



2009 SENATE BILL 388

November 9, 2009 – Introduced by Senators HANSEN, TAYLOR, WIRCH, ELLIS, OLSEN and RISSER, cosponsored by Representatives BERCEAU, KAUFERT, POPE-ROBERTS, SUDER, VAN ROY, HILGENBERG, STASKUNAS, BALLWEG and MOLEPSKE JR.. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 **AN ACT to repeal** 460.04 (3), 460.04 (4), 460.05 (3), 460.14 (4) and 460.15 (2); **to**
2 **renumber and amend** 15.407 (7), 460.01 (1), 460.01 (2), 460.03, 460.04 (1),
3 460.06, 460.10 and 460.15 (1); **to amend** 15.08 (1m) (b), 146.81 (1) (hp), 146.997
4 (1) (d) 13., 180.1901 (1m) (ag), 252.15 (1) (ar) 1., 440.03 (13) (b) 38., 440.08 (2)
5 (a) 46r., chapter 460 (title), 460.01 (3), 460.01 (4), 460.02, 460.04 (title), 460.04
6 (2) (intro.), (a), (b) and (e), 460.05 (title), 460.05 (1) (intro.), 460.05 (1) (c), 460.05
7 (1) (e), 460.05 (1) (g), 460.05 (2), 460.07 (1), 460.07 (2) (intro.), 460.07 (2) (c),
8 460.07 (2) (d), 460.09, 460.11, 460.12 (1), (2), (3), (4) and (5) (b), 460.13, 460.14
9 (1), 460.14 (2) (intro.), 460.14 (2) (a), 460.14 (2) (b), 460.14 (2) (e), 460.14 (2) (h),
10 460.14 (2m) (intro.), 460.14 (3), 460.17 and 895.48 (1m) (a) (intro.) and 2.; and
11 **to create** 15.405 (6r) (a) 2., 460.01 (1g), 460.03 (1m) (c), 460.03 (2m), 460.04
12 (1m), 460.04 (2) (f), 460.04 (2) (g), 460.08, 460.095 and 460.10 (1) (b) of the
13 statutes; **relating to:** changes to the regulation of massage therapy and

SENATE BILL 388

- 1 bodywork, creating the Massage Therapy and Bodywork Therapy Examining
2 Board, and granting rule-making authority.
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Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the regulation of massage therapists and bodyworkers.

Under current law, a person may be certified as a massage therapist or bodyworker by the Department of Regulation and Licensing (department). The department is served in an advisory capacity by the Massage Therapy and Bodywork Council, which reviews and may comment on any rules proposed by the department. The council consists of seven members who are certified as massage therapists or bodyworkers.

The bill creates a Massage Therapy and Bodywork Therapy Examining Board (board) in the department and transfers rule-making powers to the board. The bill directs the board to license, not certify, persons who fulfill the requirements for licensure as massage therapists or bodyworker therapists. The bill also permits the board to grant a temporary license to practice massage therapy or bodywork therapy for a period not to exceed six months, and requires the board to establish requirements for temporary licensure by rule.

This bill changes uses of the term, “massage therapy or bodywork,” to “massage therapy” or “bodywork therapy,” and changes uses of the term, “bodyworker,” to “bodywork therapist.”

The bill requires one of the seven members of the board to be a representative of a massage therapy or bodywork therapy school approved by the Educational Approval Board, and one member of the board to be a representative of a massage therapy or bodywork therapy program offered by a technical college in this state. No other members of the board may be affiliated with a massage therapy or bodywork therapy school or program. The bill also requires one member of the board to be a member of the public.

Current law prohibits a person who is not certified by the department from designating himself or herself as a massage therapist or bodyworker or using any title that represents that he or she is certified. With one exception noted below, this bill permits persons who are exempt from the licensing requirement to use the terms, “bodywork,” “bodyworker,” and “bodywork therapy” to identify his or her practice. The bill also creates the following two new exemptions from the licensing requirement:

1. A person who manipulates only the soft tissue of the hands, feet, and ears. Persons who fall under this exemption may not represent or imply that their services are massage therapy or bodywork therapy.

2. A person whose practice involves the use of touch or touch and movement to assist and bring body awareness to his or her clients and who is recognized by a professional organization or credentialing association after that person has demonstrated an adequate level of training and competency.

