

AN ACT concerning regulation.

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

Section 5. The Regulatory Sunset Act is amended by changing Section 4.22 and by adding Section 4.32 as follows:

(5 ILCS 80/4.22)

Sec. 4.22. Acts repealed on January 1, 2012. The following Acts are repealed on January 1, 2012:

The Detection of Deception Examiners Act.

The Home Inspector License Act.

The Interior Design Title Act.

~~The Massage Licensing Act.~~

The Petroleum Equipment Contractors Licensing Act.

The Professional Boxing Act.

The Real Estate Appraiser Licensing Act of 2002.

The Water Well and Pump Installation Contractor's License Act.

(Source: P.A. 95-331, eff. 8-21-07.)

(5 ILCS 80/4.32 new)

Sec. 4.32. Acts repealed on January 1, 2022. The following Act is repealed on January 1, 2022:

The Massage Licensing Act.

Section 10. The Massage Licensing Act is amended by changing Sections 10, 15, 25, 30, 35, 40, 45, 55, 60, 70, 85, 90, 95, 100, 105, 110, 115, 120, 125, 130, 135, 145, 150, 155, 160, and 165 and by adding Sections 17, 19, 32, and 168 as follows:

(225 ILCS 57/10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 10. Definitions. As used in this Act:

"Address of Record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address and those changes must be made either through the Department's website or by contacting the Department.

"Approved massage school" means a facility which meets minimum standards for training and curriculum as determined by the Department.

"Board" means the Massage Licensing Board appointed by the Secretary ~~Director~~.

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

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

~~"Director" means the Director of Professional Regulation.~~

"Massage" or "massage therapy" means a system of structured palpation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroking and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands. The purpose of the practice of massage, as licensed under this Act, is to enhance the general health and well-being of the mind and body of the recipient. "Massage" does not include the diagnosis of a specific pathology. "Massage" does not include those acts of physical therapy or therapeutic or corrective measures that are outside the scope of massage therapy practice as defined in this Section.

"Massage therapist" means a person who is licensed by the Department and administers massage for compensation.

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

- (1) The organization requires that its members meet minimum educational requirements. The educational

requirements must include anatomy, physiology, hygiene, sanitation, ethics, technical theory, and application of techniques.

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

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

(Source: P.A. 92-860, eff. 6-1-03; 93-524, eff. 8-12-03.)

(225 ILCS 57/15)

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

Sec. 15. Licensure requirements.

(a) ~~Persons Beginning January 1, 2005, persons~~ engaged in massage for compensation must be licensed by the Department. The Department shall issue a license to an individual who meets all of the following requirements:

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

(2) The applicant is at least 18 years of age and of good moral character. In determining good moral character, the Department may take into consideration conviction of any crime under the laws of the United States or any state or territory thereof that is a felony or a misdemeanor or any crime that is directly related to the practice of the profession. Such a conviction shall not operate

automatically as a complete bar to a license, except in the case of any conviction for prostitution, rape, or sexual misconduct, or where the applicant is a registered sex offender.

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

(A) has successfully completed a massage therapy program ~~the curriculum or curriculums of one or more massage therapy schools~~ approved by the Department that requires ~~require~~ a minimum of 500 hours, except applicants applying on or after January 1, 2014 shall meet a minimum requirement of 600 hours, and has passed a competency examination approved by the Department;

(B) holds a current license from another jurisdiction having licensure requirements that include the completion of a massage therapy program of at least 500 hours ~~that meet or exceed those defined within this Act;~~ or

(C) (blank). ~~has moved to Illinois from a jurisdiction with no licensure requirement and has provided documentation that he or she has successfully passed the National Certification Board of Therapeutic Massage and Bodywork's examination or another massage therapist certifying examination approved by the Department and maintains current certification.~~

(b) Each applicant for licensure as a massage therapist

shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or to a vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Department may adopt any rules necessary to implement this Section.

(Source: P.A. 92-860, eff. 6-1-03; 93-524, eff. 8-12-03; 93-908, eff. 8-11-04.)

(225 ILCS 57/17 new)

Sec. 17. Social Security number on license application. In addition to any other information required to be contained in

the application, every application for an original, renewal, reinstated, or restored license under this Act shall include the applicant's Social Security number.

