HOUSE BILL No. 1355

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-5-14; IC 25-1; IC 25-21.8.

Synopsis: Massage regulation. Establishes a five person board of massage therapy. Provides for the licensing of massage therapists by the board. Specifies requirements that applicants must meet in order to be licensed as massage therapists. Establishes guidelines for the licensing by endorsement of a massage therapist who holds a license in another state. Provides that a knowing violation of the massage therapist licensing law is a Class C misdemeanor. Establishes penalties for the unauthorized practice of massage therapy.

Effective: June 1, 2003; July 1, 2003.

Moses, Wolkins

January 14, 2003, read first time and referred to Committee on Commerce and Economic Development.

C o p y

Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

C o p y

HOUSE BILL No. 1355

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-5-14, AS ADDED BY P.L.56-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. Pursuant to Public Law 92-544 (86 Stat. 1115), a local law enforcement agency may use fingerprints submitted for the purpose of identification in a request related to:

(1) a taxicab driver's license application; **or**

~~(2) an application for license for massage therapist; or~~

~~(3)~~ **(2)** reinstatement or renewal of the same license.

An applicant shall submit the fingerprints on forms provided for the license application. The local law enforcement agency shall charge each applicant the fees set by the state police department and federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The local law enforcement agency may forward for processing to the Federal Bureau of Investigation or any other agency fingerprints submitted by a license applicant. The local law enforcement agency may receive the results of all fingerprint investigations.

SECTION 2. IC 25-1-2-2.1, AS AMENDED BY P.L.162-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.
(2) Architects and landscape architects.
(3) Dry cleaners.
(4) Professional engineers.
(5) Land surveyors.
(6) Real estate brokers.
(7) Real estate agents.
(8) Security dealers' licenses issued by the securities commissioner.
(9) Dental hygienists.
(10) Dentists.
(11) Veterinarians.
(12) Physicians.
(13) Chiropractors.
(14) Physical therapists.
(15) Optometrists.
(16) Pharmacists and assistants, drugstores or pharmacies.
(17) Motels and mobile home park licenses.
(18) Nurses.
(19) Podiatrists.
(20) Occupational therapists and occupational therapy assistants.
(21) Respiratory care practitioners.
(22) Social workers, marriage and family therapists, and mental health counselors.
(23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
(24) Wholesale legend drug distributors.
(25) Physician assistants.
(26) Dietitians.
(27) Hypnotists.
(28) Athlete agents.
(29) Manufactured home installers.
(30) Massage therapists.

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SECTION 3. IC 25-1-2-6, AS AMENDED BY P.L.162-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects and landscape architects.
(5) State board of barber examiners.
(6) State board of cosmetology examiners.
(7) Medical licensing board of Indiana.
(8) Secretary of state.
(9) State board of dentistry.
(10) State board of funeral and cemetery service.
(11) Worker's compensation board of Indiana.
(12) Indiana state board of health facility administrators.
(13) Committee of hearing aid dealer examiners.
(14) Indiana state board of nursing.
(15) Indiana optometry board.
(16) Indiana board of pharmacy.
(17) Indiana plumbing commission.
(18) Board of podiatric medicine.
(19) Private detectives licensing board.
(20) State board of registration for professional engineers.
(21) Board of environmental health specialists.
(22) State psychology board.
(23) Indiana real estate commission.
(24) Speech-language pathology and audiology board.
(25) Department of natural resources.
(26) State boxing commission.
(27) Board of chiropractic examiners.
(28) Mining board.
(29) Indiana board of veterinary medical examiners.
(30) State department of health.
(31) Indiana physical therapy committee.
(32) Respiratory care committee.
(33) Occupational therapy committee.

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(34) Social worker, marriage and family therapist, and mental health counselor board.
(35) Real estate appraiser licensure and certification board.
(36) State board of registration for land surveyors.
(37) Physician assistant committee.
(38) Indiana dietitians certification board.
(39) Indiana hypnotist committee.
(40) Attorney general (only for the regulation of athlete agents).
(41) Manufactured home installer licensing board.
(42) **State board of massage therapy.**
(43) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 4. IC 25-1-5-3, AS AMENDED BY P.L.24-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) There is established the health professions bureau. The bureau shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Board of chiropractic examiners (IC 25-10-1).
(2) State board of dentistry (IC 25-14-1).
(3) Indiana state board of health facility administrators (IC 25-19-1).
(4) Medical licensing board of Indiana (IC 25-22.5-2).
(5) Indiana state board of nursing (IC 25-23-1).
(6) Indiana optometry board (IC 25-24).
(7) Indiana board of pharmacy (IC 25-26).
(8) Board of podiatric medicine (IC 25-29-2-1).
(9) Board of environmental health specialists (IC 25-32).
(10) Speech-language pathology and audiology board (IC 25-35.6-2).
(11) State psychology board (IC 25-33).
(12) Indiana board of veterinary medical examiners (IC 15-5-1.1).
(13) Controlled substances advisory committee (IC 35-48-2-1).

