary medical care.
- Subd. 3. Evidence.** Provides that judgments or proceedings under seal of the court administrator or administrative agency that entered the judgment are admissible into evidence during a disciplinary proceeding under this section without further authentication and provide prima facie evidence of the violation.
- 14 Forms of disciplinary action; automatic suspension; temporary suspension; reissuance.** Creates § 148.9884. Provides that registered massage therapists and applicants are subject to the disciplinary statutes under the board of nursing, sections 148.262 to 148.266.
- 15 Effect on municipal ordinances.** Creates § 148.9889.
- Subd. 1. License authority.** Provides that this act preempts the licensure and regulation of registered massage therapists by a municipality, including conducting criminal background checks.
- Subd. 2. Business license or permit.** Provides that this act does not prohibit a municipality from requiring a massage therapist to obtain a business license or permit if the license is required of other persons, regardless of occupation.
- Subd. 3. Prosecuting authority.** States that this act does not prohibit a municipality from prosecuting an unregistered person who practices massage therapy, or a registered massage therapist who is engaged in unlawful conduct.
- 16 Fees.** Creates § 148.989.
- Subd. 1. Fees.** Provides a list of fees.
- Subd. 2. Proration of fees.** Permits the board to prorate the initial registration fee.
- Subd. 3. Penalty fee for late renewals.** Requires a late fee if the application for

renewal is submitted after the deadline.

Subd. 4. Nonrefundable fees. States that all fees are nonrefundable.

Subd. 5. Deposit. Requires the board to deposit the fees in the state government special revenue account.

17 Effective date. Makes this article effective August 1, 2010.

Article 2: Conforming Amendments

1 License; exceptions. Amends § 116J.70, subd. 2a. Adds massage therapists registered under chapter 148 to the list of exceptions from the definition of “business license” or “license.”

2 Municipal or city business license; massage. Creates § 325F.816. Prohibits an individual who has a business license from a municipality to practice massage from advertising as a licensed massage therapist unless the individual has a valid professional credential from another state, is current in licensure, and is in good standing with the other state.

3 Repealer. Repeals Minnesota Rules, part 2500.5000, a rule related to record keeping for chiropractors. This repealer was inadvertently omitted from the 2009 health and human services policy bill.