(225 ILCS 57/19 new)

Sec. 19. Endorsement. The Department may, in its discretion, license as a massage therapist, by endorsement, on payment of the required fee, an applicant who is a massage therapist licensed under the laws of another state or territory, if the requirements for licensure in the state or territory in which the applicant was licensed were, at the date of his or her licensure, substantially equivalent to the requirements in force in this State on that date. The Department may adopt any rules necessary to implement this Section.

Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within the 3 years, the application shall be denied, the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(225 ILCS 57/25)

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

Sec. 25. Exemptions.

(a) This Act does not prohibit a person licensed under any other Act in this State from engaging in the practice for which

he or she is licensed.

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

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

(d) Nothing in this Act prohibits a student of an approved massage school or program from performing massage, provided that the student does not hold himself or herself out as a licensed massage therapist and does not receive compensation, including tips, ~~charge a fee~~ for massage therapy services.

(e) Nothing in this Act prohibits practitioners that do not involve intentional soft tissue manipulation, including but not limited to Alexander Technique, Feldenkrais, Reike, and Therapeutic Touch, from practicing.

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

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

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

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

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

(k) Nothing in this Act applies to the practice of massage therapy by a person either actively licensed as a massage therapist in another state or currently certified by the National Certification Board of Therapeutic Massage and Bodywork or other national certifying body if said person's state does not license massage therapists, if he or she is performing his or her duties for a non-Illinois based team or organization, or for a national athletic event held in this

State, so long as he or she restricts his or her practice to his or her team or organization or to event participants during the course of his or her team's or organization's stay in this State or for the duration of the event. ~~Nothing in this Act applies to persons or entities practicing the specified occupations set forth in subsection (a) of, and pursuant to a licensing exemption granted in subsection (b) or (d) of, Section 2105-350 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois, but only for so long as the 2016 Olympic and Paralympic Games Professional Licensure Exemption Law is operable.~~

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

(225 ILCS 57/30)

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

Sec. 30. Title protection.

(a) Persons regulated by this Act are designated as massage therapists and therefore are exclusively entitled to utilize the terms "massage", "massage therapy", and "massage therapist" when advertising or printing promotional material.

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

(c) Anyone not authorized, under the definitions of this

Act, to utilize the term "massage", "massage therapy", or "massage therapist" and who knowingly utilizes these terms when advertising commits a violation of this Act.

(d) Nothing in this Act shall prohibit the use of the terms "massage", "massage therapy", or "massage therapist" by a salon registered under the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985, provided that the salon offers massage therapy services in accordance with this Act.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/32 new)

Sec. 32. Display. Every holder of a license shall display it, or a copy, in a conspicuous place in the holder's principal office or any other location where the holder renders massage therapy services.

(225 ILCS 57/35)

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

Sec. 35. Massage Licensing Board.

(a) The Secretary ~~Director~~ shall appoint a Massage Licensing Board, which shall serve in an advisory capacity to the Secretary ~~Director~~. The Board shall consist of 7 members, of whom 6 shall be massage therapists with at least 3 years of experience in massage. One of the massage therapist members shall represent a massage therapy school from the private

sector and one of the massage therapist members shall represent a massage therapy school from the public sector. One member of the Board shall be a member of the public who is not licensed under this Act or a similar Act in Illinois or another jurisdiction. Membership on the Board shall reasonably reflect the various massage therapy and non-exempt bodywork organizations. Membership on the Board shall reasonably reflect the geographic areas of the State. The Board shall meet annually to elect a chairperson and vice chairperson. The Board shall hold regularly scheduled meetings during the year. A simple majority of the Board shall constitute a quorum at any meeting. Any action taken by the Board must be on the affirmative vote of a simple majority of members. Voting by proxy shall not be permitted. In the case of an emergency where all Board members cannot meet in person, the Board may convene a meeting via an electronic format in accordance with the Open Meetings Act.

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

for the unexpired portion of the vacated term.

(c) The members of the Board are entitled to receive compensation for all legitimate and necessary expenses incurred while attending Board and Department meetings.

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

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

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

(Source: P.A. 92-860, eff. 6-1-03; 93-524, eff. 8-12-03.)

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

Sec. 40. Duties of the Department. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for administration of licensing acts and shall exercise other powers and duties necessary for effectuating the purpose of this Act. The Department shall adopt rules to implement, interpret, or make specific the provisions and purposes of this Act; however, no such rules shall be adopted by the Department except upon review by the Board.

