



February 23, 2007

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## SENATE BILL No. 320

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DIGEST OF SB 320 (Updated February 22, 2007 9:17 am - DI 104)

**Citations Affected:** IC 10-13; IC 25-1; IC 25-21.8; noncode.

**Synopsis:** Massage therapists certification. Establishes the state board of massage therapy to certify massage therapists. Specifies certification requirements. Establishes guidelines for the certification by endorsement of a massage therapist who holds a certification or license in another state or country. Establishes penalties for the unauthorized use of the title massage therapist.

**Effective:** July 1, 2007.

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**Miller, Errington, Delph**

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January 11, 2007, read first time and referred to Committee on Health and Provider Services.  
February 22, 2007, amended, reported favorably — Do Pass.

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SB 320—LS 7056/DI 14+



February 23, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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## SENATE BILL No. 320

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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:*

- 1 SECTION 1. IC 10-13-3-37 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 37. (a) Under Public  
3 Law 92-544 (86 Stat. 1115), a local law enforcement agency may use  
4 fingerprints submitted for the purpose of identification in a request  
5 related to the following:
- 6 (1) A taxicab driver's license application.
  - 7 ~~(2) An application for a license for a massage therapist.~~
  - 8 ~~(3)~~ **(2)** Reinstatement or renewal of a **taxicab driver's** license.  
9 ~~described in subdivisions (1) and (2).~~
  - 10 (b) An applicant shall submit the fingerprints on forms provided for  
11 the license application.
  - 12 (c) The local law enforcement agency shall charge each applicant  
13 the fees set by the department and federal authorities to defray the costs  
14 associated with a search for and classification of the applicant's  
15 fingerprints.
  - 16 (d) The local law enforcement agency may:  
17 (1) forward for processing to the Federal Bureau of Investigation

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1 or any other agency fingerprints submitted by a license applicant;  
 2 and  
 3 (2) receive the results of all fingerprint investigations.  
 4 SECTION 2. IC 25-1-2-2.1, AS AMENDED BY P.L.87-2005,  
 5 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2007]: Sec. 2.1. Rather than being issued annually, the  
 7 following permits, licenses, certificates of registration, or evidences of  
 8 authority granted by a state agency must be issued for a period of two  
 9 (2) years or for the period specified in the article under which the  
 10 permit, license, certificate of registration, or evidence of authority is  
 11 issued if the period specified in the article is longer than two (2) years:  
 12 (1) Certified public accountants, public accountants, and  
 13 accounting practitioners.  
 14 (2) Architects and landscape architects.  
 15 (3) Dry cleaners.  
 16 (4) Professional engineers.  
 17 (5) Land surveyors.  
 18 (6) Real estate brokers.  
 19 (7) Real estate agents.  
 20 (8) Security dealers' licenses issued by the securities  
 21 commissioner.  
 22 (9) Dental hygienists.  
 23 (10) Dentists.  
 24 (11) Veterinarians.  
 25 (12) Physicians.  
 26 (13) Chiropractors.  
 27 (14) Physical therapists.  
 28 (15) Optometrists.  
 29 (16) Pharmacists and assistants, drugstores or pharmacies.  
 30 (17) Motels and mobile home community licenses.  
 31 (18) Nurses.  
 32 (19) Podiatrists.  
 33 (20) Occupational therapists and occupational therapy assistants.  
 34 (21) Respiratory care practitioners.  
 35 (22) Social workers, marriage and family therapists, and mental  
 36 health counselors.  
 37 (23) Real estate appraiser licenses and certificates issued by the  
 38 real estate appraiser licensure and certification board.  
 39 (24) Wholesale legend drug distributors.  
 40 (25) Physician assistants.  
 41 (26) Dietitians.  
 42 (27) Hypnotists.

