

AB 250 - 2005

Introduced on: Mar 21, 2005

By Arberry Jr.

Provides for licensing and regulation of massage therapists. (BDR 54-733)

Fiscal Notes

Effect on Local Government: *Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.* Effect on State: *No.*

Most Recent History Action: **(See full list below)** Approved by the Governor. **Chapter 325.**

Past Hearings

Assembly Commerce and Labor	Mar-30-2005	Pending
Assembly Commerce and Labor	Apr-06-2005	Amend, and do pass as amended
Senate Commerce and Labor	May-05-2005	Subcommittee
Senate Commerce and Labor	May-10-2005	No Action
Senate Commerce and Labor	May-18-2005	No Action
Senate Commerce and Labor	May-20-2005	Amend, and do pass as amended

Votes (2/3 Majority Required)

Assembly Final Passage	Apr-26	Yea 42,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0
Senate Final Passage	May-27	Yea 21,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0

Bill Text (PDF) [As Introduced](#) [1st Reprint](#) [2nd Reprint](#) [Statutes of Nevada Chapter 325](#)

Bill History

Mar 21, 2005	Read first time. Referred to Committee on Commerce and Labor. To printer.
Mar 22, 2005	From printer. To committee.
Apr 25, 2005	From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 196.) To printer.
Apr 26, 2005	From printer. To engrossment. Engrossed. First reprint. Read third time. Passed, as amended. Title approved. (Yeas: 42, Nays: None.) To Senate.
Apr 27, 2005	In Senate. Read first time. Referred to Committee on Commerce and Labor. To committee.
May 27, 2005	From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 960.) Reprinting dispensed with. Declared an emergency measure under the Constitution. Read third time. Passed, as amended. Title approved. (Yeas: 21, Nays: None.) To printer.
May 30, 2005	From printer. To reengrossment. Reengrossed. Second reprint. To Assembly. In Assembly.
Jun 02, 2005	Senate Amendment No. 960 concurred in. To enrollment.
Jun 04, 2005	Enrolled and delivered to Governor.
Jun 10, 2005	Approved by the Governor. Chapter 325.

Effective June 10, 2005, for purposes of: (a) The Governor appointing members to the Board of Massage Therapists; and (b) The Board and its members and employees performing any organizational, preparatory or preliminary administrative tasks that are necessary to carry out the provisions of this act, and on October 1, 2005, for all other purposes. Sections 22 and 23 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational or recreational licenses of persons who: (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or (b) Are in arrears in the payment for the support of one or more children, are repealed by the Congress of the United States.

Compiled April 28, 2008



PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

ASSEMBLY BILL 250

As Enrolled

Topic

Assembly Bill 250 relates to massage therapy.

Summary

This bill creates the Board of Massage Therapists consisting of eight members appointed by the Governor and selected from certain counties, including a non-voting advisory member of law enforcement from Clark County. The bill empowers the Board to license and regulate massage therapists, establish continuing education requirements, collect fees, and perform background checks and other associated duties.

If a licensee is charged with a crime involving violence, prostitution, or any other sexual offense, the appropriate law enforcement agency shall report the charge to the executive director of the Board, who shall immediately suspend the license on a temporary basis. The Board must hold a hearing and render a final decision on the suspension within 15 days.

Even if an applicant does not meet the statutory qualifications for licensure by the Board, the Board may license an applicant who holds a current massage therapy license issued by a local government before July 1, 2007, if the applicant has a criminal background investigation approved by a local law enforcement agency. If the applicant does not have the background check, the applicant must provide a complete set of fingerprints and written permission to submit them to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation.

Until July 1, 2007, a practitioner licensed by a local government may continue to practice under the local license. After July 1, 2007, all massage therapy practitioners must be licensed by the Board.

Effective Date

This measure is effective on October 1, 2005.

LEGISLATIVE HEARINGS

MINUTES AND EXHIBITS

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Third Session
March 30, 2005**

The Committee on Commerce and Labor was called to order at 1:10 p.m., on Wednesday, March 30, 2005. Chairwoman Barbara Buckley presided in Room 4100 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Barbara Buckley, Chairwoman
Mr. John Ocegüera, Vice Chairman
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Morse Arberry Jr.
Mr. Marcus Conklin
Mrs. Heidi S. Gansert
Ms. Chris Giunchigliani
Mr. Lynn Hettrick
Ms. Kathy McClain
Mr. David Parks
Mr. Richard Perkins
Mr. Bob Seale
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Joe Hardy, Assembly District No. 20, Clark County
Assemblywoman Sheila Leslie, Assembly District No. 27, Washoe County

Mike Willden:

I applaud the bill, but there is a section in there that has the Department promulgate regulations as to that process. We will be having workshops and public hearings and promulgating regulations on qualified plans.

Vice Chairman Oceguela:

I will close the hearing on Assembly Bill 493.

ASSEMBLYMAN HETTRICK MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 493.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman McClain and
Assemblyman Perkins were not present for the vote.)

Chairwoman Buckley:

I would also like to publicly thank everyone who worked on the technical committee, as well as Peter Burns, who negotiated and refereed, and all the folks who testified today. They did a great job. I get the credit, but they did the work. I really want to thank them all for everything that they did.

We will open the public hearing on Assembly Bill 250.

**Assembly Bill 250: Provides for licensing and regulation of massage therapists.
(BDR 54-733)**

Ernie Adler, Legislative Advocate, American Massage Therapy Association:

We are presenting A.B. 250 today. What is happening with the massage therapists throughout the state of Nevada is that they are subject to paying multiple background check fees, licensing fees, and they are regulated by a plethora of conflicting regulations. One of the therapists that I interviewed recently in Las Vegas commented that she had to pay three separate background check fees of \$300 apiece. This bill transfers that jurisdiction to the state so there is one background check fee, one fee for licensure, and one set of regulations and testing that clearly defines how you practice massage therapy throughout the state of Nevada. It is actually a reduction in bureaucracy bill.

[Ernie Adler, continued.] Some of the things that have happened because of the limited expertise of some of the local entities are almost humorous. One of the therapists related to me that she had to sit through a food handling video for food preparers because that was the only video that they had which remotely related to her profession, and she thought that was a little unusual. That was part of the requirement for her to become licensed by that entity. There are 35 states currently (Exhibit H) that have a law similar to A.B. 250. The other states that don't have this law are moving rapidly towards passage. It is my belief that pretty soon we will be one of the very few states that has not addressed this topic comprehensively and tried to get a handle on it in terms of establishing a profession which has a statewide following.

The bill doesn't seek to try to regulate the practice of chiropractics or physical therapy; that is on page 3. It doesn't apply to people such as sports trainers, or people who seek to massage family members in their own home. It doesn't have anything to do with people who work in a licensed brothel in Nevada. It establishes a five-person board which functions very much the same way that the other regulating boards function. It establishes educational requirements with a national test that professionals have to pass. It requires continuing education and requires that continuing education instructors be licensed. It has a practical exam and a written exam and employs an executive secretary along with other ancillary staff, such as investigators. It allows for hearing officers to hear licensing charges against an applicant and people who are already licensed but have violated the rules of the board.

It also has a grandfather clause. People who are currently licensed by a county, a city, or another entity would be grandfathered in and would not be required to retest in order to have a license. The board would issue licenses to those individuals. It also allows reciprocity for other states' licenses. The person would have to submit an application and a background check, but if they were in good standing in another state, they could acquire a license in Nevada.

A.B. 250 sets up a schedule of fees for various services provided by the board. It is anticipated that these fees will easily pay for the functions of the board, and there is a provision that the board cannot spend more money than it needs to provide the services required.

Currently, another problem in Nevada is that we have about 2,500 licensed massage therapists; however, we believe there are another 2,500 that are unlicensed within the state. Some counties do not require licensing at all. Because of the multiple problems with getting licensing in the various cities and counties, some people just choose not to become licensed. This bill would get everybody under the licensure system and license those people.

[Ernie Adler, continued.] The people who would be excluded from being massage therapists are people who have committed crimes of violence, prostitution, or sexual offenses. Anyone who solicits sexual activity would be excluded or expelled from the profession. Any unprofessional conduct would be grounds for suspension or termination of the license. This would take the rogue members out of the profession rapidly and they would be dealt with appropriately.

One of the letters you have here is from Dr. Joseph Cracraft, who is the instructor at the Community College of Southern Nevada. I think his comments are good. He states in his conclusion that the adoption of this legislation and the development of strong and effective regulations are crucial if massage therapy is to be effectively regulated throughout the state of Nevada.

We have received some concern from the Las Vegas Metropolitan Police Department (Metro) because currently they conduct background checks of massage therapists and they do a very thorough job. They have had occasion to arrest people for prostitution or for posing as massage therapists. They have some concern about the level of background checks. I think that can be dealt with in the bill, and we can assure that the background checks for people wanting to be massage therapists are as rigorous as those currently required by Clark County.

Metro's other comments had to do with whether or not there would still be multiple background checks by the counties and cities if this bill were to pass. I believe the bill clearly states that the background checks would be done through the board, and the only thing a city or a county would do is issue a business license to persons who require one. However, if that language is a problem, I would be glad to amend it so that it is clear that the only thing the cities and counties would be required to do is issue business licenses, not actual licenses for the profession.

Assemblyman Seale:

You mentioned something about a national test. Is that similar to the CPA [certified public accountant] exam that is uniform in all of the states?

Ernie Adler:

Yes, it is called the National Certification Exam, and it is used by most of the states. It is uniform throughout the country.

Assemblyman Seale:

Is there a fiscal note on this bill? Is there a cost of creating this thing, or is that borne by the dues, et cetera?

Ernie Adler:

It would be borne by the dues and fees because this is a fairly large profession now. Even if you charged \$100 per person, you are looking at \$500,000 worth of revenue. I think there would be a substantial amount of revenue to run this board. There would not be any need for money from the State.

Assemblywoman Giunchigliani:

We have actually tried to get this done for many years regarding having a standard that is in place and consistent statewide. I am thrilled that you have actually been able to work it out. I know Dr. Cracraft and had worked with him two years ago on this matter. Could you clarify for me what you said about the local government issue in the bill?

Ernie Adler:

For this to be an effective workable bill, all of these individual background checks and licensing by all the local entities need to be preempted by the State.

Assemblywoman Giunchigliani:

It should be one place, and the licensing board is the proper board to do it.

Ernie Adler:

Otherwise, you are going to have the same problem we have now, which is a \$300 background check in North Las Vegas, another for the county, another one for the city, and so forth. There might be another one for Douglas County, Carson, and in Reno. That would defeat the purpose of the bill if we were doing that.

Billie Shea, President, Massage Therapy Association, Nevada Chapter:

I took the job of president about two years ago. One of the big concerns and goals of our constituency in the chapter was to move forward towards State licensure. We need one license to give people the freedom to move between jobs, to grow in their careers, and to work in different communities without having to go through the bureaucracy of each different entity. The State board will help to establish guidelines that are more guaranteed to protect the public. We feel that some of the local jurisdictions do not clearly define what the rules of massage should be for the community. A State board allows the members to grow within their skill set by promoting education, new technology, and a higher level of respect from the community that recognizes the commitment to professionalism that the State board provides.

[Billie Shea, continued.] Finally, promoting massage therapy in our state helps to promote fiscal growth in our communities. Eighteen percent of the general public now seeks therapeutic massage on a regular basis. That is more than eight times a year, representing approximately \$1.5 million revenue in the state of Nevada. By promoting the massage industry in the state, we are helping to create new jobs, promote a growing industry, and provide services to people who really need them. Establishing a State board of massage can promote all of this and help to set the standard for the industry that will show concern for the public and a commitment to our citizens.

Vincent Baum, Director and Owner, Baum Healing Arts, Carson City, Nevada:

I am here to speak in favor of this bill. It has been a long time coming. I think everything that has been said about the bill has been very positive. I think the consistency factor of having one regulation throughout the state is very critical. Right now there are a number of cities and counties that do not have any legislation whatsoever. Any one of you could go into those and pay your fee, get a business license, and be a massage therapist. If you want a part of that \$1.5 million that Ms. Shea was just talking about, you could do that without any training whatsoever and without any consistency. This is being done by people who are coming in from out of state right now who don't have the amount of education that is required in some of the counties and cities that do provide regulation. They are going into outlying counties and becoming licensed to work on the public. I encourage you to look very hard at this bill and please pass it.

George Flint, President, Nevada Brothel Owners' Association:

This bill was first presented in 1987. For 20 years, our particular group has been very reticent to support it simply because the creation of a licensing regulatory board for the massage therapists was widespread enough in its scope that it would have created a licensing and regulatory board for our brothels. For 20 years I have pled with the proponents of this to exempt us out. On page 2, line 40, "A person that performs any activity in licensed brothels is not under this bill." I can support this bill as an outstanding piece of legislation that is overdue.

Lloyd Murray, Advanced Certified Licensed Massage Therapist, Carson City, Nevada:

I have done some research recently because a person who hired me to work a convention recently told me that he had called their local state board in Utah and was told that there were no qualified massage therapists in Nevada. He went online and found the AMTA [American Massage Therapy Association] and discovered over 70 AMTA members just in this area alone. He was very

concerned about this. Some states that have state licensing don't always acknowledge therapists from other states who don't have it. He asked me a bunch of questions that the school and the state board gave him to ask. Fortunately, I was able to answer them because I went to a very good school in Carson City. So he hired me and I did the event.

[Lloyd Murray, continued.] I decided to call the state I came from, Washington, and I got the same response from them. They said if you are going to go on vacation, don't get massages in Nevada; there are no qualified people there. I was shocked, so I called Utah and I got the same answer. Then I called a friend of mine in Texas. We actually exceed the requirements here in Carson City that the state requires in Texas. This person said that there were no qualified people in the state of Nevada to do massage.

I want to legitimize message therapy. My clients who live in outlying areas have received massages from people who obviously didn't know what they were doing because they were all bruised up. When I receive people like that in my office, it concerns me that a lot of massage therapists in outlying areas don't know what they are doing. They are hurting their clients. They don't know the complications and when we should not do massage. They don't know when we should do massage what type of massage will benefit the clients the most. For me, that is a great concern. I spend a lot of time and energy and have put forth a lot of effort in my education so that I could be of help to my clients. When I hear stories from people in outlying areas saying that they got bruised or were hurt, that is really scary.

Billie Shea:

I would like to read a statement by Pat Patton (Exhibit I). She is a licensed massage therapist and vice chair of the Reno Massage Board. Her first statement is that she supports the measure. However, she does have a few concerns to address. If we are worried about endangerment, why are we giving temporary licenses? That is in Section 21 of the bill. Section 24 seems to be combining grandfathering and reciprocity. Why do those grandfathered need to produce all these notarized and specially certified documents from their licensure boards? More importantly, what about the people in rural Nevada without licensing boards? Typically, we see language to the effect of showing two or three years of federal tax forms showing income from massages. Section 29, line 4 (c), talks to the need for a doctor's prescription for breast massage. The need for breast massage, most particularly in relation to breast cancer, is proven. I can provide plenty of documentation. In Section 29, line 14, why do we have to maintain national certification? In relation to Section 9, no one affiliated with a massage school should be on the board.

Vice Chairman Ocegüera:

Let's go to those speaking against the bill.

Bob Roshak, Sergeant, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:

We have some concerns about the way the bill is worded. We have met with Mr. Adler; he is willing to discuss them and to put something together. We can air those concerns to you right now or meet with him and come back.

Vice Chairman Ocegüera:

In the interest of brevity, why don't we fix it and then come back? We will close the hearing on Assembly Bill 250.

Chairwoman Buckley:

Let's turn to our work session document (Exhibit J) and begin with S.B. 85.

Senate Bill 85 (1st Reprint): Revises provisions governing practice of dentistry. (BDR 54-179)

Diane Thornton, Committee Policy Analyst:

S.B. 85 was sponsored by Senator Carlton and heard on March 21. This bill provides that an applicant for a license to practice dentistry must pass an examination administered by the Board of Dental Examiners of Nevada or present the Board with a certificate establishing that the applicant has passed a clinical examination administered by the Western Regional Examining Board. No one testified in opposition to the bill and no amendments have been proposed.

ASSEMBLYMAN SEALE MOVED TO DO PASS SENATE BILL 85.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Assembly Bill 69: Authorizes employer to enter into fair share agreement with labor organization. (BDR 53-956)

Support for the passage of Assembly Bill 250

(Establishment of a Board of Examiners responsible for regulating the profession of massage therapy.)

In 2000-2001 the faculty at Community College of Southern Nevada completed a review of the practice of massage therapy in southern Nevada. This review indicated there was a significant need for an education program that would prepare its massage therapy graduates to be competent, ethical, safe and professional practitioners in this field. As a result, an advisory committee was formed and a massage specialist program was developed and implemented at the College. This program is currently housed in the Department of Diagnostic and Rehabilitation Services.

During this review, it was also recognized that there was a need for legislation that would establish a licensing board that would effectively regulate the massage therapy profession. I believe the proposed legislation, and the accompanying regulations that will be developed will ensure effective regulation of the industry.

The major benefits of this legislation, if adopted, will be the:

- Establishment of an educational standard that will ensure that graduates of the state's massage schools are competent, ethical and professional massage therapists.
- Use national testing and certification as a part of the licensing process.
- Requirement of continuing education and re-certification in order to maintain a license.
- Creation of a licensing board that will develop consistent statewide regulations governing the practice of massage.
- Establishment and enforcement of effective regulations that will aide and support local jurisdictions in their efforts to monitor and control the industry.
- Improvement of the public's perception of the industry and help ensure the safety of the public.
- Recognition by the public that the industry is concerned about the public's safety and there is a legal body representing the public in cases of malpractice, as there currently is with other health care professions.
- Recognition that massage therapy is an expanding health care profession and that those individuals who are appropriately educated and currently practicing are health care professionals.

The Community College of Southern Nevada massage therapy faculty and I urge your support of AB 250. The adoption of this legislation and the development of strong and effective regulations are crucial if massage therapy is to be effectively regulated through out the state of Nevada.

Respectfully submitted

Joseph D. Cracraft, PT, Ph.D.
Chair, Diagnostic and Rehabilitation Services
Program Director, Physical Therapist Assistant Program

ASSEMBLY COMMERCE & LABOR
DATE: 3/20 EXHIBIT H PAGE 1 OF 8
SUBMITTED BY: Ernie Adler

Molly Sher
2261 Hot Oak Ridge Street
Las Vegas, NV 89134

March 27, 2005

Re: Bill A.B.250

To Whom It May Concern:

Imagine, if in the State of Nevada, each town, city or county issued their own driver's license, made up their own rules and regulations on how to get such a driver's license, and that license would only be legal in that particular area. It felt to me like that kind of chaos when I moved to Las Vegas, Nevada six years ago. Applying for the proper licensing and background checks was a nightmare, both from a financial point of view and from a view of total confusion as to where I was suppose to go, what I needed to do, what requirements were necessary. I didn't know that there is one boundary line that separates part of Las Vegas and the County by literally crossing the street and requires another license and background check!

Having been a Massage Therapist for almost 25 years now, I have seen the profession grow from a small group of people to an industry. With rapid growth comes a great need to have some sort of guidelines that not only encourage a high level of professionalism for massage therapists, but that protect the public as well.

We desperately need State Licensure that clearly outlines requirements to be a Massage Therapist in the State of Nevada and then gives precise guidance as to ethical and professional standards. In addition, there are some in our profession that seek continuing education to better serve the public and improve their skills and others who do not. We need to set guidelines in continuing education that will help insure that Massage Therapists maintain a level of professionalism throughout

their careers and also have some sort of uniform testing that sets fair standards for everyone. We also need to maintain a universal set of ethics that will insure the highest ethical standards for our profession.

In summary, I am hoping State Licensure will be considered to:

- Take the financial burden of obtaining licenses in every town and city one might work for the therapist trying to make a living and make a uniform background check, testing and licensing procedure;
- Give us all uniform standards in continuing education and in ethics so that our profession may best serve the public with the highest possible standards;
- Remove the confusion of various requirements in various areas that create a myriad of regulations that no one understands, and give us clarity and unity as to guidelines that need to be met;
- A State Massage Board made up of actual Massage Therapists overseeing the profession would lead to uniform guidelines and regulations including testing and continuing education that would insure that the profession has certain standards that are met. And those that are not willing to meet those standards having to answer to a professional board of their equals.

Thank you for your consideration.

Molly Sher, L.M.T.

Karen Sartell
6440 Ironbark Lane
Las Vegas, NV 89107

Date: March 29, 2005

Re: Bill A.B.250

To Whom It May Concern:

I am an Independent Massage Therapist, licensed in the City of Las Vegas and Clark County.

Currently, each city has it's own regulations and a massage therapist has to pay for multiple background checks in order to obtain a license in more than one jurisdiction. Some jurisdictions issue temporary licenses while the background check is being completed and others do not. In some jurisdictions, it may take up to 6 months to obtain a license! I was unaware of these facts prior to moving to Las Vegas in 2003. I never imagined it would be so cumbersome and expensive to obtain my Independent Massage Therapist license!

I have reviewed Assembly Bill 250 and recommend passage. The Assembly Bill 250 supports:

- uniform standards for all massage therapists
- setting professional standards for massage therapy versus local jurisdiction massage standards through ordinance governance
- one uniform background check that can be used by all jurisdictions
- national testing and certification as part of the entry level licensure requirements
- continued education and continued national certification for re-licensure of the licensee
- independent massage board oversight of the massage profession

Thank you for your consideration for Assembly Bill 250.



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States with Massage Practice Laws

Practice Laws Info Guide - A state-by-state compendium of actual laws with contact names and other valuable information.

ALABAMA	enacted 1996
ARIZONA	enacted 2003
ARKANSAS	enacted 1951
CONNECTICUT	enacted 1993
DELAWARE	enacted 1993
DISTRICT OF COLUMBIA	enacted 1994
FLORIDA	enacted 1943
HAWAII	enacted 1947
ILLINOIS	enacted 2002
IOWA	enacted 1992
KENTUCKY	enacted 2003
LOUISIANA	enacted 1992
MAINE	enacted 1991
MARYLAND	enacted 1996
MISSISSIPPI	enacted 2001
MISSOURI	enacted 1998
NEBRASKA	enacted 1958
NEW HAMPSHIRE	enacted 1980
NEW JERSEY	enacted 1998
NEW MEXICO	enacted 1991
NEW YORK	enacted 1987
NORTH CAROLINA	enacted 1998
NORTH DAKOTA	enacted 1959
OHIO	enacted 1916
OREGON	enacted 1971
RHODE ISLAND	enacted 1979
SOUTH CAROLINA	enacted 1996
SOUTH DAKOTA	enacted 2005
TENNESSEE	enacted 1995
TEXAS	enacted 1985
UTAH	enacted 1981
VIRGINIA	enacted 1996
WASHINGTON	enacted 1976
WEST VIRGINIA	enacted 1997
WISCONSIN	enacted 1998



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2004 Massage Therapy Consumer Survey Fact Sheet

Following are findings of a telephone survey conducted by Opinion Research Corporation International, Princeton, NJ, and commissioned by the American Massage Therapy Association® (AMTA®). The survey was conducted August 5-8, 2004 on a national probability sample of 1,009 adults (507 men and 502 women) ages 18 and older, living in private households in the continental United States. The survey has a confidence level of plus or minus 3 percent.

This is the eighth annual survey of American consumers commissioned by AMTA.

Massage for Pain Management & Relief

- Ninety percent of respondents agreed that massage can be effective in reducing pain.
- Nearly half (49 percent of those polled) have had a massage at some time to relieve pain; compared to 47 percent the same response in 2003.
- Massage follows medication as the form of pain relief respondents said gave the greatest relief from pain: 30 percent medication, followed by 21 percent for massage therapy, 19 percent chiropractic and 16 percent physical therapy.
- Therapy for an injury would motivate more people to have regular massage (17 percent) than any reason other than discount or free massage (23 percent). Among 18-24 year olds, 31 percent said injury therapy would be their motive discount or free massage (25 percent). Among those 65 years and older, therapy for an injury also is a greater motive regular massage (21 percent) than discount or free massage (11 percent)

Popularity and Use of Massage

- More than one in five adults surveyed (21 percent) received a massage within the past 12 months - maintaining the percentage as reported in 2003, and representing a 13-point jump since 1997. Twenty-seven percent of those ages 18 and 26 percent of African-Americans had a massage within the last 12 months.
- Thirty-two percent of respondents received a massage within the past five years - equaling 2003 survey results.
- Sixty-five percent of those polled would recommend massage therapy to someone they know; 75 percent of African-Americans and 78 percent of Hispanics would recommend massage therapy.

Massage on the Rise in African-American Population

- Twenty-six percent of African-American respondents had a massage in the past 12 months, compared to 21 percent overall population. This is a 12 percentage point jump since 2003.
- Thirty-five percent of African-American respondents had a massage in the past 5 years, compared to 32 percent of overall population.

- Among African-American respondents who discussed massage with their physicians or other healthcare providers, 59 percent of the healthcare providers strongly recommended or encouraged massage, compared to 47 percent in 2003.
- Physicians and physical therapists were the healthcare providers who most recommended massage to their African American patients - 59 percent of physicians vs. 46 percent in 2003; and 76 percent of physical therapists vs. 41 percent in 2003.
- While 36 percent of all adults reported receiving massage for medical reasons in the last five years, 43 percent of African-American adults did so.
- Among medical reasons for massage, 11 percent of all respondents received massage for injury recovery or rehabilitation in the past five years, while 23 percent of African-American respondents did so.
- Eighteen percent of all respondents say they had a massage for relaxation or stress relief in the past five years, while 23 percent of African-American adults did so.

Positive View of Massage by Healthcare Providers

- One in five of those polled (20 percent) say they have discussed massage therapy with their doctor or other healthcare provider, up from 14 percent in 2002.
- For those who discussed massage therapy with their healthcare providers, 62 percent of the providers strongly recommended or encouraged their patients to get a massage.
- Of those who indicated that a healthcare professional had recommended massage therapy, 61 percent indicated it was by a physician, 45 percent said massage therapy was recommended by a physical therapist, and 42 percent by a chiropractor.

Where Americans are Getting Their Massages

- People receive massage in a variety of locations, from their homes to massage therapists' offices to spas - 21 percent received their last massage at a spa.
- Seventeen percent received their last massage in the massage therapist's location, while the third most common location where people received their last massage was at home or in the home of someone they know.
- Asked to list their top three choices for where they would prefer to receive a professional massage, 30 percent of respondents said they prefer a spa [while 37 percent of African-American respondents and 39 percent of Hispanics prefer a spa]. Twenty-six percent prefer to receive professional massage at home, and 23 percent prefer the massage therapist's location.

Regional Differences

- The southern U.S. saw the biggest jump from 2003 in those who had a massage within the past 12 months - from 11 percent responding this way in 2003 to 23 percent in 2004.
- More people in the Northeast (32 percent) expect to get massage within the next 12 months. Twenty-nine percent in the Northeast region had this expectation in 2003.

The American Massage Therapy Association (AMTA) is a professional association of more than 50,000 members. AMTA professional members have demonstrated a level of skill and knowledge through education and/or testing and must meet continuing education requirements to retain membership.

To: Chairperson and members of the Commerce and Labor Committee
From: Pat Patton, LMT and Vice Chair of the Reno Massage Board
Re: AB250
Date: March 30, 2005

~~See the regulation board~~ I support this measure

~~Thank you for taking the time to read what my testimony presents me from saying. For those who were around last session, this bill is very well written, however compared to the past. Since there is no history or background to support endangerment or the need for protection I still have problems with these terms (check with the AMTA & AMBP) but I give that up.~~ however *

* I do have six items to address. Shall they be read now or
The following items are important: Saved for the working committee.

* Section 19/3 (which is on page 7 after 4 and 5) the number of hours of education need to be specified. Both (a) and (b) may approve schools with hours that vary widely (California is the perfect example 150 to 750 hours, all approved).

Section 21: If we are worried about endangerment why are we giving temporary licenses?

Section 24: We seem to be combining Grand fathering and reciprocity, why do grandfathers need to produce all these notarized and especially certified (from their licensure boards, remember I am on one) documents. MORE importantly, what about the people in rural Nevada without licensing boards to the effect of showing two or three years of income from massage is included.

EXIBET
S I
m
pr
a doctors prescription. The need for breast in relation to breast cancer is proven. I can ation.

Section 29, 14: why do we have to maintain National Certification?

Thank you for your time.

* Section 9: Board Members requirements add 2(a)(3)
no one affiliated with a massage school.

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Third Session
April 6, 2005**

The Committee on Commerce and Labor was called to order at 1:07 p.m., on Wednesday, April 6, 2005. Chairwoman Barbara Buckley presided in Room 4100 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Barbara Buckley, Chairwoman
Mr. John Ocegüera, Vice Chairman
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Morse Arberry Jr.
Mr. Marcus Conklin
Mrs. Heidi S. Gansert
Ms. Chris Giunchigliani
Mr. Lynn Hettrick
Ms. Kathy McClain
Mr. David Parks
Mr. Richard Perkins
Mr. Bob Seale
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Peggy Pierce, Assembly District No. 3, Clark County

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Diane Thornton, Committee Policy Analyst

Diane Thornton, Committee Policy Analyst:

This bill is sponsored by Assemblywoman Ohrenschall and was first heard on April 1, 2005. The bill requires a landlord of a for-profit manufactured home to reduce the rent of tenants who meet certain eligibility requirements and who request the rent reduction. There were no amendments proposed to the bill. There was a fiscal note submitted by Renee Diamond, Administrator to the Division of Housing.

Chairwoman Buckley:

I know some members of the Committee have philosophical concerns opposing the bill, and I certainly understand those. For me, this is the most important bill to my district, to one of the largest segments in my district, and I hear this every time I campaign. It's very important for Assembly District 8 and for Assemblywoman McClain's district, and I don't know that there's anything to fix it. You either like it or you don't. Are we okay with processing it? Are people ready?

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO DO PASS
ASSEMBLY BILL 216.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION CARRIED WITH MS. ALLEN, MRS. GANSERT,
MR. HETRICK, AND MR. SEALE VOTING NO. (Mr. Perkins was
not present for the vote.)

Assemblyman Conklin:

I would like to reserve my right to change my vote on the Floor.

Assemblyman Sherer:

I would also like to reserve my right to change my vote on the Floor.

Chairwoman Buckley:

We'll now discuss A.B. 250.

**Assembly Bill 250: Provides for licensing and regulation of massage therapists.
(BDR 54-733)**

Diane Thornton, Committee Policy Analyst:

This bill is sponsored by Assemblyman Arberry and heard on March 30. The bill provides for the State licensing and regulation of massage therapists by creating a new board of massage therapists and establishes the structure and powers of that new board. The proposed amendments are under Tab B of your Work Session Document (Exhibit S). Mr. Adler worked on these proposed amendments with the Las Vegas Metropolitan Police Department (Metro).

Ernie Adler, Legislative Advocate, representing American Massage Therapist Association, Nevada Chapter:

I'll go through and characterize what each paragraph is. Most of these are Metro amendments.

Section 8, subsection 2, clarifies that the Board preempts local licensure for massage therapy.

Section 9, subsection 1, is an amendment that allows the Governor to appoint more than five members if he/she deems that in the best interest of the Board.

Section 13, subsection 3, requires a full staff of investigators. This amendment is necessary; Metro pointed out to the current board, not the State Board, that there are many investigations occurring now in Clark County, and they really do need full-time investigators and staff to accomplish these investigations.

Section 19, subsection 2, item 6 is a background investigation point that Metro brought up and is currently in the Clark County Ordinances.

Fred Haas, Legislative Advocate, representing Las Vegas Metropolitan Police Department; and the Nevada Sheriffs and Chiefs Association:

That is correct. All of these ordinances that we brought for the amendments are currently contained in Clark County Ordinance or Las Vegas City Ordinance.

Ernie Adler:

I think this is a good idea that they have some credible references.

Section 19, subsection 2, item 7, states the Board really digs into the information and application and makes sure it's correct.

Section 19, subsection 2, item 8, is from a county or city ordinance. It has to do with fingerprinting, arrest records, and pending litigation records.

[Fred Hass, continued.] Section 19, subsection 2, item 9, allows the board, if they can't get a handle on the person's background, as a last resort, to look into financial records to see what's going on with this individual applicant.

Section 19, subsection 2, item 10, requires that the investigation be terminated within 30 days if at all possible so that the person can get a clear response on their application and become licensed.

Section 19, item 11, is a confidentiality provision making certain these records are confidential and that only necessary people have access to them.

Section 20, subsection 2, paragraph b, requires at least four examinations offered a year to applicants, although I think they intend to have monthly examinations so it's easy for people to take the examination and become licensed.

Section 24, subsection 4, deals with the question of grandfathering this whole section. The intent is to grandfather in everyone who has a current license by a county, city, or township, but we've got a gap in the law. There are a few people who have never had a criminal background check, and it says if you don't have a criminal background check that can be verified through law enforcement, then law enforcement is going to require you to get a background check prior to being grandfathered into the system. I think that's a reasonable requirement.

Section 25, subsection 1, allows the Board to go up to \$500 for a background check. Most of these are not going to approach that level of cost, but occasionally there are going to be out-of-state applicants who have a very complicated history that will require considerable money to investigate.

Section 26 requires the display of the license whenever a massage therapist is working so that law enforcement knows they're a licensed therapist and so the Board's investigators can verify that.

Section 29, subsection 3(b), looks back to prior criminal convictions over a 15-year period instead of a 5-year period.

Section 29, subsection 13, disallows deceptive advertising practices, but also requires a penalty for somebody using someone else's name, license, or is falsifying their ID.

Assemblyman Anderson:

Fifteen years? We only do seven years for DUI cases.

Ernie Adler:

This is for a background check, essentially. This is the current Clark County ordinance.

Assemblywoman Giunchigliani:

I appreciate that's in the county ordinances, but that's a bit extreme. You can seal records at 12 years, and 15 is kind of insane to go back, especially for a misdemeanor. What was the rationale on that?

Ernie Adler:

I think it was because it's in the county ordinances.

Assemblywoman Giunchigliani:

You just lifted the language that they had? Do you know what the background is, especially for a misdemeanor?

Fred Haas:

The rationale is that the misdemeanor claims, including prostitution and sexual activity, are all covered as misdemeanor crimes, and sometimes there a gap in that activity and they fall back into that same lifestyle. We want to make sure that if we're going into that business of massage therapy, that's what they're going in there for, not for other motives of other businesses.

Chairwoman Buckley:

Is the Clark County ordinance limited to felony or misdemeanor convictions concerning prostitution or other crimes emanating from prostitution, as opposed to someone who wrote a felony bad check 10 years ago? Could you find some distinction between those two such that your concerns would be alleviated?

Fred Haas:

I think that's a reasonable request if it's not related to the business in such a way that it's not necessarily considered as part of a background investigation.

Chairwoman Buckley:

Why don't we have that be the intent? I think in the original version you were trying to get at that in Section 29, page 12, lines 22 to 30, so perhaps we could just incorporate in the amendments that they would be involving prostitution or other sexual offenses.

Ernie Adler:

Or crimes of violence. What the Board would be concerned about would be crimes of violence, prostitution, or other sexual offenses. If that were tacked onto the 15, I think that's what people are concerned about.

Chairwoman Buckley:

Would that be amenable to members of the Committee, less concern about that approach? It would have to be a conviction.

Fred Haas:

We also have a problem with a trick roll, which is while you're getting a massage, or the act of prostitution, they're cleaning your pockets and your wallet out at the same time. I'd like to make sure that's also included in that background if they are convicted of a crime of burglary or robbery at that time.

