



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1627

Introduced 2/9/2011, by Sen. Heather A. Steans

SYNOPSIS AS INTRODUCED:

New Act
225 ILCS 57/25

Creates the Asian Bodywork Therapy Licensing Act. Beginning January 1, 2012, provides that it is unlawful for a person to act or assume to act as an Asian bodywork therapist, to engage in the business of Asian bodywork therapy, or to advertise or hold himself or herself out to be a licensed Asian bodywork therapist without first obtaining a license issued by the Department. Creates the Asian Bodywork Therapy Licensing Board. Allows the Department to take action, including imposing fines not to exceed \$1,000 per violation, if the individual meets the requirements for grounds for disciplinary action. Grants the Department authority to petition the Attorney General or local State's Attorney office where a violation occurs to enjoin the violation or order enforcement compliance with the Act. Provides that, on a showing of a possible violation, the Department may compel an applicant or a licensee to submit to a physical or mental examination. Sets forth the powers and duties of the Department, license qualifications, grounds for discipline, civil and criminal penalties, and administrative procedures. Sets forth provisions concerning standards of practice and prohibited activities. Preempts home rule. Amends the Massage Licensing Act to exempt from that Act persons licensed under the Asian Bodywork Therapy Licensing Act.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Asian
5 Bodywork Therapy Licensing Act.

6 Section 5. Declaration of public policy. The practice of
7 Asian bodywork therapy is hereby declared to affect the public
8 health, safety, and welfare and to be subject to regulation in
9 the public interest. The purpose of this Act is to protect and
10 benefit the public by setting standards of qualifications,
11 education, training, and experience for those who seek to
12 practice Asian bodywork therapy, to promote high standards of
13 professional performance for those licensed to practice Asian
14 bodywork therapy in the State of Illinois, and to protect the
15 public from unprofessional conduct by persons licensed to
16 practice Asian bodywork therapy. As defined by the U.S.
17 Department of Education Classification of Instructional
18 Programs, Asian bodywork therapy is a profession distinct from
19 massage therapy requiring specialized training. This Act
20 defines educational and test standards that reflect the unique
21 skills needed for expert-level practice of Asian bodywork
22 therapy.

1 Section 10. Definitions. As used in this Act:

2 "Approved Asian bodywork therapy school" means a facility
3 that meets minimum standards for training and curriculum as
4 defined in this Act and determined by the Department.

5 "Asian bodywork", "Asian bodywork therapy", or "ABT" means
6 the treatment of the human body, mind, and spirit by using
7 pressure, stretching, and joint mobilizations. Asian bodywork
8 is based upon Chinese medical principles for assessing and
9 evaluating the body's energetic system. It uses traditional
10 Asian techniques and treatment strategies to primarily affect
11 and balance the energetic system for the purpose of treating
12 the human body, emotions, mind, energy field, and spirit for
13 the promotion, maintenance, and restoration of health. "Asian
14 bodywork therapy" is a form of preventative treatment utilized
15 by the public for the maintenance of health.

16 Methods of assessment and evaluation may include the
17 Chinese 4 Pillars of examination: observation, listening,
18 asking, and touching. Assessments are based primarily on
19 Chinese medicine parameters relating to the balance and
20 circulation of the 5 essential substances: Qi, Jing, Shen, Xue,
21 and Jin-ye. Treatment may include, but is not limited to, the
22 following: touching, pressing, or holding of the body along
23 meridians or on acupoints primarily with the hands, stretching,
24 external application of heat or cold, dietary, or exercise
25 suggestions. "Asian bodywork therapy" does not include the
26 diagnosis of a specific pathology. "Asian bodywork therapy"

1 does not include those acts of physical therapy or therapeutic
2 or corrective measures that are outside the scope of Asian
3 bodywork practice as defined in this Section.

4 "Asian bodywork therapist" means a person who is licensed
5 by the Department and administers Asian bodywork therapy for
6 compensation.

7 "Board" means the Asian Bodywork Therapy Licensing Board
8 appointed by the Secretary.

9 "Compensation" means the payment, loan, advance, donation,
10 contribution, deposit, or gift of money or anything of value.

11 "Department" means the Department of Financial and
12 Professional Regulation.

13 "NCCAOM" means the National Certification Commission for
14 Acupuncture and Oriental Medicine.

15 "Minimum standard of training" means at least 500 hours of
16 training, including anatomy, physiology, ethics, business,
17 directly supervised clinical work, relevant theory, and
18 application of techniques, in addition to any requirements
19 added by rule.

20 "Secretary" means the Secretary of Financial and
21 Professional Regulation.

22 Section 15. Licensure requirements.

23 (a) Beginning January 1, 2012, persons engaged in Asian
24 bodywork therapy for compensation must be licensed by the
25 Department. The Department shall issue a license to an

1 individual who meets all of the following requirements:

2 (1) The applicant has applied in writing on the
3 prescribed forms and has paid the required fees.