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- 1 (28) Athlete agents.
- 2 (29) Manufactured home installers.
- 3 (30) Home inspectors.
- 4 **(31) Massage therapists.**
- 5 SECTION 3. IC 25-1-2-6 IS AMENDED TO READ AS FOLLOWS
- 6 [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) As used in this section,
- 7 "license" includes all occupational and professional licenses,
- 8 registrations, permits, and certificates issued under the Indiana Code,
- 9 and "licensee" includes all occupational and professional licensees,
- 10 registrants, permittees, and certificate holders regulated under the
- 11 Indiana Code.
- 12 (b) This section applies to the following entities that regulate
- 13 occupations or professions under the Indiana Code:
- 14 (1) Indiana board of accountancy.
- 15 (2) Indiana grain buyers and warehouse licensing agency.
- 16 (3) Indiana auctioneer commission.
- 17 (4) Board of registration for architects and landscape architects.
- 18 (5) State board of barber examiners.
- 19 (6) State board of cosmetology examiners.
- 20 (7) Medical licensing board of Indiana.
- 21 (8) Secretary of state.
- 22 (9) State board of dentistry.
- 23 (10) State board of funeral and cemetery service.
- 24 (11) Worker's compensation board of Indiana.
- 25 (12) Indiana state board of health facility administrators.
- 26 (13) Committee of hearing aid dealer examiners.
- 27 (14) Indiana state board of nursing.
- 28 (15) Indiana optometry board.
- 29 (16) Indiana board of pharmacy.
- 30 (17) Indiana plumbing commission.
- 31 (18) Board of podiatric medicine.
- 32 (19) Private detectives licensing board.
- 33 (20) State board of registration for professional engineers.
- 34 (21) Board of environmental health specialists.
- 35 (22) State psychology board.
- 36 (23) Indiana real estate commission.
- 37 (24) Speech-language pathology and audiology board.
- 38 (25) Department of natural resources.
- 39 (26) State boxing commission.
- 40 (27) Board of chiropractic examiners.
- 41 (28) Mining board.
- 42 (29) Indiana board of veterinary medical examiners.

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- 1 (30) State department of health.
- 2 (31) Indiana physical therapy committee.
- 3 (32) Respiratory care committee.
- 4 (33) Occupational therapy committee.
- 5 (34) Social worker, marriage and family therapist, and mental
- 6 health counselor board.
- 7 (35) Real estate appraiser licensure and certification board.
- 8 (36) State board of registration for land surveyors.
- 9 (37) Physician assistant committee.
- 10 (38) Indiana dietitians certification board.
- 11 (39) Indiana hypnotist committee.
- 12 (40) Attorney general (only for the regulation of athlete agents).
- 13 (41) Manufactured home installer licensing board.
- 14 (42) Home inspectors licensing board.
- 15 **(43) State board of massage therapy.**
- 16 ~~(43)~~ **(44)** Any other occupational or professional agency created
- 17 after June 30, 1981.

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

27 SECTION 4. IC 25-1-6-3, AS AMENDED BY P.L.206-2005,  
 28 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2007]: Sec. 3. (a) The licensing agency shall perform all  
 30 administrative functions, duties, and responsibilities assigned by law  
 31 or rule to the executive director, secretary, or other statutory  
 32 administrator of the following:

- 33 (1) Indiana board of accountancy (IC 25-2.1-2-1).
- 34 (2) Board of registration for architects and landscape architects  
 35 (IC 25-4-1-2).
- 36 (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- 37 (4) State board of barber examiners (IC 25-7-5-1).
- 38 (5) State boxing commission (IC 25-9-1).
- 39 (6) State board of cosmetology examiners (IC 25-8-3-1).
- 40 (7) State board of funeral and cemetery service (IC 25-15-9).
- 41 (8) State board of registration for professional engineers  
 42 (IC 25-31-1-3).

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- 1 (9) Indiana plumbing commission (IC 25-28.5-1-3).
- 2 (10) Indiana real estate commission (IC 25-34.1).
- 3 (11) Real estate appraiser licensure and certification board
- 4 (IC 25-34.1-8-1).
- 5 (12) Private detectives licensing board (IC 25-30-1-5.1).
- 6 (13) State board of registration for land surveyors
- 7 (IC 25-21.5-2-1).
- 8 (14) Manufactured home installer licensing board (IC 25-23.7).
- 9 (15) Home inspectors licensing board (IC 25-20.2-3-1).
- 10 **(16) State board of massage therapy (IC 25-21.8-3-1).**

11 (b) **Except for appeals of denials of license renewals to the**  
 12 **executive director authorized by section 5.5 of this chapter,** nothing  
 13 in this chapter may be construed to give the licensing agency policy  
 14 making authority, which remains with each board.