Chairwoman Buckley:

Maybe we can look at the underlying offense and we know what we're talking about. We'll see what we can draft through Legal. The Committee's intent would be to try to have it pertain to prostitution, trick-rolling, or anything related, involving violence or prostitution, to make sure the industry stays clean.

Assemblyman Anderson:

I read (Exhibit S), "The Board shall also verify the accuracy and the completeness of information submitted on each application." I'm thinking about what happens if somebody comes in who was arrested when they were 18 or 21 years of age for a misdemeanor offense and it might be in this area and now they are in their thirties and there has been no subsequent event. Because it's a 7-year question, if they are 25 or 26 now, are they going to be precluded from being a massage therapist? They're not engaging in the act of prostitution, they're engaging in massage therapy.

Ernie Adler:

This just says they need to verify the application, and if they show things that are incorrect in the application, that doesn't necessarily mean that they don't get a license if it's a minor discrepancy. That's the Board's discretion, but I would imagine if it's a minor item currently under county ordinances, they still would have a shot at getting a license unless it's a major violation.

Assemblyman Conklin:

Fifteen years is too long. Somewhere between seven and ten is more palatable, and it's the standard that most employers have to abide by.

Ernie Adler:

I signaled to the Metro people in the audience and they gave me 10 as an acceptable answer.

Assemblyman Arberry:

I accept 10.

Chairwoman Buckley:

We have two more subsections you did not get to, but I'm sure the Committee has already read them by now. Are there any other concerns?

Assemblyman Sherer:

One of the things in testimony was to make sure that not one of the Board members is affiliated with a massage school. Is that in here?

Ernie Adler:

Yes, it's still in here. That was not deleted.

Chairwoman Buckley:

Subsection 3 of Section 32, which wasn't read, is an important one merging the two, and needed more because of the concern and the industry.

Ernie Adler:

Currently, this is not in the county ordinance, but to law enforcement this is a very important provision because under current ordinances and not in state law, if you catch someone violently beating a client or engaging in prostitution or some very severe act, you can't take their license immediately. If there's hardcore criminal conduct occurring, this allows us to take the license and they can go to the Board and say why it needs to be reinstated because we don't want people who are really truly bad actors practicing after they committed a serious offense.

Assemblywoman Gansert:

Looking at Section 25, the background check not less than \$48 but not more than \$500, the \$500 just seems really excessive.

Chairwoman Buckley:

Can you discuss where the standard is?

Assemblywoman Giunchigliani:

FBI fingerprint is currently \$45. There are a couple cases where they go beyond that for a specific background check, and it shouldn't exceed \$300. We just

had some discussion in another Committee on that. We thought \$500 is a bit extreme.

Ernie Adler:

We can go with the \$300.

Assemblywoman Giunchigliani:

You need to make it \$45, which is the current cost of fingerprinting.

Ernie Adler:

Most of these are not going to be \$45, and very few will be \$300, but some will.

Chairwoman Buckley:

On page 10 and 11, where fees are described, the original fee structure is still in as well, correct?

Ernie Adler:

That's correct.

Chairwoman Buckley:

Is there discussion on the background fee maximum being lowered?

Assemblywoman Giunchigliani:

From \$45 to \$300. Is that acceptable, Mr. Adler?

Ernie Adler:

That's acceptable to me.

Fred Haas:

What they charge for their background is not really a law enforcement issue. As long as they can recover their own cost and make sure the backgrounds are done in a complete manner, we're okay with that.

Chairwoman Buckley:

Any other concerns? Is the Committee inclined to move the bill? The Chair would be willing to entertain a motion to amend and do pass with the amendments being those contained in our book (Exhibit S), changing the \$500 fee to \$300 and changing the criminal record issue from 15 years to 10 years.

ASSEMBLYMAN SEALE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 250.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

Assemblyman Conklin:

Was there discussion to change the language on which crimes would be considered, or was that thrown out in lieu of the 10-year and anything applies?

Chairwoman Buckley:

Assemblyman Arberry, what was your intent there? We were looking at page 12, Section 29. Line 22, "...has been convicted of a crime involving violence, prostitution, or any other sexual offense, felony, or misdemeanor... within the immediately preceding five years," and then the amendment had it going to 15.

Assemblyman Arberry:

I defer to Ernie Adler.

Ernie Adler:

I think it would be adequate if we put "crimes of violence, prostitution, and other sexual offenses, burglary, robbery, or larceny from a person." Because that's what everybody is concerned about.

Chairwoman Buckley:

It sounds like the suggestion is to go right in the middle to also allow some crimes that might be used in a trick roll, such as larceny or other related offenses, but to take the broader one out to delineate those ones. Is that acceptable by the maker and the secondary? Mr. Arberry says yes; Mr. Seale is okay.

Assemblywoman Giunchigliani:

Look at lines 37 through 39 on page 12, touching the breasts; I have to have a written consent form to allow someone to massage?

Chairwoman Buckley:

Mr. Hettrick is indicating that we had written testimony on that issue.

Assemblyman Hettrick:

We had a lady testify who said breast massage was used in cancer treatment and that she didn't think it should require a one-time note from a doctor. I think we have to be careful we don't do something unintended here and prevent something that is helpful.

Chairwoman Buckley:

I have a constituent who is a registered physical therapist, and that's her entire practice, lymphadema, where she does immediate therapy right after breast surgery to ensure that your arms are able to move and you don't lose range of motion. Massage therapy is essential after breast surgery. The problem here is you're trying to regulate folks who use it as a front for prostitution and a lot of very legitimate folks who we wish we could utilize more in terms of legitimate massages and therapeutic uses.

Assemblywoman Giunchigliani:

The way it's written, at least it allows the Board to make some determinations through regulatory process, but I hope you would not restrict those types of situations because that's the whole purpose in some cases of massage.

Ernie Adler:

I think as long as it's for medical purposes, it would be permitted.

Assemblywoman Giunchigliani:

After you get your regulations written, we'll have to take a look at them.

Assemblyman Hettrick:

Reading the language, it says "Unless the person has a signed written consent form provided by the Board," and they're talking about the massage therapist. That means the massage therapist would have to have had this form in advance and available so if someone came in and asked "What's going on here?", they would be able to pull out the form and say "I've got permission from the Board and this is appropriate." I think that's probably all right the way it is written.

Chairwoman Buckley:

They would be using a written consent form provided by the Board, but not have approval by the Board, so that the patient would sign it.

Assemblyman Hettrick:

I have a problem with that because if you had someone soliciting prostitution, they'd sign the form. It has to be provided by the Board in advance.

Chairwoman Buckley:

Permissioned?

Assemblyman Hettrick:

No, it says "consent form." If you're going to go to a massage therapist and solicit prostitution, you're going to sign the consent form. I think it has to be in advance. The Board has to be available to the therapist who wants to do this, in

advance, so your friend could go to the Board and say, "I do this kind of therapy for people who have had this treatment."

Chairwoman Buckley:

This bill is really hard. For those who are engaging in it legitimately, are they really going to call the Board to say—in the case of my constituent or someone helping victims of breast cancer, do you really want them to call a State Board to say, I'm not going to massage this breast cancer?

Assemblyman Hettrick:

I meant they would have a form that would be good for a year in advance. They'd say, "I do this kind of therapy and I want the Board's consent," not per massage, but for the therapist to do that kind of massage. I think that works better than the other way around; otherwise, everyone who went in there soliciting prostitution would sign the consent.

Chairwoman Buckley:

We could add perhaps another section that would allow someone to get approval by the Board.

Fred Haas:

A massage therapist who specializes in this type of treatment would probably have this form available for clients to fill out.

Chairwoman Buckley:

The point was, who wouldn't sign that form if they were actually soliciting prostitution.

Ernie Adler:

I would think if you're going to someone for prostitution, you wouldn't want to fill out a form with your name and address on it. I also think this can be taken care of by regulation.

THE MOTION CARRIED. (Mr. Perkins was not present for the vote.)

Chairwoman Buckley:

Let's go to A.B. 370.



PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

WORK SESSION

Assembly Committee on Commerce and Labor

April 6, 2005

Bills Under Consideration

The following measures will be considered for action during today's work session, as time allows, or continued to the Committee's next regular meeting. In some cases, possible amendments are noted. These were either suggested during testimony or submitted in writing and do not necessarily have the approval of the Committee, but are merely compiled here to assist the Committee in its deliberations.

- ☐ Assembly Bill 66 _____
- ☐ Assembly Bill 216 _____
- ☐ Assembly Bill 250 _____
- ☐ Assembly Bill 370 _____

The following measure may be considered for action by the Assembly Committee on Commerce and Labor during today's work session:

☐ **ASSEMBLY BILL 250**

**Provides for licensing and regulation of massage therapists.
(BDR 54-733)**

Sponsored By: Assemblyman Arberry

Date Heard: March 30, 2005

Discussion

This bill provides for the State licensing and regulation of massage therapists by creating a new board of massage therapists. The measure also establishes the structure and the powers of the new board.

Proposed Conceptual Amendment(s)

Ernie Adler, American Massage Therapy Association, proposed the amendment behind Tab B.

WORK SESSION

ASSEMBLY COMMITTEE ON COMMERCE AND LABOR

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TAB B

PROPOSED AMENDMENT TO AB 250

- Sec. 8(2.) Except as otherwise provided in subsection 3, the provisions of this chapter preempt the licensure and regulation of a massage therapist by a county, city or town. This includes but is not limited to criminal background and testing of massage therapists or an applicant for a massage therapy license.
- Sec. 9 (1) The board of Massage therapists, which shall consist of a minimum of five members appointed by the Governor, is hereby created.
- (2) The Governor shall appoint to the board:

(a) A minimum of five members who:

(Remaining language in this section will remain the same.)

Sec. 13 Sub. 3

The board shall hire a full time staff of investigators to conduct background investigations on massage applicants within a timely manner to be designated by the board. Investigators would also be required to conduct routine (unannounced) enforcement of the massage therapist. Investigators shall be employed in both Southern and Northern Nevada.

Sec. 19 Sub. 2 Item 6

The names and addresses of five responsible adults who will serve as character references. These references must be persons other than the relatives and business associates.

Sec. 19 Sub.2 Item 7

Authorize the Board or its designee to seek information and conduct an investigation into the truth of the statements set forth in the application

Sec. 19 Sub. 2 Item 8

The board shall fingerprint each applicant and investigate the applicant's reputation, character, arrests, convictions and any pending litigation record. The Board shall also verify the accuracy and completeness of the information submitted by each applicant.

Sec. 19 Sub. 2 Item 9

In the event the Board determines that it cannot otherwise conduct a complete background investigation, it may require the applicant to submit a financial questionnaire and may investigate the applicant's financial background and funding source necessary to complete the background investigation.

Sec. 19 Sub.2 Item 10

The board or its designee shall report the results of its investigation within thirty days of receipt of a complete application. Additional investigation time may be granted by the board upon request by the board or its designee.

Sec. 19 Sub. 2 Item 11

All information obtained by the board from its background investigation shall be maintained in a confidential file and made available only to the board, law enforcement officers and peace officers of the state.

Sec. 20 Sub. 2(b)

The board shall hold a written test and practical exam a minimum of four times a year. These exams are to be rotated between Northern Nevada and Southern Nevada. The passing of these tests shall be a requirement of the applicant. If an interpreter is needed to proctor the exam a list of approved interpreters shall be designated by the board to interpret the examination for the applicant.

Section 24.

4. Any applicant who holds a current license to practice massage therapy issued by a county, city or town, who does not have a criminal background check approved by a local law enforcement agency, must undergo a background check in accordance with Sec. 19 of this bill.

Sec. 25

1.	A.	Not less than	Not more than
	Background check of	\$48.00	\$500.00
	an applicant		\$ 300.00

Sec. 26

Each Licensee shall display his license in a conspicuous manner at each location that massage services are provided.

Sec.29 (3b)

Any other felony or misdemeanor, excluding misdemeanor traffic violations within the immediately preceding ~~fifteen~~ years.

10

13. Has engaged in false, deceptive or misleading advertising, including without limitation, falsely, deceptively or misleadingly advertising that he has received training in a specialty technique of massage for which he has not received training or has practiced under a false or assumed name or is impersonating another practitioner; or

Sec. 32 1.(h)

Impose an administrative fine of not more than \$1,000 per day for each day any of the violations which form the subject matter of the complaint that recommends such disciplinary action is demonstrated to have been in existence.

Sec. 32 3.(b)

A county Sheriff's Department or Police Department of a city within which a massage therapist has a business license may immediately suspend the massage therapist's massage therapy license if a massage therapist is charged or cited for a crime involving violence, prostitution or any other sexual offense. Such temporary suspension shall not exceed 15 days. For good cause, the Board may extend the period of the license suspension if the Board deems such action necessary to protect the health, safety or welfare of the public. In any such case, the hearing must be held and a final decision rendered within 15 days after the local law enforcement agency notifies the holder of the license of the temporary suspension.

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
May 5, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 7:36 a.m. on Thursday, May 5, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra J. Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Senator Bernice Mathews, Washoe County Senatorial District No. 1
Assemblywoman Francis Allen, Assembly District No. 4
Assemblyman Marcus Conklin, Assembly District No. 37
Assemblyman David R. Parks, Assembly District No. 41

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Donna Winter, Committee Secretary
Scott Young, Committee Policy Analyst
Jeanine M. Wittenberg, Committee Secretary

OTHERS PRESENT:

Nicole Malich, Intern to Assemblywoman Allen

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MR. JACKSON:

"I don't think it does any violence to the bill."

CHAIR TOWNSEND:

We have a motion and a second to add the term judicial in front of proceeding.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:

I now open the meeting to A.B. 250.

ASSEMBLY BILL 250 (1st Reprint): Provides for licensing and regulation of massage therapists. (BDR 54-733)

ERNIE ADLER (American Massage Therapy Association, Nevada Chapter):

The main reason for this bill is that we have multiple layers of bureaucracy within certain counties dealing with massage therapy. In Clark County, it is possible that you would have to have three \$300 background checks plus pay three \$275 licensing fees and pay a business-license fee. In addition, the regulation from city to city is conflicting. In the northern part of the State, there was reciprocity between Carson City, Douglas County, the City of Reno and Washoe County; that is no longer the case. Therefore, there are multiple fees and multiple conflicting licensing regulations throughout the State of Nevada. The regulations are completely contradictory in many instances and it is becoming extremely expensive to become a massage therapist in multiple counties. It is a highly inefficient way to regulate a profession. There are currently 36 states that require statewide licensing of massage therapy. We are one of the last states to not license this industry.

The bill before you sets a high standard in background checks and professionalism. The background checks were placed into the bill through an amendment by the Las Vegas Metropolitan Police Department (Metro). They are satisfied this bill represents the best effort to control those who enter the profession and to control prostitution-type activities that may victimize tourists. This bill received a unanimous vote from the Assembly Committee on

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Commerce and Labor and all members of the Assembly. I have provided the Committee with a proposed amendment (Exhibit N).

Some people have asked if they will have to continue to pay the local licensing to the counties and cities. There is a clear provision which preempts all local ordinances dealing specifically with massage therapy. They still would be subject to local business licensing. Massage therapists will not have to have their specific testing and licensing with the local entities. The board will have all the standard regulatory authority. The schools of massage therapy will have to be certified by postsecondary education or alternatively they could use a state sponsored community-college course recognized by the board.

The people who make application must have national certification of therapeutic massage and bodywork or an equivalent test. We used that language so if the board decides that test is no longer appropriate, they can change to something more appropriate. Current massage therapists will be grandfathered even if they do not meet the strict requirements for becoming a new massage therapist. They will have to prove licensure in a city or county previous to July 1, 2007. The only caveat is that they still will have to show they have been subjected to a strict criminal background check. The reason for that is there have been people arrested for criminal activity in Clark County who have moved into the rural counties that do not require licensure or background checks.

SENATOR CARLTON:

Did I understand you to say there would be a grandfather clause?

MR. ADLER:

Yes.

SENATOR CARLTON:

Would the grandfathered people be required to become nationally certified?

MR. ADLER:

No.

SENATOR CARLTON:

Are we grandfathering people for whom we do not know their educational background?

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MR. ADLER:

Yes. Most of the cities and counties that certify massage therapists have some requirement for a test. Most of them require the national test. Currently, everyone licensed in Clark County is required to pass that test.

SENATOR CARLTON:

Perhaps, I misunderstood the bill. I thought it would require some basic evaluation or coming up to standard on educational requirements.

MR. ADLER:

Some of the testing and certification was not there for some of the people who came into the profession 20 years ago. It would not be fair to tell someone they have to go out and get 500 hours of education.

SENATOR CARLTON:

I understand that. A board has a totally different venue than a business license. Here we are discussing business licenses, not the acceptance of a profession at that level. They are two different issues. One is saying yes, you can do business in our State. The other is saying this is a learned profession, you have educational requirements, continuing education and we are going to hold you to these standards.

MR. ADLER:

You are correct, but in order to transition from where we are now to the future, we need to grandfather these people.

SENATOR CARLTON:

We need to be consistent and fair across-the-board for all licensing boards.

MR. ADLER:

The bill does require them not to be criminals and to act ethically. It does not necessarily require that they went to a school that did not exist at the time they entered the profession.

MR. POWERS:

... the bill ... allows the city, county or town license to act as the qualification to get the state license. ... Everyone must have the state license by July 1, 2007. ... Even the individuals who are grandfathered in become subject to the state licensing board. ...

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They have a state license, it is just that their initial local license gives them the qualifications to get the state license.

SENATOR CARLTON:

That is my concern. Just because a city or county has given them a license does not mean that they are at the necessary level of the profession.

MR. ADLER:

The current Clark County ordinance tracks this statute pretty well. If you looked at the educational requirements to practice in Clark County, Las Vegas, North Las Vegas and Henderson, it is very close to the language of this bill.

SENATOR CARLTON:

I have received a lot of e-mails in support of and in opposition to this bill. Some people feel they will have to pay for board certification and in addition, business license fees. They see this as two steps instead of one.

MR. ADLER:

I would disagree with that interpretation. Essentially, the business license they have to pay for is one that any person who practices business in that county is required to have. This is essentially the same fee they would pay to their local county or city. They will not have to pay the multiple fees like they currently do. The current system for most people, for instance, if you had a City of Reno license means you cannot practice in Lake Tahoe. If you wanted to work a weekend in South Lake Tahoe, you cannot do that. You have to obtain a new series of licenses. If you want to live in Las Vegas in the winter and want to practice at Lake Tahoe in the summer, you will have to have at least three licenses because you would have different county governments. The system is inefficient and we need to raise the level of the profession so these people have respect for being the professionals that they are. There is a lot of training and hours of education and I think they are entitled to regulate their own profession.

SENATOR TIFFANY:

Last year, I proposed a massage-therapy bill that a significant amount of time was put into it. How many therapists in the State of Nevada have a business license?

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MR. ADLER:
2,500.

SENATOR TIFFANY:
That is not a small community.

MR. ADLER:
No.

SENATOR TIFFANY:
2,500 could support a board.

MR. ADLER:
Yes. We believe there are another 2,500 who are not licensed. The current rate of licensure in Las Vegas is 500 a month.

SENATOR TIFFANY:
Has a large percentage of that number attended a massage-therapy school?

MR. ADLER:
A vast majority have attended some school. The standard is 500 hours.

SENATOR TIFFANY:
Do the counties require the 500 hours of schooling?

MR. ADLER:
Yes.

SENATOR TIFFANY:
Is it all counties, or certain counties?

MR. ADLER:
Currently it is Clark County, Washoe County, Douglas County and Carson City.

SENATOR TIFFANY:
Are the 500 hours already required where the majority of the massage therapists would be?

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MR. ADLER:
Yes.

SENATOR TIFFANY:
Who currently has jurisdiction if there is a problem with a license? What is the adjudication process?

MR. ADLER:
I think, in Clark County, the commission would revoke the license.

SENATOR TIFFANY:
Would it probably go through the Metro first, and then the business-license division?

MR. ADLER:
Yes.

SENATOR TIFFANY:
How would that change if a board was created?

MR. ADLER:
The board would handle the civil portion of the violation. The Metro would pursue the criminal act. Those are two separate actions.

SENATOR TIFFANY:
In your opinion, what is the reason that has kept us from creating a board?

MR. ADLER:
A lot of it had to do with law enforcement not wanting standards weakened by having a state board. We have addressed that in this bill and the standards are as vigorous as the counties. There was also a problem with people feeling a state board would be regulating legal prostitution. Page 2, line 40 makes it clear that there is no attempt to regulate legal prostitution.

SENATOR TIFFANY:
Have you addressed the issue of law-enforcement standards not being reduced or diluted?

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MR. ADLER:

In some ways, they have been toughened.

SENATOR TIFFANY:

Did you see any conflict between county licenses or the local boards? If so, has that been resolved?

MR. ADLER:

That has largely been resolved. I spoke with Carson City officials and they would love to have the State do the licensing. It is a lot of work for a small entity.

SENATOR TIFFANY:

What about Washoe County?

MR. ADLER:

There was conflict with Washoe County, because it was easier to obtain a license from that county than from the City of Reno. They are currently trying to resolve the issues.

SENATOR TIFFANY:

Was it more of a county/city issue than a north or south issue?

MR. ADLER:

That is correct.

CHAIR TOWNSEND:

Why did you choose six board members? Why not an odd number? What happens with a tie vote?

MR. ADLER:

That number could be changed. The Metro requested that number because that is the way it is currently done.

CHAIR TOWNSEND:

On Page 5, section 15, why do these people not get paid the \$80 that we pay other board members?

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KEVIN POWERS:

"... This provides for the per-diem expenses for travel but does not provide for the \$80-a-day salary that is typically included in the board chapters."

MR. ADLER:

We would be amenable to that amendment.

CHAIR TOWNSEND:

Some time needs to be spent speaking with Title 54 subcommittee members on the grandfather provision.

In section 29, what necessitates that definition?

MR. ADLER:

It is a specific release from the board for a medical condition that requires a massage. It is not what it appears to be to other people.

CHAIR TOWNSEND:

I just want to make sure we are not allowing something that could be related to a brothel. Have you submitted a budget to the members of the Title 54 subcommittee?

MR. ADLER:

No.

CHAIR TOWNSEND:

That would be advisable.

SENATOR LEE:

In regard to page 3, subsection 2 of section 10, lines 42 and 43, is four years standard for an appointment to a board?

SENATOR CARLTON:

I think four years is reasonable. You want consistency and historical perspective, especially with a new board.

I refer to page 14, subsection 6 of section 29; I am not sure if a board can decide whether someone is guilty of gross negligence. Could Mr. Powers speak to that?

MR. POWERS:

... Your question is directed at the use of the term gross negligence and the finding by the board that the practitioner committed gross negligence. This is not unusual, especially in some of the medical-practice acts. This is not a legal finding as far as civil liability. It is just for the administrative procedure of determining whether or not the license should be issued, revoked or disciplinary action. ... The administrative filing of the board may be considered by a court in a civil action. ... The jury or the judge in that civil action would still have to make the finding of gross negligence if there were some sort of malpractice action against the massage therapist.

SENATOR CARLTON:

I just want to make sure we have consistent language. That is one of the things that Mr. Young, Mr. Powers and I have been working on. Over the interim, we are going to try to start cleaning up some of the language with the different boards so we have the same terminology and intent.

BILLIE J. SHEA (American Massage Therapy Association):

I am a licensed massage therapist in Carson City and also the president of the Nevada Chapter of the American Massage Therapy Association. In Nevada, we have just approximately 300 members, predominantly in Las Vegas and the southern counties where most of the massage therapists are in this State.

I spent two years promoting state licensure for Nevada. Until this year, I have been licensed in Carson City and did not have a problem with reciprocity with the City of Reno or Douglas County. I hold a license with the City of Reno and Carson City. Now, I find that the counties in the north do not allow reciprocity. What our southern members are saying is that it can take up to nine months to become licensed for the normal process after you have completed schooling. There are many students in southern Nevada who cannot work because of the length of the process. That is something that needs to be addressed with a state board. If we can streamline the process statewide, make it more consistent, help to bring the community together in a more professional manner and raise the standards of education, I think we allow for a stronger community of massage therapists. This provides for protection of the community and public. The board would establish a group of like-minded people who want to raise the bar on massage therapy.

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SENATOR CARLTON:

There was a long discussion in subcommittee on how we could allow students to apply for the background check prior to graduation to minimize delays in the process. I am sure that could still be accomplished, whether at the state, county or city level.

LLOYD K. MURRAY:

I am a nationally certified, licensed massage therapist with 1,000 hours of education. I contacted state board members and massage-therapy schools of several surrounding states. According to them, there is not a single licensed massage therapist in the State of Nevada who is qualified to work on the citizens of their states. We could get that recognition if we had a state license and a state board with regulations. That means if I want to transfer to the state of Washington, I would spend \$25,000 to retake the classes I have already taken in Nevada. If we have state licensing, we could at least have reciprocity on the testing, schooling and education. That is important for massage therapists. This bill has some of the toughest requirements of other surrounding states. State licensing protects the citizens of this State.

KAREN SARTELL:

I am an independent massage therapist licensed in both the City of Las Vegas and Clark County. I strongly support passage of this bill.

BOYD A. ETTER (Nevada Physical Therapist Association):

The Nevada Physical Therapist Association would like an amendment to include the word mobilization in subsection 2 of section 7 (Exhibit O).

PATRICIA A. PATTON, LMT (Reno Board of Massage Examiners):

I am neutral on this bill and think with some work it could be a good bill. State licensure does not guarantee reciprocity. I think the figure of 2,500 massage therapists in the State provided earlier is excessive, because there are a number of massage therapists in the State who hold multiple licenses. I think licensure is inevitable in this State.

SENATOR CARLTON:

We will give this bill fair hearing time and will schedule a subcommittee meeting on this next week.

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DEBRA RILEA (Ralston School of Massage):

I am in opposition to this bill. Senator Carlton herself said as the expert on boards on this Committee that the "ultimate goal of any board in this State is to protect the public." There is ample evidence that massage therapy poses no threat to the public and I refer you to (Exhibit P). Previous testimony spoke to the need of a board for the convenience of licensing, not for the protection of the public. I have not heard anyone testify to the need of the protection of the public. I agree that we should be entitled to regulate our profession and that state licensure would remove our ability to self-regulate at a local level. While I acknowledge that our local licensing is not perfect, it is working. The fees that are suggested to support this state board would be excessive and would eventually exceed what is currently paid in Clark County, which is where a lot of the complaints are coming from. If the bill were to move forward, I would like to see it rewritten.

SENATOR TIFFANY:

Have you ever spoken to a massage therapist in Clark County?

MS. RILEA:

Yes.

SENATOR TIFFANY:

Are you aware of the problems in Clark County?

MS. RILEA:

Yes.

SENATOR TIFFANY:

Do you think it is okay, just because what you are doing works for you in northern Nevada, that we should not look at a statewide resolution to some of the problems that we have in southern Nevada?

MS. RILEA:

I do not believe the bill does the public any good and it does not help the massage therapists if it creates excessive fees.

SENATOR TIFFANY:

To which fees are you referring?

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MS. RILEA:

The proposed amended fees distributed earlier.

SENATOR TIFFANY:

Licensing fees or penalty fees?

MS. RILEA:

The licensing fees in Exhibit N. If you add them up, it can be as much as what Mr. Adler stated that they are currently paying.

SENATOR TIFFANY:

If you were licensed in Clark County and wanted to get a license in Henderson, North Las Vegas, the city of Las Vegas, Mesquite, Boulder City and Laughlin, do you realize what that cost would be?

MS. RILEA:

I could not tell you the cost exactly.

SENATOR TIFFANY:

In Clark County, there is a problem with that.

MS. RILEA:

How many people actually pursue seven or eight licenses?

SENATOR TIFFANY:

If they travel to someone's home to practice, they do.

MS. RILEA:

Is it a large percentage?

SENATOR TIFFANY:

I am not expert to that. I know that when I was involved with a similar bill last Session, part of the problem in Clark County was that there were multiple licensing jurisdictions. There was no regulatory body other than the police for adjudication and appeals. The county licensing division was actually using the license to manipulate and enforce certain behavior of the business-license board. The business-license board was becoming the judge and jury. That is a problem as opposed to a board. There were a lot of unscrupulous therapists and parlors which made it difficult for the Metro to enforce ordinances. A board would have

more immediate authority. There are issues in Clark County, other than what you are proposing this bill to be, to which you may not be sensitive.

MR. RILEA:

If there are problems in Clark County, is it sensitive to subject the entire State to statewide licensing to address the issues experienced in Clark County?

SENATOR TIFFANY:

I think the benefit of a statewide license impacts everyone or we would not be looking at it. We look at issues for all 17 counties, not just one. If it does not hurt you, you may want to open your perspective.

MS. RILEA:

I appreciate your comment.

EVERT BRODERICK:

I have been a licensed massage therapist for the past 17 years. When I arrived today, I was strongly opposed to the bill. However, with some of the changes that have been made, I am ambivalent at this point. I believe there are strong benefits in favor of a state-licensure process and there are also deficits.

There are two specific items that I would like to address as part of my ambivalence. Referring to page 2, section 8, subsection 1, paragraph (a), I feel strong licensure does make an unequivocal distinction between the practice of massage therapy and prostitution. Yellow Page advertising erroneously links massage therapists and brothels.

CHAIR TOWNSEND:

I understand your concern and state licensure would no longer allow that advertising.

MR. BRODERICK:

I feel that is the strongest benefit of this bill to massage therapists and the public. It has the potential to prevent the prostitution industry from advertising as massage providers. The wording could be changed to make it more difficult to advertise for a brothel or prostitution.

CHAIR TOWNSEND:

Are you saying there should be a separation in the areas of marketing?

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MR. BRODERICK:

Yes, a distinct separation.

I feel there is an absolute need for some sort of grandfather clause in this legislation. There may be a way to do that to easily categorize massage therapists. There is one, or maybe two states, that have state licensure processes that separate their licensing procedures. For those who have a certain number of educational hours, they can legally call themselves a licensed massage therapist. Those who have fewer hours may call themselves licensed massage technicians or practitioners. It does not prohibit them from getting a state license; it just gives them a different category of licensure.

STAN OLSEN (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

We worked with Mr. Adler on this bill and support his proposed amendment in Exhibit N. It is not unheard of that prostitution is a problem within the massage industry, especially in the urban areas. A lot of those whom we arrest move to the rural areas and set up business where there is little or no regulation. In past Legislative Sessions, we have not been able to come to agreement on a particular bill. This time I think what is drafted in the first reprint is good. We are in support of that. There are those in the industry who deserve to have their name and profession kept in good stead.

GEORGE W. TREAT FLINT (Nevada Brothel Owners Association):

I was here in 1983 when this profession first came forth with a bill similar to the one you are looking at today. I hope this Committee will pass into law something that will give these people, after more than 20 years, a licensing and regulatory board. They deserve the opportunity to prove that what they have asked for is a good thing. Senator Tiffany asked why this bill did not become law sooner. Candidly, I say to you that the Nevada Brothel Owners Association (NBOA) was never supportive of a bill for many years because they thought it would be a control board over their legal business. This is the second Legislative Session that the NBOA has been exempted from a bill on this matter. We do not, and have never, purported to be massage therapists. The word is used by one operator in this State in advertising. That embarrasses us.

I say this with much caution, and sometimes less is better than more. I want this Committee to know that we understand why a hearing like this never happens without the NBOA being mentioned. A lot of touching, feeling,

shoulder rubs and back massages take place in a brothel. Sometimes, that is a bigger part of the activity than the more dramatic thing that comes to mind with a brothel. Without exempting us out of this bill, we will be in a position where we not only cannot give back rubs; we cannot touch our clients without the possibility of this board sanctioning us. That is why we have not shown great support over the years until last Session when the industry was willing to exempt us out. I hope this Committee will keep us out of the bill and give the massage industry the opportunity to have a governing board.

SENATOR CARLTON:

I want to make sure that the Metro is okay with the grandfather clause.

MR. OLSEN:

Yes, we are.

SENATOR CARLTON:

Do you realize that you will be relinquishing oversight to the State on this profession? The standards that have been met in the past at the local level are going into this bill. No legislative body ties the hands of a future legislative body. What you see before you today you may agree with, but in the future it may not be the same.

MR. OLSEN:

I cannot answer for the future; next year someone may come along with something we oppose. In the next two years, we may find that this does not work, in which case we will be back.

SENATOR CARLTON:

The board would be accountable to the Legislature, not county commissions. I want to make sure that is on the record.

MR. OLSEN:

I understand that, but speaking for law enforcement, if it gets out of control and does not work or illegal prostitution increases, we will be back to oppose any changes that we feel are detrimental.

We are on the record in support of the first reprint and on the record in support of the amendment of Mr. Adler, Exhibit N.

CHAIR TOWNSEND:

This Committee has traditionally honored the historical perspective that the licensing of brothels is a county decision, not a state decision. We would continue to honor that and not get into your profession. I do not want anyone to misunderstand what our role would be. Perhaps, you could encourage those in the profession, if they are going to advertise, that it might be a good idea if they kept it in a specific area. It only raises red flags and causes people to become involved where they should not.

MR. FLINT:

During the 18 months that I am not here in this building, I spend most of my time dealing with those concerns and issues. It is an ongoing effort we have never given up on because we know if we are going to continue as an industry in this State legally, regulated by the counties, we have to work hard at what we are attempting to do. We appreciate the fact that the State has given us as much freedom as it has. We do try to keep our place in the area that the State is most comfortable with our existence.

DAN MUSGROVE (Clark County):

I appreciate the questions and comments of the members of this Committee and of Mr. Olsen. Our fear has always been how you make sure the good people are doing what they should be doing? Making sure their names and reputations stay reputable and that the bad apples go do things in counties where it is legal, not in illegal counties such as Clark County. We control the resort corridor and our business-license personnel have a great deal of concern about whether or not we are losing our ability to make sure that the tourists and residents of Clark County have a good environment. For years we have tried to make sure that things are put into statute to ensure a clean industry for those who want to legitimately practice.

If the State is willing to take on that responsibility and do it with this first reprint, we will give them that opportunity. I appreciate the fact that Senator Carlton stated we should revisit this in two years and make sure things are going forward. We will be back here if it becomes a problem. I feel comfortable in the job this Committee does in regulating boards. We support, with caution and reservation, this bill moving forward. We think it will be tough to do. The framework is there and we will be supportive of that. We hope that the Metro continues to do their excellent job in ensuring that no one becomes illegal practitioners of massage therapy.

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CHAIR TOWNSEND:

I can assure you there are six members of this Committee from Clark County who will be monitoring this closely during the interim. If the bill is processed, there should be some way a mechanism can be set up for those six members to act as liaisons to ensure that the Metro's and the counties' concerns are continually monitored and addressed. That is extremely important.

AMBER MINOLA, LMT:

I am a licensed massage therapist in Reno and Sparks. I would like to address the language on page 14, line 15. Is the language speaking to purchases, sales of gift certificates and no-show fees? I cannot imagine what that language applies to other than those things.

CHAIR TOWNSEND:

The technical things will go to subcommittee. There are two things that I want the subcommittee to look at if they decide to process this bill and bring it back to the full Committee. It is only fair to look at, address and deal with no additional costs to the people currently licensed. They also need to look at the ability of a massage therapist to sell products and gift cards.

MS. MINOLA:

The budget is of a big concern to me. I want to be assured that I will not be paying more than I currently do to retain my licenses. A great deal more research needs to be done on the budget so the people currently practicing do not end up paying more.

CHAIR TOWNSEND:

The subcommittee has vast knowledge of budgets. Your point is well taken.