4 (2) The applicant is at least 18 years of age and of
5 good moral character. In determining good moral character,
6 the Department may take into consideration conviction of
7 any crime under the laws of the United States or any state
8 or territory thereof that is a felony or a misdemeanor or
9 any crime that is directly related to the practice of the
10 profession. The conviction shall not operate automatically
11 as a complete bar to a license, except in the case of any
12 conviction for prostitution, rape, or sexual misconduct,
13 or where the applicant is a registered sex offender.

14 (3) The applicant has met one of the following
15 requirements:

16 (A) has successfully completed the curriculum or
17 curriculums of one or more Asian bodywork therapy
18 schools approved by the Department that require a
19 minimum standard of training of 500 hours and has
20 passed a competency examination approved by the
21 Department, including, but not limited to, the NCCAOM
22 ABT Exam Module;

23 (B) holds a current license from another
24 jurisdiction having licensure requirements that meet
25 or exceed those defined within this Act; or

26 (C) has moved to Illinois from a jurisdiction with

1 no licensure requirement and has provided
2 documentation that he or she has successfully passed
3 the ABT Exam Module administered by the NCCAOM or
4 another Asian bodywork therapy certifying examination
5 approved by the Department and maintains current
6 certification.

7 (b) Each applicant for licensure as an Asian bodywork
8 therapist shall have his or her fingerprints submitted to the
9 Department of State Police in an electronic format that
10 complies with the form and manner for requesting and furnishing
11 criminal history record information as prescribed by the
12 Department of State Police. These fingerprints shall be checked
13 against the Department of State Police and Federal Bureau of
14 Investigation criminal history record databases now and
15 hereafter filed. The Department of State Police shall charge
16 applicants a fee for conducting the criminal history records
17 check, which shall be deposited into the State Police Services
18 Fund and shall not exceed the actual cost of the records check.
19 The Department of State Police shall furnish, upon confirmation
20 of positive identification, records of Illinois convictions to
21 the Department. The Department may require applicants to pay a
22 separate fingerprinting fee, either to the Department or to a
23 vendor. The Department, in its discretion, may allow an
24 applicant who does not have reasonable access to a designated
25 vendor to provide his or her fingerprints in an alternative
26 manner. The Department may adopt any rules necessary to

1 implement this Section.

2 Section 20. Grandfathering provision. For a period of one
3 year after the effective date of the rules adopted under this
4 Act, the Department may issue a license to an individual who,
5 in addition to meeting the requirements set forth in paragraphs
6 (1) and (2) of subsection (a) and subsection (b) of Section 15,
7 produces proof that he or she has met one of the following
8 requirements by the time of application:

9 (1) is a member of the American Organization for
10 Bodywork Therapies of Asia (AOBTA) at a level of membership
11 requiring at least 500 hours of training, including
12 Certified Practitioner, Registered Instructor, or
13 Certified Instructor; or

14 (2) has passed the ABT Exam Module administered by the
15 National Certification Commission for Acupuncture and
16 Oriental Medicine and has kept current certification as a
17 Diplomate of Asian Bodywork Therapy.

18 Section 25. Exemptions.

19 (a) This Act does not prohibit a person licensed under any
20 other Act in this State from engaging in the practice for which
21 he or she is licensed.

22 (b) Nothing in this Act prohibits a student of an approved
23 Asian bodywork school or program from performing Asian bodywork
24 therapy, provided that the student does not hold himself or

1 herself out as a licensed Asian bodywork therapist and does not
2 charge a fee for Asian bodywork therapy services.

3 (c) Nothing in this Act applies to acupuncturists licensed
4 in the State of Illinois.

5 (d) Nothing in this Act applies to Asian bodywork
6 therapists or acupuncturists from other states or countries
7 when providing educational programs or services for a period
8 not exceeding 30 days within a calendar year.

9 Section 30. Title protection.

10 (a) Persons regulated by this Act are designated as Asian
11 bodywork therapists and are exclusively entitled to utilize the
12 general terms "Asian bodywork", "Asian bodywork therapy", or
13 any specific titles of Asian bodywork forms when advertising or
14 printing promotional material. Protected form-specific titles
15 include, but are not limited to, "acupressure", "amma",
16 "shiatsu", "chi nei tsang", and "tuina".

17 (b) Anyone who knowingly aids and abets one or more persons
18 not authorized to use a professional title regulated by this
19 Act or knowingly employs persons not authorized to use the
20 regulated professional title in the course of their employment,
21 commits a violation of this Act.

22 (c) Anyone not authorized, under the definitions of this
23 Act, to utilize the regulated professional titles and who
24 knowingly utilizes these terms when advertising commits a
25 violation of this Act.