SENATE BILL 388

Under current law, an applicant for certification must have passed an examination offered by the National Certification Board for Therapeutic Massage and Bodywork or an examination administered by the National Commission for Certifying Agencies. This bill requires an applicant for licensure to achieve a passing grade on a nationally administered entry-level competency examination for therapeutic massage and bodywork therapy that meets generally accepted psychometric principles and standards or a substantially equivalent examination approved by the board. The bill also requires all applicants for a license to pass an examination on state laws and rules governing massage therapy and bodywork therapy. The bill requires the board to prepare the state examination. The bill further requires massage therapy and bodywork therapy schools in Wisconsin to provide and require as a prerequisite to graduation the completion of a course on the state laws and rules and to administer, require as a prerequisite to graduation, and grade the state examination.

Under current law, there are no requirements governing massage therapy or bodywork therapy instructors in Wisconsin. This bill requires instructors teaching courses in anatomy, physiology, kinesiology, and pathology at a school of massage therapy or bodywork therapy to have completed two years of post-secondary education and training or to have professional training and two years of experience in a health-related field. The bill also requires instructors teaching courses in the theory and practice of massage therapy or bodywork therapy at a school of massage therapy or bodywork therapy to be licensed as a massage therapist or bodywork therapist and either two years as a practicing professional or formal education and training as a massage therapy or bodywork therapy instructor.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.08 (1m) (b) of the statutes is amended to read:
2 15.08 **(1m)** (b) The public members of the chiropractic examining board, the
3 dentistry examining board, the hearing and speech examining board, the medical
4 examining board, perfusionists examining council, respiratory care practitioners
5 examining council and council on physician assistants, the board of nursing, the
6 massage therapy and bodywork therapy examining board, the nursing home
7 administrator examining board, the veterinary examining board, the optometry
8 examining board, the pharmacy examining board, the marriage and family therapy,
9 professional counseling, and social work examining board, and the psychology

SENATE BILL 388**SECTION 1**

1 examining board shall not be engaged in any profession or occupation concerned with
2 the delivery of physical or mental health care.

3 **SECTION 2.** 15.405 (6r) (a) 2. of the statutes is created to read:

4 15.405 (6r) (a) 2. One public member.

5 **SECTION 3.** 15.407 (7) of the statutes is renumbered 15.405 (6r), and 15.405 (6r)
6 (a) and (b) (intro.), 2. and 3., as renumbered, are amended to read:

7 15.405 (6r) ~~MESSAGE THERAPY AND BODYWORK COUNCIL~~ THERAPY EXAMINING BOARD.

8 (a) There is created a massage therapy and bodywork ~~council~~ therapy examining
9 board in the department of regulation and licensing, ~~servng the department in an~~
10 ~~advisory capacity.~~ The ~~council~~ examining board shall consist of the following 7
11 ~~members,~~ appointed for 4-year terms, ~~who are:~~

12 1. Six massage therapists or ~~bodyworkers~~ certified bodywork therapists
13 licensed under ch. 460 and who have engaged in the practice of massage therapy or
14 bodywork therapy for at least 2 years preceding appointment. One member
15 appointed under this subdivision shall be a representative of a massage therapy or
16 bodywork therapy school approved by the educational approval board under s. 38.50.
17 One member appointed under this subdivision shall be a representative of a massage
18 therapy or bodywork therapy program offered by a technical college in this state. No
19 other members appointed under this subdivision shall be directly or indirectly
20 affiliated with a massage therapy or bodywork therapy school or program.

21 (b) (intro.) In appointing members under par. (a), the governor shall ensure, to
22 the maximum extent practicable, that the membership of the ~~council~~ examining
23 board is diverse, based on all of the following factors:

24 2. Affiliation and nonaffiliation with a professional association for the practice
25 of massage therapy or bodywork therapy.

SENATE BILL 388

1 3. Professional associations with which massage therapists or ~~bodyworkers~~
2 bodywork therapists in this state are affiliated.

3 **SECTION 4.** 146.81 (1) (hp) of the statutes is amended to read:

4 146.81 (1) (hp) A massage therapist or ~~bodyworker~~-certified bodywork
5 therapist licensed under ch. 460.

6 **SECTION 5.** 146.997 (1) (d) 13. of the statutes is amended to read:

7 146.997 (1) (d) 13. A massage therapist or ~~bodyworker~~ bodywork therapist
8 ~~issued a certificate~~ licensed under ch. 460.

9 **SECTION 6.** 180.1901 (1m) (ag) of the statutes is amended to read:

10 180.1901 (1m) (ag) The ~~department of regulation and licensing~~ massage
11 therapy and bodywork therapy examining board under ch. 460.