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(14) Committee of hearing aid dealer examiners (IC 25-20).
(15) Indiana physical therapy committee (IC 25-27).
(16) Respiratory care committee (IC 25-34.5).
(17) Occupational therapy committee (IC 25-23.5).
(18) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(19) Physician assistant committee (IC 25-27.5).
(20) Indiana athletic trainers board (IC 25-5.1-2-1).
(21) Indiana dietitians certification board (IC 25-14.5-2-1).
(22) Indiana hypnotist committee (IC 25-20.5-1-7).
(23) State board of massage therapy (IC 25-21.8-3-1).

(b) Nothing in this chapter may be construed to give the bureau policy making authority, which authority remains with each board.

SECTION 5. IC 25-1-7-1, AS AMENDED BY P.L.162-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and
(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15-9).
(10) State board of registration for professional engineers (IC 25-31-1-3).

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(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Indiana state board of nursing (IC 25-23-1).
(14) Indiana optometry board (IC 25-24).
(15) Indiana board of pharmacy (IC 25-26).
(16) Indiana plumbing commission (IC 25-28.5-1-3).
(17) Board of podiatric medicine (IC 25-29-2-1).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2).
(22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(24) Respiratory care committee (IC 25-34.5).
(25) Private detectives licensing board (IC 25-30-1-5.1).
(26) Occupational therapy committee (IC 25-23.5).
(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) State board of registration for land surveyors (IC 25-21.5-2-1).
(30) Physician assistant committee (IC 25-27.5).
(31) Indiana athletic trainers board (IC 25-5.1-2-1).
(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana hypnotist committee (IC 25-20.5-1-7).
(34) Indiana physical therapy committee (IC 25-27).
(35) Manufactured home installer licensing board (IC 25-23.7).
(36) **State board of massage therapy (IC 25-21.8).**
(37) Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-1-8-1, AS AMENDED BY P.L.162-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).

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(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Mining board (IC 22-10-1.5-2).
(14) Indiana state board of nursing (IC 25-23-1).
(15) Indiana optometry board (IC 25-24).
(16) Indiana board of pharmacy (IC 25-26).
(17) Indiana plumbing commission (IC 25-28.5-1-3).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2-1).
(22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
(23) Department of insurance (IC 27-1).
(24) State police department (IC 10-1-1-1), for purposes of certifying polygraph examiners under IC 25-30-2.
(25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(26) Private detectives licensing board (IC 25-30-1-5.1).
(27) Occupational therapy committee (IC 25-23.5-2-1).
(28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(30) State board of registration for land surveyors (IC 25-21.5-2-1).
(31) Physician assistant committee (IC 25-27.5).
(32) Indiana athletic trainers board (IC 25-5.1-2-1).
(33) Board of podiatric medicine (IC 25-29-2-1).
(34) Indiana dietitians certification board (IC 25-14.5-2-1).
(35) Indiana physical therapy committee (IC 25-27).
(36) Manufactured home installer licensing board (IC 25-23.7).

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(37) **State board of massage therapy (IC 25-21.8).**

(38) Any other occupational or professional agency created after June 30, 1981.

SECTION 7. IC 25-1-9-1, AS AMENDED BY P.L.24-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(13) Indiana physical therapy committee (IC 25-27-1).

(14) Respiratory care committee (IC 25-34.5).

(15) Occupational therapy committee (IC 25-23.5).

(16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(17) Physician assistant committee (IC 25-27.5).

(18) Indiana athletic trainers board (IC 25-5.1-2-1).

(19) Indiana dietitians certification board (IC 25-14.5-2-1).

(20) Indiana hypnotist committee (IC 25-20.5-1-7).

(21) State board of massage therapy (IC 25-21.8-3-1).

SECTION 8. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 21.8. MASSAGE THERAPISTS

Chapter 1. Application of Article

Sec. 1. (a) This article applies to an individual who practices or offers to practice massage therapy (as defined in IC 25-21.8-2-4).

(b) This article does not apply to the following:

(1) An individual who:

(A) does not profess to be a massage therapist or use a title set forth in IC 25-21.8-5-4(3); and

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(B) engages in the practice for which the person holds a license, certification, or registration under state law, including a physician, podiatrist, or physical therapist.