1 Section 35. Asian Bodywork Therapy Licensing Board.

2 (a) The Secretary shall appoint an Asian Bodywork Therapy
3 Licensing Board, which shall serve in an advisory capacity to
4 the Secretary. The Board shall consist of 7 members, of whom 6
5 shall be Asian bodywork therapists with at least 3 years of
6 experience in Asian bodywork. One of the Asian bodywork
7 therapist members shall represent an Asian bodywork therapy
8 school. One member of the Board shall be a member of the public
9 who is not licensed under this Act or a similar Act in Illinois
10 or another jurisdiction. Membership on the Board shall
11 reasonably reflect the various Asian bodywork therapy forms.
12 Membership on the Board shall reasonably reflect the geographic
13 areas of the State.

14 (b) Members shall be appointed to a 3-year term, except
15 that initial appointees shall serve the following terms: 2
16 members shall serve for one year, 2 members shall serve for 2
17 years, and 3 members shall serve for 3 years. A member whose
18 term has expired shall continue to serve until his or her
19 successor is appointed. No member shall be reappointed to the
20 Board for a term that would cause his or her continuous service
21 on the Board to exceed 9 years. Appointments to fill vacancies
22 shall be made in the same manner as the original appointments
23 for the unexpired portion of the vacated term.

24 (c) The members of the Board are entitled to receive
25 compensation for all legitimate and necessary expenses

1 incurred while attending Board and Department meetings.

2 (d) Members of the Board shall be immune from suit in any
3 action based upon any disciplinary proceedings or other
4 activities performed in good faith as members of the Board.

5 (e) The Secretary shall consider the recommendations of the
6 Board on questions involving the standards of professional
7 conduct, discipline, and qualifications of candidates and
8 licensees under this Act. Nothing shall limit the ability of
9 the Board to provide recommendations to the Secretary in regard
10 to any matter affecting the administration of this Act. The
11 Secretary shall give due consideration to all recommendations
12 of the Board. If the Secretary takes action contrary to a
13 recommendation of the Board, the Secretary shall provide a
14 written explanation of that action.

15 (f) The Secretary may terminate the appointment of any
16 member for cause that, in the opinion of the Secretary,
17 reasonably justifies termination, which may include, but is not
18 limited to, a Board member who does not attend 2 consecutive
19 meetings.

20 Section 40. Duties of the Department. Subject to provisions
21 of this Act, the Department shall have the following duties:

22 (1) To formulate rules required for the administration
23 of this Act. Notice of proposed rulemaking shall be
24 transmitted to the Board, and the Department shall review
25 the Board's response and any recommendations made in the

1 response.

2 (2) To determine the qualifications of an applicant for
3 licensure by endorsement.

4 (3) To conduct hearings or proceedings to refuse to
5 issue or renew or to revoke a license or to suspend, place
6 on probation, reprimand, or otherwise discipline a person
7 licensed under this Act.

8 (4) To solicit the advice and expert knowledge of the
9 Board on any matter relating to the administration and
10 enforcement of this Act.

11 (5) To maintain a roster of the names and addresses of
12 all licensees and all persons whose licenses have been
13 suspended, revoked, or denied renewal for cause within the
14 previous calendar year. The roster shall be available upon
15 written request and payment of the required fee.

16 Section 45. Grounds for discipline.

17 (a) The Department may refuse to issue or renew or may
18 revoke, suspend, place on probation, reprimand, or take other
19 disciplinary action, as the Department considers appropriate,
20 including the imposition of fines not to exceed \$1,000 for each
21 violation, with regard to any license or licensee for any one
22 or more of the following:

23 (1) being convicted of any crime under the laws of the
24 United States or any state or territory thereof that is a
25 felony or a misdemeanor, an essential element of which is

1 dishonesty, or any crime that is directly related to the
2 practice of Asian bodywork therapy; convicted, as used in
3 this item (1), shall include a finding or verdict of
4 guilty, an admission of guilt, or a plea of nolo
5 contendere;

6 (2) advertising in a false, deceptive, or misleading
7 manner;

8 (3) aiding, assisting, procuring, or advising any
9 unlicensed person to practice massage contrary to any rules
10 or provisions of this Act;

11 (4) engaging in immoral conduct in the commission of
12 any act, such as sexual abuse, sexual misconduct, or sexual
13 exploitation, related to the licensee's practice;

14 (5) engaging in dishonorable, unethical, or
15 unprofessional conduct of a character likely to deceive,
16 defraud, or harm the public;

17 (6) practicing or offering to practice beyond the scope
18 permitted by law or accepting and performing professional
19 responsibilities that the licensee knows or has reason to
20 know that he or she is not competent to perform;

21 (7) knowingly delegating professional responsibilities
22 to a person unqualified by training, experience, or
23 licensure to perform;

24 (8) failing to provide information in response to a
25 written request made by the Department within 60 days;

26 (9) having a habitual or excessive use of or addiction

1 to alcohol, narcotics, stimulants, or any other chemical
2 agent or drug that results in the inability to practice
3 with reasonable judgment, skill, or safety;

4 (10) having a pattern of practice or other behavior
5 that demonstrates incapacity or incompetence to practice
6 under this Act;

7 (11) making a material misstatement in furnishing
8 information to the Department or otherwise making
9 misleading, deceptive, untrue, or fraudulent
10 representations in violation of this Act or otherwise in
11 the practice of the profession;

12 (12) making any misrepresentation for the purpose of
13 obtaining a license; or

14 (13) having a physical illness, including, but not
15 limited to, deterioration through the aging process or loss
16 of motor skills, that results in the inability to practice
17 the profession with reasonable judgment, skill, or safety.