12 **SECTION 7.** 252.15 (1) (ar) 1. of the statutes, as affected by 2009 Wisconsin Act
13 28, is amended to read:

14 252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1) (a) to (hm)
15 and (i) to (p), ~~but does not include a massage therapist or bodyworker issued a~~
16 ~~certificate under ch. 460.~~

17 **SECTION 8.** 440.03 (13) (b) 38. of the statutes is amended to read:

18 440.03 (13) (b) 38. Massage therapist or ~~bodyworker~~ bodywork therapist.

19 **SECTION 9.** 440.08 (2) (a) 46r. of the statutes, as affected by 2007 Wisconsin Act
20 20, is amended to read:

21 440.08 (2) (a) 46r. Massage therapist or ~~bodyworker~~ bodywork therapist:
22 March 1 of each odd-numbered year.

23 **SECTION 10.** Chapter 460 (title) of the statutes is amended to read:

24

CHAPTER 460

MASSAGE THERAPY AND**BODYWORK THERAPY**

SECTION 11. 460.01 (1) of the statutes is renumbered 460.01 (2m) and amended to read:

460.01 (2m) “Certificate License holder” means a person granted a certificate license under this chapter.

SECTION 12. 460.01 (1g) of the statutes is created to read:

460.01 (1g) “Adjunctive therapy” means any of the following:

(a) The use of a device that simulates or enhances a manual action.

(b) The application of water, lubricants, or other nonprescription topical agents to the skin.

(c) The application of heat or cold to the skin in the absence of an electromagnetic device.

SECTION 13. 460.01 (2) of the statutes is renumbered 460.01 (1r) and amended to read:

460.01 (1r) “Council Examining Board” means the massage therapy and bodywork ~~council~~ therapy examining board.

SECTION 14. 460.01 (3) of the statutes is amended to read:

460.01 (3) “Manual action” includes holding, positioning, rocking, kneading, compressing, decompressing, gliding, or percussing the soft tissue of the human body or applying a passive range of motion to the human body without joint mobilization or manipulation.

SECTION 15. 460.01 (4) of the statutes is amended to read:

460.01 (4) “Massage therapy” or “bodywork therapy” means the science and healing art that uses manual actions and adjunctive therapies to palpate and

SENATE BILL 388

1 manipulate the soft tissue of the human body, in order to improve circulation, reduce
2 tension, relieve soft tissue pain, or increase flexibility, ~~and, “Massage therapy” or~~
3 ~~“bodywork therapy”~~ includes determining whether ~~massage therapy or bodywork is~~
4 manual actions and adjunctive therapies are appropriate or contraindicated, or
5 whether a referral to another health care practitioner is appropriate. “Massage
6 therapy” or “bodywork therapy” does not include making a medical, physical therapy,
7 or chiropractic diagnosis.

8 **SECTION 16.** 460.02 of the statutes is amended to read:

9 **460.02 Certificate License required.** Except as provided in s. 460.03, no
10 person may provide massage therapy or bodywork therapy, designate himself or
11 herself as a massage therapist or ~~bodyworker~~ bodywork therapist, or use or assume
12 the title “massage therapist and ~~bodyworker~~ bodywork therapist” or “massage
13 therapist” or “~~bodyworker~~ bodywork therapist” or any title that includes “massage
14 therapist,” “bodywork therapist,” or “bodyworker,” or append to the person’s name
15 the letters “M.T.,” “R.M.T.,” “L.M.T.,” “C.M.T.,” “B.W.,” “B.T.,” “B.W.,” “L.B.W.,”
16 “R.B.W.,” or “C.B.W.,” or use any other title or designation that represents or may
17 tend to represent that he or she is ~~certified~~ licensed under this chapter, unless the
18 person is ~~certified~~ licensed under this chapter.

19 **SECTION 17.** 460.03 of the statutes is renumbered 460.03 (1m) and amended
20 to read:

21 **460.03 (1m)** A certificate license under this chapter is not required for any of
22 the following:

23 (a) A person holding a license, permit, registration, or certification granted by
24 this state or the federal government who engages in a practice of massage therapy
25 or bodywork therapy within the scope of his or her license, permit, registration, or

SENATE BILL 388**SECTION 17**

1 certification and who does not imply that he or she is ~~certified~~ licensed under this
2 chapter. A person who is exempt from licensure under this subsection may use the
3 terms “bodywork,” “bodyworker,” and “bodywork therapy” to identify his or her
4 practice.