MR. ADLER:

I would like to point out that the effective date of licensure in the bill is July 1, 2007. That will give the Committee time to recognize if there are problems with the budget.

I believe the average fees for licensure will go down, although we currently have some people who do not pay any fees.

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VAUGHN SMITH (Nevada Reflexology Organization):

Some of us have seen similar bills over the years and it seems every time one comes up, it is longer and more technical. The one thing that never changes is that the massage therapists want to include all healing modalities in the definition of massage. These modalities are listed on page 2, section 7, under definitions of massage therapy.

CHAIR TOWNSEND:

Is your point to see if you can be exempted?

MR. SMITH:

Yes. Line 23 of page 2 is ambiguous. I am a reflexologist and have provided information on reflexology (Exhibit Q). The main difference between massage therapy and reflexology is that massage therapists work on muscles and soft tissue. I work with pressure points on nerve reflexes. It is an entirely different modality and should not be considered massage. I do not want to incur the expense it would take to comply with the massage requirement language in this bill.

CHAIR TOWNSEND:

I will now close the hearing on A.B. 250 and reopen the hearing on A.B. 66.

TOM WOOD (Pharmaceutical Research and Manufacturers of America):

I am the elected chairman of the Nevada Task Force of PhRMA. We are in agreement with Assemblyman Conklin and Mr. Gold on only one issue. We want every citizen in Nevada to have access to prescription drugs.

JAMES MORGAN (Novartis Pharmaceuticals Corporation):

I am the vice chair of the Nevada Task Force of PhRMA. In April 2002, the PhRMA and the American Medical Association jointly developed guidelines to govern the interactions between manufacturers and health-care professionals. This was a direct result of negative publicity from a number of instances in which we saw some extravagances bestowed upon the medical industry by some pharmaceutical manufacturers. In April 2003, the federal Office of the Inspector General (OIG), relying on federal investigations into those instances, the federal Department of Justice and the state Medicaid fraud units established behavioral guidelines, which, while not law, identified federal penalties for violations. Those penalties tied back to the federal Anti-Kickback Act, the federal False Claims Act as amended in 1986 and the federal Prescription Drug

AMENDMENT TO AB 250

Sec. 25. 1. The Board shall establish and may amend a schedule of fees and charges for the following items and within the following amounts:

	Not less than	Not more than
An examination established by the Board, pursuant to Section 14 or 20 of this act. . .	\$50	(\$150) \$600
An application for a license.	\$42	(\$126) \$300
An application for a license without an examination.	\$42	(\$126) \$300
A background check of an applicant. . . .	\$45	(\$300) \$600
The issuance of a license.	\$52	(\$156) \$400
The renewal of a license.	\$33	(\$ 99) \$200
The restoration of an expired license. . . .	\$33	(\$ 99) \$500
The reinstatement of a suspended or revoked license.	\$99	(\$250) \$500
The issuance of a duplicate license. . . .	\$25	\$ 75
The restoration of an inactive license. . .	\$33	(\$ 99) \$300
Initiation fee	\$50	\$100

Sec. 27.

Delete 1.(c) (page 12 line 3, 32-33) "Proof of Certification by the National Certification Board for Therapeutic Massage and Bodywork, and"

Sec. 29.

Delete "14. Has failed to maintain certification with the National Certification Board for Massage and Bodywork."

cell - 720-0249

ERNEST E. ADLER
ATTORNEY AND COUNSELOR AT LAW

Amendment Offered By Nevada Physical Therapy Association
AB 250

Contact: Boyd Etter, (775) 348-3048
Rocky Finseth (702) 203-1244

Amend Section 7, item 2 by adding the word "mobilization"

Sec. 7. 1. "Massage therapy" means the application of a system of pressure to the muscular structure and soft tissues of the human body for therapeutic purposes, including, without 15 limitation:

- (a) Effleurage;**
- (b) Petrissage;**
- (c) Tapotement;**
- (d) Compressions;**
- (e) Vibration;**
- (f) Friction; and**
- (g) Movements applied manually with or without superficial heat, cold, water or lubricants for the purpose of maintaining good health and establishing and maintaining good physical condition.**

2. The term does not include diagnosis, adjustment, mobilization or manipulation of any articulations of the body or spine.

Date: May 5, 2005

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w/ four attachments

Debra Rilea

Ralston School of Massage

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775-982-5450

debra@ralstonmassage.com

Opposed to AB250

My name is Debra Rilea. I am a co-owner of Ralston School of Massage. Our school founder began teaching students in No. Nevada in the mid 1970s and we became a state licensed private postsecondary institution in 1987. Additionally, I have held a local business license with the City of Reno to practice massage since 1991 and have an active massage practice. These are my concerns with AB250:

1) Section 2-1, Section 2-2: There is ample evidence that massage therapy poses no threat to the public. From an article titled "Injuries Reported in Medline as Related to the Practice of Therapeutic Massage - 1965 to 2003" by Keith Eric Grant, Ph.D. In over 12 million medical citations, he found just 10 cases relating significant injury to the practice of therapeutic massage. The only reason one would want to bring in the police powers of the state is to protect the public and in this industry the public does not need the protection. SEE ITEM #1

2) Section 8-1(e): One might argue that massage therapy as an industry needs separation (protection) from prostitution. If this were the case, why is "a person who performs any activity in a licensed brothel" exempt? This bill will not protect massage therapy from association with prostitution as brothels will be allowed to continue using the word "massage" as a synonym for prostitution. This bill will not prevent brothels from advertising in the phone book under massage because the Public Utilities Commission will not issue an opinion of the legality of brothel advertising in the Nevada Bell telephone book. And we currently have criminal laws that protect the public and massage providers from unlicensed, non-brothel working prostitutes using massage as a front. SEE ITEMS #2 and #3

3) Section 17-2: Allows the Board to accept *"gifts, grants, donations and contributions from any source"*. This is an uncomfortable phrase for those of us who has seen others misuse their influence with local boards.

4) Section 18-2: *"If the Board determines that a person violated or is about to violate any provision of subsection 1, the Board may bring an action in a court of competent jurisdiction to enjoin that person from engaging in or continuing the violation."* About to violate? And the Board can take action, which does not prohibit criminal prosecution and punishment?

5) Section 19-2 b(6): Providing the names and addresses of five natural person not related to the applicant and are not business associates... who are willing to serve as character references is excessive. If the brothels have already been exempted, who are we trying to weed out here? And call me one-dimensional but after nearly 15 years in the massage industry there isn't one person I know who hasn't been a client of mine at one time or another. Personally, I would be hard pressed to find these five references.

6) Section 24-1 (a): The section excludes all practitioners in the rural areas of our state that are practicing in an area that does not regulate massage yet many of these locations will issue a business license with proof of education such as Lyon Co. (Yerington). This section places on unfair burden on many currently business licensed individuals.

7) Section 25-1: The fees are excessively high due to the relatively low numbered of massage provider in the state. In the worst case scenario, it would cost a new licensee \$807 (including the \$225 for NCE) to get a state license, to which you need to add the cost of the Nevada Business License (\$100) and the cost of a local business license (\$80 or more). \$987 to begin a massage business when most people doing

massage begin part-time and earn an average of \$7000 their first year?¹

8) Section 27-1 (b): While section 25 appears to be a grandfather clause for some, section 27 takes it away for everyone who has not taken and maintained "*proof of his certification by the National Certification Board for Therapeutic Massage and Bodywork; and*" How can Nevada as a right to work state mandate that individuals maintain a certification with a private national organization? Additionally, NCBTMB offers a National Examination for States Licensing (NESL) that does not require certification. This option becomes available on June 1, 2005. Also NCBTMB is not the only nationally recognized test available for massage providers. Requiring the that everyone maintain national certification with one board is a bad strategy because our profession is far too diverse to squeeze everyone into one box. Therefore licensing begins to inhibit diversity and the public suffers from lack of access to services they want. SEE ITEM #4

9) Section 29-11: While this language probably isn't intended to exclude the licensing or remove the license of everyone for the sale of a gift certificate, package deal, for charging a no-show fee, all of those types of services or fees would be excluded under this section as they are "*compensation for services relating to the practice of massage therapy that he did not provide;*"

For all these reasons, I respectfully request that you do not support AB250 as written. Additionally, hastily drafted amendments can not adequately address these concerns.

Thank you for your time.

Debra Rilea

Ralston School of Massage

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¹ Associated Bodywork and Massage Professionals Vice President Les Sweeney, February 2003

Item #1

Injuries Reported in Medline as Related to the Practice of Therapeutic Massage – 1965 to 2003

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Abstract

Medline citations from 1965 to 2003 were searched for cases relating significant injury to the practice of therapeutic massage. Ten such cases were found from over 12 million medical citations. While this number is far too small for statistical analysis of injury patterns, several recommendations for training and practice were obtainable from these reports on mechanistic grounds.

Keywords: massage injury, massage governance, and massage training

Introduction

In order to best define guidelines for the teaching and practice of therapeutic massage, it is useful to examine cases in the medical literature in which the practice of massage has caused or contributed to significant injury. If patterns of repeating injury are found, then the appropriate hazards management protocol is to identify the precipitating factors and to make recommendations for specific changes in training and practice to avoid their recurrence. The effectiveness of the changes should then be monitored to determine if further refinements are required. In the absence of such patterns of injury, it may still be possible to make recommendations on purely mechanistic grounds.

Via PubMed, the Medline database was searched for cases in which massage therapy was reported to have caused or contributed to injuries. PubMed provided access to over 12 million Medline citations between 1965 and February 2003. Coverage included both US and international health care journals. Cases initially retrieved and cases previously known to the author were combined and examined to define further searches. This process was continued until a set of searches was defined that retrieved all known and previously retrieved cases, some multiple times, and for which no new cases were found. The author was further guided by anatomical knowledge of nerve and organ systems potentially susceptible to trauma. Such systems were often additionally known to the author from martial arts training as susceptible targets. Many cases in which the term massage was used for a medical procedure (e.g. cardiac massage, resuscitation) or in which massage was referenced as a treatment for injury or pain were eliminated by manual scanning.

Several cases of massage related injury were eliminated from further consideration as being identifiably separate from the normal practice of massage. Liu et al. (1993) reported a case of carotid arterial dissection from use of a Shiatsu machine. Kalinga et al. (1996) reported a case of a popliteal artery pseudoaneurysm from massage in the context of Traditional Chinese

Medicine. Mikhail et al. (1997) reported a renal embolism in a patient with aortic occlusion after the patient's wife walked on his back. These reports are specifically mentioned here as they have previously been cited as examples of massage related injuries.

Searches were performed using the following Boolean phrases. The number of hits retrieved and manually scanned is given within parenthesis for each search. An asterisk appended to a prefix term indicates that all suffixes to the prefix were accepted. The appendix "[ti]" indicates that the search for the immediately preceding term was confined to article titles.

- massag* AND injur* NOT perineal NOT cardiac (347)
- massag* AND dissection (26)
- massag* AND liver (95)
- massag* AND kidney (52)
- massag* AND renal (47)
- massag* AND nerve (164)
- massag* AND deep (87)
- massag* AND shiatsu (22)
- massag* AND hematoma NOT cardiac (19)
- massag* AND hepatic (20)
- massag* AND contributing (15)
- massag* AND xiphoid (2)
- massag*[ti] AND arter* (45)
- massag*[ti] AND vein* (14)
- massag*[ti] AND embolism (33)
- massag*[ti] AND thrombosis (16)

This combination of searches and manual examination of retrieved matches resulted in ten case reports, each unique.

Retrieved Case Reports with Abstracts

- Danchik JJ, Yochum TR, Aspegren DD 1993 Myositis ossificans traumatica. J Manipulative Physiol Ther. 16: 605-614. (8133197)

Objective: To present a case of myositis ossificans traumatica (MOT) in a hockey player. Serial X-ray studies allow the reader an opportunity to observe MOT in its earliest through fulminated stages. **Clinical Features:** A 20-yr-old hockey player was subjected to an acute blow to the lateral thigh. Copious amounts of swelling soon developed. The patient was unable to skate. X-rays were initially performed 4 hr after the injury and demonstrated a huge mass developing in the thigh at that time. Intervention and **Outcome:** The player was inappropriately treated with deep tissue massage and heat at the time of injury. It is believed that this led to the fulmination and advanced degree of MOT development. Immobilization allowed for resorption of the calcific density of the ossified structure. **Conclusion:** Proper care of acute trauma is essential in disorders of this nature. Ice, immobility and recognition of when a possible MOT lesion is developing is essential when dealing with contact sports.

- Giese S, Hentz VR 1998 Posterior interosseous syndrome resulting from deep tissue massage. Plast Reconstr Surg 102: 1778-1779 (9774065) (No Abstract Available)

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- Herskovitz S, Strauch B, Gordon MJ 1992 Shiatsu massage-induced injury of the median recurrent motor branch. *Muscle Nerve* 15: 1215 (1406783). (No Abstract Available)
- Kerr, HD.1997 Ureteral stent displacement associated with deep massage. *Wisconsin Medical Journal*.96: 57-58 (9433179)

A 51 year-old woman with a history of ureteral stenosis and calculi noted recurrence of severe left flank pain while undergoing a deep body massage using the Rolfing method. Displacement of her left ureteral double J stent was noted in the emergency department. The pain and associated incontinence resolved with restoration of the stent to its original position. Practitioners should be aware of this potential complication related to forceful massage pressures.

- Medvedev EA 1994 Case of acute unilateral neurosensory hearing loss caused by massage of the trapezius muscle. *Vestn Otorinolaringol* 3: :38-39. Russian. (7846811) (No Abstract Available)
- Mumm AH, Morens DM, Elm JL, Diwan AR 1993 Zoster after Shiatsu massage. *Lancet* 341: 447 (8094222) (No Abstract Available)
- Rahman MN, McAll G, Chai KG 1987 Massage-related perforation of the sigmoid colon in Kelantan. *Med J Malaysia* 42: 56-57 (3431504) (No Abstract Available)
- Tachi J, Amino N, Miyai K 1990 Massage therapy on neck: a contributing factor for destructive thyrotoxicosis? *Thyroidology* 2: 25-27 (1715747)

A 57-year-old woman with Hashimoto's disease is described who developed transient destructive thyrotoxicosis subsequently after she underwent physical massage therapy over her shoulder to neck, together with the goiter, for muscle stiffness in that part. This case supports the concept that physical vigorous manipulation might be a contributing factor for thyrotoxicosis in cases predisposed with autoimmune thyroiditis.

- Trotter JF 1999 Hepatic hematoma after deep tissue massage. *N Engl J Med* 341: 2019-2020 (10617400) (No Abstract Available)

Common causes of hepatic hematoma include trauma and rupture of a hepatic tumor (adenoma or hepatoma). We report a case of hepatic hematoma that developed after a deep body massage.

- Yeo TC, Choo MH, Tay MB 1994 Massive haematoma from digital massage in an anticoagulated patient: a case report. *Singapore Med J* 35: :319-320 (7997915) (No Abstract Available)

Discussion

Danchik et al. (1993) document a case in which deep tissue massage and heat were applied at the time of injury. This would appear to be a violation of current protocols of performing more than lymphatic drainage in the immediate vicinity of such injuries.

Both Giese and Hentz (1998) and Herskovitz et al. (1992) document injury to nerves. Mechanistically, the likely cause is impingement with pressure of superficial nerve tissue directly against underlying bone. Vulnerability of superficial nerves to damage has previously been observed with incautious icing following sports injuries. Barrett et al. (1992) review a number of such cases. The recommendation is made that deep pressure be done slowly and obliquely as per the protocol of Riggs (2002) and with awareness of client response.

Kerr (1997) reports on a ureteral stent displacement in the practice of a Rolfing method. Directly asking clients about the possible presence of medical appliances seems a prudent policy. It can be amazing what pertinent information clients do not volunteer, even on an intake form that asks. The paper's conclusion seems reasonable: "Practitioners should be aware of this potential complication related to forceful massage pressures".

Mumm (1993) reports a case of zoster following a Shiatsu massage. Outbreaks of zoster (shingles) often are correlated with trauma, stress, and weakened immunity. Zoster is a variant of herpes virus and can remain dormant within nerve roots for long periods. While the outbreaks are contagious to those who have not had chicken pox, such persons then contract chicken pox, not the shingles presentation (AAD, 1999). The description in this case is consistent with a triggered outbreak rather than an initial exposure. It is unclear whether Shiatsu was sought because of existing stress or was itself the triggering stress or irritation.

Trotter (1999) reports a case of hematoma following a deep body massage that included massage of the abdomen and right upper quadrant. No further details are given of the massage work or its motivation, precluding analysis of why injury resulted in this particular case. Trotter does comment that the patient, a 39-year-old woman, had no history of serious disorders and no liver problems or bleeding disorders and that she was not taking any medications. Trotter cites Mikhail et al. (1997) as a case of injury occurring from massage although, as noted above, the injury was from a family member walking on the patient's back.

The case documented by Yeo (1994) would appear to center on the client being treated with anticoagulants. This case leads to the conclusion that massage practitioners should ask clients about treatment with anticoagulants and consider consulting the client's physician.

The author of this paper has no particular comments or recommendations relating to Medvedev (1994), Rahman et al. (1997), or Tachi (1990) except to note their uniqueness.

Conclusions

This number of cases of injury found is far too small to be statistically meaningful in estimating risk from massage, except to verify that it is negligible. There are no recurrences of the same or similar injuries apart from Giese and Hentz (1998) and Herskovitz et al. (1992) both reporting nerve injuries. There is no explicit correlation of the occurrence of injuries with technical training or its lack. An apparent correlation does exist with depth and vigorousness of massage, leading to the possibility that hours of didactic training unaccompanied by experience under mentoring or other supervision are leading to over estimation of expertise in kinesthetic/palpatoary skills. The conclusion of low incidence of massage related injury is corroborated by liability insurance data (Green, 2000).

In response to your request about massage insurance claims over the past five years, with 30,040 members to date, we average about one claim per month. Most claims are covered by general liability as they are claims caused by poor housekeeping, like tripping or falling. We

have no record of any claim filed for injuries caused by improper use of techniques on varicose veins, carotid arteries or pregnant women.

There are five recommendations from this study for training and practice, each derived on mechanistic grounds: 1) practitioners should inquire if clients are being treated with anticoagulants; 2) practitioners should inquire if clients have medical appliances such as stents; 3) work done over a contusion or hematoma should be limited to lymphatic drainage, 4) caution should be used not to impinge superficial nerves against underlying bone, 5) training programs should insure that training in anatomical knowledge and technique is interspersed with practical experience sufficient to develop good kinesthetic/palpatory skills, awareness of client response, and clinical humility.

There are extremely few reported cases of injury related to massage within the indexed health care literature. Those that do exist have been written purely as medical reports, lacking in details of massage techniques and treatment protocols. At the same time there are individual practitioners and massage organizations willing to put forth anecdotal accounts of injury. While substantial increases in the estimated rates of injury seem unlikely, it also seems evident that there is a need to educate those in practice to document events of injury and to submit them to indexed journals, such as JBMT, so that they can be used as a basis for formulating evidence-based guidelines for training and practice.

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- Mikhail A, Reidy JF, Taylor PR, Scoble JE 1997 Renal artery embolization after back massage in a patient with aortic occlusion. *Nephrol Dial Transplant* 12: 797-798
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Preprint of article prepared for submission to the *Journal of Bodywork and Movement Therapies*, 27 February 2003

PUC won't make ruling on legality of brothel advertising in phone book

Item 2

By Ray Hagar

RENO GAZETTE-JOURNAL

The Public Utilities Commission will not issue an opinion on the legality of brothel advertising in the Nevada Bell telephone book, the Lyon County district attorney said Friday.

Lyon County District Attorney Leon Aberasturi had asked the PUC to look into the matter after a Mound House woman complained about the ads. Under Nevada law, brothels are not allowed to advertise their businesses in counties that don't allow brothels.

Yet in a letter sent to Aberasturi, a lawyer for the PUC said that government agency does not have the authority "to regulate the content of the yellow pages telephone di-

rectories or to seek enforcement of the criminal statute."

The PUC said it would go no further in investigating the issue.

"Other agencies have greater expertise and direct jurisdiction over these matters," said Richard Hinkley, regulatory operations staff counsel. Hinkley added that the district attorney or the attorney general should take up the issue.

Yet it remains unclear whether the Nevada Bell yellow pages advertising by brothels is illegal, Aberasturi said.

"The PUC is just saying they don't have jurisdiction over telephone books," Aberasturi said. "Their opinion was it is not a PUC matter."

The PUC ruling did not surprise brothel industry officials. Some have said the laws governing the

advertising of brothels are vague.

"Our legal counsel told us early on that the PUC didn't have any stand on the issue and would refer it back," said George Flint, government representative for many of state's brothel owners.

Flint, however, said he understood why someone would be annoyed by the ads.

"I'm personally embarrassed by some of the content," he said. "And I wish we could do something about it."

Flint mentioned ads from Mound House's Moonlite Bunny Ranch, although Moonlite owner Dennis Hof said no mention of prostitution or brothels appears in the display ads. Hof said the PUC's stance is a good thing for the brothel industry.

PUC investigating brothel telephone book complaint

**Legal question:
Woman wants
ads banned.**

By Ray Hagar

RENO GAZETTE-JOURNAL

After complaints from a Carson City woman, the Public Utilities Commission is investigating whether it

has jurisdiction to ban advertising for brothels in the Nevada Bell telephone book, an official said Monday.

The utility was asked to decide the issue last month by Lyon County District Attorney Leon Aberasturi, acting on behalf of Hilda Christenson. She contends advertisements in the Nevada Bell

telephone book violate a state law that bars brothel advertisements in counties that don't allow brothels.

"She has a valid point," Aberasturi said. "The statute says they are not allowed to advertise in areas of the state that do not have legalized prostitution."

She could not be reached Monday.

The PUC may have jurisdiction, since Nevada Bell is regulated by that agency, Aberasturi said. A Nevada Bell spokesperson said Monday a different entity publishes the telephone book, though both are part of SBC Communications.

"The letter was forwarded to staff counsel and counsel will issue an opinion to

see if the PUC has jurisdiction or not," said Cynthia Messina, a PUC public information officer.

Dennis Hof, owner of the Moonlite Bunny ranch in Mound House, said no mention of prostitution or brothels appears in the display ad.

"Nevada has laws about advertising but it is all very

vague," Hof said. "I understand the intent. They didn't want billboards advertising it, but this is totally unrelated. We don't put anything sexual in those ads."

If the issue ever went to court, Hof thinks he could win.

"Can they really stop you from putting an ad in the telephone book?" he asked.

RGJ 5-7-02

RGJ 6/29/02

CRIME & COURTS

Sun Valley woman arrested in solicitation of prostitution

BY JACLYN O'MALLEY
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46 A 49-year-old grandmother accused of running an illegal massage-therapy business out of her Sun Valley mobile home was arrested after she agreed to perform a sex act for money with a detective posing as her client, police said.

The regional Street Enforcement Team recently received information that Sharon Mae Pastorino was allegedly using her business as a front for an illegal prostitution operation, Sgt. Dave Evans said.

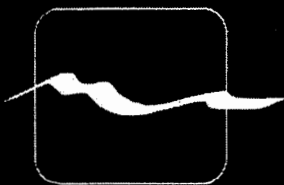
Magic Hands Massage is not a licensed business and Pastorino

is not a licensed masseuse, Evans said. Pastorino told detectives she had the business for eight months. It is advertised in The Big Nickel, a weekly area classified paper.

On Wednesday, a detective called her business and arranged with Pastorino that she would perform a sex act for \$70 in his Sands Hotel room, Evans said. Pastorino was arrested once she arrived. Evans said she had two bags of suspected marijuana packaged for sales and drug paraphernalia.

Pastorino was booked on suspicion of solicitation of prostitution, possession and possession for sales of a controlled substance and drug paraphernalia.

Item 3



Important Changes for Schools: National Certification Examination for Therapeutic Massage and Bodywork (NCETMB)

TO BE IMPLEMENTED JUNE 1, 2005

Item #4

WHAT YOU NEED TO KNOW

Beginning on June 1, 2005, the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) will be implementing updated eligibility criteria for the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) and establishing a massage-specific exam, the National Certification Examination for Therapeutic Massage (NCETM).

Candidates who apply for National Certification and start their programs of study on or after June 1, 2005, will be reviewed using the new eligibility criteria. Those individuals enrolled in a program prior to June 1, 2005 will be evaluated using NCBTMB's current eligibility criteria.

NCBTMB chose the June 1, 2005 implementation date so that schools and students could have proper time to prepare for these changes. The new exam and the updated eligibility criteria were first announced in January 2004. Subsequently, NCBTMB sent notices of these changes to schools and state massage boards in March 2004. In addition, NCBTMB posted this information on its Web site (www.ncbtmb.com) at that same time.

The revised eligibility criteria for certification reflect the proportions of content as they will appear on the NCETM and the NCETMB. The NCBTMB Job Task Analysis, conducted in 2002, validated the content of these exams.

The development of the NCETM and the NCETMB is in strict compliance with the accreditation guidelines established by the National Commission for Certifying Agencies, the Standards for Educational

and Psychological Testing (American Educational Research Association, American Psychological Association and the National Council for Measurement in Education) and the Equal Employment Opportunity Commission's *Guidelines on Employee Selection Procedures*.

Each of these exams will be available under the National Examination for States Licensing (NESL) option, which is and will remain available to any candidate who does not meet NCBTMB's eligibility criteria to become certified, is not required to become certified or chooses not to become certified. This alternative was adopted because several states utilize the NCBTMB exams, either in statute or rule, but do not require applicants for licensure to become certified by NCBTMB.

Individuals applying the NESL option are required to register for the exams through NCBTMB, pay the appropriate fee and follow NCBTMB's procedures for scheduling an exam appointment. They are able to take the exam to meet a state's requirements regardless of the criteria NCBTMB has adopted for the certification. Once candidates have passed the NCETM or NCETMB, they will be able to have their scores transferred to the regulatory agency of their choice by following the protocol outlined in the *National Certification Examination Candidate Handbook*.

More information about NCBTMB's examination content outline and eligibility criteria, follows. Additional copies are available free of charge through the NCBTMB Web site at www.ncbtmb.com or by calling (800) 296-0664.

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Reflexology

What is it? Reflexology is both a science and an art. It is a method for activating the healing powers of the body through reflex points that connect with every organ, gland, and body part. It works on similar principles to acupuncture. Instead of needles, the fingers, thumbs, and a "reflex tool" are used to seek out sore spots on feet and hands caused by congestion in the corresponding organ, gland, or body part. Reflexology is not to be confused with massage, which focuses on the muscles and ligaments.



India c. 18th century, the feet of Vishnu, god of preservation. "The feet symbolize the unity of the entire universe" -Ajit Mookerjee

History The ancient healing art of Reflexology has been known to humans for 1,000's of years. No one culture can claim to have "discovered" Reflexology. Many different forms of feet and hand work have been practiced for healing purposes all over the world. Egyptian pictographs dating back to 2,500 B.C. show healers working on the feet and hands.

By the 1800's, the history and scientific basis of reflexology, earlier called zone therapy, connected information brought together by pioneering medical doctors, knighted physicians, and Nobel Prize winners from the United States, England, Russia, and Germany. In the 1930's, Eunice Ingham, a therapist, further developed and refined the zone therapy into what is now known as Foot and Hand Reflexology.

Benefits of Reflexology By properly working the reflexes of the feet and hands, the body balances itself naturally. It will be able to improve circulation flow and delivery of oxygen to the cells.

Reflexology:

1. Reduces stress and induces deep relaxation.
2. Improves circulation
3. Helps cleanse the body of toxins and impurities
4. Balances the whole system
5. Revitalizes energy
6. Is preventive health care

**MINUTES OF THE SUBCOMMITTEE OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
May 10, 2005**

The subcommittee of the Senate Committee on Commerce and Labor was called to order by Chair Maggie Carlton at 10:25 a.m. on Tuesday, May 10, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Maggie Carlton, Chair
Senator Joe Heck
Senator Sandra J. Tiffany

STAFF MEMBERS PRESENT:

Kelly Gregory, Senior Research Analyst
Kevin Powers, Committee Counsel
Donna Winter, Committee Secretary
Scott Young, Committee Policy Analyst
Jeanine M. Wittenberg, Committee Secretary

OTHERS PRESENT:

John M. Vergiels, Euphoria Salons and Day Spas
Ernie Adler, American Massage Therapy Association, Nevada Chapter
Stan Olsen, Las Vegas Metropolitan Police Department
Patricia A. Patton, L.M.T., Board of Massage Examiners, City of Reno

CHAIR CARLTON:

I now open the hearing to Assembly Bill (A.B.) 250.

Staff and I went through the bill and prepared a list of issues pertaining to the bill (Exhibit C).

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ASSEMBLY BILL 250 (1st Reprint): Provides for licensing and regulation of massage therapists. (BDR 54-733)

JOHN M. VERGIELS (Euphoria Salons and Day Spas):

There has been discussion about the massage therapists being overseen by the State Board of Cosmetology (BOC). The BOC has agreed to oversee them if that is the only way to get them licensed. We support the bill and the concept of licensing and control. We respect the views of the Las Vegas Metropolitan Police Department (Metro) and will support the subcommittee on the direction you take with this bill.

SENATOR CARLTON:

We want to ensure that we include all the public-safety measures we can as far as licensing.

I have concerns on page 16, beginning on line 6. I think the more appropriate way to handle this would be for the appropriate law-enforcement agency, upon arrest of the licensee, to notify the board. The board would then suspend the license.

KEVIN POWERS (Committee Counsel):

"... that is a reference to a business license. ... that would be suspension of a local business license and not the state license. That is why the local law enforcement agency would be involved"

SENATOR CARLTON:

Would that be the business license only?

MR. POWERS:

Yes.

ERNIE ADLER (American Massage Therapy Association, Nevada Chapter):

I think it is important that if the police department enters an establishment where there has been a "trick roll," an act of violence or sexual activity, that they be able to suspend the license immediately. This would be the same process used when someone is arrested for driving under the influence (DUI). These are dangerous situations where the public needs to be protected.

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SENATOR CARLTON:
Do you mean the business license?

MR. ADLER:
Yes and even the board license.

SENATOR CARLTON:
Law enforcement would then have to notify the board. The board would be the regulatory body which would immediately suspend the State license upon further investigation.

MR. POWERS:
... The first part of subsection 4 [of section 32] refers to the business license. ... Unfortunately on line 11, it then turns to ... the board. ... That is really an unfortunate way of drafting it. ... It should be after the suspension of a business license and the law enforcement agency reports that suspension to the board ... the board goes through its own process of determining what to do with the State license.

CHAIR CARLTON:
Mr. Olsen, would you like to provide some input?

STAN OLSEN (Las Vegas Metropolitan Police Department):
It is not a secret that prostitution is a significant problem in the massage industry. With the estimated 5,000 to 7,000 massage therapists in Clark County, even at 10 percent, there would be a lot of illegal prostitution within the massage industry. Our concern would be the amount of time between the event, when we arrest the person and the board disciplinary action taking place at a scheduled board meeting.

MR. ADLER:
On page 16, subsection 4 of section 32, line 12, it states they have 15 days to resolve the matter. I think 15 days is reasonable.

SENATOR CARLTON:
I believe Mr. Olsen's concern was how soon the suspension would go into effect upon notification from the Metro to the board.

MR. POWERS:

... We need to focus on the fact that there is dual licensure of every profession. ... The business license component would be taken care of at the local level. ... Whether or not the board acted quickly would not determine whether or not the local government could act. So the suspension of the business license would involve the business license by the local government. ... That suspension would have to be heard by the local entity that deals with business licenses for that local government. Once you report it to the board, they would deal with the State component. But, at the local level that procedure is separate and apart. ... if you don't have a business license at the local level, you cannot operate.

MR. OLSEN:

Sometimes, when we arrest a massage therapist in Clark County, they then move to a different county. If the information is not transferred because it is not a state action, they could actually begin to operate again under someone else's license, and that person would not be aware of the previous arrest.

SENATOR TIFFANY:

How long does it take for a guilty conviction?

MR. OLSEN:

A court date for prosecution takes time. Their license to operate as a massage therapist is taken at the time of arrest.

SENATOR TIFFANY:

Just because they are arrested, is their business license taken away?

MR. OLSEN:

Yes.

SENATOR TIFFANY:

What happens if they are found not guilty?

MR. OLSEN:

They will have their business license reinstated.

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SENATOR TIFFANY:

Can the license be taken, guilty or not, for 15 days?

MR. OLSEN:

It can be suspended temporarily.

SENATOR TIFFANY:

Other than the time, what is the process?

MR. OLSEN:

If a person is arrested on Friday night and sent to court on Monday with no charges filed, for whatever reason, then the revocation or temporary suspension is reversed.

SENATOR TIFFANY:

Is it automatically reversed, or do they have to go through an appeal with the city council?

MR. OLSEN:

I believe if the charges are dismissed, it is automatically reversed. If charges are still pending, the suspension stands until the charges are adjudicated.

SENATOR TIFFANY:

If the district attorney feels justified moving forward with charges, what is the process and the time it generally takes to find the person guilty?

MR. OLSEN:

It could be six months. They need to hire an attorney and prepare their case.

SENATOR TIFFANY:

Do you think it is fair to take away someone's license when they have not been found guilty?

MR. OLSEN:

The license is a privilege and not a right. It is the legal process.

SENATOR TIFFANY:

I do not think it is right to take someone's professional license when they have not received their due process.

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MR. OLSEN:

If they are engaged in prostitution while engaged in massage therapy, which is criminal activity, how can you legitimately allow them to continue their activity?

SENATOR TIFFANY:

I do not feel it is always black and white. How many cases are there where there is not enough evidence to convict?

MR. OLSEN:

I do not have that number but, can tell you that most prostitution cases are convicted.

SENATOR TIFFANY:

Perhaps, we could look at an emergency measure if we do have a massage therapy board, and under certain circumstances, they could temporarily suspend the license until a full hearing or further information was available.

MR. ADLER:

I would suggest if you are going to have an emergency suspension, it should come from the executive director of the board. This would avoid Open Meeting Law violations instead of contacting board members directly.

SENATOR TIFFANY:

That could be the answer. I do not want law enforcement to be able to take away the professional license.

MR. POWERS:

... Whether at the State or local level, if there is a ... temporary suspension of the license, upon an arrest, that person under the due process clause is going to be entitled to some post-deprivation administrative hearing shortly after the temporary suspension. It cannot last indefinitely until the court makes a determination on the conviction. There has to be some administrative component that provides due process. Even at the local level.

SENATOR TIFFANY:

I agree. We need to take into consideration Mr. Olsen's statement that they sometimes move from county to county.

MR. POWERS:

... Upon notification from the local law-enforcement agency, the executive director could issue an order of temporary suspension. ... Then you would have to have a post-deprivation hearing within a short period of time, probably 15 to 20 days, for that person to have constitutional due process.

SENATOR TIFFANY:

Could we put that in this bill?

MR. ADLER:

I think the 15-day provision is in the bill. The temporary up-front suspension from the executive director is not. All of these issues can be sorted out. As was stated earlier, the license travels with the massage therapist, and they could go to another county unless the license is suspended.

MR. POWERS:

Again, to maintain the demarcation between the local and the state jurisdiction ... the local government would suspend the business license, notify the state board, the executive director would then suspend the state license. ... There would be dual procedures going on at local and state levels but both licenses would be suspended at that point.

SENATOR CARLTON:

Mr. Olsen, my concern is that the notification occurs quickly. Do you think it is better for local government to forward the suspended-license information to the board or law enforcement?

MR. OLSEN:

I think law enforcement should be the notifying agency. We could fax a form to the board at the time of arrest.