18 (b) The Department may refuse to issue or may suspend the
19 license of any person who fails to file a tax return, to pay
20 the tax, penalty, or interest shown in a filed tax return, or
21 to pay any final assessment of tax, penalty, or interest, as
22 required by any tax Act administered by the Illinois Department
23 of Revenue, until the time as the requirements of the tax Act
24 are satisfied.

25 (c) The determination by a circuit court that a licensee is
26 subject to involuntary admission or judicial admission, as

1 provided in the Mental Health and Developmental Disabilities
2 Code, operates as an automatic suspension. The suspension may
3 end only upon (i) a finding by a court that the patient is no
4 longer subject to involuntary admission or judicial admission
5 and the issuance of a court order so finding and discharging
6 the patient and (ii) the recommendation of the Board to the
7 Secretary that the licensee be allowed to resume his or her
8 practice.

9 (d) In enforcing this Section, the Department or Board upon
10 a showing of a possible violation may compel an individual
11 licensed to practice under this Act, or who has applied for
12 licensure under this Act, to submit to a mental or physical
13 examination, or both, as required by and at the expense of the
14 Department. The Department or Board may order the examining
15 physician to present testimony concerning the mental or
16 physical examination of the licensee or applicant. No
17 information shall be excluded by reason of any common law or
18 statutory privilege relating to communications between the
19 licensee or applicant and the examining physician. The
20 examining physicians shall be specifically designated by the
21 Board or Department. The individual to be examined may have, at
22 his or her own expense, another physician of his or her choice
23 present during all aspects of this examination. The examination
24 shall be performed by a physician licensed to practice medicine
25 in all its branches. Failure of an individual to submit to a
26 mental or physical examination, when directed, shall be grounds

1 for suspension of his or her license until the individual
2 submits to the examination if the Department finds, after
3 notice and hearing, that the refusal to submit to the
4 examination was without reasonable cause.

5 If the Department or Board finds an individual unable to
6 practice because of the reasons set forth in this Section, the
7 Department or Board may require that individual to submit to
8 care, counseling, or treatment by physicians approved or
9 designated by the Department or Board, as a condition, term, or
10 restriction for continued, reinstated, or renewed licensure to
11 practice; or, in lieu of care, counseling, or treatment, the
12 Department may file, or the Board may recommend to the
13 Department to file, a complaint to immediately suspend, revoke,
14 or otherwise discipline the license of the individual. An
15 individual whose license was granted, continued, reinstated,
16 renewed, disciplined, or supervised subject to the terms,
17 conditions, or restrictions, and who fails to comply with the
18 terms, conditions, or restrictions, shall be referred to the
19 Secretary for a determination as to whether the individual
20 shall have his or her license suspended immediately, pending a
21 hearing by the Department.

22 In instances where the Secretary immediately suspends a
23 person's license under this Section, a hearing on that person's
24 license must be convened by the Department within 15 days after
25 the suspension and completed without appreciable delay. The
26 Department and Board shall have the authority to review the

1 subject individual's record of treatment and counseling
2 regarding the impairment to the extent permitted by applicable
3 federal statutes and regulations safeguarding the
4 confidentiality of medical records.

5 An individual licensed under this Act and affected under
6 this Section shall be afforded an opportunity to demonstrate to
7 the Department or Board that he or she can resume practice in
8 compliance with acceptable and prevailing standards under the
9 provisions of his or her license.

10 Section 50. Advertising. It is a Class A misdemeanor for
11 any person, organization, or corporation to advertise Asian
12 bodywork therapy services, unless the person providing the
13 service holds a valid license under this Act, except for those
14 excluded licensed professionals who are allowed to include
15 Asian bodywork therapy in their scope of practice. An Asian
16 bodywork therapist may not advertise unless he or she has a
17 current license issued by this State. "Advertise" as used in
18 this Section includes, but is not limited to, the issuance of
19 any card, sign, or device to any person; the causing,
20 permitting, or allowing of any sign or marking on or in any
21 building, vehicle, or structure; advertising in any newspaper
22 or magazine; any listing or advertising in any directory under
23 a classification or heading that includes the words "Asian
24 bodywork", "Asian bodywork therapy", or any form-specific
25 titles as specified in Section 30 of this Act; or commercials

1 broadcast by any means.

2 Section 55. Renewal of licenses. The expiration date and
3 renewal period for each license issued under this Act shall be
4 set by rule.