(2) An individual who:

(A) does not profess to be a massage therapist or use a title set forth in IC 25-21.8-5-4(3); and

(B) is a qualified member of a professional group and performs massage in a manner consistent with the individual's training and code of ethics of the profession, including an occupational therapist, cosmetologist, or nurse.

(3) An individual giving a massage to a member of the individual's immediate family.

(4) A massage therapy student performing massages or massage therapy in the course of the student's studies and who:

(A) does not profess to be a massage therapist or use a title set forth in IC 25-21.8-5-4(3); and

(B) does not receive or request any compensation for the massages.

(5) An individual who:

(A) does not profess to be a massage therapist or use a title set forth in IC 25-21.8-5-4(3) and whose services are not designated or implied to be massage or massage therapy;

(B) is engaged within the scope of practice of a profession with established standards and ethics; and

(C) uses:

(i) touch, words, and direct movements to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement; or

(ii) touch that is essential for effectual palpation of the human energy system.

(6) Individuals or businesses administering massage or health treatment involving massage to individuals participating in:

(A) sporting activities;

(B) educational events;

(C) conferences;

(D) disaster relief;

(E) emergency events; or

(F) health fair events;

if the sponsor of the event has been advised of this article and has approved the massage services.

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(7) An individual who:

(A) does not profess to be a massage therapist or use a title set forth in IC 25-21.8-5-4(3); and

(B) treats soft tissue above the neck, below the elbow, or below the knee on a client who is not disrobed.

Chapter 2. Definitions

Sec. 1. Definitions in this chapter apply throughout this article.

Sec. 2. "Board" means the state board of massage therapy established by IC 25-21.8-3-1.

Sec. 3. "Bureau" means the health professions bureau established by IC 25-1-5-3.

Sec. 4. (a) "Massage" or "massage therapy" means the therapeutic application of massage techniques on the human body and includes:

(1) the use of touch, pressure, movement, positioning, and holding with or without the use of massage devices that mimic or enhance manual measures; and

(2) the external application of heat, cold, water, lubricants, and abrasives.

(b) The terms do not include joint manipulation or spinal adjustment.

Sec. 5. "Massage therapist" means an individual who practices massage or massage therapy.

Sec. 6. "NCCA" refers to the National Commission of Certifying Agencies.

Sec. 7. "Practice of massage" or "practice of massage therapy" means the performance of massage or massage therapy or professing to be or implying in any manner to the public that an individual performs massage or massage therapy.

Sec. 8. "Professional massage and bodywork therapy association" means a state or nationally chartered organization that is devoted to the massage specialty and therapeutic approach and meets the following requirements:

(1) The organization requires that its members meet minimum educational requirements. The educational requirements must include anatomy, physiology, hygiene, sanitation, ethics, technical theory, and application of techniques.

(2) The organization has an established code of ethics and has procedures for the suspension and revocation of membership of persons violating the code of ethics.

Chapter 3. State Board of Massage Therapy

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Sec. 1. The state board of massage therapy is established.

Sec. 2. The board consists of five (5) members appointed by the governor as follows:

(1) Three (3) massage therapists, each of whom:

(A) is licensed under this article; and

(B) has been actively practicing massage therapy for at least three (3) of the five (5) years immediately preceding the individual's appointment to the board.

The board members appointed under this subdivision may continue to practice massage or massage therapy while serving on the board.

(2) Two (2) members of the general public, each of whom must not:

(A) be licensed under this article;

(B) be the spouse of an individual licensed or who intends to be licensed under this article; or

(C) have a direct or indirect financial interest in the profession regulated under this article.

Only one (1) of the two (2) members appointed under this subdivision may hold a license in another health care profession under this title.

Sec. 3. Each member of the board shall serve a term of three (3) years and until the member's successor is appointed and qualified.

Sec. 4. (a) A vacancy in the membership of the board shall be filled by appointment of the governor for the unexpired term.

(b) A member may not serve more than two (2) consecutive terms in addition to any unexpired term to which the individual was appointed.

(c) A member of the board may be removed for cause by the governor.

Sec. 5. (a) Each year the board shall elect from its members the following officers:

(1) A chairperson.

(2) A vice chairperson.

(3) A secretary.

(b) The chairperson, vice chairperson, and secretary each shall serve until their successor is elected.

Sec. 6. The board shall meet at least two (2) times each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

Sec. 7. (a) Three (3) members of the board constitute a quorum.

(b) An affirmative vote of three (3) members of the board is

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necessary for the board to take official action.