PATRICIA A. PATTON, L.M.T. (Board of Massage Examiners, City of Reno):

If someone is an employee of an establishment, they will not have a business license.

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SENATOR CARLTON:

Then, the notification would only go to the state board. I do not think that will be a problem.

MR. ADLER:

That makes sense to me.

MR. OLSEN:

We currently fax a form to the Department of Motor Vehicles notifying them of an arrest for DUI and issuance of a temporary driver's license.

MR. POWERS:

"Does that need to be done statutorily or is that administrative procedure that the local governments follow?"

MR. OLSEN:

I believe the temporary driver's license is done statutorily.

SENATOR CARLTON:

I want to avoid too much paperwork but this may be the way to address this problem.

We have run out of time for this meeting. I would like everyone to review Exhibit C and provide us with your comments and concerns later throughout the day. We will hear this bill one more time.

MR. ADLER:

We will provide you with a list later today after review of Exhibit C.

MR. OLSEN:

We will put something in writing for each subcommittee member.

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CHAIR CARLTON:

The meeting of the subcommittee of the Senate Committee on Commerce and Labor is now adjourned at 10:53 a.m.

RESPECTFULLY SUBMITTED:

Jeanine M. Wittenberg,
Committee Secretary

APPROVED BY:

Senator Maggie Carlton, Chair

DATE: _____

Issues Regarding Assembly Bill 250

Prepared by Senate Commerce and Labor Staff for Subcommittee Discussion
May 10, 2005

Sec 9(1)	Most boards have an even number of members and the number is fixed. Consider establishing a seven-member board.
Sec 9(2)	The dividing line between northern and southern Nevada is imprecise. Designation should be changed to reflect specific counties (e.g., Clark, Washoe, rest of the counties).
Sec 9(6)	Immunity generally extends to board employees as well.
Sec 13(1)(c)	Clarify the fee is just to cover cost of copying and that the list of licensees cannot be sold for a profit.
Sec 13(3)	Substitute generally used board provision that provides: "board may employ inspectors, investigators, advisers, examiners and clerks and secure the services of attorneys and other professional consultants." AG should be designated Legal Counsel for board.
Sec 14(6)	Change language to authorize joint use of background check by both boards.
Sec 15(1)	See comment to Sec 13(3) regarding employing staff.
Sec 15(2)	Include the standard \$80/day salary for board.
Sec 19(2)(b)(4)	Include a requirement that the certificate indicate no <u>past</u> disciplinary action instead of just pending actions.
Sec 19(4)	The requirement to submit fingerprints here appears to be redundant in view of Sec. 19(5).
Sec 19(4)(a)(3)	Information about pending litigation should be narrowed to litigation relevant to licensure (eg, why would board need to know about a divorce).
Sec 19(4)(b)	Refuse to issue a license if unable to complete full check. It is not sufficient to only do a financial background check if unable to complete a full background check.
Sec 19(4)(c)	30 days is too short in view of delays in receiving results of criminal background checks.
Sec 19(4)(d)	Appears to conflict with Sec 34 (2) which allows sharing of information with other boards and agencies. Language in Sec 34(2) is standard language used with boards.
Sec 20 (2)(b)	Northern Nevada/southern Nevada issue again.
Sec 20(2)(b)	The interpreter language is not used by other boards. This language may raise an issue whether board has to provide the interpreter instead of just a list of interpreters. Consider using language regarding testing in non-English languages such as that found in cosmetology chapter at NRS 644.235.
Sec 21	Temporary license issued prior to taking exam. Committee has generally opposed such a procedure.
Sec 21(b)(6)	Include a requirement that the certificate indicate no <u>past</u> disciplinary action, as noted above.

Sec 22-23	Make sure this language conforms to SB 163.
Sec 24	Grandfathering. Committee has generally opposed such a procedure. Provide a phase-in period of several years to give adequate time to complete specified statutory minimum skill qualifications set by regulation.
Sec 24(2)(c)	Require applicant to also submit a statement indicating no prostitution arrests or convictions in past 10 years. Applicant may not have had a massage license at time of an earlier conviction.
Sec 24(2)(d)	Include a requirement that the certificate indicate no <u>past</u> disciplinary action (even though applicant must submit statement under subsection (c) regarding past offenses, as a double-check, require licensing body to provide information on past, as opposed to pending, actions).
Sec 25(1)	Allows board to establish and amend a fee schedule. No other board has ability to <i>amend</i> a fee schedule without first obtaining legislative approval.
Sec 25(2)	Allows board to establish "other" fees without prior legislative approval. Committee generally requires a board to obtain legislative approval of any new fees.
Sec 25(3)	May prevent the board from maintaining a prudent reserve margin.
Sec 29(4)(c)	Clarify whether this provision about touching of breasts applies to both male and female customers or only the latter.
Sec 29(11)	Clarify so this section does not prohibit gift certificates and the like.
Sec 30(1)&(2)	Someone unconnected with the board who lodges a complaint probably would not have the knowledge to complete a complaint as specified here.
Sec 30(3)	Scheduling a hearing as soon as practicable after filing a complaint does not appear to allow adequate time to investigate whether the complaint has merit and if so, to properly build a case for disciplinary action. Sections need to be conformed to SB 276.
Sec 30-34	
Sec 32(1)(b)	Allows a private reprimand but this was abolished last Session by SB 250 for all boards.
Sec 32(4)	Allows law enforcement to temporarily suspend license for violence/sex offense arrest. Generally, only a licensing board has jurisdiction to take such action against a licensee. Consider instead a requirement that law enforcement immediately notify the board pursuant to this section if a licensee is arrested.

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
May 18, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:04 a.m. on Wednesday, May 18, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra J. Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Assembly District No. 8

STAFF MEMBERS PRESENT:

Kelly S. Gregory, Committee Policy Analyst
Kevin Powers, Committee Counsel
Donna Winter, Committee Secretary
Scott Young, Committee Policy Analyst
Jeanine M. Wittenberg, Committee Secretary

OTHERS PRESENT:

Fred L. Hillerby, MasterCard International, Incorporated; Washoe County
Regional Transportation Commission
Michael Tanchek, Labor Commissioner, Office of Labor Commissioner,
Department of Business and Industry

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regard because I am a firm believer in personal responsibility. I was originally opposed to this bill, but because of the provision of the possibility that someone who does not meet that other criteria could be denied payment, I would be more inclined to support the bill at this time.

SENATOR TIFFANY:

Senator Heck, if an individual comes into the emergency room after having a glass of wine and slipping, are the chances of doing any kind of testing slim?

SENATOR HECK:

Yes. What may be documented in the chart such as alcohol on breath or something in that regard, whether in the history and physician's or nurse's notes, could result in the denial of the claim. You are right, if someone slipped and came in with a broken ankle, they do not get screened for drug and alcohol abuse.

SENATOR TIFFANY:

The emergency-room personnel see much worse things than just someone who has had a few glasses of wine with a slip and fall injury.

SENATOR HECK:

That is true. However, since there is no defined standard, if medical personnel document the patient's chart with that type of information, is it enough to deny the claim? Ideally, I would like to see the exclusion defined.

SENATOR TIFFANY:

I would too and that is part of the problem I am having with this bill. I agree with Senator Heck on personal responsibility. The emergency room is not the appropriate environment for making staff do the screening panel for dual diagnosing.

CHAIR TOWNSEND:

We will meet again on Friday. That will give Senator Heck and Senator Tiffany time to find appropriate language for the Committee.

We will now hear A.B. 250.

ASSEMBLY BILL 250 (1st Reprint): Provides for licensing and regulation of massage therapists. (BDR 54-733)

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ERNIE ADLER (American Massage Therapy Association, Nevada Chapter):
The Committee has been provided with a mock-up amendment (Exhibit E). This amendment is a result of discussions in subcommittee. We reviewed these with the Las Vegas Metropolitan Police Department and concerned parties; I think the amendments present an improvement in the bill. We really had no dissent to these amendments from the subcommittee, and they support the proposed amendments.

SENATOR CARLTON:
I have not had the opportunity to review Exhibit E and would like to defer action on this until Friday's meeting.

CHAIR TOWNSEND:
We will take up this bill on Friday.

MR. POWERS:
... I finished this ... [amendment] last night at 2:30 a.m. ... there could be some rough patches. ... As the individuals and parties read that [amendment], let them know that we will be refining the language and after I talk to Senator Carlton we can finish the details.

CHAIR TOWNSEND:
We will now hear A.B. 114. Is there a proposed amendment to this bill? I need to disclose that my wife is a licensee, but I am not sure she will get into this business.

ASSEMBLY BILL 114 (1st Reprint): Revises provisions governing manufactured homes, mobile homes and Real Estate Education, Research and Recovery Fund. (BDR 43-1162)

JAMES F. NADEAU (Nevada Association of Realtors):
We have no amendments. It is a straightforward bill.

CHAIR TOWNSEND:
Are there no amendments from the Real Estate Division, Department of Business and Industry?

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CHAIR TOWNSEND:

Senator Carlton, would it make you more comfortable to put in an application fee of "not more than" with a higher number and letting the SBOC establish a higher renewable fee of "not more than"?

SENATOR CARLTON:

Those numbers will be fine and I do not think we should treat one group of people differently.

CHAIR TOWNSEND:

We know what we are trying to accomplish with this bill.

MR. POWERS:

"I will work on the language."

SENATOR CARLTON:

We did not discuss section 2, subsection 1. I want to point out those language changes to the Committee. If A.B. 250 passes, there will be a conflict with that language.

CHAIR TOWNSEND:

We should leave it and deal with the conflict amendment if we need to do so.

SENATOR TIFFANY MOVED TO AMEND AND DO PASS A.B. 496.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:

We will now hear A.B. 384. We have four mock-up amendments (Exhibit P), (Exhibit Q), (Exhibit R) and (Exhibit S). I have a recommended change for Exhibit P. I do not like the 18 months and would recommend that we go back to one year. Are there any more amendments for this bill?

MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 250
FIRST REPRINT

PREPARED FOR THE SENATE COMMITTEE ON COMMERCE AND LABOR
MAY 18, 2005

PREPARED BY THE LEGAL DIVISION

**NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN
CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE
OFFICIAL AMENDMENT MAY DIFFER.**

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) ~~green bold dashed underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Title 54 of NRS is hereby amended by adding thereto a
2 new chapter to consist of the provisions set forth as sections 2 to 34,
3 inclusive, of this act.

4 **Sec. 2.** *The Legislature finds and declares that:*

5 1. *The practice of massage therapy by persons who do not possess*
6 *sufficient knowledge of anatomy and physiology or an understanding of*
7 *the relationship between the structure and function of the tissues being*
8 *treated and the total function of the body may endanger the health,*
9 *welfare and safety of the residents of this State.*

10 2. *To protect the residents of this State, it is necessary to license and*
11 *regulate the practice of massage therapy.*

12 **Sec. 3.** *As used in this chapter, unless the context otherwise*
13 *requires, the words and terms defined in sections 4 to 7, inclusive, of this*
14 *act have the meanings ascribed to them in those sections.*

15 **Sec. 4.** *"Board" means the Board of Massage Therapists.*

16 **Sec. 5.** *"License" means a license issued by the Board.*

17 **Sec. 6.** *"Massage therapist" means a person who is licensed*
18 *pursuant to the provisions of this chapter to engage in the practice of*
19 *massage therapy.*

20 **Sec. 7. 1.** *"Massage therapy" means the application of a system of*
21 *pressure to the muscular structure and soft tissues of the human body for*
22 *therapeutic purposes, including, without limitation:*

23 (a) *Effleurage;*

24 (b) *Petrissage;*

25 (c) *Tapotement;*

26 (d) *Compressions;*

27 (e) *Vibration;*

28 (f) *Friction; and*

29 (g) *Movements applied manually with or without superficial heat,*
30 *cold, water or lubricants for the purpose of maintaining good health and*
31 *establishing and maintaining good physical condition.*

32 2. *The term does not include ~~diagnosis~~.*

1 (a) Diagnosis, adjustment, mobilization or manipulation of any
2 articulations of the body or spine; or

3 (b) Reflexology.

4 **Sec. 8. 1. The provisions of this chapter do not apply to:**

5 (a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633,
6 634, 634A, 635 ~~or~~, 640, 640A or 640B of NRS if the massage therapy is
7 performed in the course of the practice for which he is licensed.

8 (b) A person licensed as a barber or apprentice pursuant to chapter
9 643 of NRS if the person is massaging, cleansing or stimulating the
10 scalp, face, neck or skin within the permissible scope of practice for a
11 barber or apprentice pursuant to that chapter.

12 (c) A person licensed or registered as an aesthetician, cosmetologist
13 or cosmetologist's apprentice pursuant to chapter 644 of NRS if the
14 person is massaging, cleansing or stimulating the scalp, face, neck or
15 skin within the permissible scope of practice for an aesthetician,
16 cosmetologist or cosmetologist's apprentice pursuant to that chapter.

17 (d) A person who is an employee of an athletic department of any
18 high school, college or university in this State and who, within the scope
19 of that employment, practices massage therapy on athletes.

20 ~~(e)~~ (e) Students enrolled in a school of massage therapy recognized
21 by the Board.

22 ~~(f)~~ (f) A person who practices massage therapy solely on members of
23 his immediate family.

24 ~~(g)~~ (g) A person who performs any activity in a licensed brothel.

25 **2. Except as otherwise provided in subsection 3, the provisions of**
26 **this chapter preempt the licensure and regulation of a massage therapist**
27 **by a county, city or town, including, without limitation, conducting a**
28 **criminal background investigation and examination of a massage**
29 **therapist or applicant for a license to practice massage therapy.**

30 **3. The provisions of this chapter do not prohibit a county, city or**
31 **town from requiring a massage therapist to obtain a license or permit to**
32 **transact business within the jurisdiction of the county, city or town, if the**
33 **license or permit is required of other persons, regardless of occupation**
34 **or profession, who transact business within the jurisdiction of the**
35 **county, city or town.**

36 **4. As used in this section, "immediate family" means persons who**
37 **are related by blood, adoption or marriage, within the second degree of**
38 **consanguinity or affinity.**

39 **Sec. 9. 1. The Board of Massage Therapists, ~~consisting of at least~~**
40 **~~six~~ members appointed by the Governor, is hereby created.**

41 **2. The Governor shall appoint to the Board ~~seven~~ members as**
42 **follows:**

43 (a) ~~At least five~~ Six members who:

44 (1) Are licensed to practice massage therapy in this State, ~~at least~~
45 ~~two of whom represent northern Nevada and at least two of whom~~
46 ~~represent southern Nevada; and~~

47 (2) Have engaged in the practice of massage therapy for the 2
48 years immediately preceding their appointment.

49 ~~Of the six members appointed pursuant to this paragraph, three~~
50 ~~members must be residents of Clark County, two members must be~~
51 ~~residents of Washoe County and one member must be a resident of a~~
52 ~~county other than Clark County or Washoe County.~~

53 (b) One member who is a member of the general public. This
54 member must not be:

55 (1) A massage therapist; or

56 (2) The spouse or the parent or child, by blood, marriage or
57 adoption, of a massage therapist.

The language regarding a member of the general public is added to conform with SB310 of the 2003 Regular Session. See Ch. 213, Nev. Stats. 2003.

3. The Governor may, in making his appointments to the Board pursuant to paragraph (a) of subsection 2, consider for appointment to the Board a person recommended to him by any person or group.

4. The members who are appointed to the Board pursuant to paragraph (a) of subsection 2 must continue to practice massage therapy while they are members of the Board.

5. The Governor may remove any member of the Board for incompetence, neglect of duty, moral turpitude or misfeasance, malfeasance or nonfeasance in office.

~~6. No member of the Board may be held liable in a civil action. The Board and any of its members and its staff and employees, including, without limitation, inspectors, investigators, advisers, examiners, clerks, counsel, experts, committees, panels, hearing officers and consultants are immune from any civil liability for an act that he performs performed in good faith in the execution of his any duties pursuant to this chapter.~~

7. Upon appointment, new members must be provided training that includes, ~~but is not limited to, the:~~

~~(a) Licensure without limitation, training regarding:~~

~~(a) The licensure and discipline of massage therapists; and~~

~~(b) Rules. The rules and procedures of the Board.~~

Sec. 10. 1. At the first meeting of each year, the members of the Board shall elect a Chairman, Vice Chairman and Secretary-Treasurer from among its members.

2. After the initial terms, the term of each member of the Board is 4 years. The members ~~shall~~ may continue in office until their successors are appointed.

~~3. No~~ A member of the Board may not serve more than two consecutive terms. A former member of the Board is eligible for reappointment to the Board if that person has not served on the Board during the 4 years immediately preceding the reappointment.

4. A vacancy on the Board must be filled by appointment for the unexpired term in the same manner as the original appointment.

Sec. 11. 1. The Board shall meet at least quarterly and may meet at other times at the call of the Chairman or upon the written request of a majority of the members of the Board.

2. The Board shall alternate the location of its meetings between ~~northern the southern district of Nevada and southern the northern district of Nevada.~~ For the purposes of this subsection:

(a) The southern district of Nevada consists of all that portion of the State lying within the boundaries of the counties of Clark, Esmeralda, Lincoln and Nye.

(b) The northern district of Nevada consists of all that portion of the State lying within the boundaries of Carson City and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe and White Pine.

3. A meeting of the Board may be conducted telephonically or by videoconferencing. A meeting conducted telephonically or by videoconferencing must meet the requirements of chapter 241 of NRS and any other applicable provisions of law.

~~2. Except as otherwise provided in subsection 3, a majority of the members of the Board constitutes a quorum for the transaction of the business of the Board.~~

~~3.~~ 4. Four members of the Board constitute a quorum for the purposes of transacting the business of the Board, including, without limitation, issuing, renewing, suspending, revoking or reinstating a license issued pursuant to this chapter.

Sec. 12. The Board shall:

1. Adopt a seal of which each court in this State shall take judicial notice;

2. Prepare and maintain a record of its proceedings and transactions;

3. Review and evaluate applications for the licensing of massage therapists;

4. Determine the qualifications and fitness of applicants;

5. Issue, renew, reinstate, revoke, suspend and deny licenses, as appropriate;

6. Enforce the provisions of this chapter and any regulations adopted pursuant thereto;

7. Investigate any complaints filed with the Board;

8. Impose any penalties it determines are required to administer the provisions of this chapter; and

9. Transact any other business required to carry out its duties.

Sec. 13. 1. The Board shall prepare and maintain a separate list of:

(a) Persons issued a license;

(b) Applicants for a license; and

(c) Persons whose licenses have been revoked or suspended by the

Board.

2. The Board shall, upon request, disclose the information included in each list and may charge a fee for a copy of the list. The fee may not exceed the actual cost incurred by the Board to make a copy of the list.

~~3. The Board shall:~~

~~(a) Prepare and maintain a record of its proceedings and transactions;~~

~~(b) Adopt a seal of which each court in this State shall take judicial notice; and~~

~~(c) Enforce the provisions of this chapter and any regulations adopted pursuant thereto.~~

~~4. The Board shall hire a full-time staff of investigators to conduct background investigations of applicants for a license in a timely manner, as determined by the Board, and to conduct routine unannounced inspections of massage therapists. The Board shall employ those investigators in both northern Nevada and southern Nevada.~~

Sec. 14. The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. Prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; and

6. ~~Reduce duplication in the licensing procedure for a qualified applicant who is applying to the Board for a license issued pursuant to this chapter and to the State Board of Cosmetology for a license issued pursuant to chapter 644 of NRS. Establish the period within which the Board or its designee must report the results of the investigation of an applicant.~~

Sec. 14.5. 1. The Attorney General and his deputies are hereby designated as the attorneys for the Board.

Sec. 21.5 and Sec. 34.5 now contain the provisions regarding the duty of the Board of Massage Therapists to reduce duplication in licensing procedures with the State Board of Cosmetology.

1 2. The provisions of this section do not prevent the Board from
2 employing or retaining other attorneys as it may deem necessary to carry
3 out the provisions of this chapter.

4 **Sec. 15.** ~~1. The Board may employ an Executive Secretary and~~
5 ~~any other persons required to carry out its duties.~~

6 ~~2. While engaged in the business of the Board, each member and~~
7 ~~employee of the Board is entitled to receive a per diem allowance and~~
8 ~~travel expenses at a rate fixed by the Board. The rate must not exceed the~~
9 ~~rate provided for officers and employees of this State generally.~~

10 1. The Board shall employ a person as the Executive Director of the
11 Board.

12 2. The Executive Director serves as the chief administrative officer
13 of the Board at a level of compensation set by the Board.

14 3. The Executive Director is an at-will employee who serves at the
15 pleasure of the Board.

16 **Sec. 15.3.** 1. The Board may employ or contract with inspectors,
17 investigators, advisers, examiners and clerks and any other persons
18 required to carry out its duties and secure the services of attorneys and
19 other professional consultants as it may deem necessary to carry out the
20 provisions of this chapter.

21 2. Each employee of the Board is an at-will employee who serves at
22 the pleasure of the Board. The Board may discharge an employee of the
23 Board for any reason that does not violate public policy, including,
24 without limitation, making a false representation to the Board.

25 **Sec. 15.7.** While engaged in the business of the Board:

26 1. Each member of the Board is entitled to receive a salary of not
27 more than \$80 per day, as established by the Board; and

28 2. Each member and employee of the Board is entitled to receive a
29 per diem allowance and travel expenses at a rate fixed by the Board. The
30 rate must not exceed the rate provided for officers and employees of this
31 State generally.

32 **Sec. 16.** The Board shall adopt a fiscal year beginning on July 1
33 and ending on June 30.

34 **Sec. 17.** 1. Except as otherwise provided in subsection 5, all
35 reasonable expenses incurred by the Board in carrying out the provisions
36 of this chapter must be paid from the money that it receives. No part of
37 any expenses of the Board may be paid from the State General Fund.

38 2. The Board may accept gifts, grants, donations and contributions
39 from any source to assist in carrying out the provisions of this chapter.

40 3. All money received by the Board must be deposited in a bank or
41 other financial institution in this State and paid out upon the Board's
42 order for its expenses.

43 4. The Board may delegate to a hearing officer or panel its
44 authority to take any disciplinary action pursuant to this chapter, impose
45 and collect fines and penalties therefor, and deposit the money therefrom
46 in a bank or other financial institution in this State.

47 5. If a hearing officer or panel is not authorized to take disciplinary
48 action pursuant to subsection 4 and the Board deposits the money
49 collected from the imposition of fines with the State Treasurer for credit
50 to the State General Fund, it may present a claim to the State Board of
51 Examiners for recommendation to the Interim Finance Committee if
52 money is required to pay attorney's fees or the costs of an investigation,
53 or both.

54 **Sec. 18.** 1. A person whose license has expired or has been
55 suspended or revoked by the Board and who:

56 (a) Engages in the practice of massage therapy; or

57 (b) Uses in connection with his name the words or letters "L.M.T.,"
58 "licensed massage therapist," "licensed massage technician," "M.T.,"
59 "massage technician" or "massage therapist," or any other letters, words

1 or insignia indicating or implying that he is licensed to practice massage
2 therapy, or who in any other way, orally, or in writing or print, or by
3 sign, directly or by implication, uses the word "massage" or represents
4 himself as licensed or qualified to engage in the practice of massage
5 therapy,

6 ➡ is guilty of a misdemeanor.

7 2. If the Board determines that a person has violated or is about to
8 violate any provision of ~~subsection 1~~ this section, the Board may bring
9 an action in a court of competent jurisdiction to enjoin that person from
10 engaging in or continuing the violation. An injunction:

11 (a) May be issued without proof of actual damage sustained by any
12 person.

13 (b) Does not prohibit the criminal prosecution and punishment of a
14 person who violates any of those provisions.

15 3. A person who is not licensed pursuant to this chapter to practice
16 massage therapy and who:

17 (a) Engages in the practice of massage therapy; or

18 (b) Uses in connection with his name the words or letters "L.M.T.,"
19 "licensed massage therapist," "licensed massage technician," "M.T.,"
20 "massage technician" or "massage therapist," or any other letters, words
21 or insignia indicating or implying that he is licensed to practice massage
22 therapy, or who in any other way, orally, or in writing or print, or by
23 sign, directly or by implication, uses the word "massage" or represents
24 himself as licensed or qualified to engage in the practice of massage
25 therapy,

26 ➡ is guilty of a misdemeanor.

27 Sec. 19. 1. The Board may issue a license to practice massage
28 therapy.

29 2. An applicant for a license must:

30 (a) Be at least 18 years of age;

31 (b) Submit to the Board:

32 (1) A completed application on a form prescribed by the Board;

33 (2) The fees prescribed by the Board pursuant to section 25 of this

34 act;

35 (3) Proof that he has successfully completed a program of
36 massage therapy recognized by the Board;

37 (4) A certified statement issued by the licensing authority in each
38 state, territory or possession of the United States or the District of
39 Columbia in which the applicant is or has been licensed to practice
40 massage therapy ~~indicating that no disciplinary~~ verifying that:

41 (I) The applicant has not been involved in any disciplinary
42 action relating to his license to practice massage therapy; and

43 (II) Disciplinary proceedings relating to his license to practice
44 massage therapy are not pending;

45 (5) A ~~full~~ complete set of fingerprints and written permission
46 authorizing the Board to forward the fingerprints to the Central
47 Repository for Nevada Records of Criminal History for submission to the
48 Federal Bureau of Investigation for its report;

49 (6) The names and addresses of five natural persons not related to
50 the applicant and not business associates of the applicant who are
51 willing to serve as character references;

52 (7) A statement authorizing the Board or its designee to conduct
53 an investigation to determine the accuracy of any statements set forth in
54 the application; and

55 (8) If required by the Board, a financial questionnaire; and
56
57
58
59

(c) In addition to any examination required pursuant to section 14 of this act and except as otherwise provided in ~~section 20 of this act subsection 3~~, pass a written examination administered by the National Certification Board for Therapeutic Massage and Bodywork, any board that is accredited by the National Commission for Certifying Agencies, or its successor organization, to examine massage therapists.

3. If the Board determines that the examinations being administered pursuant to paragraph (c) of subsection 2 are inadequately testing the knowledge and competency of applicants:

(a) The Board shall prepare or cause to be prepared its own written examination to test the knowledge and competency of applicants; and

(b) Such an examination must be offered not less than four times each year. The location of the examination must alternate between Clark County and Washoe County. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.

4. The Board shall recognize a program of massage therapy that is: ~~including, but not limited to, a program~~

(a) Approved by the Commission on Postsecondary Education; or

(b) Offered by a public college in this State or any other state.

~~The Board may recognize other programs of massage therapy.~~

4. The Board or its designee shall:

(a) ~~Fingerprint each applicant and conduct~~ Conduct an investigation to determine:

(1) The reputation and character of the applicant;

(2) The existence and contents of any record of arrests or convictions of the applicant;

(3) The existence and nature of any pending litigation involving the applicant, ~~that would affect his suitability for licensure; and~~

(4) The accuracy and completeness of any information submitted to the Board by the applicant;

(b) If the Board determines that it is unable to conduct a complete investigation, require the applicant to submit a financial questionnaire and investigate the financial background and each source of funding of the applicant;

(c) Report the results of the investigation ~~not more than 30 days after the Board receives a complete application; of the applicant within the period the Board establishes by regulation pursuant to section 14 of this act; and~~

(d) Maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency. ~~The results of an investigation must be available only to the Board and a peace officer of this State.~~

Sec. 20. ~~If the National Certification Board for Therapeutic Massage and Bodywork ceases to administer the written examination required by paragraph (c) of subsection 2 of section 19 of this act or if the Board, after public comment, determines that such examination inadequately tests the knowledge and competency of applicants, the Board shall:~~

~~1. Accept from an applicant for a license the results of an examination administered by any board that is accredited by the National Commission for Certifying Agencies to examine massage therapists; or~~

~~2. Prepare or cause to be prepared a written examination that is:~~

~~(a) Substantially equivalent to the written examination that was administered by the National Certification Board for Therapeutic Massage and Bodywork or any other organization approved by the Board; and~~

~~(b) Offered not less than four times each year. The location of the examination must alternate between northern Nevada and southern Nevada. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.~~

Sec. 21. 1. The Board may issue a temporary license to practice massage therapy.

2. An applicant for a temporary license issued pursuant to this section must:

(a) Be at least 18 years of age; and

(b) Submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to section 25 of this

act;

(3) Proof that he has successfully completed a program of massage therapy recognized by the Board pursuant to section 19 of this act;

(4) Proof that he:

(I) Has taken the examination offered by the National Certification Board for Therapeutic Massage and Bodywork required pursuant to section 19 of this act; or

(II) Is scheduled to take the examination offered by the National Certification Board for Therapeutic Massage and Bodywork such an examination within 90 days after the date of application;

(5) An affidavit indicating that he has not committed any of the offenses for which the Board may refuse to issue a license pursuant to section 29 of this act;

(6) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy indicating that no disciplinary verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(II) Disciplinary proceedings relating to his license to practice massage therapy are not pending; and

(7) A full complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. A temporary license issued pursuant to this section expires 90 days after the date the Board issues the temporary license. The Board shall not renew the temporary license.

~~4. The Board shall recognize a program of massage therapy that is, including, but not limited to, a program:~~

~~(a) Approved by the Commission on Postsecondary Education; or~~

~~(b) Offered by a public college in this State or any other state.~~

4. A person who holds a temporary license:

(a) May practice massage therapy only under the supervision of a fully licensed massage therapist and only in accordance with the provisions of this chapter and the regulations of the Board;

(b) Must comply with any other conditions, limitations and requirements imposed on the temporary license by the Board;

(c) Is subject to the regulatory and disciplinary authority of the Board to the same extent as a fully licensed massage therapist; and

(d) Remains subject to the regulatory and disciplinary authority of the Board after the expiration of the temporary license for all acts relating to the practice of massage therapy which occurred during the period of temporary licensure.

5. As used in this section, "fully licensed massage therapist" means a person who holds a license to practice massage therapy issued pursuant to section 19 of this act.

Sec. 21.5. 1. The Board of Massage Therapists and the State Board of Cosmetology shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the Board of Massage Therapists for a license to practice pursuant to this chapter and who is also applying to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS, if both applications are filed not more than 60 days apart.

2. If a qualified applicant submits an application to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS and, not later than 60 days after that application, the applicant also submits an application to the Board of Massage Therapists for a license to practice pursuant to this chapter:

(a) The applicant is not required to submit a set of fingerprints to the Board of Massage Therapists if the applicant submitted a set of fingerprints with his application to the State Board of Cosmetology;

(b) The Board of Massage Therapists shall request from the State Board of Cosmetology a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the State Board of Cosmetology shall provide to the Board of Massage Therapists any reports relating to a background investigation of the applicant; and

(d) The Board of Massage Therapists shall use the reports provided by the State Board of Cosmetology in reviewing the application for a license to practice pursuant to this chapter.

Sec. 22. 1. ~~In addition to the any other requirements set forth in sections 19, 21 and 24 of this act, a natural person who applies this chapter:~~

(a) An applicant for the issuance of a license as a massage therapist shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license as a massage therapist shall submit to the Board:

~~(a) In any application for the issuance of a license, the social security number of the applicant and the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

~~(b) In any application for renewal of a license, the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. ~~The Board shall not issue or renew a license if the applicant is a natural person who:~~ A license as a massage therapist may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in

Sec. 21.5 requires the Board of Massage Therapists and the State Board of Cosmetology to reduce duplication in their licensing procedures for persons who apply for both licenses not more than 60 days apart. Sec. 34.5 adds similar provisions to NRS Chapter 644, which governs the State Board of Cosmetology.

Sec. 22 has been revised to conform with SB163-R1 of this session.

1 compliance with the order or a plan approved by the district attorney or
2 other public agency enforcing the order for the repayment of the amount
3 owed pursuant to the order.

4 4. If an applicant indicates on the statement submitted pursuant to
5 subsection 1 that he is subject to a court order for the support of a child
6 and is not in compliance with the order or a plan approved by the district
7 attorney or other public agency enforcing the order for the repayment of
8 the amount owed pursuant to the order, the Board shall advise the
9 applicant to contact the district attorney or other public agency enforcing
10 the order to determine the actions that the applicant may take to satisfy
11 the arrearage.

12 Sec. 23. 1. If the Board receives a copy of a court order issued
13 pursuant to NRS 425.540 that provides for the suspension of all
14 professional, occupational and recreational licenses, certificates and
15 permits issued to a person who is the holder of a license, the Board shall
16 deem the license issued to that person to be suspended at the end of the
17 30th day after the date on which the court order was issued unless the
18 Board receives a letter issued to the holder of the license by the district
19 attorney or other public agency pursuant to NRS 425.550 stating that the
20 holder of the license has complied with the subpoena or warrant or has
21 satisfied the arrearage pursuant to NRS 425.560.

22 2. The Board shall reinstate a license that has been suspended by a
23 district court pursuant to NRS 425.540 if:

24 (a) The Board receives a letter issued by the district attorney or other
25 public agency pursuant to NRS 425.550 to the person whose license was
26 suspended stating that the person whose license was suspended has
27 complied with the subpoena or warrant or has satisfied the arrearage
28 pursuant to NRS 425.560; and

29 (b) The licensee pays the fee for reinstatement of the license
30 prescribed by the Board pursuant to section 25 of this act.

31 Sec. 24. 1. ~~Except Notwithstanding the provisions of section 19 of~~
32 ~~this act and except as otherwise provided in subsection 3, the Board may~~
33 ~~issue a license, without regard to the requirements of section 19 of this~~
34 ~~act, to an applicant:~~

35 ~~(a) Who holds a current license to practice massage therapy issued~~
36 ~~by a county, city or town of this State that regulates the practice of~~
37 ~~massage therapy; or~~

38 ~~(b) Who who holds a current license to practice massage therapy~~
39 ~~issued by another state, territory or possession of the United States or the~~
40 ~~District of Columbia.~~

41 2. An applicant for a license issued by the Board pursuant to
42 subsection 1 must submit to the Board:

43 (a) A completed application on a form prescribed by the Board;

44 (b) The fees prescribed by the Board pursuant to section 25 of this
45 act;

46 (c) A notarized statement signed by the applicant that states ~~whether~~ :

47 (1) ~~Whether any disciplinary proceedings relating to his license to~~
48 ~~practice massage therapy have at any time been instituted against him;~~
49 ~~and~~

50 (2) ~~Whether he has been arrested or convicted, within the~~
51 ~~immediately preceding 10 years, for any crime involving violence,~~
52 ~~prostitution or any other sexual offense; and~~

53 (d) A certified statement issued by the licensing authority in each
54 state, territory or possession of the United States or the District of
55 Columbia in which the applicant is or has been licensed to practice
56 massage therapy during the immediately preceding 10 years ~~indicating~~
57 ~~that no disciplinary verifying that:~~

58 (1) ~~The applicant has not been involved in any disciplinary action~~
59 ~~relating to his license to practice massage therapy; and~~

The "grandfather clause" regarding persons who hold a current license to practice massage therapy issued by any county, city or town of this State has been moved to Sec. \ of the Mock-Up.

(2) Disciplinary proceedings relating to his license to practice massage therapy are ~~not~~ pending.

3. The Board shall not issue a license pursuant to this section unless the state, territory or possession of the United States or the District of Columbia in which the applicant is licensed had requirements at the time the license was issued that the Board determines are substantially equivalent to the requirements for a license to practice massage therapy set forth in this chapter.