5 Section 60. Continuing education. The Department shall
6 adopt rules for continuing education for persons licensed under
7 this Act that require a completion of 24 hours of approved
8 continuing education per license renewal period. The
9 Department shall establish by rule a means for the verification
10 of completion of the continuing education required by this
11 Section. This verification may be accomplished through audits
12 of records maintained by the licensee, by requiring the filing
13 of continuing education certificates with the Department, or by
14 other means established by the Department.

15 Section 65. Restoration of expired licenses. An Asian
16 bodywork therapist who has permitted his or her license to
17 expire or who has had his or her license on inactive status may
18 have his or her license restored by making application to the
19 Department and filing proof acceptable to the Department of his
20 or her fitness to have his or her license restored, including
21 sworn evidence certifying to active practice in another
22 jurisdiction satisfactory to the Department, and by paying the
23 required restoration fee and showing proof of completion of

1 required continuing education. Licensees must provide proof of
2 completion of 24 hours approved continuing education to renew
3 their license.

4 If the Asian bodywork therapist has not maintained an
5 active practice in another jurisdiction satisfactory to the
6 Department, the Board shall determine, by an evaluation program
7 established by rule his or her fitness to resume active status
8 and may require the Asian bodywork therapist to complete a
9 period of evaluated clinical experience and may require
10 successful completion of an examination.

11 An Asian bodywork therapist whose license has been expired
12 or placed on inactive status for more than 5 years may have his
13 or her license restored by making application to the Department
14 and filing proof acceptable to the Department of his or her
15 fitness to have his or her license restored, including sworn
16 evidence certifying to active practice in another
17 jurisdiction, by paying the required restoration fee, and by
18 showing proof of the completion of 24 hours of continuing
19 education.

20 However, an Asian bodywork therapist whose license has
21 expired while he or she has been engaged (i) in active duty
22 with the United States Army, Navy, Marine Corps, Air Force, or
23 Coast Guard or the State Militia called into the service or
24 training of the United States of America or (ii) in training or
25 education under the supervision of the United States
26 preliminary to induction into the military service, may have

1 his or her license restored without paying any lapsed renewal
2 fees or restoration fee if, within 2 years after termination of
3 the service, training, or education, other than by dishonorable
4 discharge, he or she furnishes the Department with an affidavit
5 to the effect that he or she has been so engaged and that his or
6 her service, training, or education has been terminated.

7 Section 70. Inactive licenses. Any Asian bodywork
8 therapist who notifies the Department in writing on forms
9 prescribed by the Department may elect to place his or her
10 license on inactive status and shall, subject to rules of the
11 Department, be excused from payment of renewal fees until he or
12 she notifies the Department in writing of his or her desire to
13 resume active status.

14 An Asian bodywork therapist requesting restoration from
15 inactive status shall be required to pay the current renewal
16 fee and shall be required to restore his or her license as
17 provided in Section 65 of this Act.

18 Any Asian bodywork therapist whose license is on inactive
19 status shall not practice Asian bodywork therapy in the State,
20 and any practice conducted shall be deemed unlicensed practice.

21 Section 75. Fees. The fees assessed under this Act shall be
22 set by rule.

23 Section 80. Deposit of fees and fines; appropriations. All

1 fees and fines collected under this Act shall be deposited into
2 the General Professions Dedicated Fund. All moneys in the Fund
3 shall be used by the Department of Financial and Professional
4 Regulation, as appropriated, for the ordinary and contingent
5 expenses of the Department.

6 Section 85. Violations; injunction; cease and desist
7 order.

8 (a) If any person violates a provision of this Act, the
9 Secretary may, in the name of the People of the State of
10 Illinois, through the Attorney General of the State of Illinois
11 or the State's Attorney in the county where the offense occurs,
12 petition for an order enjoining the violation or for an order
13 enforcing compliance with this Act. Upon the filing of a
14 verified petition in court, the court may issue a temporary
15 restraining order, without notice or bond, and may
16 preliminarily and permanently enjoin the violation. If it is
17 established that the person has violated or is violating the
18 injunction, the court may punish the offender for contempt of
19 court. Proceedings under this Section shall be in addition to,
20 and not in lieu of, all other remedies and penalties provided
21 by this Act.

22 (b) If, after January 1, 2012, any person practices as an
23 Asian bodywork therapist or holds himself or herself out as a
24 Asian bodywork therapist without being licensed under the
25 provisions of this Act, then the Secretary, any licensed Asian

1 bodywork therapist, any interested party, or any person injured
2 thereby may petition for relief as provided in subsection (a)
3 of this Section or may apply to the circuit court of the county
4 where the violation or some part thereof occurred, or where the
5 person complained of has his or her principal place of business
6 or resides, to prevent the violation. The court has
7 jurisdiction to enforce obedience by injunction or by other
8 process restricting the person complained of from further
9 violation and enjoining upon him or her obedience.