~~Subject to provisions of this Act, the Department shall:~~

~~(1) Formulate rules required for the administration of this Act. Notice of proposed rule making shall be transmitted to the Board and the Department shall review the Board's response and any recommendations made in the response.~~

~~(2) Determine the qualifications of an applicant for licensure by endorsement.~~

~~(3) Conduct hearings or proceedings to refuse to issue or renew or to revoke a license or to suspend, place on probation, reprimand, or otherwise discipline a person licensed under this Act.~~

~~(4) Solicit the advice and expert knowledge of the Board on any matter relating to the administration and enforcement of this Act.~~

~~(5) Maintain a roster of the names and addresses of all~~

~~licensees and all persons whose licenses have been suspended, revoked, or denied renewal for cause within the previous calendar year. The roster shall be available upon written request and payment of the required fee.~~

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/45)

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

Sec. 45. Grounds for discipline.

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action, as the Department considers appropriate, including the imposition of fines not to exceed \$10,000 ~~\$1,000~~ for each violation, with regard to any license or licensee for any one or more of the following:

(1) violations of this Act or of the rules adopted under this Act; ~~being convicted of any crime under the laws of the United States or any state or territory thereof that is a felony or a misdemeanor, an essential element of which is dishonesty, or any that is directly related to the practice of massage. Conviction, as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere;~~

(2) conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to,

convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony; or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession ~~advertising in a false, deceptive, or misleading manner;~~

(3) professional incompetence; ~~aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to any rules or provisions of this Act;~~

(4) advertising in a false, deceptive, or misleading manner;

(5) aiding, abetting, assisting, procuring, advising, employing, or contracting with any unlicensed person to practice massage contrary to any rules or provisions of this Act;

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

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

(8) ~~(6)~~ practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to

perform;

(9) ~~(7)~~ knowingly delegating professional responsibilities to a person unqualified by training, experience, or licensure to perform;

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

(11) ~~(9)~~ having a habitual or excessive use of or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in the inability to practice with reasonable judgment, skill, or safety;

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

(13) discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section;

(14) a finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation;

(15) willfully making or filing false records or reports in his or her practice, including, but not limited to, false records filed with State agencies or departments;

(16) ~~(11)~~ making a material misstatement in furnishing information to the Department or otherwise making misleading, deceptive, untrue, or fraudulent

representations in violation of this Act or otherwise in the practice of the profession;

(17) fraud or misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal of a license under this Act; ~~(12) making any misrepresentation for the purpose of obtaining a license; or~~

(18) inability to practice the profession with reasonable judgment, skill, or safety as a result of physical illness, including, but not limited to, deterioration through the aging process, loss of motor skill, or a mental illness or disability; ~~(13) having a physical illness, including but not limited to deterioration through the aging process or loss of motor skills, that results in the inability to practice the profession with reasonable judgment, skill, or safety.~~

(19) charging for professional services not rendered, including filing false statements for the collection of fees for which services are not rendered;

(20) practicing under a false or, except as provided by law, an assumed name; or

(21) cheating on or attempting to subvert the licensing examination administered under this Act.

All fines shall be paid within 60 days of the effective date of the order imposing the fine.

(b) A person not licensed under this Act and engaged in the

business of offering massage therapy services through others, shall not aid, abet, assist, procure, advise, employ, or contract with any unlicensed person to practice massage therapy contrary to any rules or provisions of this Act. A person violating this subsection (b) shall be treated as a licensee for the purposes of disciplinary action under this Section and shall be subject to cease and desist orders as provided in Section 90 of this Act.

(c) The Department shall revoke any license issued under this Act of any person who is convicted of prostitution, rape, sexual misconduct, or any crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act and any such conviction shall operate as a permanent bar in the State of Illinois to practice as a massage therapist.

(d) ~~(b)~~ The Department may refuse to issue or may suspend the license of any person who fails to file a tax return, to pay the tax, penalty, or interest shown in a filed tax return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

(e) The Department shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the

Illinois Student Assistance Commission or any governmental agency of this State in accordance with item (5) of subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

(f) In cases where the Department of Healthcare and Family Services has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with item (5) of subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

(g) ~~(e)~~ The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. The suspension will end only upon ~~(i)~~ a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient and ~~(ii) the recommendation of the Board to the Director that the licensee be allowed to resume his or her practice.~~

(h) ~~(d)~~ In enforcing this Act ~~Section~~, the Department or

Board, upon a showing of a possible violation, may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall result in an automatic suspension without hearing ~~be grounds for suspension of his or her license until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.~~

A person holding a license under this Act or who has applied for a license under this Act who, because of a physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill,

is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department to submit to care, counseling, or treatment by physicians approved or designated by the Department as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice. Submission to care, counseling, or treatment as required by the Department shall not be considered discipline of a license. If the licensee refuses to enter into a care, counseling, or treatment agreement or fails to abide by the terms of the agreement, the Department may file a complaint to revoke, suspend, or otherwise discipline the license of the individual. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in disciplinary actions involving physical or mental illness or impairment.