5 (b) A person who is authorized to practice massage therapy or bodywork
6 therapy in another state or country and is providing a consultation to or
7 demonstration with a ~~certificate~~ license holder. A person who is exempt from
8 licensure under this subsection may use the terms “bodywork,” “bodyworker,” and
9 “bodywork therapy” to identify his or her practice.

10 **SECTION 18.** 460.03 (1m) (c) of the statutes is created to read:

11 460.03 (1m) (c) A person who manipulates only the soft tissues of the hands,
12 feet, or ears of the human body, provided that the services are not represented or
13 implied to be massage therapy or bodywork therapy.

14 **SECTION 19.** 460.03 (2m) of the statutes is created to read:

15 460.03 (2m) (a) A person who does any of the following and who satisfies the
16 requirements of par. (b):

17 1. Uses touch, words, and directed movement to deepen a client’s awareness
18 of his or her existing patterns of movement and to suggest to the client new patterns
19 of movement.

20 2. Uses touch to affect the energy systems of the human body.

21 3. Uses touch and education to effect change in the structure of the body while
22 engaged in the practice of structural integration.

23 (b) The person is recognized by or meets the established standards of either a
24 professional organization or credentialing association that recognizes a person in a
25 practice after that person demonstrates an adequate level of training and

SENATE BILL 388

1 competency and adherence to ethical standards. In this paragraph, “practice”
2 includes Rolfing Structural Integration, the Rolf Method of Structural Integration,
3 the Rolf Institute’s Rolf Movement Integration, Hellerwork, the Feldenkrais
4 Method, the Trager Approach, body-mind centering, polarity, polarity therapy,
5 polarity bodywork therapy, and reiki.

6 (c) A person who is exempt from licensure under this subsection may use the
7 terms “bodywork,” “bodyworker,” and “bodywork therapy” to identify his or her
8 practice.

9 **SECTION 20.** 460.04 (title) of the statutes is amended to read:

10 **460.04 (title) Duties of department examining board.**

11 **SECTION 21.** 460.04 (1) of the statutes is renumbered 460.05 (4) and amended
12 to read:

13 460.05 (4) The ~~department shall~~ examining board may assign a unique
14 ~~certificate~~ license number to each person ~~certified~~ licensed under this chapter.

15 **SECTION 22.** 460.04 (1m) of the statutes is created to read:

16 460.04 (1m) The examining board shall prepare an examination on state laws
17 and administrative rules governing massage therapy and bodywork therapy.

18 **SECTION 23.** 460.04 (2) (intro.), (a), (b) and (e) of the statutes are amended to
19 read:

20 460.04 (2) (intro.) The ~~department~~ examining board shall promulgate rules
21 that establish all of the following:

22 (a) Standards that govern the professional conduct of ~~certificate~~ license holders
23 in practicing massage therapy or bodywork therapy. The standards shall prohibit
24 a ~~certificate~~ license holder from having sexual contact or sexual intercourse with a
25 client.

SENATE BILL 388**SECTION 23**

1 (b) Criteria for approving a training program for purposes of s. 460.05 (1) (e)
2 1. Rules promulgated under this paragraph shall require the training program to
3 meet the requirements under s. 460.095 and to consist of at least 600 classroom
4 hours.

5 (e) A requirement that an applicant for a ~~certificate~~ license under this chapter
6 submit evidence satisfactory to the ~~department~~ examining board that the applicant
7 has current proficiency in the use of an automated external defibrillator achieved
8 through instruction provided by an individual, organization, or institution of higher
9 education approved under s. 46.03 (38) to provide such instruction.

10 **SECTION 24.** 460.04 (2) (f) of the statutes is created to read:

11 460.04 (2) (f) Requirements to be satisfied by a person seeking a temporary
12 license under s. 460.08. The rules promulgated under this subsection shall require
13 the person to be a graduate of a massage therapy or bodywork therapy school or
14 program and may require the holder of a temporary license to make disclosures to
15 clients and to practice under the supervision of a massage therapist or bodywork
16 therapist licensed under this chapter.

17 **SECTION 25.** 460.04 (2) (g) of the statutes is created to read:

18 460.04 (2) (g) A requirement that an applicant for a license under this chapter
19 pass an examination on state laws and administrative rules governing massage
20 therapy and bodywork therapy.

21 **SECTION 26.** 460.04 (3) of the statutes is repealed.

22 **SECTION 27.** 460.04 (4) of the statutes is repealed.