10 (c) Whenever, in the opinion of the Department, a person
11 violates any provision of this Act, the Department may issue a
12 rule to show cause why an order to cease and desist should not
13 be entered against him or her. The rule shall clearly set forth
14 the grounds relied upon by the Department and shall provide a
15 period of 7 days from the date of the rule to file an answer to
16 the satisfaction of the Department. Failure to answer to the
17 satisfaction of the Department shall cause an order to cease
18 and desist to be issued immediately.

19 Section 90. Investigations; notice and hearing. The
20 Department may investigate the actions of any applicant or of
21 any person holding or claiming to hold a license. The
22 Department shall, before refusing to issue or renew a license
23 or to discipline a licensee under Section 45, notify the
24 applicant or holder of a license in writing, at least 30 days
25 prior to the date set for the hearing, of the nature of the

1 charges and that a hearing will be held on the date designated.
2 The notice shall direct the applicant or licensee to file a
3 written answer to the Board under oath within 20 days after the
4 service of the notice, and shall inform the applicant or
5 licensee that failure to file an answer will result in a
6 default judgment being entered against the applicant or
7 licensee. A default judgment may result in the license being
8 suspended, revoked, or placed on probationary status, or other
9 disciplinary action may be taken, including limiting the scope,
10 nature, or extent of practice, as the Secretary may deem
11 proper. Written notice may be served by personal delivery or
12 certified or registered mail to the respondent at the address
13 of his or her last notification to the Department. In case the
14 person fails to file an answer after receiving notice, his or
15 her license or certificate may, in the discretion of the
16 Department, be suspended, revoked, or placed on probationary
17 status and the Department may take whatever disciplinary action
18 it deems proper, including limiting the scope, nature, or
19 extent of the person's practice or the imposition of a fine,
20 without a hearing, if the act or acts charged constitute
21 sufficient grounds for that action under this Act. At the time
22 and place fixed in the notice, the Board shall proceed to hear
23 the charges and the parties or their counsel shall be accorded
24 ample opportunity to present statements, testimony, evidence,
25 and argument that may be pertinent to the charges or to the
26 licensee's defense. The Board may continue a hearing from time

1 to time.

2 Section 95. Stenographer; transcript. The Department, at
3 its expense, shall preserve a record of all proceedings at the
4 formal hearing of any case involving the refusal to issue or
5 renew a license or the discipline of a licensee. The notice of
6 hearing, complaint, and all other documents in the nature of
7 pleadings and written motions filed in the proceedings, the
8 transcript of testimony, the report of the Board, and the order
9 of the Department shall be the record of the proceeding.

10 Section 100. Compelling testimony. Any circuit court, upon
11 application of the Department or its designee or of the
12 applicant or licensee against whom proceedings under Section 90
13 of this Act are pending, may enter an order requiring the
14 attendance of witnesses and their testimony and the production
15 of documents, papers, files, books, and records in connection
16 with any hearing or investigation. The court may compel
17 obedience to its order by proceedings for contempt.

18 Section 105. Findings and recommendations. At the
19 conclusion of the hearing, the Board shall present to the
20 Secretary a written report of its findings and recommendations.
21 The report shall contain a finding of whether or not the
22 accused person violated this Act or failed to comply with the
23 conditions required in this Act. The Board shall specify the

1 nature of the violation or failure to comply and shall make its
2 recommendations to the Secretary.

3 The report of findings and recommendations of the Board
4 shall be the basis for the Department's order or refusal or for
5 the granting of a license unless the Secretary shall determine
6 that the Board's report is contrary to the manifest weight of
7 the evidence, in which case the Secretary may issue an order in
8 contravention of the Board's report. The finding is not
9 admissible in evidence against the person in a criminal
10 prosecution brought for the violation of this Act, but the
11 hearing and finding are not a bar to a criminal prosecution
12 brought for the violation of this Act.

13 Section 110. Rehearing. In any case involving the refusal
14 to issue or renew a license or discipline of a licensee, a copy
15 of the Board's report shall be served upon the respondent by
16 the Department, either personally or as provided in this Act
17 for the service of the notice of hearing. Within 20 days after
18 service, the respondent may present to the Department a motion,
19 in writing and specifying particular grounds, for a rehearing.
20 If no motion for rehearing is filed, then upon the expiration
21 of the time specified for filing the motion, or if a motion for
22 rehearing is denied, then upon the denial, the Secretary may
23 enter an order in accordance with recommendations of the Board,
24 except as provided in Section 105 of this Act. If the
25 respondent shall order from the reporting service and pay for a

1 transcript of the record within the time for filing a motion
2 for rehearing, the 20-day period within which the motion may be
3 filed shall commence upon the delivery of the transcript to the
4 respondent.

5 Section 115. Rehearing. Whenever the Secretary is
6 satisfied that substantial justice has not been done in the
7 revocation, suspension, or refusal to issue or renew a license,
8 the Secretary may order a rehearing by the same or other
9 examiners.