~~If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated,~~

~~renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Director for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.~~

In instances in which the Secretary ~~Director~~ immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/55)

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

Sec. 55. Exclusive jurisdiction. The ~~Beginning January 1, 2005, the~~ regulation and licensing of massage therapy is an

exclusive power and function of the State. ~~A Beginning January 1, 2005,~~ a home rule unit may not regulate or license massage therapists. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 92-860, eff. 6-1-03; 93-524, eff. 8-12-03.)

(225 ILCS 57/60)

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

Sec. 60. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Administrative Procedure Act is deemed sufficient when mailed to the address of record ~~last known address~~ of a party.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/70)

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

Sec. 70. Restoration of expired licenses. A massage

therapist who has permitted his or her license to expire or who has had his or her license on inactive status may have his or her license restored by making application to the Department and filing proof acceptable to the Department of his or her fitness to have his or her license restored, including sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department, and by paying the required restoration fee and showing proof of completion of required continuing education. Licensees must provide proof of completion of 24 hours approved continuing education to renew their license.

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

A massage therapist whose license has been expired or placed on inactive status for more than 5 years may have his or her license restored by making application to the Department and filing proof acceptable to the Department of his or her fitness to have his or her license restored, including sworn evidence certifying to active practice in another jurisdiction, by paying the required restoration fee, and by showing proof of the completion of 24 hours of continuing

education.

However, any registrant whose license has expired while he or she has been engaged (i) in Federal Service on active duty with the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or Public Health Service or the State Militia called into the service or training of the United States of America, or (ii) in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license reinstated or restored without paying any lapsed renewal fees, if within 2 years after honorable termination of such service, training, or education, he or she furnishes to the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

~~However, a massage therapist whose license has expired while he or she has been engaged (i) in active duty with the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard, or the State Militia called into the service or training of the United States of America, or (ii) in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license restored without paying any lapsed renewal fees or restoration fee if, within 2 years after termination of the service, training, or education, other than by dishonorable discharge, he or she furnishes the~~

~~Department with an affidavit to the effect that he or she has been so engaged and that his or her service, training, or education has been terminated.~~

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/85)

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

Sec. 85. Deposit of fees and fines; appropriations. All fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund. All moneys in the Fund shall be used by the Department of Financial and Professional Regulation, as appropriated, for the ordinary and contingent expenses of the Department.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/90)

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

Sec. 90. Violations; injunction; cease and desist order.

(a) If any person violates a provision of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois or the State's Attorney in the county in which the offense occurs, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may

preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If, ~~after January 1, 2005,~~ any person practices as a massage therapist or holds himself or herself out as a massage therapist without being licensed under the provisions of this Act, then the Secretary ~~Director~~, any licensed massage therapist, any interested party, or any person injured thereby may petition for relief as provided in subsection (a) of this Section or may apply to the circuit court of the county in which the violation or some part thereof occurred, or in which the person complained of has his or her principal place of business or resides, to prevent the violation. The court has jurisdiction to enforce obedience by injunction or by other process restricting the person complained of from further violation and enjoining upon him or her obedience.

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

satisfaction of the Department shall cause an order to cease and desist to be issued ~~immediately~~.

(Source: P.A. 92-860, eff. 6-1-03; 93-524, eff. 8-12-03.)

(225 ILCS 57/95)

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

Sec. 95. Investigations; notice and hearing. The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render massage therapy services or any person holding or claiming to hold a license as a massage therapist. The Department shall, before refusing to issue or renew a license or to discipline a licensee under Section 45, at least 30 days prior to the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer with the Department under oath within 20 days after the service of the notice, and (iii) inform the applicant or licensee that failure to file an answer will result in a default judgment being entered against the applicant or licensee. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties of their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her

license may, in the discretion of the Department, be revoked, suspended, placed on probationary status, or the Department may take whatever disciplinary actions considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under the Act. The written notice may be served by personal delivery or by certified mail to the accused's address of record. ~~The Department may investigate the actions of any applicant or of any person holding or claiming to hold a license. The Department shall, before refusing to issue or renew a license or to discipline a licensee pursuant to Section 45, notify the applicant or holder of a license in writing, at least 30 days prior to the date set for the hearing, of the nature of the charges and that a hearing will be held on the date designated. The notice shall direct the applicant or licensee to file a written answer to the Board under oath within 20 days after the service of the notice, and shall inform the applicant or licensee that failure to file an answer will result in a default judgment being entered against the applicant or licensee. A default judgment may result in the license being suspended, revoked, or placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature, or extent of practice, as the Director may deem proper. Written notice may be served by personal delivery or certified or registered mail to the~~