15 SECTION 5. IC 25-1-7-1 IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter:

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

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

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

23 "Licensee" means a person who is:

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

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

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

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

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- 1 (11) Indiana state board of health facility administrators  
 2 (IC 25-19-1).  
 3 (12) Medical licensing board of Indiana (IC 25-22.5-2).  
 4 (13) Indiana state board of nursing (IC 25-23-1).  
 5 (14) Indiana optometry board (IC 25-24).  
 6 (15) Indiana board of pharmacy (IC 25-26).  
 7 (16) Indiana plumbing commission (IC 25-28.5-1-3).  
 8 (17) Board of podiatric medicine (IC 25-29-2-1).  
 9 (18) Board of environmental health specialists (IC 25-32-1).  
 10 (19) State psychology board (IC 25-33).  
 11 (20) Speech-language pathology and audiology board  
 12 (IC 25-35.6-2).  
 13 (21) Indiana real estate commission (IC 25-34.1-2).  
 14 (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).  
 15 (23) Department of natural resources for purposes of licensing  
 16 water well drillers under IC 25-39-3.  
 17 (24) Respiratory care committee (IC 25-34.5).  
 18 (25) Private detectives licensing board (IC 25-30-1-5.1).  
 19 (26) Occupational therapy committee (IC 25-23.5).  
 20 (27) Social worker, marriage and family therapist, and mental  
 21 health counselor board (IC 25-23.6).  
 22 (28) Real estate appraiser licensure and certification board  
 23 (IC 25-34.1-8).  
 24 (29) State board of registration for land surveyors  
 25 (IC 25-21.5-2-1).  
 26 (30) Physician assistant committee (IC 25-27.5).  
 27 (31) Indiana athletic trainers board (IC 25-5.1-2-1).  
 28 (32) Indiana dietitians certification board (IC 25-14.5-2-1).  
 29 (33) Indiana hypnotist committee (IC 25-20.5-1-7).  
 30 (34) Indiana physical therapy committee (IC 25-27).  
 31 (35) Manufactured home installer licensing board (IC 25-23.7).  
 32 (36) Home inspectors licensing board (IC 25-20.2-3-1).  
 33 **(37) State board of massage therapy (IC 25-21.8-3-1).**  
 34 ~~(37)~~ **(38)** Any other occupational or professional agency created  
 35 after June 30, 1981.  
 36 SECTION 6. IC 25-1-8-1 IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "board"  
 38 means any of the following:  
 39 (1) Indiana board of accountancy (IC 25-2.1-2-1).  
 40 (2) Board of registration for architects and landscape architects  
 41 (IC 25-4-1-2).  
 42 (3) Indiana auctioneer commission (IC 25-6.1-2-1).

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

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- 1 (37) Home inspectors licensing board (IC 25-20.2-3-1).
- 2 **(38) State board of massage therapy (IC 25-21.8-3-1).**
- 3 ~~(38)~~ **(39)** Any other occupational or professional agency created
- 4 after June 30, 1981.

5 SECTION 7. IC 25-1-11-1 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this  
 7 chapter, "board" means any of the following:

- 8 (1) Indiana board of accountancy (IC 25-2.1-2-1).
- 9 (2) Board of registration for architects and landscape architects
- 10 (IC 25-4-1-2).
- 11 (3) Indiana auctioneer commission (IC 25-6.1-2).
- 12 (4) State board of barber examiners (IC 25-7-5-1).
- 13 (5) State boxing commission (IC 25-9-1).
- 14 (6) State board of cosmetology examiners (IC 25-8-3-1).
- 15 (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- 16 (8) State board of funeral and cemetery service (IC 25-15-9).
- 17 (9) State board of registration for professional engineers
- 18 (IC 25-31-1-3).
- 19 (10) Indiana plumbing commission (IC 25-28.5-1-3).
- 20 (11) Indiana real estate commission (IC 25-34.1-2-1).
- 21 (12) Real estate appraiser licensure certification board
- 22 (IC 25-34.1-8).
- 23 (13) Private detectives licensing board (IC 25-30-1-5.1).
- 24 (14) Manufactured home installer licensing board (IC 25-23.7).
- 25 (15) Home inspectors licensing board (IC 25-20.2-3-1).
- 26 **(16) State board of massage therapy (IC 25-21.8-3-1).**

27 SECTION 8. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS  
 28 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 29 2007]:

30 **ARTICLE 21.8. MASSAGE THERAPISTS**  
 31 **Chapter 1. Application of Article**  
 32 **Sec. 1. (a) This article applies to an individual who practices or**  
 33 **offers to practice massage therapy.**  
 34 **(b) This article does not apply to the following:**  
 35 **(1) An individual who:**  
 36 **(A) does not profess to be a massage therapist or use a title,**  
 37 **an abbreviation, or another designation set forth in**  
 38 **IC 25-21.8-5-4(3); and**  
 39 **(B) engages in the practice for which the person holds a**  
 40 **license, certification, or registration under Indiana law,**  
 41 **including a physician, chiropractor, podiatrist, physical**  
 42 **therapist, or nurse.**

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- 1           **(2) A massage therapy student who performs massage or**
- 2           **massage therapy in the course of the student's studies and**
- 3           **who:**
  - 4               **(A) does not profess to be a massage therapist or use a title,**
  - 5               **an abbreviation, or another designation set forth in**
  - 6               **IC 25-21.8-5-4(3); and**
  - 7               **(B) does not receive or request compensation for the**
  - 8               **massage or massage therapy.**
- 9           **(3) An individual who:**
  - 10               **(A) does not profess to be a massage therapist or use a title,**
  - 11               **an abbreviation, or another designation set forth in**
  - 12               **IC 25-21.8-5-4(3) and whose services are not designated or**
  - 13               **implied to be massage or massage therapy;**
  - 14               **(B) is engaged within the scope of practice of a profession**
  - 15               **with established standards and ethics; and**
  - 16               **(C) uses:**
    - 17                   **(i) touch, words, and direct movements to deepen**
    - 18                   **awareness of existing patterns of movement in the body**
    - 19                   **and to suggest new possibilities of movement; or**
    - 20                   **(ii) touch that is essential for effectual palpation of the**
    - 21                   **human energy system.**
- 22           **(4) An individual who:**
  - 23               **(A) does not profess to be a massage therapist or use a title,**
  - 24               **an abbreviation, or another designation set forth in**
  - 25               **IC 25-21.8-5-4(3); and**
  - 26               **(B) treats soft tissue above the neck, below the elbow, or**
  - 27               **below the knee on a client who is not disrobed.**
- 28           **Chapter 2. Definitions**
- 29           **Sec. 1. The definitions in this chapter apply throughout this**
- 30           **article.**
- 31           **Sec. 2. "Board" means the state board of massage therapy**
- 32           **established by IC 25-21.8-3-1.**
- 33           **Sec. 3. "Licensing agency" means the Indiana professional**
- 34           **licensing agency established under IC 25-1-5-3.**
- 35           **Sec. 4. "Massage", "massage therapy", or "bodywork":**
  - 36               **(1) means the therapeutic application of massage techniques**
  - 37               **on the human body;**
  - 38               **(2) includes:**
    - 39                   **(A) the use of touch, pressure, percussion, kneading,**
    - 40                   **movement, positioning, nonspecific stretching, stretching**
    - 41                   **within the normal anatomical range of movement, and**
    - 42                   **holding, with or without the use of massage devices that**

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- 1                   mimic or enhance manual measures; and
- 2                   **(B) the external application of heat, cold, water, ice, stones,**
- 3                   **lubricants, abrasives, and topical preparations that are not**
- 4                   **classified as prescription drugs; and**
- 5                   **(3) does not include:**
- 6                   **(A) joint manipulation or spinal adjustment; and**
- 7                   **(B) diagnosis or prescribing drugs for which a license is**
- 8                   **required.**

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

11                   **Sec. 6. "Practice of massage", "practice of massage therapy",**  
 12 **or "practice of bodywork" means:**

- 13                   **(1) performing massage, massage therapy, or body work;**
- 14                   **(2) professing to be a massage therapist; or**
- 15                   **(3) implying in any manner to the public that an individual**
- 16                   **performs massage or massage therapy.**

17                   **Sec. 7. "Professional massage and bodywork therapy**  
 18 **association" means a state or nationally chartered organization**  
 19 **that is devoted to the massage specialty and therapeutic approach**  
 20 **and that meets the following requirements:**

- 21                   **(1) The organization requires that its members meet**  
 22 **minimum educational requirements. The educational**  
 23 **requirements must include anatomy, physiology, hygiene,**  
 24 **sanitation, ethics, technical theory, and application of**  
 25 **techniques.**
- 26                   **(2) The organization has an established code of ethics and has**  
 27 **procedures for the suspension and revocation of membership**  
 28 **of persons violating the code of ethics.**