10 Section 120. Appointment of a hearing officer. The
11 Secretary shall have the authority to appoint any attorney duly
12 licensed to practice law in this State to serve as the hearing
13 officer in any action for refusal to issue or renew a license
14 or permit or for the discipline of a licensee. The hearing
15 officer shall have full authority to conduct the hearing. At
16 least one member of the Board shall attend each hearing. The
17 hearing officer shall report his or her findings and
18 recommendations to the Board and the Secretary. The Board shall
19 have 60 days after receipt of the report to review the report
20 of the hearing officer and present its findings of fact,
21 conclusions of law, and recommendations to the Secretary. If
22 the Board fails to present its report within the 60-day period,
23 the Secretary shall issue an order based on the report of the
24 hearing officer. If the Secretary determines that the Board's

1 report is contrary to the manifest weight of the evidence, he
2 or she may issue an order in contravention of the Board's
3 report.

4 Section 125. Order or certified copy; prima facie proof. An
5 order or a certified copy thereof, over the seal of the
6 Department and purporting to be signed by the Secretary, shall
7 be prima facie proof that:

8 (1) the signature is the genuine signature of the
9 Secretary;

10 (2) the Secretary is duly appointed and qualified; and

11 (3) the Board and the members of the Board are
12 qualified to act.

13 Section 130. Restoration of suspended or revoked license.
14 At any time after the suspension or revocation of a license,
15 the Department may restore it to the accused person upon the
16 written recommendation of the Board, unless after an
17 investigation and a hearing, the Board determines that
18 restoration is not in the public interest.

19 Section 145. Surrender of license. Upon the revocation or
20 suspension of any license, the licensee shall surrender the
21 license to the Department and, if the licensee fails to do so,
22 the Department shall have the right to seize the license.

1 Section 150. Temporary suspension of a license. The
2 Secretary may temporarily suspend the license of an Asian
3 bodywork therapist without a hearing, simultaneously with the
4 institution of proceedings for a hearing provided for in
5 Section 95 of this Act, if the Secretary finds that the
6 evidence in his or her possession indicates that continuation
7 in practice would constitute an imminent danger to the public.
8 In the event that the Secretary temporarily suspends the
9 license of an Asian bodywork therapist without a hearing, a
10 hearing by the Board must be held within 30 calendar days after
11 the suspension has occurred.

12 Section 155. Administrative review; venue. All final
13 administrative decisions of the Department are subject to
14 judicial review under the Administrative Review Law and its
15 rules. The term "administrative decision" is defined as in
16 Section 3-101 of the Code of Civil Procedure.

17 Proceedings for judicial review shall be commenced in the
18 circuit court of the county that the party applying for relief
19 resides; but if the party is not a resident of this State, the
20 venue shall be in Sangamon County.

21 The Department shall not be required to certify any record
22 to the court or file any answer in court or otherwise appear in
23 any court in a judicial review proceeding, unless there is
24 filed in the court, with the complaint, a receipt from the
25 Department acknowledging payment of the costs of furnishing and

1 certifying the record. Failure on the part of the plaintiff to
2 file a receipt in court shall be grounds for dismissal of the
3 action.

4 Section 160. Violations. A person who is found to have
5 violated any provision of this Act is guilty of a Class A
6 misdemeanor for the first offense and a Class 4 felony for the
7 second and any subsequent offense.

8 Section 165. Returned checks; fines. Any person who
9 delivers a check or other payment to the Department that is
10 returned to the Department unpaid by the financial institution
11 upon which it is drawn shall pay to the Department, in addition
12 to the amount already owed to the Department, a fine of \$50.
13 The fines imposed by this Section are in addition to any other
14 discipline provided under this Act for unlicensed practice or
15 practice on a nonrenewed license. The Department shall notify
16 the person that payment of fees and fines shall be paid to the
17 Department by certified check or money order within 30 calendar
18 days after the notification. If, after the expiration of 30
19 days after the date of the notification, the person has failed
20 to submit the necessary remittance, the Department shall
21 automatically terminate the license or deny the application,
22 without hearing. If, after termination or denial, the person
23 seeks a license, he or she shall apply to the Department for
24 restoration or issuance of the license and pay all fees and

1 fines due to the Department. The Department may establish a fee
2 for the processing of an application for restoration of a
3 license to pay all expenses of processing this application. The
4 Secretary may waive the fines due under this Section in
5 individual cases where the Secretary finds that the fines would
6 be unreasonable or unnecessarily burdensome.

7 Section 170. Unlicensed practice; violation; civil
8 penalty.

9 (a) Any person who practices, offers to practice, attempts
10 to practice, or holds himself or herself out to practice Asian
11 bodywork therapy or as an Asian bodywork therapist without
12 being licensed under this Act shall, in addition to any other
13 penalty provided by law, pay a civil penalty to the Department
14 in an amount not to exceed \$5,000 for each offense as
15 determined by the Department. The civil penalty shall be
16 assessed by the Department after a hearing is held in
17 accordance with the provisions set forth in this Act regarding
18 the provision of a hearing for the discipline of a licensee.