~~respondent at the address of his or her last notification to the Department. In case the person fails to file an answer after receiving notice, his or her license or certificate may, in the discretion of the Department, be suspended, revoked, or placed on probationary status and the Department may take whatever disciplinary action it deems proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present statements, testimony, evidence and argument that may be pertinent to the charges or to the licensee's defense. The Board may continue a hearing from time to time.~~

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/100)

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

Sec. 100. Stenographer; transcript. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case ~~involving the refusal to issue or renew a license or the discipline of a licensee.~~ Any notice, all documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, reports of the Board and hearing officer, and orders of the Department

~~shall be in the record of the proceeding. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board, and the order of the Department shall be the record of the proceeding.~~

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/105)

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

Sec. 105. Subpoenas; depositions; oaths. Compelling testimony.

(a) The Department may subpoena and bring before it any person to take the oral or written testimony or compel the production of any books, papers, records, or any other documents that the Secretary or his or her designee deems relevant or material to any such investigation or hearing conducted by the Department with the same fees and in the same manner as prescribed in civil cases in the courts of this State.

(b) Any circuit court, upon the application of the licensee or the Department, may order the attendance and testimony of witnesses and the production of relevant documents, files, records, books, and papers in connection with any hearing or investigation. The circuit court may compel obedience to its order by proceedings for contempt.

(c) The Secretary, the hearing officer, any member of the

Board, or a certified shorthand court reporter may administer oaths at any hearing the Department conducts. Notwithstanding any other statute or Department rule to the contrary, all requests for testimony, production of documents, or records shall be in accordance with this Act. ~~Any circuit court, upon application of the Department or its designee or of the applicant or licensee against whom proceedings pursuant to Section 95 of this Act are pending, may enter an order requiring the attendance of witnesses and their testimony and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.~~

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/110)

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

Sec. 110. Findings and recommendations. At the conclusion of the hearing, the Board shall present to the Secretary ~~Director~~ a written report of its findings and recommendations. The report shall contain a finding of whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply and shall make its recommendations to the Secretary ~~Director~~.

The report of findings and recommendations of the Board shall be the basis for the Department's order or refusal or for

the granting of a license unless the Secretary ~~Director~~ shall determine that the Board's report is contrary to the manifest weight of the evidence, in which case the Secretary ~~Director~~ may issue an order in contravention of the Board's report. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for the violation of this Act.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/115)

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

Sec. 115. Board; rehearing ~~Rehearing~~. In any case involving the refusal to issue or renew a license or discipline of a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after service, the respondent may present to the Department a motion, in writing and specifying particular grounds, for a rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing the motion, or if a motion for rehearing is denied, then upon the denial, the Secretary ~~Director~~ may enter an order in accordance with recommendations of the Board, except as provided in Section 110 of this Act. If the respondent shall order from the reporting service and pay for a transcript of the record within

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

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/120)

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

Sec. 120. Secretary ~~Director~~; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, the Secretary may order a rehearing by the same or other hearing officers ~~Whenever the Director is satisfied that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license, the Director may order a rehearing by the same or other examiners.~~

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/125)

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

Sec. 125. Appointment of a hearing officer. The Secretary ~~Director~~ shall have the authority to appoint any attorney duly licensed to practice law in this State to serve as the hearing officer in any action for refusal to issue or renew a license or permit or for the discipline of a licensee. The hearing officer shall have full authority to conduct the hearing. ~~At~~

~~least one member of the Board shall attend each hearing.~~ The hearing officer shall report his or her findings and recommendations to the Board and the Secretary ~~Director~~. The Board shall have 60 days after receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary ~~Director~~. If the Board fails to present its report within the 60-day period, the Secretary ~~Director~~ shall issue an order based on the report of the hearing officer. If the Secretary ~~Director~~ determines that the Board's report is contrary to the manifest weight of the evidence, he or she may issue an order in contravention of the Board's report.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/130)