~~4. An applicant who holds a license to practice massage therapy that is issued by a county, city or town in this State and who does not have a criminal background investigation approved by a local law enforcement agency must submit to a background investigation conducted pursuant to section 19 of this act.~~

Sec. 25. 1. The Board shall establish and may amend a schedule of fees and charges. The fees for the following items and within must not exceed the following amounts:

	Not less	Not more
	than	than
An examination established by the Board pursuant to section 14 or 20 of this act	\$5	\$1
0	\$1	\$1
50	\$1	\$1
An application for a license	\$4	\$4
2	\$4	\$4
26	\$4	\$4
An application for a license without an examination	42	126
A background check of an applicant	45	300
The issuance of a license	52	156
The renewal of a license	33	99
The restoration of an expired license	33	99
The reinstatement of a suspended or revoked license	99	250
The issuance of a duplicate license	25	75
The restoration of an inactive license	33	99
An examination established by the Board pursuant to this chapter	\$600	\$600
An application for a license	300	300
An application for a license without an examination	300	300
A background check of an applicant	600	600
The issuance of a license	400	400
The renewal of a license	200	200
The restoration of an expired license	500	500
The reinstatement of a suspended or revoked license	500	500
The issuance of a duplicate license	75	75
The restoration of an inactive license	300	300

2. In addition to the fees prescribed pursuant to subsection 1, the Board may charge and collect a fee for any other service it provides. The amount of the fee must not exceed the cost of providing the service.

~~3. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.~~

Sec. 26. Each licensee shall display his license in a conspicuous manner at each location where he practices massage therapy.

Sec. 27. 1. Each license expires on the last day of the month in which it was issued in the next succeeding calendar year and may be renewed if, before the license expires, the holder of the license submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by the Board pursuant to the regulations adopted by the Board under section 14 of this act; and

~~(c) Proof of his certification by the National Certification Board for Therapeutic Massage and Bodywork; and~~

~~(d) The fee for renewal of the license prescribed by the Board pursuant to section 25 of this act.~~

2. A license that expires pursuant to this section may be restored if the applicant:

(a) Complies with the provisions of subsection 1; and

~~(b) Submits to the Board proof of his certification by the National Certification Board for Therapeutic Massage and Bodywork; and~~

~~(c) Submits to the Board the fees prescribed by the Board pursuant to section 25 of this act:~~

(1) For the restoration of an expired license; and

(2) For each year that the license was expired, for the renewal of a license.

3. The Board shall send a notice of renewal to each holder of a license not later than 60 days before his license expires. The notice must include a statement setting forth the provisions of this section and the amount of the fee for renewal of the license.

Sec. 28. 1. Upon written request to the Board, a holder of a license in good standing may cause his name and license to be transferred to an inactive list. The holder of the license may not practice massage therapy during the time the license is inactive, and no renewal fee accrues.

2. If an inactive holder of a license desires to resume the practice of massage therapy, the Board shall renew the license upon:

(a) Demonstration, if deemed necessary by the Board, that the holder of the license is then qualified and competent to practice;

(b) Completion and submission of an application; and

(c) Payment of the current fee for renewal of the license.

Sec. 29. The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude within the immediately preceding 10 years.

1 4. Has engaged in or solicited sexual activity during the course of
2 practicing massage on a person, with or without
3 the consent of the person, including, without limitation, if the applicant
4 or holder of the license:

5 (a) Made sexual advances toward the person;
6 (b) Requested sexual favors from the person; or
7 (c) Massaged, touched or applied any instrument to the breasts of the
8 person, unless the person has signed a written consent form provided by
9 the Board;

10 5. Has habitually abused alcohol or is addicted to a controlled
11 substance;

12 6. Is, in the judgment of the Board, guilty of gross negligence in his
13 practice of massage therapy;

14 7. Is determined by the Board to be professionally incompetent to
15 engage in the practice of massage therapy;

16 8. Has failed to provide information requested by the Board within
17 60 days after he received the request;

18 9. Has, in the judgment of the Board, engaged in unethical or
19 unprofessional conduct as it relates to the practice of massage therapy;

20 10. Has been disciplined in another state, a territory or possession
21 of the United States or the District of Columbia for conduct that would
22 be a violation of the provisions of this chapter or any regulations adopted
23 pursuant thereto if the conduct were committed in this State;

24 11. Has solicited or received compensation for services relating to
25 the practice of massage therapy that he did not provide;

26 12. If the holder of the license is on probation, has violated the
27 terms of his probation;

28 13. Has engaged in false, deceptive or misleading advertising,
29 including, without limitation, falsely, deceptively or misleadingly
30 advertising that he has received training in a specialty technique of
31 massage for which he has not received training, practicing massage
32 therapy under an assumed name and impersonating a licensed massage
33 therapist; or

34 ~~14. Has failed to maintain certification with the National~~
35 ~~Certification Board for Therapeutic Massage and Bodywork.~~

36 Sec. 30. 1. The Board or any of its members who become aware
37 of any ground for initiating disciplinary action against a holder of a
38 license shall ~~and any other person who is so aware may~~ file a written
39 complaint with the Board.

40 2. The complaint must specifically:

41 (a) Set forth the relevant facts; and

42 (b) Charge one or more grounds for initiating disciplinary action.

43 3. As soon as practicable after the filing of the complaint, ~~the Board~~
44 ~~an investigation of the complaint must be conducted to determine~~
45 ~~whether the allegations in the complaint merit the initiation of~~
46 ~~disciplinary proceedings against the holder of the license.~~

47 ~~shall set a date for a hearing on the matter. The date must not be later~~
48 ~~than 30 days after the complaint is filed, except that the date may be~~
49 ~~extended upon agreement of the person against whom the complaint is~~
50 ~~filed and the Board.~~

51 ~~4. The Board shall:~~

52 ~~(a) Notify the person in writing that a complaint against him has~~
53 ~~been filed;~~

54 ~~(b) Include in the notice a statement setting forth the date, time and~~
55 ~~place set for the hearing; and~~

56 ~~(c) Include a copy of the complaint with the notice.~~

57 ~~5. The notice and complaint may be served on the person by delivery~~
58 ~~to him personally or by registered or certified mail at his last known~~
59 ~~address.~~

Sec. 30 and Sec. 31 contain certain procedures relating to disciplinary proceedings. Those provisions are being removed because, as a regulatory body under NRS Title 54, the Board's disciplinary proceedings will be governed by the new uniform disciplinary process in SB276-R1 of this session.

(Note: If SB276 is not enrolled when the AB250 amendment is drafted in final form, the AB250 amendment will be drafted to cover all contingencies.)

1 **Sec. 31.** ~~1. The person against whom the complaint specified in~~
2 ~~section 30 of this act is filed;~~

3 ~~(a) May appear in person or through the representation of legal~~
4 ~~counsel;~~

5 ~~(b) Must be given adequate opportunity to confront any witness~~
6 ~~against him;~~

7 ~~(c) May testify and introduce the testimony of witnesses in his behalf;~~
8 ~~and~~

9 ~~(d) May submit arguments and briefs in person or through his~~
10 ~~counsel;~~

11 ~~2. The Board shall issue its decision within 30 days after the~~
12 ~~hearing.~~

13 ~~3. The failure of the person charged to attend the hearing or to~~
14 ~~defend himself must not delay and does not void the proceedings. The~~
15 ~~Board may, for good cause shown, continue any hearing from time to~~
16 ~~time.~~

17 **Sec. 32.** *1. Except as otherwise provided in subsection 3, if the*
18 *Board determines, after notice and hearing, that an applicant for or a*
19 *holder of a license has committed any of the acts charged in the*
20 *complaint specified in section 30 of this act, the Board may:*

21 *(a) Place the applicant or holder of the license on probation for a*
22 *specified period or until further order of the Board;*

23 *(b) Administer to the applicant or holder of the license a public or*
24 *private reprimand;*

25 *(c) Refuse to issue, renew, reinstate or restore the license;*

26 *(d) Suspend or revoke the license;*

27 *(e) Impose an administrative fine of not more than \$1,000 per day for*
28 *each day for which the Board determines that a violation occurred as*
29 *charged in the complaint;*

30 *(f) Require the applicant or holder of the license to pay the costs*
31 *incurred by the Board to conduct the investigation and hearing; or*

32 *(g) Impose any combination of actions set forth in paragraphs (a) to*
33 *(f), inclusive.*

34 *2. The order of the Board may contain such other terms, provisions*
35 *or conditions as the Board deems appropriate. The order of the Board*
36 *and the findings of fact and conclusions of law supporting that order are*
37 *public records.*

38 ~~3. The Board shall not issue a private reprimand.~~

39 ~~4.~~ *4. The Board may, if the Board finds that the action is necessary*
40 *to protect the health, safety or welfare of the public, upon providing*
41 *notice to the holder of the license, temporarily suspend or refuse to*
42 *renew his license for a period not to exceed 30 days. For good cause, the*
43 *Board may extend the period of suspension of the license or continue to*
44 *refuse to renew the license if the Board deems such action to be*
45 *necessary to protect the health, safety or welfare of the public. In any*
46 *such case, a hearing must be held and a final decision rendered within*
47 *30 days after the Board notifies the holder of the license of the temporary*
48 *suspension.*

49 ~~4.5. The If a massage therapist is charged with or cited for a crime~~
50 ~~involving violence, prostitution or any other sexual offense, the~~
51 ~~appropriate law enforcement agency of a city or county in which a~~
52 ~~massage therapist holds a business license issued by the city or county~~
53 ~~may shall report the charge or citation to the Executive Director. Upon~~
54 ~~receiving such a report, the Executive Director shall immediately issue a~~
55 ~~cease and desist order temporarily suspending the license of a the~~
56 ~~massage therapist immediately if the massage therapist is charged with~~
57 ~~or cited for a crime involving violence, prostitution or any other sexual~~
58 ~~offense upon issuance of the order. The temporary suspension of the~~
59 ~~license must not exceed 15 days. The Board may extend the temporary~~

Sec. 32, subsections 2 and 3, have been revised to conform with SB250 of the 2003 Regular Session. See Ch. 508, Nev. Stats. 2003.

Due to time constraints, the revisions in Sec. 32, subsection 5, are strictly conceptual in nature and have been drafted in skeleton form in this Mock-Up. If the Committee processes AB250, the Legal Division will perform a more thorough and extensive redrafting of subsection 5 for the amendment.

suspension if the Board determines that the suspension is required to protect the health, safety or welfare of the public. In any such case, the hearing must be held and a final decision rendered within 15 days after the law enforcement agency notifies the holder of the license is given notice of the temporary suspension.

Sec. 33. 1. The Board may conduct investigations and hold hearings to carry out its duties pursuant to this chapter.

2. In such a hearing:

(a) Any member of the Board may administer oaths and examine witnesses; and

(b) The Board or any member thereof may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

3. Each witness who is subpoenaed to appear before the Board is entitled to receive for his attendance the same fees and mileage allowed by law for a witness in a civil case. The amount must be paid by the party who requested the subpoena. If any witness who has not been required to attend at the request of any party is subpoenaed by the Board, his fees and mileage must be paid by the Board from money available for that purpose.

4. If any person fails to comply with the subpoena within 10 days after it is issued, the Chairman of the Board may petition a court of competent jurisdiction for an order of the court compelling compliance with the subpoena.

5. Upon the filing of such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

6. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena. The failure of the person to comply with the order is a contempt of the court that issued the order.

Sec. 34. 1. ~~Any records or information obtained during the course of an investigation conducted by the Board are confidential until the investigation is completed. Upon completion of the investigation, the records and information are public records if:~~

~~(a) Disciplinary action was taken by the Board as a result of the investigation; or~~

~~(b) The person who was investigated submits a written request to the Board requesting that the information and records be made public records.~~

~~2. The provisions of this section do not prohibit the Board from cooperating with another licensing board, any agency or any county, city or town in which the holder of the license practices massage therapy if the licensing board, agency, county, city or town is investigating a holder of a license, including, without limitation, a law enforcement agency.~~

~~1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.~~

~~2. The charging documents filed with the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.~~

~~3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or~~

Sec. 34 has been revised to conform with SB276-R1 of this session.

local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 34.5. Chapter 644 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Cosmetology and the Board of Massage Therapists shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the State Board of Cosmetology for a license to practice pursuant to this chapter and who is also applying to the Board of Massage Therapists for a license to practice pursuant to sections 2 to 34, inclusive, of this act, if both applications are filed not more than 60 days apart.

2. If a qualified applicant submits an application to the Board of Massage Therapists for a license to practice pursuant to sections 2 to 34, inclusive, of this act and, not later than 60 days after that application, the applicant also submits an application to the State Board of Cosmetology for a license to practice pursuant to this chapter:

(a) The applicant is not required to submit a set of fingerprints to the State Board of Cosmetology if the applicant submitted a set of fingerprints with his application to the Board of Massage Therapists;

(b) The State Board of Cosmetology shall request from the Board of Massage Therapists a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the Board of Massage Therapists shall provide to the State Board of Cosmetology any reports relating to a background investigation of the applicant; and

(d) The State Board of Cosmetology shall use the reports provided by the Board of Massage Therapists in reviewing the application for a license to practice pursuant to this chapter.

Sec. 35. NRS 218.825 is hereby amended to read as follows:

218.825 1. Except as otherwise provided in subsection 2, each board created by the provisions of ***NRS 590.485 and*** chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~and NRS 590.485,~~ ***and sections 2 to 34, inclusive, of this act*** shall:

(a) If the revenue of the board from all sources is less than \$50,000 for any fiscal year, prepare a balance sheet for that fiscal year on the form provided by the Legislative Auditor and file the balance sheet with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of that fiscal year. The Legislative Auditor shall prepare and make available a form that must be used by a board to prepare such a balance sheet.

(b) If the revenue of the board from all sources is \$50,000 or more for any fiscal year, engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for that fiscal year and file a report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of that fiscal year.

2. In lieu of preparing a balance sheet or having an audit conducted for a single fiscal year, a board may engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for a period covering 2 successive fiscal years. If such an audit is conducted, the board shall file the report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of the second fiscal year.

3. The cost of each audit conducted pursuant to subsection 1 or 2 must be paid by the board that is audited. Each such audit must be conducted in accordance with generally accepted auditing standards, and

Sec. 34.5 requires the State Board of Cosmetology and the Board of Massage Therapists to reduce duplication in their licensing procedures for persons who apply for both licenses not more than 60 days apart. Sec. 21.5 adds similar provisions to the new chapter governing the Board of Massage Therapists.

1 all financial statements must be prepared in accordance with generally
2 accepted principles of accounting for special revenue funds.

3 4. Whether or not a board is required to have its fiscal records audited
4 pursuant to subsection 1 or 2, the Legislative Auditor shall audit the fiscal
5 records of any such board whenever directed to do so by the Legislative
6 Commission. When the Legislative Commission directs such an audit, the
7 Legislative Commission shall also determine who is to pay the cost of the
8 audit.

9 5. A person who is a state officer or employee of a board is guilty of
10 nonfeasance if the person:

11 (a) Is responsible for preparing a balance sheet or having an audit
12 conducted pursuant to this section or is responsible for preparing or
13 maintaining the fiscal records that are necessary to prepare a balance sheet
14 or have an audit conducted pursuant to this section; and

15 (b) Knowingly fails to prepare the balance sheet or have the audit
16 conducted pursuant to this section or knowingly fails to prepare or
17 maintain the fiscal records that are necessary to prepare a balance sheet or
18 have an audit conducted pursuant to this section.

19 6. In addition to any other remedy or penalty, a person who is guilty
20 of nonfeasance pursuant to this section forfeits his state office or
21 employment and may not be appointed to a state office or position of state
22 employment for a period of 2 years following the forfeiture. The
23 provisions of this subsection do not apply to a state officer who may be
24 removed from office only by impeachment pursuant to Article 7 of the
25 Nevada Constitution.

26 **Sec. 36.** NRS 244.335 is hereby amended to read as follows:

27 244.335 1. Except as otherwise provided in subsection 2, the board
28 of county commissioners may:

29 (a) Except as otherwise provided in NRS 598D.150 ~~and~~ **and section 8 of**
30 **this act**, regulate all character of lawful trades, callings, industries,
31 occupations, professions and business conducted in its county outside of
32 the limits of incorporated cities and towns.

33 (b) Except as otherwise provided in NRS 244.3359 and 576.128, fix,
34 impose and collect a license tax for revenue or for regulation, or for both
35 revenue and regulation, on such trades, callings, industries, occupations,
36 professions and business.

37 2. The county license boards have the exclusive power in their
38 respective counties to regulate entertainers employed by an entertainment
39 by referral service and the business of conducting a dancing hall, escort
40 service, entertainment by referral service or gambling game or device
41 permitted by law, outside of an incorporated city. The county license
42 boards may fix, impose and collect license taxes for revenue or for
43 regulation, or for both revenue and regulation, on such employment and
44 businesses.

45 3. No license to engage in any type of business may be granted unless
46 the applicant for the license signs an affidavit affirming that the business
47 has complied with the provisions of NRS 360.780. The county license
48 board shall provide upon request an application for a business license
49 pursuant to NRS 360.780.

50 4. No license to engage in business as a seller of tangible personal
51 property may be granted unless the applicant for the license presents
52 written evidence that:

53 (a) The Department of Taxation has issued or will issue a permit for
54 this activity, and this evidence clearly identifies the business by name; or

55 (b) Another regulatory agency of the State has issued or will issue a
56 license required for this activity.

57 5. Any license tax levied for the purposes of NRS 244.3358 or
58 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and
59 personal property of the business upon which the tax was levied until the

1 tax is paid. The lien has the same priority as a lien for general taxes. The
2 lien must be enforced in the following manner:

3 (a) By recording in the office of the county recorder, within 6 months
4 after the date on which the tax became delinquent or was otherwise
5 determined to be due and owing, a notice of the tax lien containing the
6 following:

7 (1) The amount of tax due and the appropriate year;

8 (2) The name of the record owner of the property;

9 (3) A description of the property sufficient for identification; and

10 (4) A verification by the oath of any member of the board of county
11 commissioners or the county fair and recreation board; and

12 (b) By an action for foreclosure against the property in the same
13 manner as an action for foreclosure of any other lien, commenced within 2
14 years after the date of recording of the notice of the tax lien, and
15 accompanied by appropriate notice to other lienholders.

16 6. The board of county commissioners may delegate the authority to
17 enforce liens from taxes levied for the purposes of NRS 244A.597 to
18 244A.655, inclusive, to the county fair and recreation board. If the
19 authority is so delegated, the board of county commissioners shall revoke
20 or suspend the license of a business upon certification by the county fair
21 and recreation board that the license tax has become delinquent, and shall
22 not reinstate the license until the tax is paid. Except as otherwise provided
23 in NRS 244.3357, all information concerning license taxes levied by an
24 ordinance authorized by this section or other information concerning the
25 business affairs or operation of any licensee obtained as a result of the
26 payment of such license taxes or as the result of any audit or examination
27 of the books by any authorized employee of a county fair and recreation
28 board of the county for any license tax levied for the purpose of NRS
29 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed
30 by any member, officer or employee of the county fair and recreation
31 board or the county imposing the license tax unless the disclosure is
32 authorized by the affirmative action of a majority of the members of the
33 appropriate county fair and recreation board. Continuing disclosure may be
34 so authorized under an agreement with the Department of Taxation for the
35 exchange of information concerning taxpayers.

36 **Sec. 37.** NRS 266.355 is hereby amended to read as follows:

37 266.355 1. Except as otherwise provided in subsection 3, the city
38 council may:

39 (a) Except as otherwise provided in NRS 598D.150 ~~and~~ **and section 8 of**
40 **this act**, regulate all businesses, trades and professions.

41 (b) Except as otherwise provided in NRS 576.128, fix, impose and
42 collect a license tax for revenue upon all businesses, trades and
43 professions.

44 2. The city council may establish any equitable standard to be used in
45 fixing license taxes required to be collected pursuant to this section.

46 3. The city council may license insurance agents, brokers, analysts,
47 adjusters and managing general agents within the limitations and under the
48 conditions prescribed in NRS 680B.020.

49 **Sec. 38.** NRS 269.170 is hereby amended to read as follows:

50 269.170 1. Except as otherwise provided in NRS 576.128 and
51 598D.150, **and section 8 of this act**, the town board or board of county
52 commissioners may in any unincorporated town:

53 (a) Fix and collect a license tax on, and regulate, having due regard to
54 the amount of business done by each person so licensed, and all places of
55 business and amusement so licensed, as follows:

56 (1) Artisans, artists, assayers, auctioneers, bakers, banks and
57 bankers, barbers, boilermakers, cellars and places where soft drinks are
58 kept or sold, clothes cleaners, foundries, laundries, lumberyards,

1 manufacturers of soap, soda, borax or glue, markets, newspaper publishers,
2 pawnbrokers, funeral directors and wood and coal dealers.

3 (2) Bootmakers, cobblers, dressmakers, milliners, shoemakers and
4 tailors.

5 (3) Boardinghouses, hotels, lodginghouses, restaurants and
6 refreshment saloons.

7 (4) Barrooms, gaming, manufacturers of liquors and other
8 beverages, and saloons.

9 (5) Billiard tables, bowling alleys, caravans, circuses, concerts and
10 other exhibitions, dance houses, melodeons, menageries, shooting
11 galleries, skating rinks and theaters.

12 (6) Corrals, hay yards, livery and sale stables and wagon yards.

13 (7) Electric light companies, illuminating gas companies, power
14 companies, telegraph companies, telephone companies and water
15 companies.

16 (8) Carts, drays, express companies, freight companies, job wagons,
17 omnibuses and stages.

18 (9) Brokers, commission merchants, factors, general agents,
19 mercantile agents, merchants, traders and stockbrokers.

20 (10) Drummers, hawkers, peddlers and solicitors.

21 (11) Insurance agents, brokers, analysts, adjusters and managing
22 general agents within the limitations and under the conditions prescribed in
23 NRS 680B.020.

24 (b) Fix and collect a license tax upon all professions, trades or business
25 within the town not specified in paragraph (a).

26 2. No license to engage in business as a seller of tangible personal
27 property may be granted unless the applicant for the license presents
28 written evidence that:

29 (a) The Department of Taxation has issued or will issue a permit for
30 this activity, and this evidence clearly identifies the business by name; or

31 (b) Another regulatory agency of the State has issued or will issue a
32 license required for this activity.

33 3. Any license tax levied for the purposes of NRS 244A.597 to
34 244A.655, inclusive, constitutes a lien upon the real and personal property
35 of the business upon which the tax was levied until the tax is paid. The lien
36 must be enforced in the same manner as liens for ad valorem taxes on real
37 and personal property. The town board or other governing body of the
38 unincorporated town may delegate the power to enforce such liens to the
39 county fair and recreation board.

40 4. The governing body or the county fair and recreation board may
41 agree with the Department of Taxation for the continuing exchange of
42 information concerning taxpayers.

43 **Sec. 39.** NRS 284.013 is hereby amended to read as follows:

44 284.013 1. Except as otherwise provided in subsection 4, this
45 chapter does not apply to:

46 (a) Agencies, bureaus, commissions, officers or personnel in the
47 Legislative Department or the Judicial Department of State Government,
48 including the Commission on Judicial Discipline;

49 (b) Any person who is employed by a board, commission, committee
50 or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644,
51 inclusive, 648, 652, 654 and 656 of NRS ~~1-3~~ *and sections 2 to 34,*
52 *inclusive, of this act;* or

53 (c) Officers or employees of any agency of the Executive Department
54 of the State Government who are exempted by specific statute.

55 2. Except as otherwise provided in subsection 3, the terms and
56 conditions of employment of all persons referred to in subsection 1,
57 including salaries not prescribed by law and leaves of absence, including,
58 without limitation, annual leave and sick and disability leave, must be

1 fixed by the appointing or employing authority within the limits of
2 legislative appropriations or authorizations.

3 3. Except as otherwise provided in this subsection, leaves of absence
4 prescribed pursuant to subsection 2 must not be of lesser duration than
5 those provided for other state officers and employees pursuant to the
6 provisions of this chapter. The provisions of this subsection do not govern
7 the Legislative Commission with respect to the personnel of the
8 Legislative Counsel Bureau.

9 4. Any board, commission, committee or council created in chapters
10 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and
11 656 of NRS *and sections 2 to 34, inclusive, of this act* which contracts for
12 the services of a person, shall require the contract for those services to be
13 in writing. The contract must be approved by the State Board of Examiners
14 before those services may be provided.

15 **Sec. 40.** NRS 353.005 is hereby amended to read as follows:

16 353.005 The provisions of this chapter do not apply to boards created
17 by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive,
18 628, 630 to 644, inclusive, 648, 654 and 656 of NRS *and sections 2 to 34,*
19 *inclusive, of this act* and the officers and employees of those boards.

20 **Sec. 41.** NRS 353A.020 is hereby amended to read as follows:

21 353A.020 1. The Director, in consultation with the Committee and
22 Legislative Auditor, shall adopt a uniform system of internal accounting
23 and administrative control for agencies. The elements of the system must
24 include, without limitation:

25 (a) A plan of organization which provides for a segregation of duties
26 appropriate to safeguard the assets of the agency;

27 (b) A plan which limits access to assets of the agency to persons who
28 need the assets to perform their assigned duties;

29 (c) Procedures for authorizations and recordkeeping which effectively
30 control accounting of assets, liabilities, revenues and expenses;

31 (d) A system of practices to be followed in the performance of the
32 duties and functions of each agency; and

33 (e) An effective system of internal review.

34 2. The Director, in consultation with the Committee and Legislative
35 Auditor, may modify the system whenever he considers it necessary.

36 3. Each agency shall develop written procedures to carry out the
37 system of internal accounting and administrative control adopted pursuant
38 to this section.

39 4. For the purposes of this section, "agency" does not include:

40 (a) A board created by the provisions of NRS 590.485 and chapters
41 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of
42 NRS ~~[-]~~ *and sections 2 to 34, inclusive, of this act.*

43 (b) The University and Community College System of Nevada.

44 (c) The Public Employees' Retirement System.

45 (d) The Housing Division of the Department of Business and Industry.

46 (e) The Colorado River Commission of Nevada.

47 **Sec. 42.** NRS 353A.025 is hereby amended to read as follows:

48 353A.025 1. The head of each agency shall periodically review the
49 agency's system of internal accounting and administrative control to
50 determine whether it is in compliance with the uniform system of internal
51 accounting and administrative control for agencies adopted pursuant to
52 subsection 1 of NRS 353A.020.

53 2. On or before July 1 of each even-numbered year, the head of each
54 agency shall report to the Director whether the agency's system of internal
55 accounting and administrative control is in compliance with the uniform
56 system adopted pursuant to subsection 1 of NRS 353A.020. The reports
57 must be made available for inspection by the members of the Legislature.

58 3. For the purposes of this section, "agency" does not include:

1 (a) A board created by the provisions of NRS 590.485 and chapters
2 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of
3 ~~NRS 590.485~~ **and sections 2 to 34, inclusive, of this act.**

- 4 (b) The University and Community College System of Nevada.
5 (c) The Public Employees' Retirement System.
6 (d) The Housing Division of the Department of Business and Industry.
7 (e) The Colorado River Commission of Nevada.

8 4. The Director shall, on or before the first Monday in February of
9 each odd-numbered year, submit a report on the status of internal
10 accounting and administrative controls in agencies to the:

- 11 (a) Director of the Legislative Counsel Bureau for transmittal to the:
12 (1) Senate Standing Committee on Finance; and
13 (2) Assembly Standing Committee on Ways and Means;

- 14 (b) Governor; and
15 (c) Legislative Auditor.

16 5. The report submitted by the Director pursuant to subsection 4 must
17 include, without limitation:

18 (a) The identification of each agency that has not complied with the
19 requirements of subsections 1 and 2;

20 (b) The identification of each agency that does not have an effective
21 method for reviewing its system of internal accounting and administrative
22 control; and

23 (c) The identification of each agency that has weaknesses in its system
24 of internal accounting and administrative control, and the extent and types
25 of such weaknesses.

26 **Sec. 43.** NRS 353A.045 is hereby amended to read as follows:

27 353A.045 The Chief shall:

28 1. Report to the Director.

29 2. Develop long-term and annual work plans to be based on the
30 results of periodic documented risk assessments. The annual work plan
31 must list the agencies to which the Division will provide training and
32 assistance and be submitted to the Director for approval. Such agencies
33 must not include:

34 (a) A board created by the provisions of NRS 590.485 and chapters
35 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of
36 ~~NRS 590.485~~ **and sections 2 to 34, inclusive, of this act.**

- 37 (b) The University and Community College System of Nevada.
38 (c) The Public Employees' Retirement System.
39 (d) The Housing Division of the Department of Business and Industry.
40 (e) The Colorado River Commission of Nevada.

41 3. Provide a copy of the approved annual work plan to the Legislative
42 Auditor.

43 4. In consultation with the Director, prepare a plan for auditing
44 executive branch agencies for each fiscal year and present the plan to the
45 Committee for its review and approval. Each plan for auditing must:

46 (a) State the agencies which will be audited, the proposed scope and
47 assignment of those audits and the related resources which will be used for
48 those audits; and

49 (b) Ensure that the internal accounting, administrative controls and
50 financial management of each agency are reviewed periodically.

51 5. Perform the audits of the programs and activities of the agencies in
52 accordance with the plan approved pursuant to subsection 5 of NRS
53 353A.038 and prepare audit reports of his findings.

54 6. Review each agency that is audited pursuant to subsection 5 and
55 advise those agencies concerning internal accounting, administrative
56 controls and financial management.

57 7. Submit to each agency that is audited pursuant to subsection 5
58 analyses, appraisals and recommendations concerning:

(a) The adequacy of the internal accounting and administrative controls of the agency; and

(b) The efficiency and effectiveness of the management of the agency.

8. Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit.

9. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.

10. Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5.

11. Appoint a Manager of Internal Controls.

Sec. 44. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to an employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, and 656A of NRS ~~and~~ **and sections 2 to 34, inclusive, of this act.**

Sec. 45. Section 2.140 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2896, is hereby amended to read as follows:

Sec. 2.140 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ **section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 46. Section 2.150 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2897, is hereby amended to read as follows:

Sec. 2.150 Powers of Board of Councilmen: Licensing, regulation and prohibition of businesses, trades and professions.

1. The Board of Councilmen may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ **section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. No person licensed by an agency of the State of Nevada to practice any trade or profession except gaming may be denied a license to conduct his profession.

3. The Board of Councilmen may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 47. Section 2.260 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 465, Statutes of Nevada 2003, at page 2897, is hereby amended to read as follows:

Sec. 2.260 Power of Board: Licensing, regulation and prohibition of trades, professions and businesses.

1. Except as otherwise provided in NRS 598D.150 ~~and~~ **section 8 of this act**, the Board may fix, impose and collect a license tax for revenue upon, or regulate:

(a) Or both, all trades, callings, professions and businesses, conducted in whole or in part within Carson City, except that no person licensed by an agency of the State of Nevada to practice any

profession except gaming may be denied a license to conduct his profession or required to pay a license tax except for revenue.

(b) Or both, all businesses selling alcoholic liquors at wholesale or retail, or prohibit or suppress such businesses.

(c) Or prescribe the location of all gaming establishments, or any combination of these, or may prohibit gambling and gaming of all kinds, and all games of chance.

2. The Board may provide for the issuance of all licenses authorized in this section and the time and manner in which they will be issued.

3. The Board may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

4. The Board may, for just cause, suspend, cancel or revoke any business license.

Sec. 48. Section 2.150 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 2003, at page 2897, is hereby amended to read as follows:

Sec. 2.150 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ **and section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license taxes collected pursuant to this section.

Sec. 49. Section 2.130 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2898, is hereby amended to read as follows:

Sec. 2.130 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ **and section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 50. Section 2.150 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 465, Statutes of Nevada 2003, at page 2898, is hereby amended to read as follows:

Sec. 2.150 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as is otherwise provided in subsection 2 and NRS 598D.150 ~~and~~ **and section 8 of this act**, license and regulate all lawful businesses, trades and professions.

(b) Fix, impose and collect a license tax for regulation or for revenue, or both, upon all businesses, trades and professions and provide an equitable standard for fixing those license taxes.

(c) Suspend or revoke the license of any business, trade or profession for failing to comply with any regulation of the City in such manner as may be prescribed by ordinance.

2. No person, firm or corporation which is licensed by an agency of the State to conduct or practice any business, trade or profession, except as is otherwise provided in subsection 3, may be

denied a license to conduct or practice that business, trade or profession, nor may the license be suspended or revoked, if:

(a) That person, firm or corporation complies with all of the regulations which are established by that agency and pays to the City such license taxes and related fees and posts such bond or bonds as may be prescribed by ordinance; and

(b) The location of the business, trade or profession complies with all of the requirements of all of the zoning, building, plumbing, electrical, safety and fire prevention codes or regulations of the City.

3. The City Council may provide, by ordinance, regulations which restrict the number, location and method of operation of and the qualifications for ownership in:

(a) Liquor-dispensing or gaming establishments, or both;

(b) Businesses which are engaged in the manufacture or distribution, or both, of liquor or gaming devices; and

(c) Such other businesses, trades and professions as may be declared by ordinance to be privileged,

and regulations which prescribe the circumstances under and the manner in which licenses with respect to those establishments, businesses, trades and professions may be denied, limited, suspended or revoked.

Sec. 51. Section 2.140 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2899, is hereby amended to read as follows:

Sec. 2.140 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~H~~ **and section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license fee for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license fees required to be collected pursuant to this section.

Sec. 52. Section 2.140 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 2003, at page 2899, is hereby amended to read as follows:

Sec. 2.140 General powers of City Council.

1. Except as otherwise provided in subsection 2 and section 2.150, the City Council may:

(a) Acquire, control, improve and dispose of any real or personal property for the use of the City, its residents and visitors.

(b) Except as otherwise provided in NRS 598D.150 ~~H~~ **and section 8 of this act**, regulate and impose a license tax for revenue upon all businesses, trades and professions.

(c) Provide or grant franchises for public transportation and utilities.

(d) Appropriate money for advertising and publicity and for the support of a municipal band.

(e) Enact and enforce any police, fire, traffic, health, sanitary or other measure which does not conflict with the general laws of the State of Nevada. An offense that is made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor against the City whenever the offense is committed within the City.

(f) Fix the rate to be paid for any utility service provided by the City as a public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien

upon the property to which the service is rendered and is perfected by filing with the County Recorder a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Any such lien is:

(1) Coequal with the latest lien upon the property to secure the payment of general taxes.

(2) Not subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(3) Prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell telecommunications service to the general public.

(b) May purchase or construct facilities for providing telecommunications that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell telecommunications service to the general public.

5. As used in this section:

(a) "Telecommunications" has the meaning ascribed to it in 47 U.S.C. § 153(43), as that section existed on July 16, 1997.

(b) "Telecommunications service" has the meaning ascribed to it in 47 U.S.C. § 153(46), as that section existed on July 16, 1997.

Sec. 53. Section 2.090 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 465, Statutes of Nevada 2003, at page 2900, is hereby amended to read as follows:

Sec. 2.090 Powers of City Council: General areas. The City Council may exercise any power specifically granted in this Charter or by any of the provisions of Nevada Revised Statutes not in conflict with this Charter, in order to:

1. Except as otherwise provided in NRS 598D.150 ~~and~~ **section 8 of this act**, license all businesses, trades and professions for purposes of regulation and revenue.

2. Enact and enforce fire ordinances.

3. Regulate the construction and maintenance of any building or other structure within the City.

4. Provide for safeguarding of public health in the City.

5. Zone and plan the City, including the regulation of subdivision of land, as prescribed by chapter 278 of NRS.

6. Acquire, control, lease, dedicate, sell and convey rights-of-way, parks and other real property.

7. Except as otherwise provided in NRS 707.375, regulate vehicular traffic and parking of vehicles.

8. Establish and maintain a sanitary sewer system.

9. Condemn property within the territorial limits of the City, as well as property outside the territorial limits of the City, in the manner prescribed by chapter 37 of NRS.