19 (b) The Department has the authority and power to
20 investigate any unlicensed activity.

21 (c) The civil penalty shall be paid within 60 days after
22 the effective date of the order imposing the civil penalty. The
23 order shall constitute a judgment and may be filed and
24 execution had thereon in the same manner as any judgment from
25 any court of record.

1 Section 175. Home rule. Beginning January 1, 2012, the
2 regulation and licensing of Asian bodywork therapy is an
3 exclusive power and function of the State. Beginning January 1,
4 2012, a home rule unit may not regulate or license Asian
5 bodywork therapists or Asian bodywork therapy establishments.
6 This Section is a denial and limitation of home rule powers and
7 functions under subsection (h) of Section 6 of Article VII of
8 the Illinois Constitution.

9 Section 180. Administrative Procedure Act. The Illinois
10 Administrative Procedure Act is hereby expressly adopted and
11 incorporated herein as if all of the provisions of that Act
12 were included in this Act, except that the provision of
13 subsection (d) of Section 10-65 of the Illinois Administrative
14 Procedure Act that provides that at hearings the licensee has
15 the right to show compliance with all lawful requirements for
16 retention, continuation, or renewal of the license is
17 specifically excluded. For the purposes of this Act the notice
18 required under Section 10-25 of the Administrative Procedure
19 Act is deemed sufficient when mailed to the last known address
20 of a party.

21 Section 185. Severability. The provisions of this Act are
22 severable under Section 1.31 of the Statute on Statutes.

1 Section 190. The Massage Licensing Act is amended by
2 changing Section 25 as follows:

3 (225 ILCS 57/25)

4 (Section scheduled to be repealed on January 1, 2012)

5 Sec. 25. Exemptions.

6 (a) This Act does not prohibit a person licensed under any
7 other Act in this State from engaging in the practice for which
8 he or she is licensed.

9 (b) Persons exempted under this Section include, but are
10 not limited to, physicians, podiatrists, naprapaths, and
11 physical therapists.

12 (c) Nothing in this Act prohibits qualified members of
13 other professional groups, including but not limited to nurses,
14 occupational therapists, cosmetologists, and estheticians,
15 from performing massage in a manner consistent with their
16 training and the code of ethics of their respective
17 professions.

18 (d) Nothing in this Act prohibits a student of an approved
19 massage school or program from performing massage, provided
20 that the student does not hold himself or herself out as a
21 licensed massage therapist and does not charge a fee for
22 massage therapy services.

23 (e) Nothing in this Act prohibits practitioners that do not
24 involve intentional soft tissue manipulation, including but
25 not limited to Alexander Technique, Feldenkrais, Reike, and

1 Therapeutic Touch, from practicing.

2 (f) Practitioners of certain service marked bodywork
3 approaches that do involve intentional soft tissue
4 manipulation, including but not limited to Rolfing, Trager
5 Approach, Polarity Therapy, and Orthobionomy, are exempt from
6 this Act if they are approved by their governing body based on
7 a minimum level of training, demonstration of competency, and
8 adherence to ethical standards.

9 (g) Until January 1, 2012, practitioners ~~Practitioners~~ of
10 Asian bodywork approaches are exempt from this Act if they are
11 members of the American Organization of Bodywork Therapies of
12 Asia as certified practitioners or if they are approved by an
13 Asian bodywork organization based on a minimum level of
14 training, demonstration of competency, and adherence to
15 ethical standards set by their governing body.

16 On and after January 1, 2012, practitioners of Asian
17 bodywork approaches are exempt from this Act if they are
18 licensed under the Asian Bodywork Therapy Licensing Act.

19 (h) Practitioners of other forms of bodywork who restrict
20 manipulation of soft tissue to the feet, hands, and ears, and
21 who do not have the client disrobe, such as reflexology, are
22 exempt from this Act.

23 (i) Nothing in this Act applies to massage therapists from
24 other states or countries when providing educational programs
25 or services for a period not exceeding 30 days within a
26 calendar year.

1 (j) Nothing in this Act prohibits a person from treating
2 ailments by spiritual means through prayer alone in accordance
3 with the tenets and practices of a recognized church or
4 religious denomination.

5 (k) Nothing in this Act applies to persons or entities
6 practicing the specified occupations set forth in subsection
7 (a) of, and pursuant to a licensing exemption granted in
8 subsection (b) or (d) of, Section 2105-350 of the Department of
9 Professional Regulation Law of the Civil Administrative Code of
10 Illinois, but only for so long as the 2016 Olympic and
11 Paralympic Games Professional Licensure Exemption Law is
12 operable.

13 (Source: P.A. 96-7, eff. 4-3-09.)