29                   **Chapter 3. State Board of Massage Therapy**

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

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

- 33                   **(1) Three (3) massage therapists, each of whom:**
- 34                   **(A) is certified under this article; and**
- 35                   **(B) has been actively practicing massage therapy for at**  
 36 **least three (3) of the five (5) years immediately preceding**  
 37 **the individual's appointment.**

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

- 41                   **(2) Two (2) members of the general public. A board member**  
 42 **appointed under this subdivision must not:**

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- 1 (A) be certified under this article;
- 2 (B) be the spouse of an individual who is certified or
- 3 intends to be certified under this article; or
- 4 (C) have a direct or an indirect financial interest in the
- 5 profession regulated under this article.

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

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

11 Sec. 4. (a) A vacancy in the membership of the board shall be  
 12 filled by an individual appointed by the governor for the unexpired  
 13 term.

14 (b) A member may not serve more than two (2) consecutive  
 15 terms in addition to any unexpired term to which the individual  
 16 was appointed. A member may serve until a successor has been  
 17 appointed and qualified under this chapter.

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

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

- 22 (1) A chairperson.
- 23 (2) A vice chairperson.
- 24 (3) A secretary.

25 (b) A member serving as chairperson, vice chairperson, or  
 26 secretary shall serve until the member's successor as chairperson,  
 27 vice chairperson, or secretary is elected.

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

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

32 (b) An affirmative vote of three (3) members of the board is  
 33 necessary for the board to take official action.

34 Sec. 8. A member of the board is not entitled to a per diem  
 35 allowance or any other compensation for the performance of the  
 36 member's duties.

37 **Chapter 4. Powers and Duties of the Board**

38 **Sec. 1. (a) The board shall do the following:**

- 39 (1) Administer and enforce this article.
- 40 (2) Adopt rules under IC 4-22-2 for the administration and
- 41 enforcement of this article.
- 42 (3) Judge the qualifications of applicants for certification

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- under this article.
- (4) Issue, deny, or renew certifications under this article.
- (5) Subject to IC 25-1-7 and IC 25-1-11, discipline individuals who are certified under IC 4-21.5 for violations of this article.
- (6) Establish reasonable fees for examination, certification applications, renewal of certifications, and other services.
- (7) Maintain a record of all proceedings.
- (8) Maintain records of certified massage therapists.

- (b) The board may do the following:
  - (1) Conduct administrative hearings.
  - (2) Administer oaths in matters relating to the discharge of the official duties of the board.

- Sec. 2. The licensing agency 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.

Sec. 3. Expenses incurred in the administration of this article must be paid from the state general fund.

**Chapter 5. Issuance of Certification**

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

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

- (1) made to the board in the form and manner 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 certification 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 of a high school diploma;
  - (C) has successfully completed a massage school or program that:
    - (i) requires at least five hundred (500) hours of supervised classroom and hands on instruction on

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- 1           **massage therapy, with at least two hundred fifty (250)**
- 2           **hours consisting of hands on instruction;**
- 3           **(ii) is in good standing with a state, regional, or national**
- 4           **agency of government charged with regulating massage**
- 5           **therapy schools or programs; and**
- 6           **(iii) is accredited by the Indiana commission on**
- 7           **proprietary education established by IC 20-12-76-11 or**
- 8           **accredited by another state where the standards for**
- 9           **massage therapy education are substantially the same as**
- 10           **the standards in Indiana, or is a program at an**
- 11           **institution of higher learning that is approved by the**
- 12           **board; and**
- 13           **(D) has taken and passed one (1) of the following:**
- 14           **(i) The National Certification Examination for**
- 15           **Therapeutic Massage and Bodywork (NCETMB).**
- 16           **(ii) The National Certification Board Examination of the**
- 17           **American Medical Massage Association (NCBEAMMA).**
- 18           **(iii) An examination created or approved by the board if**
- 19           **the examination has undergone psychometric evaluation**
- 20           **by a recognized agency.**
- 21           **(2) Provide a history of any criminal convictions the**
- 22           **individual has, including any convictions related to the**
- 23           **practice of the profession. A criminal conviction may not**
- 24           **operate as a complete bar to certification, unless:**
- 25           **(A) the conviction is for:**
- 26           **(i) prostitution;**
- 27           **(ii) rape; or**
- 28           **(iii) sexual misconduct; or**
- 29           **(B) the applicant is a registered sex offender.**
- 30           **(3) Verify the information submitted on the application form.**
- 31           **(4) Pay fees established by the board.**