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

Sec. 130. Order or certified copy; prima facie proof. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, shall be prima facie proof that:

(1) the signature is the genuine signature of the Secretary ~~Director~~;

(2) the Secretary ~~Director~~ is duly appointed and qualified; and

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

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/135)

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

Sec. 135. Restoration of license from discipline ~~suspended or revoked license~~. At any time after the successful completion of a term of indefinite probation, suspension, or revocation of a license, the Department may restore the license to the licensee, upon written recommendation of the Board, unless after an investigation and a hearing the Secretary determines that restoration is not in the public interest. No person or entity whose license, certificate, or authority has been revoked as authorized in this Act may apply for restoration of that license, certification, or authority until such time as provided for in the Civil Administrative Code of Illinois ~~At any time after the suspension or revocation of a license, the Department may restore it to the accused person upon the written recommendation of the Board, unless after an investigation and a hearing, the Board determines that restoration is not in the public interest.~~

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/145)

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

Sec. 145. Temporary suspension of a license. The Secretary ~~Director~~ may temporarily suspend the license of a massage

therapist without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 95 of this Act, if the Secretary ~~Director~~ finds that the evidence in his or her possession indicates that continuation in practice would constitute an imminent danger to the public. In the event that the Secretary ~~Director~~ temporarily suspends the license of a massage therapist without a hearing, a hearing by the Board must be held within 30 calendar days after the suspension has occurred.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/150)

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

Sec. 150. Administrative review; venue. All final administrative decisions of the Department are subject to judicial review under ~~pursuant to~~ the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

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

The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless and until ~~there is filed in the court, with the complaint, a receipt from~~

the Department has received from the plaintiff acknowledging payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file a receipt in court shall be grounds for dismissal of the action.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/155)

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

Sec. 155. Violations.

(a) A person who is found to have violated any provision of this Act is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for the second and any subsequent offense.

(b) Whoever knowingly practices or offers to practice massage therapy in this State without a license for that purpose, or whoever knowingly aids, abets, assists, procures, advises, employs, or contracts with any unlicensed person to practice massage therapy contrary to any rule or provision of this Act, shall be guilty of a Class A misdemeanor and, for each subsequent conviction, shall be guilty of a Class 4 felony.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/160)

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

Sec. 160. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary ~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-860, eff. 6-1-03; 93-524, eff. 8-12-03.)

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

Sec. 165. Unlicensed practice; violation; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice massage therapy or as a massage therapist without being licensed under this Act, or any person not licensed under this Act who aids, abets, assists, procures, advises, employs, or contracts with any unlicensed person to practice massage therapy contrary to any rules or provisions of this Act, shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each violation of this Act ~~offense~~ as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

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

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

(d) All moneys collected under this Section shall be deposited into the General Professions Dedicated Fund.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/168 new)

Sec. 168. Confidentiality. All information collected by the Department in the course of an examination or investigation of a licensee or applicant, including, but not limited to, any complaint against a licensee filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or to a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

(225 ILCS 57/20 rep.)

Section 15. The Massage Licensing Act is amended by repealing Section 20.

Section 99. Effective date. This Act takes effect upon becoming law.

INDEX

Statutes amended in order of appearance

- 5 ILCS 80/4.22
- 5 ILCS 80/4.32 new
- 225 ILCS 57/10
- 225 ILCS 57/15
- 225 ILCS 57/17 new
- 225 ILCS 57/19 new
- 225 ILCS 57/25
- 225 ILCS 57/30
- 225 ILCS 57/32 new
- 225 ILCS 57/35
- 225 ILCS 57/40
- 225 ILCS 57/45
- 225 ILCS 57/55
- 225 ILCS 57/60
- 225 ILCS 57/70
- 225 ILCS 57/85
- 225 ILCS 57/90
- 225 ILCS 57/95
- 225 ILCS 57/100
- 225 ILCS 57/105
- 225 ILCS 57/110
- 225 ILCS 57/115
- 225 ILCS 57/120

Public Act 097-0514

SB0153 Enrolled

LRB097 06454 CEL 46536 b

225 ILCS 57/125

225 ILCS 57/130

225 ILCS 57/135

225 ILCS 57/145

225 ILCS 57/150

225 ILCS 57/155

225 ILCS 57/160

225 ILCS 57/165

225 ILCS 57/168 new

225 ILCS 57/20 rep.