23 **SECTION 28.** 460.05 (title) of the statutes is amended to read:

24 **460.05** (title) **Certification Licensure of massage therapists or**
25 **bodyworkers and bodywork therapists.**

SENATE BILL 388

1 **SECTION 29.** 460.05 (1) (intro.) of the statutes is amended to read:

2 460.05 (1) (intro.) The department examining board shall grant a certificate
3 license as a massage therapist or ~~bodyworker~~ bodywork therapist to a person who
4 satisfies all of the following:

5 **SECTION 30.** 460.05 (1) (c) of the statutes is amended to read:

6 460.05 (1) (c) The person submits an application for the certificate license to
7 the department examining board on a form provided by the department examining
8 board.

9 **SECTION 31.** 460.05 (1) (e) of the statutes is amended to read:

10 460.05 (1) (e) Except as provided in sub. (2), the person submits evidence
11 satisfactory to the department examining board that he or she has done all of the
12 following:

13 1. Graduated from a school of massage therapy or bodywork therapy approved
14 by the educational approval board under s. 38.50 that meets the requirements under
15 s. 460.095 or completed a training program approved by the department examining
16 board under the rules promulgated under s. 460.04 (2) (b).

17 2. Completed at least 6 classroom hours in the laws of this state and rules of
18 the department examining board relating to the practice of massage therapy or
19 bodywork therapy in a course of instruction approved by the department examining
20 board.

21 **SECTION 32.** 460.05 (1) (g) of the statutes is amended to read:

22 460.05 (1) (g) The person submits evidence satisfactory to the department
23 examining board that he or she has in effect malpractice liability insurance coverage
24 in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all
25 occurrences in one year.

SENATE BILL 388**SECTION 33**

1 **SECTION 33.** 460.05 (2) of the statutes is amended to read:

2 460.05 (2) The department examining board may waive a requirement
3 specified in sub. (1) (e) if a person establishes, to the satisfaction of the department
4 examining board, that he or she has education, training, or other experience that is
5 substantially equivalent to the requirement.

6 **SECTION 34.** 460.05 (3) of the statutes is repealed.

7 **SECTION 35.** 460.06 of the statutes is renumbered 460.06 (intro.) and amended
8 to read:

9 **460.06 Examinations.** (intro.) The department examining board may not
10 grant a ~~certificate~~ license under this chapter unless the applicant ~~passes~~ achieves a
11 passing grade on the national certification following examinations:

12 (1) A nationally administered, entry-level competency examination for
13 therapeutic massage and bodywork therapy that is offered by the National
14 Certification Board for Therapeutic Massage and Bodywork or an examination
15 relating to the practice of massage therapy or bodywork that is administered by a
16 national board that is accredited by the National Commission for Certifying
17 Agencies meets generally accepted psychometric principles and standards or a
18 substantially equivalent examination approved by the department examining
19 board.

20 (2) ~~The department shall promulgate rules that also require an applicant to~~
21 ~~pass an examination on state laws and administrative rules governing massage~~
22 ~~therapy or~~ and bodywork therapy required under s. 460.04 (2) (g).

23 **SECTION 36.** 460.07 (1) of the statutes is amended to read:

24 460.07 (1) Each person who is certified licensed under this chapter shall
25 conspicuously display the ~~certificate~~ license in the place of business where he or she

SENATE BILL 388

1 practices massage therapy or bodywork therapy so that the certificate license can
2 easily be seen and read.

3 **SECTION 37.** 460.07 (2) (intro.) of the statutes is amended to read:

4 460.07 (2) (intro.) ~~The renewal dates for certificates granted under this chapter~~
5 ~~are specified under s. 440.08 (2) (a).~~ Renewal applications shall be submitted to the
6 department on a form provided by the department on or before the applicable
7 renewal date specified under s. 440.08 (2) (a) and shall include all of the following:

8 **SECTION 38.** 460.07 (2) (c) of the statutes is amended to read:

9 460.07 (2) (c) Evidence satisfactory to the department examining board that
10 the applicant has in effect malpractice liability insurance coverage in an amount that
11 is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one
12 year.

13 **SECTION 39.** 460.07 (2) (d) of the statutes is amended to read:

14 460.07 (2) (d) Evidence satisfactory to the department examining board that
15 the applicant has current proficiency in the use of an automated external
16 defibrillator achieved through instruction provided by an individual, organization,
17 or institution of higher education approved under s. 46.03 (38) to provide such
18 instruction.