Sec. 8. Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Chapter 4. Powers and Duties of the Board

Sec. 1. The board shall do the following:

(1) Administer, coordinate, and enforce this article.

(2) Adopt rules under IC 4-22-2 for the administration and enforcement of this article.

(3) Judge the qualifications of applicants for licensing under this article.

(4) Issue, deny, renew, suspend, or revoke licenses under this article.

(5) Rescind or modify any disciplinary action taken under IC 25-21.8-8.

(6) Conduct investigations to determine whether violations of this article exist and constitute grounds for disciplinary action against licensees under this article.

(7) Discipline licensees for violations of this article.

(8) Conduct administrative hearings.

(9) Establish reasonable fees for examination, license applications, renewal of licenses, and other services.

(10) Maintain a record of all proceedings.

(11) Establish a system for grievances to be addressed and resolved.

(12) Maintain a list of licensed massage therapists and make the list available to other licensed massage therapists upon request.

Sec. 2. The bureau shall do the following:

(1) Carry out the administrative functions of the board.

(2) Provide necessary personnel to carry out the duties of this article.

(3) Receive and account for all fees required under this article.

(4) Deposit fees collected with the treasurer of state for deposit in the state general fund. All expenses incurred in the administration of this article shall be paid from the state general fund.

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Chapter 5. Issuance of License

Sec. 1. An individual may not practice or offer to practice massage therapy without a license issued by the board.

Sec. 2. An application for a massage therapist license must be:

(1) made to the board on forms provided by the board; and

(2) accompanied by an application fee in the amount set by the board.

Sec. 3. An individual who applies for a license as a massage therapist must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has a high school diploma or the equivalent;

(C) has successfully completed a school or program that:

(i) requires at least five hundred (500) hours of supervised classroom instruction on massage therapy; and

(ii) is in good standing with any state, regional, or national agency of government charged with regulating massage therapy schools or programs;

(D) has taken and passed any of the following:

(i) the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB), if the exam is recognized or accredited by the NCCA;

(ii) an examination created or approved by the board; or

(iii) an equivalent massage examination accredited by the NCCA.

(2) Be of good moral character to the satisfaction of the board.

(3) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, except in the case of a conviction for prostitution, rape, or sexual misconduct or if the applicant is a registered sex offender.

(4) Verify the information submitted on the application form.

(5) Pay fees established by the board.

Sec. 4. An individual who is not licensed under this article may not:

(1) profess to be a massage therapist;

(2) practice massage or massage therapy; or

(3) use:

(A) the title "Licensed Massage Therapist", "Massage

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Therapist", "Licensed Massage Practitioner", "Massage Practitioner", "Masseur", "Masseuse", or "Myotherapist";

(B) the abbreviation "LMT", "MT", "LMP", or "MP"; or

(C) any other words, initials, letters, abbreviations, or insignia indicating or implying that the individual is a massage therapist licensed under this article.

Chapter 6. Licensure by Endorsement

Sec. 1. (a) Subject to section 2 of this chapter, the board may grant a license to any individual who:

(1) is licensed, certified, or registered in another state or country having credentialing standards that are at least as strict as those under this article; and

(2) is in good standing with the standard of the state or country.

(b) Upon receipt of an application for a license by endorsement under this chapter, the board shall contact each jurisdiction that previously credentialed the applicant to determine the applicant's current status in each jurisdiction.

Sec. 2. The board shall issue a license to an applicant if:

(1) the applicant has been credentialed by another state within the five (5) years immediately preceding the submission of the application to the board under this chapter and the state has standards for massage therapists that are substantially equivalent to this article; or

(2) the applicant:

(A) holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork or another agency that meets standards set by the NCCA; and

(B) is a current member of a professional massage and bodywork therapy association;

and the applicant meets other requirements established by the board.

Chapter 7. License Renewal

Sec. 1. A license issued by the board is valid for four (4) years.

Sec. 2. (a) An individual who applies to renew a license as a massage therapist must do the following:

(1) file a renewal application with the board; and

(2) pay a renewal fee set by the board.

(b) An application must include proof of current membership in a professional massage and body work therapy association.

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Sec. 3. (a) A renewal application must be submitted to the board at least fifteen (15) days before expiration of the license.

(b) If a renewal application is not submitted within the time set forth in subsection (a), the board may charge the applicant a delinquent fee in the amount set by the board.

Chapter 8. Discipline and Violations

Sec. 1. (a) This section does not apply to the violation of a rule adopted by the board.

(b) A person who knowingly violates or causes a violation of this article commits a Class C misdemeanor.