32           **Sec. 4. An individual who is not certified under this article may**  
 33           **not:**

- 34           **(1) profess to be a massage therapist;**
- 35           **(2) practice massage or massage therapy; or**
- 36           **(3) use:**
- 37           **(A) the title "Certified Massage Therapist" or "Massage**
- 38           **Therapist";**
- 39           **(B) the abbreviation "LMT", "MT", "LMP", or "MP"; or**
- 40           **(C) other words, initials, letters, abbreviations, or insignia**
- 41           **indicating or implying that the individual is a massage**
- 42           **therapist certified under this article.**

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**Chapter 6. Certification by Endorsement**

**Sec. 1. (a) Subject to section 2 of this chapter, the board may grant certification by endorsement to an individual who:**

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

**(2) is in good standing with the standards of the other state or country;**

**(3) pays an application fee established by the board; and**

**(4) provides a history of the individual's criminal convictions, if any, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to certification, unless:**

**(A) the conviction is for:**

**(i) prostitution;**

**(ii) rape; or**

**(iii) sexual misconduct; or**

**(B) the applicant is a registered sex offender.**

**(b) An applicant for a certification by endorsement shall cause each jurisdiction that previously credentialed the applicant to provide the board with the applicant's current status in the jurisdiction.**

**Sec. 2. The board shall certify 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 credentialing standards for massage therapists that are substantially equivalent to the credentialing standards that must be met under this article; or**

**(2) the applicant holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork (NCETMB) or the National Certification Board of the American Medical Massage Association;**

**and the applicant meets other requirements established by the board.**

**Chapter 7. Certification Renewal**

**Sec. 1. A certification issued by the board is valid for two (2) years. A certification expires at midnight on the date established by the licensing agency under IC 25-1-6-4 and every two (2) years thereafter, unless renewed before that date.**

**Sec. 2. An individual who applies to renew certification as a**

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massage therapist must:

- (1) apply for renewal in the manner required by the board;
- (2) pay a renewal fee established by the board; and
- (3) provide a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to the renewal of a certification, unless:

(A) the conviction is for:

- (i) prostitution;
- (ii) rape; or
- (iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

Sec. 3. If a renewal application is not submitted within the time set forth in section 1 of this chapter, the board shall charge the applicant a reinstatement fee in an amount established 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, IC 25-1-9-4, and IC 25-1-9-9.

(b) The board shall adopt rules under IC 4-22-2 regarding standards for the competent practice of massage therapy.

**Chapter 9. Preemption of Local Ordinances, Resolutions, Rules, and Policies**

Sec. 1. Except as provided in section 2 of this chapter, this article supersedes any ordinances, resolutions, rules, and policies relating to the licensing, certification, or registration of massage therapists that are adopted by a municipality or county and that otherwise have the force and effect of law.

Sec. 2. This article does not affect local ordinances, resolutions, rules, and policies adopted by a municipality or county that have the force and effect of law and that relate to:

- (1) zoning requirements; or
- (2) occupational license fees.

SECTION 9. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "board" refers to the state board of massage therapy established by IC 25-21.8-3-1, as added by this act.

(b) The governor shall make initial appointments to the board

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1 not later than October 1, 2007. The initial members of the board  
2 shall serve for the following terms:

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

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

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

10 (1) substantially meets the requirements of licensure under  
11 IC 25-21.8, as added by this act;

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

14 (3) has practiced massage or massage therapy in Indiana after  
15 June 1, 2004, for at least three (3) consecutive years.

16 (d) This SECTION expires July 1, 2011.

17 SECTION 10. [EFFECTIVE JULY 1, 2007] (a) Notwithstanding  
18 IC 25-21.8-5-3, as added by this act, the state board of massage  
19 therapy established by IC 25-21.8-3-1, as added by this act, may  
20 issue a certification before July 1, 2008, to an applicant who  
21 practiced massage or massage therapy in Indiana after June 30,  
22 2001, and before July 1, 2007, if the applicant meets the condition  
23 set forth in one (1) of the following subdivisions:

24 (1) Provides the board with Internal Revenue Service income  
25 tax return forms from two (2) consecutive years that reflect  
26 that the applicant has been employed in the practice of  
27 massage or massage therapy.