19 **SECTION 40.** 460.08 of the statutes is created to read:

20 **460.08 Temporary license.** The examining board may grant a temporary
21 license for a period not to exceed 6 months to an applicant who satisfies the
22 requirements established in the rules under s. 460.04 (2) (f). A temporary license
23 may not be renewed.

24 **SECTION 41.** 460.09 of the statutes is amended to read:

SENATE BILL 388**SECTION 41**

1 **460.09 Reciprocal certificate.** Upon application and payment of the fee
2 specified in s. 440.05 (2), the department examining board shall grant a massage
3 therapist or ~~bodyworker certificate~~ bodywork therapist license to a person who holds
4 a similar ~~certificate~~ license in another state or territory of the United States or
5 another country if the department examining board determines that the
6 requirements for receiving the ~~certificate~~ license in the other state, territory, or
7 country are substantially equivalent to the requirements under s. 460.05.

8 **SECTION 42.** 460.095 of the statutes is created to read:

9 **460.095 Massage therapy and bodywork therapy school, training**
10 **program, and instructor requirements.** Each massage therapy or bodywork
11 therapy school located in this state and each massage therapy or bodywork therapy
12 training program offered in this state shall do all of the following:

13 (1) Provide and require as a prerequisite to graduation completion of a course
14 of instruction on state laws and regulations applicable to massage therapy and
15 bodywork therapy.

16 (2) Administer, score, and require as a prerequisite to graduation, the
17 examination required under s. 460.06 (2).

18 (3) Ensure that each instructor hired by the school or training program on or
19 after the effective date of this subsection ... [LRB inserts date], to teach courses in
20 anatomy, physiology, kinesiology, and pathology has at least one of the following:

21 (a) Professional training and 2 years of experience in a health-related field.

22 (b) Two years of post-secondary education and training.

23 (4) Ensure that each instructor hired by the school or training program on or
24 after the effective date of this subsection ... [LRB inserts date], to teach courses in

SENATE BILL 388

1 theory and the practice of massage therapy or bodywork therapy is licensed under
2 this chapter and has at least one of the following:

3 (a) Two years experience as a practicing professional.

4 (b) Formal education and training as a massage therapy or bodywork therapy
5 instructor.

6 **SECTION 43.** 460.10 of the statutes is renumbered 460.10 (1) (intro.) and
7 amended to read:

8 460.10 (1) (intro.) The department examining board may promulgate rules
9 establishing requirements all of the following:

10 (a) Requirements and procedures for a certificate license holder to complete
11 continuing education programs or courses of study to qualify for renewal of his or her
12 certificate license. The rules promulgated under this paragraph may not require a
13 license holder to complete more than 24 hours of continuing education program or
14 courses of study in order to qualify for renewal of his or her license.

15 (2) The department examining board may waive all or part of any requirement
16 established in rules promulgated under ~~this section~~ sub. (1) (a) if it determines that
17 prolonged illness, disability, or other exceptional circumstances have prevented a
18 certificate license holder from completing the requirement.

19 **SECTION 44.** 460.10 (1) (b) of the statutes is created to read:

20 460.10 (1) (b) Qualifications applicable to providers of continuing education
21 programs and courses required under par. (a).

22 **SECTION 45.** 460.11 of the statutes is amended to read:

23 **460.11 Practice requirements.** (1) A certificate license holder may not
24 practice massage therapy or bodywork therapy on a client unless the certificate

SENATE BILL 388**SECTION 45**

1 license holder first obtains the informed consent of the client and has informed the
2 client that he or she may withdraw the consent at any time.

3 (2) A ~~certificate~~ license holder shall keep confidential any information that a
4 client in confidence gives to the ~~certificate~~ license holder and any other information
5 that the ~~certificate~~ license holder obtains about a client in the course of practicing
6 massage therapy or bodywork therapy that a reasonable person in the client's
7 position would want kept confidential, unless the information is otherwise required
8 by law to be disclosed or the client specifically authorizes the disclosure of the
9 information.

10 (3) A ~~certificate~~ license holder may not, whether for compensation or not,
11 practice massage therapy or bodywork therapy for a sexually oriented business, as
12 defined by the department examining board by rule.

13 **SECTION 46.** 460.12 (1), (2), (3), (4) and (5) (b) of the statutes are amended to
14 read:

15 460.12 (1) A ~~certificate~~ license holder shall submit a report to the department
16 examining board if he or she has reasonable cause to believe that another ~~certificate~~
17 license holder has committed a crime relating to prostitution under ss. 944.30 to
18 944.34 or has had sexual contact or sexual intercourse with a client. If the report
19 relates to sexual contact or sexual intercourse with a client, the report may not
20 identify the client unless the client has provided written consent for disclosure of this
21 information.