10. Regulate, prescribe the location for, prohibit or suppress all businesses selling alcoholic liquors at wholesale or retail.

11. Regulate, prescribe the location for, prohibit or suppress gaming of all kinds.

Sec. 54. Section 2.150 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2901, is hereby amended to read as follows:

Sec. 2.150 Powers of Board of Councilmen: Licensing, regulation and prohibition of businesses, trades and professions.

1. The Board of Councilmen may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ **section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. No person licensed by an agency of the State of Nevada to practice any trade or profession except gaming may be denied a license to conduct his profession.

3. The Board of Councilmen may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 55. Section 2.140 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2901, is hereby amended to read as follows:

Sec. 2.140 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ **section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 56. Notwithstanding the provisions of subsection 2 of section ~~45~~ **15.7** of this act, a member or employee of the Board of Massage Therapists is not entitled to payment of any per diem allowance or travel expense until July 1, 2006.

Sec. 57. 1. ~~Notwithstanding the provisions of sections 2 to 34, inclusive, of this act and except as otherwise provided in subsection 3, the Board of Massage Therapists may issue a license to practice massage therapy to an applicant, without regard to whether the applicant meets the requirements set forth in section 19 of this act, if the applicant:~~

~~(a) Holds a current license to practice massage therapy issued before July 1, 2007, by a county, city or town of this State that regulates the practice of massage therapy; and~~

~~(b) Applies to the Board for a license before July 1, 2007.~~

2. An applicant who applies for a license from the Board pursuant to subsection 1 must submit to the Board:

~~(a) A completed application on a form prescribed by the Board;~~

~~(b) The fees prescribed by the Board pursuant to section 25 of this act; and~~

~~(c) A notarized statement signed by the applicant that states:~~

~~(1) Whether any disciplinary proceedings relating to his license to practice massage therapy have at any time been instituted against him; and~~

~~(2) Whether he has been arrested or convicted, within the 10 years immediately preceding submission of the application, for any crime involving violence, prostitution or any other sexual offense.~~

3. If an applicant applies for a license from the Board pursuant to subsection 1 and the applicant does not have a criminal background

Sec. 57 is the "grandfather clause."

investigation approved by a local law enforcement agency, the applicant must:

(a) Submit a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(b) Submit to a background investigation conducted pursuant to section 19 of this act.

4. A license issued by the Board pursuant to subsection 1 shall be deemed to be a license issued by the Board pursuant to section 19 of this act.

5. ~~By July 1, 2007, a~~ A person who is licensed to practice massage therapy by a county, city or town in this State ~~before July 1, 2007~~ must, if he wishes to continue to practice massage therapy on and after ~~that date,~~ obtain a license pursuant to the provisions of sections 2 to 34, inclusive, of this act. July 1, 2007, hold a license to practice massage therapy issued by the Board of Massage Therapists.

2. Until July 1, 2007, if a person is licensed to practice massage therapy by a county, city or town in this State ~~but the person does not hold~~ obtain a license to practice massage therapy ~~pursuant to the provisions of sections 2 to 34, inclusive, of this act,~~ issued by the Board of Massage Therapists, the person shall comply with:

(a) All ordinances and regulations of the county, city or town relating to the practice of massage therapy; and

(b) The provisions of sections 2 to 18, inclusive, 20, 22, 23 and 25 to 34, inclusive, of this act.

Sec. 58. As soon as practicable after ~~October 1, 2005~~ the enactment of this act, the Governor shall appoint to the Board of Massage Therapists:

1. Two members whose terms expire on June 30, 2006.

2. Three members whose terms expire on June 30, 2007.

3. Two members whose terms expire on June 30, 2009.

Sec. 59. 1. This act becomes effective upon passage and approval for the purposes of:

(a) The Governor appointing members to the Board of Massage Therapists; and

(b) The Board and its members and employees performing any organizational, preparatory or preliminary administrative tasks that are necessary to carry out the provisions of this act, ~~and on October 1, 2005, for all other purposes.~~

2. Sections 22 and 23 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational or recreational licenses of persons who:

1. (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

2. (b) Are in arrears in the payment for the support of one or more children,

are repealed by the Congress of the United States.

H

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
May 20, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:16 a.m. on Friday, May 20, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra J. Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Donna Winter, Committee Secretary
Scott Young, Committee Policy Analyst
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Ernie Adler, American Massage Therapy Association
Carol Tidd, Commissioner, Division of Financial Institutions, Department of
Business and Industry
Kenneth T. Scruggs, The HSBC Group

Senate Committee on Commerce and Labor
May 20, 2005
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SENATOR SCHNEIDER MOVED TO RESCIND PREVIOUS ACTION TAKEN
ON A.B. 208.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS A.B. 208
WITH AMENDMENT OFFERED BY SENATOR SCHNEIDER.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:
I will open the work session on A.B. 250.

ASSEMBLY BILL 250 (1st Reprint): Provides for licensing and regulation of
massage therapists. (BDR 54-733)

ERNIE ADLER (American Massage Therapy Association):
"Before you, you have a mock-up amendment (Exhibit G) which is quite
extensive. I think it would be more appropriate to have Senator Carlton
comment upon this than for me go through it line by line. ..."

SENATOR CARLTON:

Everyone worked very hard on this bill. [Former] Senator Adler and
the proponents of the bill were very accepting of all the concerns
that law enforcement had as far as processing this bill and
establishing this board. One of the unique things that's going to
happen with this particular board is they're going to be going into a
different realm, where, as we discussed in the Committee meeting,
prostitution is a problem. They need to understand and be aware
that the background and histories and arrest records are going to
be a little more intense with this board than they probably would

be with any other board in this State. They're going to have to be very wary.

If you want to flip through the amendment, I'll cover just a couple of quick points. I believe everything has been agreed on between law enforcement and the proponents of the bill. We have added a position to the board, a nonvoting member, which is law enforcement, which will help the board in their initial steps to understand the problems that happen in Clark County and how things progress there.

There has been some clarification on language as far as background investigations go. If you're approved by the Board of Massage Therapy, you'll be able to use that concurrently with cosmetology. If you do decide to do dual licensure, it will not go the other way, because the massage therapy license will be harder to get, so we're setting the standard at the higher level.

Those are the significant issues that the Committee is not aware of. Other than that, everything else in this bill has literally been combed through many times by many people. There are still people out there who have concerns and that are opposed, but I believe we have done the best job we possibly can in helping this new Board get established and succeed.

MR. ADLER:

I believe this has been a very well-done amendment to this bill, and we support all the amendments completely. Postcards were sent out to some of the people who are current practitioners, suggesting that there isn't a grandfathering clause, and there always has been a grandfathering clause in this bill. Section 57 really lays out that if you're a current licensee in Clark County, for instance, you're going to be able to keep your license and just move into the state licensure system, as long as you don't have an extensive criminal background or something of that nature, in which case you're going to have a problem. If you've been practicing for 20 years and have no disciplinary actions, no criminal background, you're not going to have a problem with this bill once it's enacted.

The other thing is ... this is kind of a major policy departure here. ... You're moving from local licensure, county licensure, city licensure, to something that really tries to meld some of the different professions that practice at spas and resorts, allowing them to practice together. I think this bill is really necessary if we're going to have large spa-resorts throughout Nevada. This is a departure, and I think it's a good departure, because it elevates professionalism and it adds something to the resort industry within the State of Nevada.

SENATOR HECK:

"Upon passage, then, no one other than somebody who is a licensed massage therapist will be allowed to advertise or hold themselves out to provide massage services, unless they're under the exemption of those areas that are listed."

MR. ADLER:

"That's correct."

SENATOR HECK:

"I think we had discussion in the first hearing about what I guess we could term 'recreational massage houses.' They would no longer be able to advertise that they offer massage."

MR. ADLER:

"That's correct. ... This bill ... will allow the statewide board to control some of that advertising that suggests that massage and other activities occur in tandem, which we want to eliminate."

CHAIR TOWNSEND:

... We may get more calls on this than anything else we get calls on after the session is over, and we want to be able to explain to the current licensee who says, "How does this affect me?" ... It would be my recommendation to the proponents of the bill that you get a copy of this and get it dispersed in some way, shape or form to all the current – certainly the day spas, the resorts, and as many current licensees that are licensed locally as possible, so that it gives them a clear picture of what the law is and how it's going to be implemented. That will take away a lot of the grief that is potentially out there. You can't blame them; they're going along

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earning a living, and all of a sudden something happens. ... It's important that we communicate with those people, because this does affect them.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 250.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:

I will open the work session on A.B. 340.

ASSEMBLY BILL 340 (1st Reprint): Revises provisions relating to certain short-term, high interest loans. (BDR 52-126)

CHAIR TOWNSEND:

We have a mock-up of the bill (Exhibit H).

KEVIN POWERS (Committee Counsel):

I have some background material. As the bill came over from the Assembly, Assemblywoman Giunchigliani's bill had several components in it. Some of them dealt with deferred-deposit loans and short-term loans that were also covered by Assemblywoman Buckley's bill, A.B. 384.

ASSEMBLY BILL 384 (1st Reprint): Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

MR. POWERS:

Assembly Bill 384 included a component that was not addressed in A.B. 340 dealing with a completely different type of loan, the tax-refund-anticipation loan. As the Committee processed A.B. 384, components dealing with deferred-deposit and short-term loans were removed from A.B. 340 and fused into A.B. 384. The mock-up ... contains only provisions dealing with refund-anticipation loans. Those provisions are based on a

MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 250
FIRST REPRINT

PREPARED FOR THE SENATE COMMITTEE ON COMMERCE AND LABOR
MAY 20, 2005

PREPARED BY THE LEGAL DIVISION; MODIFIED BY RESEARCH

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

Research Division
modifications appear in
marginal text boxes in red print

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) *green bold dashed underlining* is deleted language in the original bill that is proposed to be retained in this amendment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Title 54 of NRS is hereby amended by adding thereto a
2 new chapter to consist of the provisions set forth as sections 2 to 34,
3 inclusive, of this act.

4 **Sec. 2.** *The Legislature finds and declares that:*

5 1. *The practice of massage therapy by persons who do not possess*
6 *sufficient knowledge of anatomy and physiology or an understanding of*
7 *the relationship between the structure and function of the tissues being*
8 *treated and the total function of the body may endanger the health,*
9 *welfare and safety of the residents of this State.*

10 2. *To protect the residents of this State, it is necessary to license and*
11 *regulate the practice of massage therapy.*

12 **Sec. 3.** *As used in this chapter, unless the context otherwise*
13 *requires, the words and terms defined in sections 4 to 7, inclusive, of this*
14 *act have the meanings ascribed to them in those sections.*

15 **Sec. 4.** *"Board" means the Board of Massage Therapists.*

16 **Sec. 5.** *"License" means a license issued by the Board.*

17 **Sec. 6.** *"Massage therapist" means a person who is licensed*
18 *pursuant to the provisions of this chapter to engage in the practice of*
19 *massage therapy.*

20 **Sec. 7. 1.** *"Massage therapy" means the application of a system of*
21 *pressure to the muscular structure and soft tissues of the human body for*
22 *therapeutic purposes, including, without limitation:*

23 (a) *Effleurage;*

24 (b) *Petrissage;*

25 (c) *Tapotement;*

26 (d) *Compressions;*

27 (e) *Vibration;*

28 (f) *Friction; and*

29 (g) *Movements applied manually with or without superficial heat,*
30 *cold, water or lubricants for the purpose of maintaining good health and*
31 *establishing and maintaining good physical condition.*

32 2. *The term does not include ~~diagnosis~~.*

1 (a) Diagnosis, adjustment, mobilization or manipulation of any
2 articulations of the body or spine; or

3 (b) Reflexology.

4 **Sec. 8. 1. The provisions of this chapter do not apply to:**

5 (a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633,
6 634, 634A, 635 ~~or~~, 640, 640A or 640B of NRS if the massage therapy is
7 performed in the course of the practice for which he is licensed.

8 (b) A person licensed as a barber or apprentice pursuant to chapter
9 643 of NRS if the person is massaging, cleansing or stimulating the
10 scalp, face, neck or skin within the permissible scope of practice for a
11 barber or apprentice pursuant to that chapter.

12 (c) A person licensed or registered as an aesthetician, cosmetologist
13 or cosmetologist's apprentice pursuant to chapter 644 of NRS if the
14 person is massaging, cleansing or stimulating the scalp, face, neck or
15 skin within the permissible scope of practice for an aesthetician,
16 cosmetologist or cosmetologist's apprentice pursuant to that chapter.

17 (d) A person who is an employee of an athletic department of any
18 high school, college or university in this State and who, within the scope
19 of that employment, practices massage therapy on athletes.

20 ~~(e)~~ (e) Students enrolled in a school of massage therapy recognized
21 by the Board.

22 ~~(f)~~ (f) A person who practices massage therapy solely on members of
23 his immediate family.

24 ~~(g)~~ (g) A person who performs any activity in a licensed brothel.

25 **2. Except as otherwise provided in subsection 3, the provisions of**
26 **this chapter preempt the licensure and regulation of a massage therapist**
27 **by a county, city or town, including, without limitation, conducting a**
28 **criminal background investigation and examination of a massage**
29 **therapist or applicant for a license to practice massage therapy.**

30 **3. The provisions of this chapter do not prohibit a county, city or**
31 **town from requiring a massage therapist to obtain a license or permit to**
32 **transact business within the jurisdiction of the county, city or town, if the**
33 **license or permit is required of other persons, regardless of occupation**
34 **or profession, who transact business within the jurisdiction of the**
35 **county, city or town.**

36 **4. As used in this section, "immediate family" means persons who**
37 **are related by blood, adoption or marriage, within the second degree of**
38 **consanguinity or affinity.**

39 **Sec. 9. 1. The Board of Massage Therapists, ~~consisting of at least~~**
40 **~~six members appointed by the Governor,~~ is hereby created.**

41 **2. The Governor shall appoint to the Board seven members as**
42 **follows:**

43 (a) ~~At least five~~ Six members who:

44 (1) Are licensed to practice massage therapy in this State, ~~at least~~
45 ~~two of whom represent northern Nevada and at least two of whom~~
46 ~~represent southern Nevada;~~ and

47 (2) Have engaged in the practice of massage therapy for the 2
48 years immediately preceding their appointment.

49 ~~Of the six members appointed pursuant to this paragraph, three~~
50 ~~members must be residents of Clark County, two members must be~~
51 ~~residents of Washoe County and one member must be a resident of a~~
52 ~~county other than Clark County or Washoe County.~~

53 (b) One member who is a member of the general public. ~~This~~
54 ~~member must not be:~~

55 (1) A massage therapist; or

56 (2) The spouse or the parent or child, by blood, marriage or
57 adoption, of a massage therapist.

The language regarding a member of the general public is added to conform with SB310 of the 2003 Regular Session. See Ch. 213, Nev. Stats. 2003.

1 3. The Governor may, in making his appointments to the Board
2 pursuant to paragraph (a) of subsection 2, consider for appointment to
3 the Board a person recommended to him by any person or group.

4 4. The members who are appointed to the Board pursuant to
5 paragraph (a) of subsection 2 must continue to practice massage therapy
6 while they are members of the Board.

7 5. The Governor may remove any member of the Board for
8 incompetence, neglect of duty, moral turpitude or misfeasance,
9 malfeasance or nonfeasance in office.

10 6. ~~No member of the Board may be held liable in a civil action.~~ The
11 Board and any of its members and its staff and employees, including,
12 without limitation, inspectors, investigators, advisers, examiners, clerks,
13 counsel, experts, committees, panels, hearing officers and consultants
14 are immune from any civil liability for an act ~~that he performs~~ performed
15 in good faith in the execution of ~~his~~ any duties pursuant to this chapter.

16 7. Upon appointment, new members must be provided training that
17 includes, ~~but is not limited to, the:~~

- 18 ~~(a) Licensure without limitation, training regarding;~~
19 ~~(a) The licensure and discipline of massage therapists; and~~
20 ~~(b) Rules.~~ The rules and procedures of the Board.

21 Sec. 10. 1. At the first meeting of each year, the members of the
22 Board shall elect a Chairman, Vice Chairman and Secretary-Treasurer
23 from among its members.

24 2. After the initial terms, the term of each member of the Board is 4
25 years. The members ~~shall~~ may continue in office until their successors
26 are appointed.

27 3. ~~No~~ A member of the Board may not serve more than two
28 consecutive terms. A former member of the Board is eligible for
29 reappointment to the Board if that person has not served on the Board
30 during the 4 years immediately preceding the reappointment.

31 4. A vacancy on the Board must be filled by appointment for the
32 unexpired term in the same manner as the original appointment.

33 Sec. 11. 1. The Board shall meet at least quarterly and may meet
34 at other times at the call of the Chairman or upon the written request of
35 a majority of the members of the Board.

36 2. The Board shall alternate the location of its meetings between
37 ~~northern~~ the southern district of Nevada and ~~southern~~ the northern
38 district of Nevada. For the purposes of this subsection:

39 (a) The southern district of Nevada consists of all that portion of the
40 State lying within the boundaries of the counties of Clark, Esmeralda,
41 Lincoln and Nye.

42 (b) The northern district of Nevada consists of all that portion of the
43 State lying within the boundaries of Carson City and the counties of
44 Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral,
45 Pershing, Storey, Washoe and White Pine.

46 3. A meeting of the Board may be conducted telephonically or by
47 videoconferencing. A meeting conducted telephonically or by
48 videoconferencing must meet the requirements of chapter 241 of NRS
49 and any other applicable provisions of law.

50 ~~2. Except as otherwise provided in subsection 3, a majority of the~~
51 ~~members of the Board constitutes a quorum for the transaction of the~~
52 ~~business of the Board.~~

53 ~~3.~~ 4. Four members of the Board constitute a quorum for the
54 purposes of transacting the business of the Board, including, without
55 limitation, issuing, renewing, suspending, revoking or reinstating a
56 license issued pursuant to this chapter.

57 Sec. 12. The Board shall:

58 1. Adopt a seal of which each court in this State shall take judicial
59 notice;

1 2. Prepare and maintain a record of its proceedings and
2 transactions;

3 3. Review and evaluate applications for the licensing of massage
4 therapists;

5 4. Determine the qualifications and fitness of applicants;

6 5. Issue, renew, reinstate, revoke, suspend and deny licenses, as
7 appropriate;

8 6. Enforce the provisions of this chapter and any regulations
9 adopted pursuant thereto;

10 7. Investigate any complaints filed with the Board;

11 8. Impose any penalties it determines are required to administer
12 the provisions of this chapter; and

13 9. Transact any other business required to carry out its duties.

14 **Sec. 13. 1. The Board shall prepare and maintain a separate list**
15 **of:**

16 (a) Persons issued a license;

17 (b) Applicants for a license; and

18 (c) Persons whose licenses have been revoked or suspended by the
19 Board.

20 ~~2. The Board shall, upon request, disclose the information included~~
21 ~~in each list and may charge a fee for a copy of the list. The fee may not~~
22 ~~exceed the actual cost incurred by the Board to make a copy of the list.~~

23 ~~2. The Board shall~~

24 ~~(a) Prepare and maintain a record of its proceedings and~~
25 ~~transactions;~~

26 ~~(b) Adopt a seal of which each court in this State shall take judicial~~
27 ~~notice; and~~

28 ~~(c) Enforce the provisions of this chapter and any regulations~~
29 ~~adopted pursuant thereto.~~

30 ~~3. The Board shall hire a full-time staff of investigators to conduct~~
31 ~~background investigations of applicants for a license in a timely manner,~~
32 ~~as determined by the Board, and to conduct routine unannounced~~
33 ~~inspections of massage therapists. The Board shall employ those~~
34 ~~investigators in both northern Nevada and southern Nevada.~~

35 **Sec. 14. The Board shall adopt regulations to carry out the**
36 **provisions of this chapter. The regulations must include, without**
37 **limitation, provisions that:**

38 1. Establish the requirements for continuing education for the
39 renewal of a license;

40 2. Establish the requirements for the approval of a course of
41 continuing education, including, without limitation, a course on a
42 specialty technique of massage therapy;

43 3. Establish the requirements for the approval of an instructor of a
44 course of continuing education;

45 4. Establish requirements relating to sanitation, hygiene and safety
46 relating to the practice of massage therapy;

47 5. Prescribe the requirements for any practical, oral or written
48 examination for a license that the Board may require, including, without
49 limitation, the passing grade for such an examination; and

50 6. ~~Reduce duplication in the licensing procedure for a qualified~~
51 ~~applicant who is applying to the Board for a license issued pursuant to~~
52 ~~this chapter and to the State Board of Cosmetology for a license issued~~
53 ~~pursuant to chapter 644 of NRS. Establish the period within which the~~
54 ~~Board or its designee must report the results of the investigation of an~~
55 ~~applicant.~~

56 **Sec. 14.5. 1. The Attorney General and his deputies are hereby**
57 **designated as the attorneys for the Board.**
58

Sec. 21.5 and Sec. 34.5 now contain the provisions regarding the duty of the Board of Massage Therapists to reduce duplication in licensing procedures with the State Board of Cosmetology.

1 2. The provisions of this section do not prevent the Board from
2 employing or retaining other attorneys as it may deem necessary to carry
3 out the provisions of this chapter.

4 ~~Sec. 15. 1. The Board may employ an Executive Secretary and~~
5 ~~any other persons required to carry out its duties.~~

6 ~~2. While engaged in the business of the Board, each member and~~
7 ~~employee of the Board is entitled to receive a per diem allowance and~~
8 ~~travel expenses at a rate fixed by the Board. The rate must not exceed the~~
9 ~~rate provided for officers and employees of this State generally.~~

10 1. The Board shall employ a person as the Executive Director of the
11 Board.

12 2. The Executive Director serves as the chief administrative officer
13 of the Board at a level of compensation set by the Board.

14 3. The Executive Director is an at-will employee who serves at the
15 pleasure of the Board.

16 ~~Sec. 15.3. 1. The Board may employ or contract with inspectors,~~
17 ~~investigators, advisers, examiners and clerks and any other persons~~
18 ~~required to carry out its duties and secure the services of attorneys and~~
19 ~~other professional consultants as it may deem necessary to carry out the~~
20 ~~provisions of this chapter.~~

21 2. Each employee of the Board is an at-will employee who serves at
22 the pleasure of the Board. The Board may discharge an employee of the
23 Board for any reason that does not violate public policy, including,
24 without limitation, making a false representation to the Board.

25 ~~Sec. 15.7. While engaged in the business of the Board:~~

26 1. Each member of the Board is entitled to receive a salary of not
27 more than \$80 per day, as established by the Board; and

28 2. Each member and employee of the Board is entitled to receive a
29 per diem allowance and travel expenses at a rate fixed by the Board. The
30 rate must not exceed the rate provided for officers and employees of this
31 State generally.

32 ~~Sec. 16. The Board shall adopt a fiscal year beginning on July 1~~
33 ~~and ending on June 30.~~

34 ~~Sec. 17. 1. Except as otherwise provided in subsection 5, all~~
35 ~~reasonable expenses incurred by the Board in carrying out the provisions~~
36 ~~of this chapter must be paid from the money that it receives. No part of~~
37 ~~any expenses of the Board may be paid from the State General Fund.~~

38 2. The Board may accept gifts, grants, donations and contributions
39 from any source to assist in carrying out the provisions of this chapter.

40 3. All money received by the Board must be deposited in a bank or
41 other financial institution in this State and paid out upon the Board's
42 order for its expenses.

43 4. The Board may delegate to a hearing officer or panel its
44 authority to take any disciplinary action pursuant to this chapter, impose
45 and collect fines and penalties therefor, and deposit the money therefrom
46 in a bank or other financial institution in this State.

47 5. If a hearing officer or panel is not authorized to take disciplinary
48 action pursuant to subsection 4 and the Board deposits the money
49 collected from the imposition of fines with the State Treasurer for credit
50 to the State General Fund, it may present a claim to the State Board of
51 Examiners for recommendation to the Interim Finance Committee if
52 money is required to pay attorney's fees or the costs of an investigation,
53 or both.

54 ~~Sec. 18. 1. A person whose license has expired or has been~~
55 ~~suspended or revoked by the Board and who:~~

56 (a) Engages in the practice of massage therapy; or

57 (b) Uses in connection with his name the words or letters "L.M.T.,"
58 "licensed massage therapist," "licensed massage technician," "M.T.,"
59 "massage technician" or "massage therapist," or any other letters, words

1 or insignia indicating or implying that he is licensed to practice massage
2 therapy, or who in any other way, orally, or in writing or print, or by
3 sign, directly or by implication, uses the word "massage" or represents
4 himself as licensed or qualified to engage in the practice of massage
5 therapy,

6 ➤ is guilty of a misdemeanor.

7 2. If the Board determines that a person has violated or is about to
8 violate any provision of ~~subsection 1, this section~~, the Board may bring
9 an action in a court of competent jurisdiction to enjoin that person from
10 engaging in or continuing the violation. An injunction:

11 (a) May be issued without proof of actual damage sustained by any
12 person.

13 (b) Does not prohibit the criminal prosecution and punishment of a
14 person who violates any of those provisions.

15 3. A person who is not licensed pursuant to this chapter to practice
16 massage therapy and who:

17 (a) Engages in the practice of massage therapy; or

18 (b) Uses in connection with his name the words or letters "L.M.T.,"
19 "licensed massage therapist," "licensed massage technician," "M.T.,"
20 "massage technician" or "massage therapist," or any other letters, words
21 or insignia indicating or implying that he is licensed to practice massage
22 therapy, or who in any other way, orally, or in writing or print, or by
23 sign, directly or by implication, uses the word "massage" or represents
24 himself as licensed or qualified to engage in the practice of massage
25 therapy,

26 ➤ is guilty of a misdemeanor.

27 Sec. 19. 1. The Board may issue a license to practice massage
28 therapy.

29 2. An applicant for a license must:

30 (a) Be at least 18 years of age;

31 (b) Submit to the Board:

32 (1) A completed application on a form prescribed by the Board;
33 (2) The fees prescribed by the Board pursuant to section 25 of this
34 act;

35 (3) Proof that he has successfully completed a program of
36 massage therapy recognized by the Board;

37 (4) A certified statement issued by the licensing authority in each
38 state, territory or possession of the United States or the District of
39 Columbia in which the applicant is or has been licensed to practice
40 massage therapy ~~indicating that no disciplinary~~ verifying that:

41 (I) The applicant has not been involved in any disciplinary
42 action relating to his license to practice massage therapy; and

43 (II) Disciplinary proceedings relating to his license to practice
44 massage therapy are not pending;

45 (5) A ~~full~~ complete set of fingerprints and written permission
46 authorizing the Board to forward the fingerprints to the Central
47 Repository for Nevada Records of Criminal History for submission to the
48 Federal Bureau of Investigation for its report;

49 (6) The names and addresses of five natural persons not related to
50 the applicant and not business associates of the applicant who are
51 willing to serve as character references;

52 (7) A statement authorizing the Board or its designee to conduct
53 an investigation to determine the accuracy of any statements set forth in
54 the application; and

55 (8) If required by the Board, a financial questionnaire; and
56
57
58
59

1 (c) In addition to any examination required pursuant to section 14 of
2 this act and except as otherwise provided in ~~section 20 of this act~~
3 ~~subsection 3, pass a written examination administered by the National~~
4 ~~Certification Board for Therapeutic Massage and Bodywork, any board~~
5 ~~that is accredited by the National Commission for Certifying Agencies,~~
6 ~~or its successor organization, to examine massage therapists.~~

7 3. ~~If the Board determines that the examinations being administered~~
8 ~~pursuant to paragraph (c) of subsection 2 are inadequately testing the~~
9 ~~knowledge and competency of applicants;~~

10 (a) ~~The Board shall prepare or cause to be prepared its own written~~
11 ~~examination to test the knowledge and competency of applicants; and~~

12 (b) ~~Such an examination must be offered not less than four times~~
13 ~~each year. The location of the examination must alternate between Clark~~
14 ~~County and Washoe County. Upon request, the Board must provide a list~~
15 ~~of approved interpreters at the location of the examination to interpret~~
16 ~~the examination for an applicant who, as determined by the Board,~~
17 ~~requires an interpreter for the examination.~~

18 4. ~~The Board shall recognize a program of massage therapy that is:~~
19 ~~including, but not limited to, a program~~

20 (a) ~~Approved by the Commission on Postsecondary Education; or~~

21 (b) ~~Offered by a public college in this State or any other state.~~

22 ~~The Board may recognize other programs of massage therapy.~~

23 4. The Board or its designee shall:

24 (a) ~~Fingerprint each applicant and conduct~~ Conduct an investigation
25 to determine:

26 (1) ~~The reputation and character of the applicant;~~

27 (2) ~~The existence and contents of any record of arrests or~~
28 ~~convictions of the applicant;~~

29 (3) ~~The existence and nature of any pending litigation involving~~
30 ~~the applicant, that would affect his suitability for licensure; and~~

31 (4) ~~The accuracy and completeness of any information submitted~~
32 ~~to the Board by the applicant;~~

33 (b) ~~If the Board determines that it is unable to conduct a complete~~
34 ~~investigation, require the applicant to submit a financial questionnaire~~
35 ~~and investigate the financial background and each source of funding of~~
36 ~~the applicant;~~

37 (c) ~~Report the results of the investigation not more than 30 days after~~
38 ~~the Board receives a complete application; of the applicant within the~~
39 ~~period the Board establishes by regulation pursuant to section 14 of this~~
40 ~~act; and~~

41 (d) ~~Maintain the results of the investigation in a confidential manner~~
42 ~~for use by the Board and its members and employees in carrying out~~
43 ~~their duties pursuant to this chapter. The provisions of this paragraph do~~
44 ~~not prohibit the Board or its members or employees from communicating~~
45 ~~or cooperating with or providing any documents or other information to~~
46 ~~any other licensing board or any other federal, state or local agency that~~
47 ~~is investigating a person, including, without limitation, a law~~
48 ~~enforcement agency. The results of an investigation must be available~~
49 ~~only to the Board and a peace officer of this State.~~

50 Sec. 20. ~~If the National Certification Board for Therapeutic~~
51 ~~Massage and Bodywork ceases to administer the written examination~~
52 ~~required by paragraph (c) of subsection 2 of section 19 of this act or if~~
53 ~~the Board, after public comment, determines that such examination~~
54 ~~inadequately tests the knowledge and competency of applicants, the~~
55 ~~Board shall:~~

56 1. ~~Accept from an applicant for a license the results of an~~
57 ~~examination administered by any board that is accredited by the National~~
58 ~~Commission for Certifying Agencies to examine massage therapists; or~~

59 2. ~~Prepare or cause to be prepared a written examination that is:~~

~~(a) Substantially equivalent to the written examination that was administered by the National Certification Board for Therapeutic Massage and Bodywork or any other organization approved by the Board; and~~

~~(b) Offered not less than four times each year. The location of the examination must alternate between northern Nevada and southern Nevada. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.~~

Sec. 21. 1. The Board may issue a temporary license to practice massage therapy.

2. An applicant for a temporary license issued pursuant to this section must:

(a) Be at least 18 years of age; and

(b) Submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to section 25 of this act;

(3) Proof that he has successfully completed a program of massage therapy recognized by the Board pursuant to section 19 of this act;

(4) Proof that he:

(I) Has taken the examination offered by the National Certification Board for Therapeutic Massage and Bodywork required pursuant to section 19 of this act; or

(II) Is scheduled to take the examination offered by the National Certification Board for Therapeutic Massage and Bodywork such an examination within 90 days after the date of application;

(5) An affidavit indicating that he has not committed any of the offenses for which the Board may refuse to issue a license pursuant to section 29 of this act;

(6) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy indicating that no disciplinary verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(II) Disciplinary proceedings relating to his license to practice massage therapy are not pending; and

(7) A full complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. A temporary license issued pursuant to this section expires 90 days after the date the Board issues the temporary license. The Board shall not renew the temporary license.

~~4. The Board shall recognize a program of massage therapy that is, including, but not limited to, a program:~~

~~(a) Approved by the Commission on Postsecondary Education; or~~

~~(b) Offered by a public college in this State or any other state.~~

4. A person who holds a temporary license:

(a) May practice massage therapy only under the supervision of a fully licensed massage therapist and only in accordance with the provisions of this chapter and the regulations of the Board;

(b) Must comply with any other conditions, limitations and requirements imposed on the temporary license by the Board;

(c) Is subject to the regulatory and disciplinary authority of the Board to the same extent as a fully licensed massage therapist; and

(d) Remains subject to the regulatory and disciplinary authority of the Board after the expiration of the temporary license for all acts relating to the practice of massage therapy which occurred during the period of temporary licensure.

5. As used in this section, "fully licensed massage therapist" means a person who holds a license to practice massage therapy issued pursuant to section 19 of this act.

Sec. 21.5. 1. The Board of Massage Therapists and the State Board of Cosmetology shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the Board of Massage Therapists for a license to practice pursuant to this chapter and who is also applying to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS, if both applications are filed not more than 60 days apart.

2. If a qualified applicant submits an application to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS and, not later than 60 days after that application, the applicant also submits an application to the Board of Massage Therapists for a license to practice pursuant to this chapter:

(a) The applicant is not required to submit a set of fingerprints to the Board of Massage Therapists if the applicant submitted a set of fingerprints with his application to the State Board of Cosmetology;

(b) The Board of Massage Therapists shall request from the State Board of Cosmetology a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the State Board of Cosmetology shall provide to the Board of Massage Therapists any reports relating to a background investigation of the applicant; and

(d) The Board of Massage Therapists shall use the reports provided by the State Board of Cosmetology in reviewing the application for a license to practice pursuant to this chapter.

Sec. 22. 1. In addition to the any other requirements set forth in sections 19, 21 and 24 of this act, a natural person who applies this chapter:

(a) An applicant for the issuance of a license as a massage therapist shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license as a massage therapist shall submit to the Board:

~~(a) In any application for the issuance of a license, the social security number of the applicant and the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

~~(b) In any application for renewal of a license, the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. ~~The Board shall not issue or renew a license if the applicant is a natural person who:~~ A license as a massage therapist may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in

Sec. 21.5 requires the Board of Massage Therapists and the State Board of Cosmetology to reduce duplication in their licensing procedures for persons who apply for both licenses not more than 60 days apart. Sec. 34.5 adds similar provisions to NRS Chapter 644, which governs the State Board of Cosmetology.

Amend to provide that the Massage Therapy Board shall use the background reports provided by the Cosmetology Board unless the Cosmetology Board does not perform a complete background check, in which case the Massage Board shall conduct its own background investigation.

Sec. 22 has been revised to conform with SB163-RI of this session.

1 compliance with the order or a plan approved by the district attorney or
2 other public agency enforcing the order for the repayment of the amount
3 owed pursuant to the order.

4 4. If an applicant indicates on the statement submitted pursuant to
5 subsection 1 that he is subject to a court order for the support of a child
6 and is not in compliance with the order or a plan approved by the district
7 attorney or other public agency enforcing the order for the repayment of
8 the amount owed pursuant to the order, the Board shall advise the
9 applicant to contact the district attorney or other public agency enforcing
10 the order to determine the actions that the applicant may take to satisfy
11 the arrearage.