Sec. 2. (a) The board shall follow the disciplinary procedures established under IC 25-1-7 and IC 25-1-9-4 through IC 25-1-9-9.

(b) The board shall adopt rules under IC 4-22-2 regarding the discipline of a licensee for violations of this article.

Sec. 3. (a) Any person who practices, offers to practice, attempts to practice, or holds the person out to practice massage therapy or as a massage therapist without being licensed under this article, in addition to any other penalty provided by law, shall pay a civil penalty to the board in an amount not to exceed five thousand dollars ($5,000) for each offense as determined by the board.

(b) The civil penalty shall be paid within sixty (60) days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had in the same manner as any judgment from any court of record.

Sec. 4. Any person who knowingly:

(1) aids and abets a person not authorized to use a professional title regulated by this article; or

(2) employs another person not authorized to use the regulated professional title under this article in the course of the other person's employment;

commits a violation of this article and, in addition to any other penalty provided by law, shall pay a civil penalty to the board in an amount not to exceed five thousand dollars ($5,000) for each offense as determined by the board.

Chapter 9. Preemption of Local Ordinances and Regulations

Sec. 1. Except as provided in section 2 of this chapter, this article supercedes an ordinance or a regulation adopted by a municipality or county relating to the licensing or registration of massage therapists.

Sec. 2. This article does not affect local regulations relating to:

(1) zoning requirements; or

(2) occupational license fees;

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adopted by a municipality or county pertaining to massage therapists.

SECTION 9. [EFFECTIVE JUNE 1, 2003] **(a) As used in this SECTION, "board" refers to the state board of massage therapy established by IC 25-28.1-3-1, as added by this act.**

(b) The governor shall make initial appointment to the board not later than July 1, 2003. The initial members of the board shall serve for the following terms:

(1) The three (3) members appointed under IC 25-21.8-3-2(a)(1), as added by this act, serve for two (2) years.

(2) The two (2) members appointed under IC 25-21.8-3-2(a)(2), as added by this act, serve for three (3) years.

(c) An individual who does not meet the requirements of IC 25-21.8-3-2(a)(1), as added by this act, may be appointed to the board if the individual:

(1) substantially meets the requirements of licensure under this act;

(2) currently practices massage or massage therapy in Indiana; and

(3) has practiced massage or massage therapy in Indiana after July 1, 1998, for at least three (3) consecutive years.

(d) This SECTION expires July 1, 2007.

SECTION 10. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 25-21.8-5-3, as added by this act, the board of massage therapy may issue a license before July 1, 2005, to any applicant who practiced massage or massage therapy in Indiana after June 30, 1998, and before July 1, 2003, if the applicant meets one (1) of the following conditions:**

(1) Provides the board with two (2) of the following:

(A) Letters of recommendation from three (3) of the following:

(i) A doctor.

(ii) A massage therapy client.

(iii) A member of the clergy.

(iv) An employer that employs the applicant in the practice of massage or massage therapy.

(B) Internal revenue tax return forms from two (2) consecutive years that reflect that the applicant has been employed in the practice of massage or massage therapy.

(C) A schedule book of massage or massage therapy clients

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from two (2) consecutive years.

(2) Provides proof of current membership in good standing in a massage or massage therapy professional association that requires at least five hundred (500) hours of supervised classroom instruction.

(3) Provides a copy of a diploma, transcript, certificate, or other proof of completion of a school accredited by the Indiana commission on proprietary education established by IC 20-1-19-2.

(b) Any applicant who begins practicing massage or massage therapy in Indiana after June 30, 2003, must meet the licensing requirements set forth in IC 25-21.8, as added by this act, to be licensed in Indiana.

(c) Notwithstanding IC 25-21.8-5-3 and IC 25-21.8-6-2, both as added by this act, the board of massage therapy may issue a license to any applicant who:

(1) before March 1, 2003, enrolled in a massage therapy school or program that required at least five hundred (500) hours of supervised classroom instruction if the school was in good standing with any state, regional, or national agency of government charged with regulating massage therapy or programs; and

(2) before January 1, 2004, completes the requirements of the massage therapy school or a massage therapy program described in subdivision (1).

(d) This SECTION expires July 1, 2006.

SECTION 11. [EFFECTIVE JULY 1, 2003] **(a) Before July 1, 2005, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, shall:**

(1) adopt a licensing examination;

(2) approve an examination other than the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB); or

(3) approve an equivalent massage examination accredited by NCCA;

that an individual may use as the basis for complying with IC 25-21.8-5-3(1)(D), as added by this act.

(b) This SECTION expires December 31, 2005.

SECTION 12: **An emergency is declared for this act.**

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