22 (2) The department examining board may use a report made under sub. (1) as
23 the basis for an investigation under s. 460.14 (1). If, after an investigation, the
24 department examining board has reasonable cause to believe that a ~~certificate~~
25 license holder has committed a crime, the department examining board shall report

SENATE BILL 388

1 the belief to the district attorney for the county in which the crime, in the opinion of
2 the department examining board, occurred.

3 (3) If, after an investigation, the ~~department~~ examining board determines that
4 a report submitted under sub. (1) is without merit, the ~~department~~ examining board
5 shall remove the report from the record of the ~~certificate~~ license holder who is the
6 subject of the report.

7 (4) All reports and records made from reports under sub. (1) and maintained
8 by the examining board, the department, district attorneys, and other persons,
9 officials, and institutions shall be confidential and are exempt from disclosure under
10 s. 19.35 (1). Information regarding the identity of a client with whom a ~~certificate~~
11 license holder is suspected of having sexual contact or sexual intercourse shall not
12 be disclosed by persons who have received or have access to a report or record unless
13 disclosure is consented to in writing by the client. The report of information under
14 sub. (1) and the disclosure of a report or record under this subsection does not violate
15 any person's responsibility for maintaining the confidentiality of patient health care
16 records, as defined in s. 146.81 (4) and as required under s. 146.82. Reports and
17 records may be disclosed only to the examining board, the department, and the
18 appropriate staff of a district attorney or a law enforcement agency within this state
19 for purposes of investigation or prosecution.

20 (5) (b) A ~~certificate~~ license holder shall submit a written report to the
21 department examining board if he or she is convicted of a felony or misdemeanor, or
22 is found to have committed a violation, in this state or elsewhere, and if the
23 circumstances of the felony, misdemeanor, or violation substantially relate to the
24 practice of massage therapy or bodywork therapy. The report shall identify the date,
25 place, and nature of the conviction or finding and shall be submitted within 30 days

SENATE BILL 388**SECTION 46**

1 after the entry of the judgment of conviction or the judgment finding that he or she
2 committed the violation. If the report is submitted by mail, the report is considered
3 to be submitted on the date that it is mailed.

4 **SECTION 47.** 460.13 of the statutes is amended to read:

5 **460.13 Advertising.** ~~A certificate~~ Except as provided in s. 460.03 (1m) (a) and
6 (b), a license holder may not advertise that he or she practices massage therapy or
7 bodywork therapy unless the advertisement includes ~~his or her certificate number~~
8 and a statement that the ~~certificate~~ license holder is a “~~certified~~ licensed massage
9 therapist and ~~bodyworker~~ bodywork therapist” or “~~certified~~ licensed massage
10 therapist” or “~~certified bodyworker~~ licensed bodywork therapist.”

11 **SECTION 48.** 460.14 (1) of the statutes is amended to read:

12 460.14 (1) Subject to the rules promulgated under s. 440.03 (1), the ~~department~~
13 examining board may make investigations and conduct hearings to determine
14 whether a violation of this chapter or any rule promulgated under this chapter has
15 occurred.

16 **SECTION 49.** 460.14 (2) (intro.) of the statutes is amended to read:

17 460.14 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
18 ~~department~~ examining board may reprimand a ~~certificate~~ license holder or deny,
19 limit, suspend, or revoke a ~~certificate~~ license under this chapter if it finds that the
20 applicant or ~~certificate~~ license holder has done any of the following:

21 **SECTION 50.** 460.14 (2) (a) of the statutes is amended to read:

22 460.14 (2) (a) Made a material misstatement in an application for a ~~certificate~~
23 license or for renewal of a ~~certificate~~ license.

24 **SECTION 51.** 460.14 (2) (b) of the statutes is amended to read:

SENATE BILL 388

1 460.14 (2) (b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an
2 offense the circumstances of which substantially relate to the practice of massage
3 therapy or bodywork therapy.

4 **SECTION 52.** 460.14 (2) (e) of the statutes is amended to read:

5 460.14 (2) (e) Subject to ss. 111.321, 111.322, and 111.34, practiced massage
6 therapy or bodywork therapy while his or her ability to practice was impaired by
7 alcohol or other drugs.