12 Sec. 23. 1. If the Board receives a copy of a court order issued
13 pursuant to NRS 425.540 that provides for the suspension of all
14 professional, occupational and recreational licenses, certificates and
15 permits issued to a person who is the holder of a license, the Board shall
16 deem the license issued to that person to be suspended at the end of the
17 30th day after the date on which the court order was issued unless the
18 Board receives a letter issued to the holder of the license by the district
19 attorney or other public agency pursuant to NRS 425.550 stating that the
20 holder of the license has complied with the subpoena or warrant or has
21 satisfied the arrearage pursuant to NRS 425.560.

22 2. The Board shall reinstate a license that has been suspended by a
23 district court pursuant to NRS 425.540 if:

24 (a) The Board receives a letter issued by the district attorney or other
25 public agency pursuant to NRS 425.550 to the person whose license was
26 suspended stating that the person whose license was suspended has
27 complied with the subpoena or warrant or has satisfied the arrearage
28 pursuant to NRS 425.560; and

29 (b) The licensee pays the fee for reinstatement of the license
30 prescribed by the Board pursuant to section 25 of this act.

31 Sec. 24. 1. ~~Except~~ Notwithstanding the provisions of section 19 of
32 this act and except as otherwise provided in subsection 3, the Board may
33 issue a license, without regard to the requirements of section 19 of this
34 act, to an applicant:

35 ~~(a) Who holds a current license to practice massage therapy issued~~
36 ~~by a county, city or town of this State that regulates the practice of~~
37 ~~massage therapy; or~~

38 ~~(b) Who who holds a current license to practice massage therapy~~
39 ~~issued by another state, territory or possession of the United States or the~~
40 ~~District of Columbia.~~

41 2. An applicant for a license issued by the Board pursuant to
42 subsection 1 must submit to the Board:

43 (a) A completed application on a form prescribed by the Board;

44 (b) The fees prescribed by the Board pursuant to section 25 of this
45 act;

46 (c) A notarized statement signed by the applicant that states whether:

47 (1) Whether any disciplinary proceedings relating to his license to
48 practice massage therapy have at any time been instituted against him;
49 and

50 (2) Whether he has been arrested or convicted, within the
51 immediately preceding 10 years, for any crime involving violence,
52 prostitution or any other sexual offense; and

53 (d) A certified statement issued by the licensing authority in each
54 state, territory or possession of the United States or the District of
55 Columbia in which the applicant is or has been licensed to practice
56 massage therapy during the immediately preceding 10 years indicating
57 that no disciplinary verifying that:

58 (1) The applicant has not been involved in any disciplinary action
59 relating to his license to practice massage therapy; and

The "grandfather clause" regarding persons who hold a current license to practice massage therapy issued by any county, city or town of this State has been moved to Sec. 57 of the Mock-Up.

(2) ~~Disciplinary proceedings relating to his license to practice massage therapy are not pending.~~

3. ~~The Board shall not issue a license pursuant to this section unless the state, territory or possession of the United States or the District of Columbia in which the applicant is licensed had requirements at the time the license was issued that the Board determines are substantially equivalent to the requirements for a license to practice massage therapy set forth in this chapter.~~

~~4. An applicant who holds a license to practice massage therapy that is issued by a county, city or town in this State and who does not have a criminal background investigation approved by a local law enforcement agency must submit to a background investigation conducted pursuant to section 19 of this act.~~

Sec. 25. 1. ~~The Board shall establish and may amend a schedule of fees and charges. The fees for the following items and within must not exceed the following amounts:~~

	Not less	Not more
	than	than
An examination established by the Board pursuant to section 14 or 20 of this act	\$5	\$1
0	\$1	\$1
50	\$4	\$1
An application for a license	\$4	\$1
2	\$1	\$1
26	\$1	\$1
An application for a license without an examination	42	126
A background check of an applicant	45	300
The issuance of a license	52	156
The renewal of a license	33	99
The restoration of an expired license	33	99
The reinstatement of a suspended or revoked license	99	250
The issuance of a duplicate license	25	75
The restoration of an inactive license	33	99
An examination established by the Board pursuant to this chapter	\$600	\$600
An application for a license	300	300
An application for a license without an examination	300	300
A background check of an applicant	600	600
The issuance of a license	400	400
The renewal of a license	200	200
The restoration of an expired license	500	500
The reinstatement of a suspended or revoked license	500	500
The issuance of a duplicate license	75	75
The restoration of an inactive license	300	300

2. ~~In addition to the fees prescribed pursuant to subsection 1, the Board may charge and collect a fee for any other service it provides. The amount of the fee must not exceed the cost of providing the service.~~

~~3~~ The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 26. Each licensee shall display his license in a conspicuous manner at each location where he practices massage therapy.

Sec. 27. 1. Each license expires on the last day of the month in which it was issued in the next succeeding calendar year and may be renewed if, before the license expires, the holder of the license submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by the Board pursuant to the regulations adopted by the Board under section 14 of this act; and

~~(c) Proof of his certification by the National Certification Board for Therapeutic Massage and Bodywork; and~~

~~(d) The fee for renewal of the license prescribed by the Board pursuant to section 25 of this act.~~

2. A license that expires pursuant to this section may be restored if the applicant:

(a) Complies with the provisions of subsection 1; and

~~(b) Submits to the Board proof of his certification by the National Certification Board for Therapeutic Massage and Bodywork; and~~

~~(c) Submits to the Board the fees prescribed by the Board pursuant to section 25 of this act:~~

(1) For the restoration of an expired license; and

(2) For each year that the license was expired, for the renewal of a license.

3. The Board shall send a notice of renewal to each holder of a license not later than 60 days before his license expires. The notice must include a statement setting forth the provisions of this section and the amount of the fee for renewal of the license.

Sec. 28. 1. Upon written request to the Board, a holder of a license in good standing may cause his name and license to be transferred to an inactive list. The holder of the license may not practice massage therapy during the time the license is inactive, and no renewal fee accrues.

2. If an inactive holder of a license desires to resume the practice of massage therapy, the Board shall renew the license upon:

(a) Demonstration, if deemed necessary by the Board, that the holder of the license is then qualified and competent to practice;

(b) Completion and submission of an application; and

(c) Payment of the current fee for renewal of the license.

Sec. 29. The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude within the immediately preceding 10 years.

1 4. Has engaged in or solicited sexual activity during the course of
2 practicing massage on a person, with or without
3 the consent of the person, including, without limitation, if the applicant
4 or holder of the license:

- 5 (a) Made sexual advances toward the person;
6 (b) Requested sexual favors from the person; or
7 (c) Massaged, touched or applied any instrument to the breasts of the
8 person, unless the person has signed a written consent form provided by
9 the Board;

10 5. Has habitually abused alcohol or is addicted to a controlled
11 substance;

12 6. Is, in the judgment of the Board, guilty of gross negligence in his
13 practice of massage therapy;

14 7. Is determined by the Board to be professionally incompetent to
15 engage in the practice of massage therapy;

16 8. Has failed to provide information requested by the Board within
17 60 days after he received the request;

18 9. Has, in the judgment of the Board, engaged in unethical or
19 unprofessional conduct as it relates to the practice of massage therapy;

20 10. Has been disciplined in another state, a territory or possession
21 of the United States or the District of Columbia for conduct that would
22 be a violation of the provisions of this chapter or any regulations adopted
23 pursuant thereto if the conduct were committed in this State;

24 11. Has solicited or received compensation for services relating to
25 the practice of massage therapy that he did not provide;

26 12. If the holder of the license is on probation, has violated the
27 terms of his probation;

28 13. Has engaged in false, deceptive or misleading advertising,
29 including, without limitation, falsely, deceptively or misleadingly
30 advertising that he has received training in a specialty technique of
31 massage for which he has not received training, practicing massage
32 therapy under an assumed name and impersonating a licensed massage
33 therapist; or

34 ~~14. Has failed to maintain certification with the National~~
35 ~~Certification Board for Therapeutic Massage and Bodywork.~~

36 Sec. 30. 1. The Board or any of its members who become aware
37 of any ground for initiating disciplinary action against a holder of a
38 license shall, ~~and any other person who is so aware may,~~ file a written
39 complaint with the Board.

40 2. The complaint must specifically:

- 41 (a) Set forth the relevant facts; and
42 (b) Charge one or more grounds for initiating disciplinary action.

43 3. As soon as practicable after the filing of the complaint, ~~the Board~~
44 ~~an investigation of the complaint must be conducted to determine~~
45 ~~whether the allegations in the complaint merit the initiation of~~
46 ~~disciplinary proceedings against the holder of the license.~~

47 ~~shall set a date for a hearing on the matter. The date must not be later~~
48 ~~than 30 days after the complaint is filed, except that the date may be~~
49 ~~extended upon agreement of the person against whom the complaint is~~
50 ~~filed and the Board.~~

51 ~~4. The Board shall:~~

52 ~~(a) Notify the person in writing that a complaint against him has~~
53 ~~been filed;~~

54 ~~(b) Include in the notice a statement setting forth the date, time and~~
55 ~~place set for the hearing; and~~

56 ~~(c) Include a copy of the complaint with the notice.~~

57 ~~5. The notice and complaint may be served on the person by delivery~~
58 ~~to him personally or by registered or certified mail at his last known~~
59 ~~address.~~

Sec. 30 and Sec. 31 contain certain procedures relating to disciplinary proceedings. Those provisions are being removed because, as a regulatory body under NRS Title 54, the Board's disciplinary proceedings will be governed by the new uniform disciplinary process in SB276-R1 of this session.

(Note: If SB276 is not enrolled when the AB250 amendment is drafted in final form, the AB250 amendment will be drafted to cover all contingencies.)

1 **Sec. 31.** ~~1. The person against whom the complaint specified in~~
2 ~~section 30 of this act is filed:~~

3 ~~(a) May appear in person or through the representation of legal~~
4 ~~counsel;~~

5 ~~(b) Must be given adequate opportunity to confront any witness~~
6 ~~against him;~~

7 ~~(c) May testify and introduce the testimony of witnesses in his behalf;~~
8 ~~and~~

9 ~~(d) May submit arguments and briefs in person or through his~~
10 ~~counsel.~~

11 ~~2. The Board shall issue its decision within 30 days after the~~
12 ~~hearing.~~

13 ~~3. The failure of the person charged to attend the hearing or to~~
14 ~~defend himself must not delay and does not void the proceedings. The~~
15 ~~Board may, for good cause shown, continue any hearing from time to~~
16 ~~time.~~

17 **Sec. 32.** ~~1. Except as otherwise provided in subsection 3, if the~~
18 ~~Board determines, after notice and hearing, that an applicant for or a~~
19 ~~holder of a license has committed any of the acts charged in the~~
20 ~~complaint specified in section 30 of this act, the Board may:~~

21 ~~(a) Place the applicant or holder of the license on probation for a~~
22 ~~specified period or until further order of the Board;~~

23 ~~(b) Administer to the applicant or holder of the license a public ~~or~~~~
24 ~~private reprimand;~~

25 ~~(c) Refuse to issue, renew, reinstate or restore the license;~~

26 ~~(d) Suspend or revoke the license;~~

27 ~~(e) Impose an administrative fine of not more than \$1,000 per day for~~
28 ~~each day for which the Board determines that a violation occurred as~~
29 ~~charged in the complaint;~~

30 ~~(f) Require the applicant or holder of the license to pay the costs~~
31 ~~incurred by the Board to conduct the investigation and hearing; or~~

32 ~~(g) Impose any combination of actions set forth in paragraphs (a) to~~
33 ~~(f), inclusive.~~

34 ~~2. The order of the Board may contain such other terms, provisions~~
35 ~~or conditions as the Board deems appropriate. The order of the Board~~
36 ~~and the findings of fact and conclusions of law supporting that order are~~
37 ~~public records.~~

38 ~~3. The Board shall not issue a private reprimand.~~

39 ~~4. The Board may, if the Board finds that the action is necessary~~
40 ~~to protect the health, safety or welfare of the public, upon providing~~
41 ~~notice to the holder of the license, temporarily suspend or refuse to~~
42 ~~renew his license for a period not to exceed 30 days. For good cause, the~~
43 ~~Board may extend the period of suspension of the license or continue to~~
44 ~~refuse to renew the license if the Board deems such action to be~~
45 ~~necessary to protect the health, safety or welfare of the public. In any~~
46 ~~such case, a hearing must be held and a final decision rendered within~~
47 ~~30 days after the Board notifies the holder of the license of the temporary~~
48 ~~suspension.~~

49 ~~5. The If a massage therapist is charged with or cited for a crime~~
50 ~~involving violence, prostitution or any other sexual offense, the~~
51 ~~appropriate law enforcement agency of a city or county in which a~~
52 ~~massage therapist holds a business license issued by the city or county~~
53 ~~may shall report the charge or citation to the Executive Director. Upon~~
54 ~~receiving such a report, the Executive Director shall immediately issue a~~
55 ~~cease and desist order temporarily suspending the license of a the~~
56 ~~massage therapist immediately if the massage therapist is charged with~~
57 ~~or cited for a crime involving violence, prostitution or any other sexual~~
58 ~~offense upon issuance of the order. The temporary suspension of the~~
59 ~~license must not exceed 15 days. The Board may extend the temporary~~

Sec. 32, subsections 2 and 3, have been revised to conform with SB250 of the 2003 Regular Session. See Ch. 508, Nev. Stats. 2003.

Due to time constraints, the revisions in Sec. 32, subsection 5, are strictly conceptual in nature and have been drafted in skeleton form in this Mock-Up. If the Committee processes AB250, the Legal Division will perform a more thorough and extensive redrafting of subsection 5 for the amendment.

Insert a provision similar to NRS 630.329 which provides: If the Board issues an order suspending the license of a physician...pending proceedings for disciplinary action, the court shall not stay that order.

1 suspension if the Board determines that the suspension is required to
2 protect the health, safety or welfare of the public. In any such case, the
3 hearing must be held and a final decision rendered within 15 days after
4 ~~the law enforcement agency notifies the holder of the license is given~~
5 ~~notice of the temporary suspension.~~

6 **Sec. 33. 1. The Board may conduct investigations and hold**
7 **hearings to carry out its duties pursuant to this chapter.**

8 **2. In such a hearing:**

9 (a) Any member of the Board may administer oaths and examine
10 witnesses; and

11 (b) The Board or any member thereof may issue subpoenas to compel
12 the attendance of witnesses and the production of books and papers.

13 3. Each witness who is subpoenaed to appear before the Board is
14 entitled to receive for his attendance the same fees and mileage allowed
15 by law for a witness in a civil case. The amount must be paid by the party
16 who requested the subpoena. If any witness who has not been required to
17 attend at the request of any party is subpoenaed by the Board, his fees
18 and mileage must be paid by the Board from money available for that
19 purpose.

20 4. If any person fails to comply with the subpoena within 10 days
21 after it is issued, the Chairman of the Board may petition a court of
22 competent jurisdiction for an order of the court compelling compliance
23 with the subpoena.

24 5. Upon the filing of such a petition, the court shall enter an order
25 directing the person subpoenaed to appear before the court at a time and
26 place to be fixed by the court in its order, the time to be not more than 10
27 days after the date of the order, and to show cause why he has not
28 complied with the subpoena. A certified copy of the order must be served
29 upon the person subpoenaed.

30 6. If it appears to the court that the subpoena was regularly issued
31 by the Board, the court shall enter an order compelling compliance with
32 the subpoena. The failure of the person to comply with the order is a
33 contempt of the court that issued the order.

34 **Sec. 34. 1. Any records or information obtained during the course**
35 **of an investigation conducted by the Board are confidential until the**
36 **investigation is completed. Upon completion of the investigation, the**
37 **records and information are public records if:**

38 ~~(a) Disciplinary action was taken by the Board as a result of the~~
39 ~~investigation; or~~

40 ~~(b) The person who was investigated submits a written request to the~~
41 ~~Board requesting that the information and records be made public~~
42 ~~records.~~

43 ~~2. The provisions of this section do not prohibit the Board from~~
44 ~~cooperating with another licensing board, any agency or any county, city~~
45 ~~or town in which the holder of the license practices massage therapy if~~
46 ~~the licensing board, agency, county, city or town is investigating a holder~~
47 ~~of a license, including, without limitation, a law enforcement agency.~~

48 1. Except as otherwise provided in this section, a complaint filed
49 with the Board, all documents and other information filed with the
50 complaint and all documents and other information compiled as a result
51 of an investigation conducted to determine whether to initiate
52 disciplinary action against a person are confidential, unless the person
53 submits a written statement to the Board requesting that such documents
54 and information be made public records.

55 2. The charging documents filed with the Board to initiate
56 disciplinary action and all documents and information considered by the
57 Board when determining whether to impose discipline are public records.

58 3. The provisions of this section do not prohibit the Board from
59 communicating or cooperating with or providing any documents or other
60 information to any other licensing board or any other federal, state or

Sec. 34 has been revised to conform with SB276-R1 of this session.

1 local agency that is investigating a person, including, without limitation,
2 a law enforcement agency.

3 **Sec. 34.5.** Chapter 644 of NRS is hereby amended by adding thereto a new
4 section to read as follows:

5 1. The State Board of Cosmetology and the Board of Massage
6 Therapists shall, to the extent practicable, reduce duplication in the
7 licensing procedure for a qualified applicant who is applying to the State
8 Board of Cosmetology for a license to practice pursuant to this chapter
9 and who is also applying to the Board of Massage Therapists for a
10 license to practice pursuant to sections 2 to 34, inclusive, of this act, if
11 both applications are filed not more than 60 days apart.

12 2. If a qualified applicant submits an application to the Board of
13 Massage Therapists for a license to practice pursuant to sections 2 to 34,
14 inclusive, of this act and, not later than 60 days after that application, the
15 applicant also submits an application to the State Board of Cosmetology
16 for a license to practice pursuant to this chapter:

17 (a) The applicant is not required to submit a set of fingerprints to the
18 State Board of Cosmetology if the applicant submitted a set of
19 fingerprints with his application to the Board of Massage Therapists;

20 (b) The State Board of Cosmetology shall request from the Board of
21 Massage Therapists a copy of any reports relating to a background
22 investigation of the applicant;

23 (c) Upon receiving such a request, the Board of Massage Therapists
24 shall provide to the State Board of Cosmetology any reports relating to a
25 background investigation of the applicant; and

26 (d) The State Board of Cosmetology shall use the reports provided by
27 the Board of Massage Therapists in reviewing the application for a
28 license to practice pursuant to this chapter.

29 **Sec. 35.** NRS 218.825 is hereby amended to read as follows:

30 218.825 1. Except as otherwise provided in subsection 2, each
31 board created by the provisions of *NRS 590.485* and chapters 623 to
32 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~and~~
33 ~~NRS 590.485,~~ and sections 2 to 34, inclusive, of this act shall:

34 (a) If the revenue of the board from all sources is less than \$50,000 for
35 any fiscal year, prepare a balance sheet for that fiscal year on the form
36 provided by the Legislative Auditor and file the balance sheet with the
37 Legislative Auditor and the Chief of the Budget Division of the
38 Department of Administration on or before December 1 following the end
39 of that fiscal year. The Legislative Auditor shall prepare and make
40 available a form that must be used by a board to prepare such a balance
41 sheet.

42 (b) If the revenue of the board from all sources is \$50,000 or more for
43 any fiscal year, engage the services of a certified public accountant or
44 public accountant, or firm of either of such accountants, to audit all its
45 fiscal records for that fiscal year and file a report of the audit with the
46 Legislative Auditor and the Chief of the Budget Division of the
47 Department of Administration on or before December 1 following the end
48 of that fiscal year.

49 2. In lieu of preparing a balance sheet or having an audit conducted
50 for a single fiscal year, a board may engage the services of a certified
51 public accountant or public accountant, or firm of either of such
52 accountants, to audit all its fiscal records for a period covering 2
53 successive fiscal years. If such an audit is conducted, the board shall file
54 the report of the audit with the Legislative Auditor and the Chief of the
55 Budget Division of the Department of Administration on or before
56 December 1 following the end of the second fiscal year.

57 3. The cost of each audit conducted pursuant to subsection 1 or 2
58 must be paid by the board that is audited. Each such audit must be
59 conducted in accordance with generally accepted auditing standards, and

Sec. 34.5 requires the State Board of Cosmetology and the Board of Massage Therapists to reduce duplication in their licensing procedures for persons who apply for both licenses not more than 60 days apart. Sec. 21.5 adds similar provisions to the new chapter governing the Board of Massage Therapists.

1 all financial statements must be prepared in accordance with generally
2 accepted principles of accounting for special revenue funds.

3 4. Whether or not a board is required to have its fiscal records audited
4 pursuant to subsection 1 or 2, the Legislative Auditor shall audit the fiscal
5 records of any such board whenever directed to do so by the Legislative
6 Commission. When the Legislative Commission directs such an audit, the
7 Legislative Commission shall also determine who is to pay the cost of the
8 audit.

9 5. A person who is a state officer or employee of a board is guilty of
10 nonfeasance if the person:

11 (a) Is responsible for preparing a balance sheet or having an audit
12 conducted pursuant to this section or is responsible for preparing or
13 maintaining the fiscal records that are necessary to prepare a balance sheet
14 or have an audit conducted pursuant to this section; and

15 (b) Knowingly fails to prepare the balance sheet or have the audit
16 conducted pursuant to this section or knowingly fails to prepare or
17 maintain the fiscal records that are necessary to prepare a balance sheet or
18 have an audit conducted pursuant to this section.

19 6. In addition to any other remedy or penalty, a person who is guilty
20 of nonfeasance pursuant to this section forfeits his state office or
21 employment and may not be appointed to a state office or position of state
22 employment for a period of 2 years following the forfeiture. The
23 provisions of this subsection do not apply to a state officer who may be
24 removed from office only by impeachment pursuant to Article 7 of the
25 Nevada Constitution.

26 **Sec. 36.** NRS 244.335 is hereby amended to read as follows:

27 244.335 1. Except as otherwise provided in subsection 2, the board
28 of county commissioners may:

29 (a) Except as otherwise provided in NRS 598D.150 ~~+~~ *and section 8 of*
30 *this act*, regulate all character of lawful trades, callings, industries,
31 occupations, professions and business conducted in its county outside of
32 the limits of incorporated cities and towns.

33 (b) Except as otherwise provided in NRS 244.3359 and 576.128, fix,
34 impose and collect a license tax for revenue or for regulation, or for both
35 revenue and regulation, on such trades, callings, industries, occupations,
36 professions and business.

37 2. The county license boards have the exclusive power in their
38 respective counties to regulate entertainers employed by an entertainment
39 by referral service and the business of conducting a dancing hall, escort
40 service, entertainment by referral service or gambling game or device
41 permitted by law, outside of an incorporated city. The county license
42 boards may fix, impose and collect license taxes for revenue or for
43 regulation, or for both revenue and regulation, on such employment and
44 businesses.

45 3. No license to engage in any type of business may be granted unless
46 the applicant for the license signs an affidavit affirming that the business
47 has complied with the provisions of NRS 360.780. The county license
48 board shall provide upon request an application for a business license
49 pursuant to NRS 360.780.

50 4. No license to engage in business as a seller of tangible personal
51 property may be granted unless the applicant for the license presents
52 written evidence that:

53 (a) The Department of Taxation has issued or will issue a permit for
54 this activity, and this evidence clearly identifies the business by name; or

55 (b) Another regulatory agency of the State has issued or will issue a
56 license required for this activity.

57 5. Any license tax levied for the purposes of NRS 244.3358 or
58 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and
59 personal property of the business upon which the tax was levied until the

1 tax is paid. The lien has the same priority as a lien for general taxes. The
2 lien must be enforced in the following manner:

3 (a) By recording in the office of the county recorder, within 6 months
4 after the date on which the tax became delinquent or was otherwise
5 determined to be due and owing, a notice of the tax lien containing the
6 following:

7 (1) The amount of tax due and the appropriate year;

8 (2) The name of the record owner of the property;

9 (3) A description of the property sufficient for identification; and

10 (4) A verification by the oath of any member of the board of county
11 commissioners or the county fair and recreation board; and

12 (b) By an action for foreclosure against the property in the same
13 manner as an action for foreclosure of any other lien, commenced within 2
14 years after the date of recording of the notice of the tax lien, and
15 accompanied by appropriate notice to other lienholders.

16 6. The board of county commissioners may delegate the authority to
17 enforce liens from taxes levied for the purposes of NRS 244A.597 to
18 244A.655, inclusive, to the county fair and recreation board. If the
19 authority is so delegated, the board of county commissioners shall revoke
20 or suspend the license of a business upon certification by the county fair
21 and recreation board that the license tax has become delinquent, and shall
22 not reinstate the license until the tax is paid. Except as otherwise provided
23 in NRS 244.3357, all information concerning license taxes levied by an
24 ordinance authorized by this section or other information concerning the
25 business affairs or operation of any licensee obtained as a result of the
26 payment of such license taxes or as the result of any audit or examination
27 of the books by any authorized employee of a county fair and recreation
28 board of the county for any license tax levied for the purpose of NRS
29 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed
30 by any member, officer or employee of the county fair and recreation
31 board or the county imposing the license tax unless the disclosure is
32 authorized by the affirmative action of a majority of the members of the
33 appropriate county fair and recreation board. Continuing disclosure may be
34 so authorized under an agreement with the Department of Taxation for the
35 exchange of information concerning taxpayers.

36 **Sec. 37.** NRS 266.355 is hereby amended to read as follows:

37 266.355 1. Except as otherwise provided in subsection 3, the city
38 council may:

39 (a) Except as otherwise provided in NRS 598D.150 ~~and~~ *and section 8 of*
40 *this act*, regulate all businesses, trades and professions.

41 (b) Except as otherwise provided in NRS 576.128, fix, impose and
42 collect a license tax for revenue upon all businesses, trades and
43 professions.

44 2. The city council may establish any equitable standard to be used in
45 fixing license taxes required to be collected pursuant to this section.

46 3. The city council may license insurance agents, brokers, analysts,
47 adjusters and managing general agents within the limitations and under the
48 conditions prescribed in NRS 680B.020.

49 **Sec. 38.** NRS 269.170 is hereby amended to read as follows:

50 269.170 1. Except as otherwise provided in NRS 576.128 and
51 598D.150, *and section 8 of this act*, the town board or board of county
52 commissioners may in any unincorporated town:

53 (a) Fix and collect a license tax on, and regulate, having due regard to
54 the amount of business done by each person so licensed, and all places of
55 business and amusement so licensed, as follows:

56 (1) Artisans, artists, assayers, auctioneers, bakers, banks and
57 bankers, barbers, boilermakers, cellars and places where soft drinks are
58 kept or sold, clothes cleaners, foundries, laundries, lumberyards,

1 manufacturers of soap, soda, borax or glue, markets, newspaper publishers,
2 pawnbrokers, funeral directors and wood and coal dealers.

3 (2) Bootmakers, cobblers, dressmakers, milliners, shoemakers and
4 tailors.

5 (3) Boardinghouses, hotels, lodginghouses, restaurants and
6 refreshment saloons.

7 (4) Barrooms, gaming, manufacturers of liquors and other
8 beverages, and saloons.

9 (5) Billiard tables, bowling alleys, caravans, circuses, concerts and
10 other exhibitions, dance houses, melodeons, menageries, shooting
11 galleries, skating rinks and theaters.

12 (6) Corrals, hay yards, livery and sale stables and wagon yards.

13 (7) Electric light companies, illuminating gas companies, power
14 companies, telegraph companies, telephone companies and water
15 companies.

16 (8) Carts, drays, express companies, freight companies, job wagons,
17 omnibuses and stages.

18 (9) Brokers, commission merchants, factors, general agents,
19 mercantile agents, merchants, traders and stockbrokers.

20 (10) Drummers, hawkers, peddlers and solicitors.

21 (11) Insurance agents, brokers, analysts, adjusters and managing
22 general agents within the limitations and under the conditions prescribed in
23 NRS 680B.020.

24 (b) Fix and collect a license tax upon all professions, trades or business
25 within the town not specified in paragraph (a).

26 2. No license to engage in business as a seller of tangible personal
27 property may be granted unless the applicant for the license presents
28 written evidence that:

29 (a) The Department of Taxation has issued or will issue a permit for
30 this activity, and this evidence clearly identifies the business by name; or

31 (b) Another regulatory agency of the State has issued or will issue a
32 license required for this activity.

33 3. Any license tax levied for the purposes of NRS 244A.597 to
34 244A.655, inclusive, constitutes a lien upon the real and personal property
35 of the business upon which the tax was levied until the tax is paid. The lien
36 must be enforced in the same manner as liens for ad valorem taxes on real
37 and personal property. The town board or other governing body of the
38 unincorporated town may delegate the power to enforce such liens to the
39 county fair and recreation board.

40 4. The governing body or the county fair and recreation board may
41 agree with the Department of Taxation for the continuing exchange of
42 information concerning taxpayers.

43 **Sec. 39.** NRS 284.013 is hereby amended to read as follows:

44 284.013 1. Except as otherwise provided in subsection 4, this
45 chapter does not apply to:

46 (a) Agencies, bureaus, commissions, officers or personnel in the
47 Legislative Department or the Judicial Department of State Government,
48 including the Commission on Judicial Discipline;

49 (b) Any person who is employed by a board, commission, committee
50 or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644,
51 inclusive, 648, 652, 654 and 656 of NRS ~~to~~ *and sections 2 to 34,*
52 *inclusive, of this act;* or

53 (c) Officers or employees of any agency of the Executive Department
54 of the State Government who are exempted by specific statute.

55 2. Except as otherwise provided in subsection 3, the terms and
56 conditions of employment of all persons referred to in subsection 1,
57 including salaries not prescribed by law and leaves of absence, including,
58 without limitation, annual leave and sick and disability leave, must be

1 fixed by the appointing or employing authority within the limits of
2 legislative appropriations or authorizations.

3 3. Except as otherwise provided in this subsection, leaves of absence
4 prescribed pursuant to subsection 2 must not be of lesser duration than
5 those provided for other state officers and employees pursuant to the
6 provisions of this chapter. The provisions of this subsection do not govern
7 the Legislative Commission with respect to the personnel of the
8 Legislative Counsel Bureau.

9 4. Any board, commission, committee or council created in chapters
10 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and
11 656 of NRS *and sections 2 to 34, inclusive, of this act* which contracts for
12 the services of a person, shall require the contract for those services to be
13 in writing. The contract must be approved by the State Board of Examiners
14 before those services may be provided.

15 **Sec. 40.** NRS 353.005 is hereby amended to read as follows:

16 353.005 The provisions of this chapter do not apply to boards created
17 by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive,
18 628, 630 to 644, inclusive, 648, 654 and 656 of NRS *and sections 2 to 34,*
19 *inclusive, of this act* and the officers and employees of those boards.

20 **Sec. 41.** NRS 353A.020 is hereby amended to read as follows:

21 353A.020 1. The Director, in consultation with the Committee and
22 Legislative Auditor, shall adopt a uniform system of internal accounting
23 and administrative control for agencies. The elements of the system must
24 include, without limitation:

25 (a) A plan of organization which provides for a segregation of duties
26 appropriate to safeguard the assets of the agency;

27 (b) A plan which limits access to assets of the agency to persons who
28 need the assets to perform their assigned duties;

29 (c) Procedures for authorizations and recordkeeping which effectively
30 control accounting of assets, liabilities, revenues and expenses;

31 (d) A system of practices to be followed in the performance of the
32 duties and functions of each agency; and

33 (e) An effective system of internal review.

34 2. The Director, in consultation with the Committee and Legislative
35 Auditor, may modify the system whenever he considers it necessary.

36 3. Each agency shall develop written procedures to carry out the
37 system of internal accounting and administrative control adopted pursuant
38 to this section.

39 4. For the purposes of this section, "agency" does not include:

40 (a) A board created by the provisions of NRS 590.485 and chapters
41 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of
42 NRS ~~++~~ *and sections 2 to 34, inclusive, of this act.*

43 (b) The University and Community College System of Nevada.

44 (c) The Public Employees' Retirement System.

45 (d) The Housing Division of the Department of Business and Industry.

46 (e) The Colorado River Commission of Nevada.

47 **Sec. 42.** NRS 353A.025 is hereby amended to read as follows:

48 353A.025 1. The head of each agency shall periodically review the
49 agency's system of internal accounting and administrative control to
50 determine whether it is in compliance with the uniform system of internal
51 accounting and administrative control for agencies adopted pursuant to
52 subsection 1 of NRS 353A.020.

53 2. On or before July 1 of each even-numbered year, the head of each
54 agency shall report to the Director whether the agency's system of internal
55 accounting and administrative control is in compliance with the uniform
56 system adopted pursuant to subsection 1 of NRS 353A.020. The reports
57 must be made available for inspection by the members of the Legislature.

58 3. For the purposes of this section, "agency" does not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~and~~ *and sections 2 to 34, inclusive, of this act.*

(b) The University and Community College System of Nevada.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

4. The Director shall, on or before the first Monday in February of each odd-numbered year, submit a report on the status of internal accounting and administrative controls in agencies to the:

(a) Director of the Legislative Counsel Bureau for transmittal to the:

(1) Senate Standing Committee on Finance; and

(2) Assembly Standing Committee on Ways and Means;

(b) Governor; and

(c) Legislative Auditor.

5. The report submitted by the Director pursuant to subsection 4 must include, without limitation:

(a) The identification of each agency that has not complied with the requirements of subsections 1 and 2;

(b) The identification of each agency that does not have an effective method for reviewing its system of internal accounting and administrative control; and

(c) The identification of each agency that has weaknesses in its system of internal accounting and administrative control, and the extent and types of such weaknesses.

Sec. 43. NRS 353A.045 is hereby amended to read as follows:

353A.045 The Chief shall:

1. Report to the Director.

2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the Director for approval. Such agencies must not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~and~~ *and sections 2 to 34, inclusive, of this act.*

(b) The University and Community College System of Nevada.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

3. Provide a copy of the approved annual work plan to the Legislative Auditor.

4. In consultation with the Director, prepare a plan for auditing executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing must:

(a) State the agencies which will be audited, the proposed scope and assignment of those audits and the related resources which will be used for those audits; and

(b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.

5. Perform the audits of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of NRS 353A.038 and prepare audit reports of his findings.

6. Review each agency that is audited pursuant to subsection 5 and advise those agencies concerning internal accounting, administrative controls and financial management.

7. Submit to each agency that is audited pursuant to subsection 5 analyses, appraisals and recommendations concerning:

(a) The adequacy of the internal accounting and administrative controls of the agency; and

(b) The efficiency and effectiveness of the management of the agency.

8. Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit.

9. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.

10. Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5.

11. Appoint a Manager of Internal Controls.

Sec. 44. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to an employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, and 656A of NRS ~~11~~ *and sections 2 to 34, inclusive, of this act.*

Sec. 45. Section 2.140 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2896, is hereby amended to read as follows:

Sec. 2.140 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~11~~ *and section 8 of this act*, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 46. Section 2.150 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2897, is hereby amended to read as follows:

Sec. 2.150 Powers of Board of Councilmen: Licensing, regulation and prohibition of businesses, trades and professions.

1. The Board of Councilmen may:

(a) Except as otherwise provided in NRS 598D.150 ~~11~~ *and section 8 of this act*, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. No person licensed by an agency of the State of Nevada to practice any trade or profession except gaming may be denied a license to conduct his profession.

3. The Board of Councilmen may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 47. Section 2.260 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 465, Statutes of Nevada 2003, at page 2897, is hereby amended to read as follows:

Sec. 2.260 Power of Board: Licensing, regulation and prohibition of trades, professions and businesses.

1. Except as otherwise provided in NRS 598D.150 ~~11~~ *and section 8 of this act*, the Board may fix, impose and collect a license tax for revenue upon, or regulate:

(a) Or both, all trades, callings, professions and businesses, conducted in whole or in part within Carson City, except that no person licensed by an agency of the State of Nevada to practice any

profession except gaming may be denied a license to conduct his profession or required to pay a license tax except for revenue.