28 (2) Has completed at least five hundred (500) hours of  
29 supervised classroom and hands on instruction, of which at  
30 least two hundred fifty (250) hours consist of hands on  
31 instruction, as a condition of membership.

32 (3) Provides a copy of a diploma, a transcript, a certificate, or  
33 another proof of completion of:

34 (A) a massage school accredited by:

35 (i) the Indiana commission on proprietary education  
36 established by IC 20-12-76-11; or

37 (ii) another state where the standards for massage  
38 therapy education are substantially equivalent to the  
39 standards in Indiana; or

40 (B) a program at an institution of higher learning that is  
41 approved by the board.

42 (b) An applicant who begins practicing massage or massage

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1 therapy in Indiana after June 30, 2007, must meet the certification  
2 requirements set forth in IC 25-21.8, as added by this act, to be  
3 certified in Indiana.

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

7 (1) before March 1, 2007, enrolled in a massage therapy  
8 school or program that required at least five hundred (500)  
9 hours of supervised classroom and hands on instruction, of  
10 which at least two hundred fifty (250) hours were hands on  
11 instruction, if the school or program was in good standing  
12 with a state, regional, or national agency of government  
13 charged with regulating massage therapy or programs; and

14 (2) before January 1, 2008, completes the requirements of the  
15 massage therapy school or program described in subdivision  
16 (1).

17 (d) This SECTION expires July 1, 2010.

18 SECTION 11. [EFFECTIVE JULY 1, 2007] (a) Before July 1,  
19 2008, the state board of massage therapy established by  
20 IC 25-21.8-3-1, as added by this act, shall:

21 (1) adopt a certification examination;  
22 (2) approve an examination other than the National  
23 Certification Examination for Therapeutic Massage and  
24 Bodywork (NCETMB); or

25 (3) approve an equivalent massage examination accredited by  
26 the National Commission for Certifying Agencies (NCCA);  
27 that an individual may use as the basis for complying with  
28 IC 25-21.8-5-3(1)(D), as added by this act.

29 (b) This SECTION expires December 31, 2009.

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SENATE MOTION

Madam President: I move that Senator Delph be added as coauthor of Senate Bill 320.

MILLER

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SENATE MOTION

Madam President: I move that Senator Errington be added as second author of Senate Bill 320.

MILLER

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 320, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 10, line 3, delete "thermal therapy,".

Page 10, delete lines 12 through 13.

Page 10, line 14, delete "7." and insert "6.".

Page 10, line 20, delete "8." and insert "7.".

Page 13, line 3, after "classroom" insert "**and hands on**".

Page 13, line 3, delete ";" and insert ", **with at least two hundred fifty (250) hours consisting of hands on instruction;**".

Page 13, line 16, delete ", if the" and insert ".".

Page 13, delete line 17.

Page 13, line 18, after "(ii)" insert "**The National Certification Board Examination of the American Medical Massage Association (NCBEAMMA).**

**(iii)**".

Page 13, line 18, delete "." and insert "**if the examination has undergone psychometric evaluation by a recognized agency.**".

Page 13, delete lines 19 through 20.

Page 13, line 37, delete "Therapist," and insert "**Therapist**" or".

Page 13, line 38, delete ", "Licensed Massage Practitioner", "Massage" and insert ";".

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Page 13, delete lines 39 through 40.

Page 14, line 33, delete ":".

Page 14, line 34, delete "(A)".

Page 14, run in lines 33 through 34.

Page 14, line 36, delete "another agency that meets" and insert "**the National Certification Board of the American Medical Massage Association;**".

Page 14, delete lines 37 through 39.

Page 15, line 5, delete "(a)".

Page 15, delete lines 19 through 21.

Page 16, line 32, delete "the following:".

Page 16, delete lines 33 through 39.

Page 16, line 40, delete "(B)".

Page 16, run in lines 32 through 40.

Page 17, line 2, delete "Provides proof of current membership in good standing in" and insert "**Has completed**".

Page 17, delete line 3.

Page 17, line 4, delete "requires".

Page 17, line 5, delete "instruction" and insert "**and hands on instruction, of which at least two hundred fifty (250) hours consist of hands on instruction,**".

Page 17, line 25, delete "instruction" and insert "**and hands on instruction, of which at least two hundred fifty (250) hours were hands on instruction,**".

and when so amended that said bill do pass.

(Reference is to SB 320 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 1.

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