8 **SECTION 53.** 460.14 (2) (h) of the statutes is amended to read:

9 460.14 (2) (h) Engaged in conduct while practicing massage therapy or
10 bodywork therapy that jeopardizes the health, safety, or welfare of a client or that
11 evidences a lack of knowledge of, inability to apply, or the negligent application of,
12 principles or skills of massage therapy or bodywork therapy.

13 **SECTION 54.** 460.14 (2m) (intro.) of the statutes is amended to read:

14 460.14 (2m) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
15 department examining board shall revoke a certificate license under this chapter if
16 the certificate license holder is convicted of any of the following:

17 **SECTION 55.** 460.14 (3) of the statutes is amended to read:

18 460.14 (3) The department examining board may restore a certificate license
19 that has been suspended or revoked on such terms and conditions as the department
20 examining board may deem appropriate.

21 **SECTION 56.** 460.14 (4) of the statutes is repealed.

22 **SECTION 57.** 460.15 (1) of the statutes is renumbered 460.15 and amended to
23 read:

SENATE BILL 388**SECTION 57**

1 **460.15 Penalties Penalty.** ~~Except as provided in sub. (2), any~~ Any person who
2 violates this chapter or any rule promulgated under this chapter shall forfeit not
3 more than \$1,000 for each violation.

4 **SECTION 58.** 460.15 (2) of the statutes is repealed.

5 **SECTION 59.** 460.17 of the statutes is amended to read:

6 **460.17 Local regulation.** A city, village, town, or county may not enact an
7 ordinance that regulates the practice of massage therapy or bodywork therapy by a
8 person who is ~~issued a certificate~~ licensed by the department examining board under
9 this chapter. No provision of any ordinance enacted by a city, village, town, or county
10 that is in effect before February 1, 1999, and that relates to the practice of massage
11 therapy or bodywork therapy, may be enforced against a person who is ~~issued a~~
12 ~~certificate~~ licensed by the department examining board under this chapter.

13 **SECTION 60.** 895.48 (1m) (a) (intro.) and 2. of the statutes are amended to read:

14 895.48 **(1m)** (a) (intro.) Except as provided in par. (b), any physician or athletic
15 trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed
16 under ch. 447, emergency medical technician licensed under s. 256.15, first
17 responder certified under s. 256.15 (8), physician assistant licensed under ch. 448,
18 registered nurse licensed under ch. 441, or a massage therapist or ~~bodyworker~~ issued
19 ~~a certificate~~ bodywork therapist licensed under ch. 460 who renders voluntary health
20 care to a participant in an athletic event or contest sponsored by a nonprofit
21 corporation, as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001
22 (3r), a public agency, as defined in s. 46.856 (1) (b), or a school, as defined in s. 609.655
23 (1) (c), is immune from civil liability for his or her acts or omissions in rendering that
24 care if all of the following conditions exist:

SENATE BILL 388

1 2. The physician, athletic trainer, chiropractor, dentist, emergency medical
2 technician, first responder, physician assistant, registered nurse, massage therapist
3 or ~~bodyworker~~ bodywork therapist does not receive compensation for the health care,
4 other than reimbursement for expenses.

SECTION 61. Nonstatutory provisions.

5 **SECTION 61. Nonstatutory provisions.**
6 (1) EXEMPTIONS FROM CERTAIN LICENSURE REQUIREMENTS. Notwithstanding
7 section 460.05 (1) (e) of the statutes, as affected by this act, and section 460.05 (1) (f)
8 of the statutes, the massage therapy and bodywork therapy examining board shall
9 grant a license under section 460.05 of the statutes, as affected by this act, to a person
10 who no later than the first day of the 13th month beginning after the effective date
11 of this paragraph provides sufficient evidence to the massage therapy and bodywork
12 therapy examining board that the person satisfies one of the following requirements:

13 (a) The person was actively engaged in the practice of massage therapy or
14 bodywork therapy by practicing for an average of 10 hours per week for at least 10
15 years.

16 (b) The person passed a nationally administered entry-level competency
17 assessment examination that meets generally accepted psychometric principles and
18 standards.

19 (c) The person was actively engaged in the practice of massage therapy or
20 bodywork therapy by practicing for an average of 10 hours per week for at least 3
21 years and successfully completed a 200-hour licensure program approved by the
22 examining board.

23 (d) At least 180 days before the effective date of this paragraph, the person
24 graduated from a massage therapy or bodywork therapy training program that
25 consisted of at least 600 hours of training.