(b) Or both, all businesses selling alcoholic liquors at wholesale or retail, or prohibit or suppress such businesses.

(c) Or prescribe the location of all gaming establishments, or any combination of these, or may prohibit gambling and gaming of all kinds, and all games of chance.

2. The Board may provide for the issuance of all licenses authorized in this section and the time and manner in which they will be issued.

3. The Board may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

4. The Board may, for just cause, suspend, cancel or revoke any business license.

Sec. 48. Section 2.150 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 2003, at page 2897, is hereby amended to read as follows:

Sec. 2.150 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~++~~ *and section 8 of this act*, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license taxes collected pursuant to this section.

Sec. 49. Section 2.130 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2898, is hereby amended to read as follows:

Sec. 2.130 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~++~~ *and section 8 of this act*, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 50. Section 2.150 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 465, Statutes of Nevada 2003, at page 2898, is hereby amended to read as follows:

Sec. 2.150 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as is otherwise provided in subsection 2 and NRS 598D.150 ~~++~~ *and section 8 of this act*, license and regulate all lawful businesses, trades and professions.

(b) Fix, impose and collect a license tax for regulation or for revenue, or both, upon all businesses, trades and professions and provide an equitable standard for fixing those license taxes.

(c) Suspend or revoke the license of any business, trade or profession for failing to comply with any regulation of the City in such manner as may be prescribed by ordinance.

2. No person, firm or corporation which is licensed by an agency of the State to conduct or practice any business, trade or profession, except as is otherwise provided in subsection 3, may be

denied a license to conduct or practice that business, trade or profession, nor may the license be suspended or revoked, if:

(a) That person, firm or corporation complies with all of the regulations which are established by that agency and pays to the City such license taxes and related fees and posts such bond or bonds as may be prescribed by ordinance; and

(b) The location of the business, trade or profession complies with all of the requirements of all of the zoning, building, plumbing, electrical, safety and fire prevention codes or regulations of the City.

3. The City Council may provide, by ordinance, regulations which restrict the number, location and method of operation of and the qualifications for ownership in:

(a) Liquor-dispensing or gaming establishments, or both;

(b) Businesses which are engaged in the manufacture or distribution, or both, of liquor or gaming devices; and

(c) Such other businesses, trades and professions as may be declared by ordinance to be privileged,

and regulations which prescribe the circumstances under and the manner in which licenses with respect to those establishments, businesses, trades and professions may be denied, limited, suspended or revoked.

Sec. 51. Section 2.140 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2899, is hereby amended to read as follows:

Sec. 2.140 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ *and section 8 of this act*, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license fee for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license fees required to be collected pursuant to this section.

Sec. 52. Section 2.140 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 2003, at page 2899, is hereby amended to read as follows:

Sec. 2.140 General powers of City Council.

1. Except as otherwise provided in subsection 2 and section 2.150, the City Council may:

(a) Acquire, control, improve and dispose of any real or personal property for the use of the City, its residents and visitors.

(b) Except as otherwise provided in NRS 598D.150 ~~and~~ *and section 8 of this act*, regulate and impose a license tax for revenue upon all businesses, trades and professions.

(c) Provide or grant franchises for public transportation and utilities.

(d) Appropriate money for advertising and publicity and for the support of a municipal band.

(e) Enact and enforce any police, fire, traffic, health, sanitary or other measure which does not conflict with the general laws of the State of Nevada. An offense that is made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor against the City whenever the offense is committed within the City.

(f) Fix the rate to be paid for any utility service provided by the City as a public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien

upon the property to which the service is rendered and is perfected by filing with the County Recorder a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Any such lien is:

(1) Coequal with the latest lien upon the property to secure the payment of general taxes.

(2) Not subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(3) Prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell telecommunications service to the general public.

(b) May purchase or construct facilities for providing telecommunications that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell telecommunications service to the general public.

5. As used in this section:

(a) "Telecommunications" has the meaning ascribed to it in 47 U.S.C. § 153(43), as that section existed on July 16, 1997.

(b) "Telecommunications service" has the meaning ascribed to it in 47 U.S.C. § 153(46), as that section existed on July 16, 1997.

Sec. 53. Section 2.090 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 465, Statutes of Nevada 2003, at page 2900, is hereby amended to read as follows:

Sec. 2.090 Powers of City Council: General areas. The City Council may exercise any power specifically granted in this Charter or by any of the provisions of Nevada Revised Statutes not in conflict with this Charter, in order to:

1. Except as otherwise provided in NRS 598D.150 ~~and~~ *and section 8 of this act*, license all businesses, trades and professions for purposes of regulation and revenue.

2. Enact and enforce fire ordinances.

3. Regulate the construction and maintenance of any building or other structure within the City.

4. Provide for safeguarding of public health in the City.

5. Zone and plan the City, including the regulation of subdivision of land, as prescribed by chapter 278 of NRS.

6. Acquire, control, lease, dedicate, sell and convey rights-of-way, parks and other real property.

7. Except as otherwise provided in NRS 707.375, regulate vehicular traffic and parking of vehicles.

8. Establish and maintain a sanitary sewer system.

9. Condemn property within the territorial limits of the City, as well as property outside the territorial limits of the City, in the manner prescribed by chapter 37 of NRS.

10. Regulate, prescribe the location for, prohibit or suppress all businesses selling alcoholic liquors at wholesale or retail.

11. Regulate, prescribe the location for, prohibit or suppress gaming of all kinds.

Sec. 54. Section 2.150 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2901, is hereby amended to read as follows:

Sec. 2.150 Powers of Board of Councilmen: Licensing, regulation and prohibition of businesses, trades and professions.

1. The Board of Councilmen may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ **section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. No person licensed by an agency of the State of Nevada to practice any trade or profession except gaming may be denied a license to conduct his profession.

3. The Board of Councilmen may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 55. Section 2.140 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 465, Statutes of Nevada 2003, at page 2901, is hereby amended to read as follows:

Sec. 2.140 Powers of City Council: Licensing, regulation and prohibition of businesses, trades and professions.

1. The City Council may:

(a) Except as otherwise provided in NRS 598D.150 ~~and~~ **section 8 of this act**, regulate all businesses, trades and professions.

(b) Fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The City Council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

Sec. 56. Notwithstanding the provisions of subsection 2 of section ~~15~~ **15.7** of this act, a member or employee of the Board of Massage Therapists is not entitled to payment of any per diem allowance or travel expense until July 1, 2006.

Sec. 57. 1. Notwithstanding the provisions of sections 2 to 34, inclusive, of this act and except as otherwise provided in subsection 3, the Board of Massage Therapists may issue a license to practice massage therapy to an applicant, without regard to whether the applicant meets the requirements set forth in section 19 of this act, if the applicant:

(a) Holds a current license to practice massage therapy issued before July 1, 2007, by a county, city or town of this State that regulates the practice of massage therapy; and

(b) Applies to the Board for a license before July 1, 2007.

2. An applicant who applies for a license from the Board pursuant to subsection 1 must submit to the Board:

(a) A completed application on a form prescribed by the Board;

(b) The fees prescribed by the Board pursuant to section 25 of this act; and

(c) A notarized statement signed by the applicant that states:

(1) Whether any disciplinary proceedings relating to his license to practice massage therapy have at any time been instituted against him; and

(2) Whether he has been arrested or convicted, within the 10 years immediately preceding submission of the application, for any crime involving violence, prostitution or any other sexual offense.

3. If an applicant applies for a license from the Board pursuant to subsection 1 and the applicant does not have a criminal background

Sec. 57 is the "grandfather clause."

1 investigation approved by a local law enforcement agency, the
2 applicant must:

3 (a) Submit a complete set of fingerprints and written permission
4 authorizing the Board to forward the fingerprints to the Central
5 Repository for Nevada Records of Criminal History for submission to
6 the Federal Bureau of Investigation for its report; and

7 (b) Submit to a background investigation conducted pursuant to
8 section 19 of this act.

9 4. A license issued by the Board pursuant to subsection 1 shall be
10 deemed to be a license issued by the Board pursuant to section 19 of
11 this act.

12 5. ~~By July 1, 2007, a~~ A person who is licensed to practice massage
13 therapy by a county, city or town in this State ~~before July 1, 2007~~ must, if
14 he wishes to continue to practice massage therapy on and after ~~that date,~~
15 ~~obtain a license pursuant to the provisions of sections 2 to 34,~~
16 ~~inclusive, of this act.~~ July 1, 2007, hold a license to practice massage
17 therapy issued by the Board of Massage Therapists.

18 2. Until July 1, 2007, if a person is licensed to practice massage
19 therapy by a county, city or town in this State ~~but the person does not~~
20 ~~hold obtains~~ a license to practice massage therapy ~~pursuant to the~~
21 ~~provisions of sections 2 to 34, inclusive, of this act,~~ issued by the Board
22 of Massage Therapists, the person shall comply with:

23 (a) All ordinances and regulations of the county, city or town relating
24 to the practice of massage therapy; and

25 (b) The provisions of sections 2 to 18, inclusive, 20, 22, 23 and 25 to
26 34, inclusive, of this act.

27 Sec. 58. As soon as practicable after ~~October 1, 2005~~ the enactment
28 of this act, the Governor shall appoint to the Board of Massage Therapists:

29 1. Two members whose terms expire on June 30, 2006.

30 2. Three members whose terms expire on June 30, 2007.

31 3. Two members whose terms expire on June 30, 2009.

32 Sec. 59. 1. This act becomes effective upon passage and
33 approval for the purposes of:

34 (a) The Governor appointing members to the Board of Massage
35 Therapists; and

36 (b) The Board and its members and employees performing any
37 organizational, preparatory or preliminary administrative tasks that
38 are necessary to carry out the provisions of this act.

39 and on October 1, 2005, for all other purposes.

40 2. Sections 22 and 23 of this act expire by limitation on the date on
41 which the provisions of 42 U.S.C. § 666 requiring each state to establish
42 procedures under which the state has authority to withhold or suspend, or
43 to restrict the use of professional, occupational or recreational licenses of
44 persons who:

45 1. (a) Have failed to comply with a subpoena or warrant relating to a
46 proceeding to determine the paternity of a child or to establish or enforce
47 an obligation for the support of a child; or

48 2. (b) Are in arrears in the payment for the support of one or more
49 children,

50 are repealed by the Congress of the United States.

H

FLOOR ACTIONS

AMENDMENTS ON SECOND READING FLOOR VOTES AND STATEMENTS OTHER ACTIONS

NOTE: THESE FLOOR ACTIONS ARE TAKEN FROM THE *DAILY JOURNALS* ([HTTP://WWW.LEG.STATE.NV.US/SESSION/73RD2005/JOURNAL/](http://www.leg.state.nv.us/session/73rd2005/journal/)), WHICH ARE NOT THE OFFICIAL FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL RECORD.

April 25, 2005 Assembly Daily Journal

Excerpt:

Assembly Bill No. 250.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 196.

Amend sec. 8, page 2, line 43, by deleting "town." and inserting: "town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or applicant for a license to practice massage therapy."

Amend sec. 9, page 3, line 9, by deleting "five" and inserting: "at least six".

Amend sec. 9, page 3, line 11, by deleting "Four" and inserting: "At least five".

Amend sec. 9, page 3, by deleting line 13 and inserting: "At least two of whom represent northern Nevada and at least two of whom".

Amend sec. 13, page 4, between lines 40 and 41, by inserting:

"3. The Board shall hire a full-time staff of investigators to conduct background investigations of applicants for a license in a timely manner, as determined by the Board, and to conduct routine unannounced inspections of massage therapists. The Board shall employ those investigators in both northern Nevada and southern Nevada."

Amend sec. 14, page 5, line 7, by deleting "and".

Amend sec. 14, page 5, line 11, by deleting "examination." and inserting: "examination; and

6. Reduce duplication in the licensing procedure for a qualified applicant who is applying to the Board for a license issued pursuant to this chapter and to the State Board of Cosmetology for a license issued pursuant to chapter 644 of NRS."

Amend sec. 19, page 7, line 6, by deleting "and".

Amend sec. 19, page 7, line 10, by deleting "report; and" and inserting: "report;

(6) The names and addresses of five natural persons not related to the applicant and not business associates of the applicant who are willing to serve as character references;

(7) A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

(8) If required by the Board, a financial questionnaire; and".

Amend sec. 19, page 7, between lines 20 and 21, by inserting:

"4. The Board or its designee shall:

(a) Fingerprint each applicant and conduct an investigation to determine:

(1) The reputation and character of the applicant;

(2) The existence and contents of any record of arrests or convictions of the applicant;

(3) The existence and nature of any pending litigation involving the applicant; and

(4) The accuracy and completeness of any information submitted to the Board by the applicant;

(b) If the Board determines that it is unable to conduct a complete investigation, require the applicant to submit a financial questionnaire and investigate the financial background and each source of funding of the applicant;

(c) Report the results of the investigation not more than 30 days after the Board receives a complete application; and

(d) Maintain the results of the investigation in a confidential manner. The results of an investigation must be available only to the Board and a peace officer of this State."

Amend sec. 20, page 7, by deleting lines 37 and 38 and inserting:

"(b) Offered not less than four times each year. The location of the examination must alternate between northern Nevada and southern Nevada. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination."

Amend sec. 24, page 10, between lines 31 and 32, by inserting:

“4. An applicant who holds a license to practice massage therapy that is issued by a county, city or town in this State and who does not have a criminal background investigation approved by a local law enforcement agency must submit to a background investigation conducted pursuant to section 19 of this act.”.

Amend sec. 25, page 10, line 44, by deleting “48 120” and inserting “45 300”.

Amend sec. 26, page 11, line 16, by deleting: “location at each place” and inserting: “manner at each location”.

Amend sec. 29, page 12, by deleting lines 22 and 23 and inserting:

“3. Has been convicted of a crime involving violence, prostitution or any other sexual”.

Amend sec. 29, page 12, line 24, after “offense,” by inserting: “a crime involving any type of larceny,”.

Amend sec. 29, page 12, line 27, by deleting “turpitude; or” and inserting: “turpitude within the immediately preceding 10 years.”.

Amend sec. 29, page 12, by deleting lines 28 through 30.

Amend sec. 29, page 13, line 18, by deleting “training;” and inserting: “training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist;”.

Amend sec. 32, page 14, line 27, by deleting “\$5,000;” and inserting: “\$1,000 per day for each day for which the Board determines that a violation occurred as charged in the complaint;”.

Amend sec. 32, page 14, after line 45, by inserting:

“4. The appropriate law enforcement agency of a city or county in which a massage therapist holds a business license issued by the city or county may temporarily suspend the license of a massage therapist immediately if the massage therapist is charged with or cited for a crime involving violence, prostitution or any other sexual offense. The temporary suspension of the license must not exceed 15 days. The Board may extend the temporary suspension if the Board determines that the suspension is required to protect the health, safety or welfare of the public. In any such case, the hearing must be held and a final decision rendered within 15 days after the law enforcement agency notifies the holder of the license of the temporary suspension.”.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

April 26, 2005 Assembly Daily Journal

Excerpt:

Assembly Bill No. 250.

Bill read third time.

Roll call on Assembly Bill No. 250:

YEAS—42.

NAYS—None.

Assembly Bill No. 250 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

May 27, 2005 Senate Daily Journal

Excerpt:

Assembly Bill No. 250.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 960.

Amend sec. 7, page 2, by deleting lines 26 and 27 and inserting:

"2. The term does not include:

(a) Diagnosis, adjustment, mobilization or manipulation of any articulations of the body or spine; or

(b) Reflexology."

Amend sec. 8, page 2, by deleting lines 29 through 32 and inserting:

"(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an aesthetician, cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an aesthetician, cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person who is an employee of an athletic department of".

Amend sec. 8, page 2, line 36, by deleting "(c)" and inserting "(e)".

Amend sec. 8, page 2, line 38, by deleting "(d)" and inserting "(f)".

Amend sec. 8, page 2, line 40, by deleting "(e)" and inserting "(g)".

Amend the bill as a whole by deleting sections 9 through 13 and adding new sections designated sections 9 through 13, following sec. 8, to read as follows:

"Sec. 9. 1. The Board of Massage Therapists is hereby created. The Board consists of seven members appointed pursuant to this section and one nonvoting advisory member appointed pursuant to section 10 of this act.

2. The Governor shall appoint to the Board seven members as follows:

(a) Six members who:

(1) Are licensed to practice massage therapy in this State; and

(2) Have engaged in the practice of massage therapy for the 2 years immediately preceding their appointment.

➡ Of the six members appointed pursuant to this paragraph, three members must be residents of Clark County, two members must be residents of Washoe County and one member must be a resident of a county other than Clark County or Washoe County.

(b) One member who is a member of the general public. This member must not be:

(1) A massage therapist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a massage therapist.

3. The Governor may, in making his appointments to the Board pursuant to paragraph (a) of subsection 2, consider for appointment to the Board a person recommended to him by any person or group.

4. The members who are appointed to the Board pursuant to paragraph (a) of subsection 2 must continue to practice massage therapy in this State while they are members of the Board.

5. After the initial terms, the term of each member of the Board is 4 years. A member may continue in office until the appointment of a successor.

6. A member of the Board may not serve more than two consecutive terms. A former member of the Board is eligible for reappointment to the Board if that person has not served on the Board during the 4 years immediately preceding the reappointment.

7. A vacancy must be filled by appointment for the unexpired term in the same manner as the original appointment.

8. The Governor may remove any member of the Board for incompetence, neglect of duty, moral turpitude or misfeasance, malfeasance or nonfeasance in office.

Sec. 10. 1. The Governor shall appoint to the Board one nonvoting advisory member.

2. The advisory member must be a person who:

(a) Is a resident of Clark County;

(b) Has been certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500; and

(c) Is actively serving or has retired from service as a police officer with the Las Vegas Metropolitan Police Department.

3. The advisory member is subject to the provisions of section 9 of this act with regard to his terms, reappointment, vacancy and removal.

4. The advisory member:

(a) Serves solely as an advisor to the Board.

(b) May be designated by the Board to assist in any investigation conducted pursuant to this chapter.

(c) May not be counted in determining a quorum of the Board.

(d) May not vote on any matter before the Board.

5. The advisory member:

(a) Serves without salary or compensation.

(b) Is entitled to receive the per diem allowance and travel expenses provided for in section 15.6 of this act.

6. If the advisory member is actively serving as a police officer, the advisory member must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Board and perform any work that is necessary to carry out his duties with the Board in the most timely manner practicable. The advisory member's employer shall not require the advisory member to:

(a) Make up the time he is absent from work to carry out his duties with the Board; or

(b) Take annual leave or compensatory time for the absence.

7. Notwithstanding any other provision of law, the advisory member:

(a) Is not disqualified from public employment or holding a public office because of his membership on the Board; and

(b) Does not forfeit his public office or public employment because of his membership on the Board.

Sec. 11. 1. At the first meeting of each fiscal year, the members of the Board shall elect a Chairman, Vice Chairman and Secretary-Treasurer from among the members.

2. The Board shall meet at least quarterly and may meet at other times at the call of the Chairman or upon the written request of a majority of the members of the Board.

3. The Board shall alternate the location of its meetings between the southern district of Nevada and the northern district of Nevada. For the purposes of this subsection:

(a) The southern district of Nevada consists of all that portion of the State lying within the boundaries of the counties of Clark, Esmeralda, Lincoln and Nye.

(b) The northern district of Nevada consists of all that portion of the State lying within the boundaries of Carson City and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe and White Pine.

4. A meeting of the Board may be conducted telephonically or by videoconferencing. A meeting conducted telephonically or by videoconferencing must meet the requirements of chapter 241 of NRS and any other applicable provisions of law.

5. Four members of the Board constitute a quorum for the purposes of transacting the business of the Board, including, without limitation, issuing, renewing, suspending, revoking or reinstating a license issued pursuant to this chapter.

Sec. 12. The Board shall:

1. Adopt a seal of which each court in this State shall take judicial notice;

2. Prepare and maintain a record of its proceedings and transactions;

3. Review and evaluate applications for the licensing of massage therapists;

4. Determine the qualifications and fitness of applicants;

5. Issue, renew, reinstate, revoke, suspend and deny licenses, as appropriate;

6. Enforce the provisions of this chapter and any regulations adopted pursuant thereto;

7. Investigate any complaints filed with the Board;

8. Impose any penalties it determines are required to administer the provisions of this chapter; and

9. Transact any other business required to carry out its duties.

Sec. 13. 1. The Board shall prepare and maintain a separate list of:

(a) Persons issued a license;

(b) Applicants for a license; and

(c) Persons whose licenses have been revoked or suspended by the Board.

2. The Board shall, upon request, disclose the information included in each list and may charge a fee for a copy of the list. The fee may not exceed the actual cost incurred by the Board to make a copy of the list."

Amend sec. 14, page 5, by deleting lines 23 through 26 and inserting:

"6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant."

Amend the bill as a whole by deleting sec. 15 and adding new sections designated sections 15 through 15.8, following sec. 14, to read as follows:

"Sec. 15. 1. The Attorney General and his deputies are hereby designated as the attorneys for the Board.

2. The provisions of this section do not prevent the Board from employing or retaining other attorneys as it may deem necessary to carry out the provisions of this chapter.

Sec. 15.2. 1. The Board shall employ a person as the Executive Director of the Board.

2. The Executive Director serves as the chief administrative officer of the Board at a level of compensation set by the Board.

3. The Executive Director is an at-will employee who serves at the pleasure of the Board.

Sec. 15.4. 1. The Board may employ or contract with inspectors, investigators, advisers, examiners and clerks and any other persons required to carry out its duties and secure the services of attorneys and other professional consultants as it may deem necessary to carry out the provisions of this chapter.

2. Each employee of the Board is an at-will employee who serves at the pleasure of the Board. The Board may discharge an employee of the Board for any reason that does not violate public policy, including, without limitation, making a false representation to the Board.

Sec. 15.6. Except as otherwise provided in section 10 of this act, while engaged in the business of the Board:

1. Each member of the Board is entitled to receive a salary of not more than \$80 per day, as established by the Board; and

2. Each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for officers and employees of this State generally.

Sec. 15.8. The Board and any of its members and its staff and employees, including, without limitation, inspectors, investigators, advisers, examiners, clerks, counsel, experts, committees, panels, hearing officers and consultants, are immune from civil liability for any act performed in good faith and without malicious intent in the execution of any duties pursuant to this chapter."

Amend the bill as a whole by deleting sec. 18 and adding new sections designated sections 18 and 18.5, following sec. 17, to read as follows:

"Sec. 18. 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; or

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy.

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; or

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 18.5. 1. If the Board determines that a person has violated or is about to violate any provision of this chapter, the Board may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation.

2. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not prohibit the criminal prosecution and punishment of the person who commits the violation."

Amend sec. 19, page 7, by deleting lines 19 through 22 and inserting:

"to practice massage therapy verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(II) Disciplinary proceedings relating to his license to practice massage therapy are not pending;

(5) Except as otherwise provided in section 21 of this act, a complete set of fingerprints and written permission".

Amend sec. 19, page 7, by deleting lines 34 through 44 and inserting:

"section 14 of this act and except as otherwise provided in subsection 3, pass a written examination administered by any board that is accredited by the National Commission for Certifying Agencies, or its successor organization, to examine massage therapists.

3. If the Board determines that the examinations being administered pursuant to paragraph (c) of subsection 2 are inadequately testing the knowledge and competency of applicants, the Board shall prepare or cause to be prepared its own written examination to test the knowledge and competency of applicants. Such an examination must be offered not less than four times each year. The location of the examination must alternate between Clark County and Washoe County. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.

4. The Board shall recognize a program of massage therapy that is:

(a) Approved by the Commission on Postsecondary Education; or

(b) Offered by a public college in this State or any other state.

➔ The Board may recognize other programs of massage therapy.

5. The Board or its designee shall:

(a) Conduct an investigation to".

Amend sec. 19, page 8, by deleting line 5 and inserting:

"involving the applicant that would affect his suitability for licensure; and".

Amend sec. 19, page 8, by deleting lines 12 through 16 and inserting:

"(c) Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to section 14 of this act; and

(d) Maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency."

Amend the bill as a whole by deleting sections 20 and 21 and adding new sections designated sections 20 and 21, following sec. 19, to read as follows:

"Sec. 20. 1. The Board may issue a temporary license to practice massage therapy.

2. An applicant for a temporary license issued pursuant to this section must:

(a) Be at least 18 years of age; and

(b) Submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to section 25 of this act;

(3) Proof that he has successfully completed a program of massage therapy recognized by the Board pursuant to section 19 of this act;

(4) Proof that he:

(I) Has taken the examination required pursuant to section 19 of this act; or

(II) Is scheduled to take such an examination within 90 days after the date of application;

(5) An affidavit indicating that he has not committed any of the offenses for which the Board may refuse to issue a license pursuant to section 29 of this act;

(6) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(II) Disciplinary proceedings relating to his license to practice massage therapy are not pending; and

(7) Except as otherwise provided in section 21 of this act, a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. A temporary license issued pursuant to this section expires 90 days after the date the Board issues the temporary license. The Board shall not renew the temporary license.

4. A person who holds a temporary license:

(a) May practice massage therapy only under the supervision of a fully licensed massage therapist and only in accordance with the provisions of this chapter and the regulations of the Board;

(b) Must comply with any other conditions, limitations and requirements imposed on the temporary license by the Board;

(c) Is subject to the regulatory and disciplinary authority of the Board to the same extent as a fully licensed massage therapist; and

(d) Remains subject to the regulatory and disciplinary authority of the Board after the expiration of the temporary license for all acts relating to the practice of massage therapy which occurred during the period of temporary licensure.

5. As used in this section, "fully licensed massage therapist" means a person who holds a license to practice massage therapy issued pursuant to section 19 or 24 of this act.

Sec. 21. 1. The Board of Massage Therapists and the State Board of Cosmetology shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the Board of Massage Therapists for a license to practice pursuant to this chapter and who is also applying to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS, if both applications are filed not more than 60 days apart.

2. If a qualified applicant submits an application to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS and, not later than 60 days after that application, the applicant also submits an application to the Board of Massage Therapists for a license to practice pursuant to this chapter:

(a) The applicant is not required to submit a set of fingerprints to the Board of Massage Therapists if the applicant submitted a set of fingerprints with his application to the State Board of Cosmetology;

(b) The Board of Massage Therapists shall request from the State Board of Cosmetology a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the State Board of Cosmetology shall provide to the Board of Massage Therapists any reports relating to a background investigation of the applicant; and

(d) The Board of Massage Therapists shall use the reports provided by the State Board of Cosmetology in reviewing the application for a license to practice pursuant to this chapter, except that the Board of Massage Therapists may conduct its own background investigation of the applicant if the Board of Massage Therapists deems it to be necessary."

Amend sec. 22, page 9, by deleting lines 34 through 45 and inserting:

"Sec. 22. 1. In addition to the any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license as a massage therapist shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license as a massage therapist shall submit to the Board the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant."

Amend sec. 22, page 10, by deleting lines 6 and 7 and inserting:

"3. A license as a massage therapist may not be issued or renewed by the Board if the applicant:"

Amend the bill as a whole by deleting sections 24 and 25 and adding new sections designated sections 24 and 25, following sec. 23, to read as follows:

"Sec. 24. 1. Notwithstanding the provisions of section 19 of this act and except as otherwise provided in subsection 3, the Board may issue a license to an applicant who holds a current license to practice massage therapy issued by another state, territory or possession of the United States or the District of Columbia.

2. An applicant for a license issued by the Board pursuant to subsection 1 must submit to the Board:

- (a) A completed application on a form prescribed by the Board;
- (b) The fees prescribed by the Board pursuant to section 25 of this act;
- (c) A notarized statement signed by the applicant that states:

(1) Whether any disciplinary proceedings relating to his license to practice massage therapy have at any time been instituted against him; and

(2) Whether he has been arrested or convicted, within the immediately preceding 10 years, for any crime involving violence, prostitution or any other sexual offense; and

(d) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy during the immediately preceding 10 years verifying that:

(1) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(2) Disciplinary proceedings relating to his license to practice massage therapy are not pending.

3. The Board shall not issue a license pursuant to this section unless the state, territory or possession of the United States or the District of Columbia in which the applicant is licensed had requirements at the time the license was issued that the Board determines are substantially equivalent to the requirements for a license to practice massage therapy set forth in this chapter.

Sec. 25. 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter..\$600

An application for a license300

An application for a license without an examination.....300

A background check of an applicant.....600

The issuance of a license400

The renewal of a license200

The restoration of an expired license.....500

The reinstatement of a suspended or revoked license.....500

The issuance of a duplicate license.....75

The restoration of an inactive license.....300

2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve."

Amend sec. 27, page 12, by deleting lines 31 through 34 and inserting:

"adopted by the Board under section 14 of this act; and

(c) The fee for renewal of the license prescribed by the Board".

Amend sec. 27, page 12, by deleting lines 38 through 42 and inserting:

"(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees prescribed by the Board".

Amend sec. 29, page 14, line 18, after "probation;" by inserting "or".

Amend sec. 29, page 14, by deleting lines 24 through 26 and inserting:
"licensed massage therapist."

Amend the bill as a whole by deleting sections 30 through 32 and adding new sections designated sections 30 through 32, following sec. 29, to read as follows:

"Sec. 30. 1. If any member of the Board or the Executive Director becomes aware of any ground for initiating disciplinary action against a holder of a license, the member or Executive Director shall file a written complaint with the Board.

2. The complaint must specifically:

(a) Set forth the relevant facts; and

(b) Charge one or more grounds for initiating disciplinary action.

3. As soon as practicable after the filing of the complaint, an investigation of the complaint must be conducted to determine whether the allegations in the complaint merit the initiation of disciplinary proceedings against the holder of the license.

Sec. 31. 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

(a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or holder of the license a public reprimand;

(c) Refuse to issue, renew, reinstate or restore the license;

(d) Suspend or revoke the license;

(e) Impose an administrative fine of not more than \$1,000 per day for each day for which the Board determines that a violation occurred;

(f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or

(g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 32. Notwithstanding any other statute to the contrary:

1. If the Board finds that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice to the massage therapist, temporarily suspend his license for a period not to exceed 30 days. For good cause, the Board may extend the period of the temporary suspension if the Board deems such action to be necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. In any such case, a hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension not later than 30 days after the date on which the Board notifies the massage therapist of the temporary suspension.

2. If a massage therapist is charged with or cited for a crime involving violence, prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director. Upon receiving such a report, the Executive Director shall immediately issue a cease and desist order temporarily suspending the license of the massage therapist. The temporary suspension of the license is effective immediately upon issuance of the cease and desist order and must not exceed 15 days. For good cause, the Board may extend the period of the temporary suspension if the Board deems such action to be necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. In any such case, a hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension not later than 15 days after the date on which the Executive Director issues the cease and desist order.

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order."

Amend the bill as a whole by deleting sec. 34 and adding new sections designated sections 34 and 34.5, following sec. 33, to read as follows:

"Sec. 34. 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 34.5. Chapter 644 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Cosmetology and the Board of Massage Therapists shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the State Board of Cosmetology for a license to practice pursuant to this chapter and who is also applying to

the Board of Massage Therapists for a license to practice pursuant to sections 2 to 34, inclusive, of this act, if both applications are filed not more than 60 days apart.

2. If a qualified applicant submits an application to the Board of Massage Therapists for a license to practice pursuant to sections 2 to 34, inclusive, of this act and, not later than 60 days after that application, the applicant also submits an application to the State Board of Cosmetology for a license to practice pursuant to this chapter:

(a) The applicant is not required to submit a set of fingerprints to the State Board of Cosmetology if the applicant submitted a set of fingerprints with his application to the Board of Massage Therapists;

(b) The State Board of Cosmetology shall request from the Board of Massage Therapists a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the Board of Massage Therapists shall provide to the State Board of Cosmetology any reports relating to a background investigation of the applicant; and

(d) The State Board of Cosmetology shall use the reports provided by the Board of Massage Therapists in reviewing the application for a license to practice pursuant to this chapter."

Amend the bill as a whole by deleting sections 56 through 59 and adding new sections designated sections 56 through 58, following section 55, to read as follows:

"Sec. 56. 1. Notwithstanding the provisions of sections 2 to 34, inclusive, of this act and except as otherwise provided in subsection 3, the Board of Massage Therapists may issue a license to practice massage therapy to an applicant, without regard to whether the applicant meets the requirements set forth in section 19 of this act, if the applicant:

(a) Holds a current license to practice massage therapy issued before July 1, 2007, by a county, city or town of this State that regulates the practice of massage therapy; and

(b) Applies to the Board for a license before July 1, 2007.

2. An applicant who applies for a license from the Board pursuant to subsection 1 must submit to the Board:

(a) A completed application on a form prescribed by the Board;

(b) The fees prescribed by the Board pursuant to section 25 of this act; and

(c) A notarized statement signed by the applicant that states:

(1) Whether any disciplinary proceedings relating to his license to practice massage therapy have at any time been instituted against him; and

(2) Whether he has been arrested or convicted, within the 10 years immediately preceding submission of the application, for any crime involving violence, prostitution or any other sexual offense.

3. If an applicant applies for a license from the Board pursuant to subsection 1 and the applicant does not have a criminal background investigation approved by a local law enforcement agency, the applicant must:

(a) Submit a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(b) Submit to a background investigation conducted pursuant to section 19 of this act.

4. A license issued by the Board pursuant to subsection 1 shall be deemed to be a license issued by the Board pursuant to section 19 of this act.

5. A person who is licensed to practice massage therapy by a county, city or town in this State before July 1, 2007, must, if the person wishes to continue to practice massage therapy on and after July 1, 2007, hold a license to practice massage therapy issued by the Board.

6. Until July 1, 2007, if a person is licensed to practice massage therapy by a county, city or town in this State but the person does not hold a license to practice massage therapy issued by the Board, the person shall comply with:

(a) All ordinances and regulations of the county, city or town relating to the practice of massage therapy; and

(b) The provisions of sections 2 to 18, inclusive, 22, 23 and 25 to 34, inclusive, of this act.

Sec. 57. 1. As soon as practicable, the Governor shall appoint to the Board of Massage Therapists pursuant to sections 9 and 10 of this act:

(a) Two members whose terms expire on June 30, 2007;

(b) Three members whose terms expire on June 30, 2008;

(c) Two members whose terms expire on June 30, 2009; and

(d) One nonvoting advisory member whose term expires on June 30, 2009,

↪ except that no member may begin serving a term sooner than July 1, 2005.

2. Notwithstanding the provisions of section 9 of this act, each massage therapist who is appointed to the Board of Massage Therapists to an initial term pursuant to subsection 1 is not required to hold a license issued pursuant to sections 2 to 34, inclusive, of this act at the time of appointment but must be eligible for such a license at the time of appointment.

Sec. 58. 1. This act becomes effective upon passage and approval for the purposes of:

(a) The Governor appointing members to the Board of Massage Therapists; and

(b) The Board and its members and employees performing any organizational, preparatory or preliminary administrative tasks that are necessary to carry out the provisions of this act,

↪ and on October 1, 2005, for all other purposes.

2. Sections 22 and 23 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational or recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States."

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton and Tiffany.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

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Assembly Bill No. 250.

Bill read third time.

Roll call on Assembly Bill No. 250:

YEAS—21.

NAYS—None.

Assembly Bill No. 250 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

BILLS AND AMENDMENTS

SEE LINKS ON BILL HISTORY PAGE
FOR COMPLETE BILL TEXT