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HOUSE BILL 510

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Lisa L. Lutz

AN ACT

RELATING TO LICENSING; REVISING THE PROVISIONS OF LAW
REGULATING THE PRACTICE OF MASSAGE THERAPY; AMENDING,
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-12C-2 NMSA 1978 (being Laws 1991,
Chapter 147, Section 2) is amended to read:

"61-12C-2. LEGISLATIVE PURPOSE. -- [~~The legislature
recognizes that the practice of massage therapy is potentially
dangerous to the public. Therefore, it is necessary and~~] In
the interest of public health, safety and welfare [~~to regulate
the practice of massage therapy~~] and to protect the public
from unlawful, improper and incompetent practice of massage
therapy, it is necessary to regulate that practice."

Section 2. Section 61-12C-3 NMSA 1978 (being Laws 1991,

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1 Chapter 147, Section 3, as amended) is amended to read:

2 "61-12C-3. DEFINITIONS. -- As used in the Massage Therapy
3 Practice Act:

4 ~~[A. "approved massage therapy school" means a~~
5 ~~facility registered with the board that meets established~~
6 ~~standards of training and curriculum;~~

7 B.] A. "board" means the ~~[board of]~~ massage
8 therapy board;

9 ~~[C.]~~ B. "department" means the regulation and
10 licensing department;

11 C. "jurisprudence" ~~means the statutes and rules of~~
12 the state pertaining to the practice of massage therapy;

13 D. "massage therapist" means a person ~~[who uses~~
14 ~~the title of massage therapist, is]~~ licensed to practice
15 massage therapy pursuant to the Massage Therapy Practice Act
16 ~~[and administers massage therapy for compensation];~~

17 E. "massage therapy" means ~~[the treatment of soft~~
18 ~~tissues for therapeutic purposes as defined in Section~~
19 ~~61-12C-4 NMSA 1978; and~~

20 ~~F. "jurisprudence" means the statutes and rules of~~
21 ~~the state pertaining to the practice of massage therapy]~~
22 manipulating muscles, ligaments, tendons, muscle insertions
23 and muscle anchors to effect a change in soft tissues of the
24 human body to produce comfort or the relief of pain primarily
25 for therapeutic purposes, but "massage therapy" does not

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1 include somatic practices as defined by the board or
2 reflexology;

3 F. "massage therapy school" means a facility
4 providing a curriculum in massage therapy that is registered
5 with the board; and

6 G. "massage therapy training program" means a
7 program providing massage therapy training that is not a
8 massage therapy school and is registered with the board. "

9 Section 3. Section 61-12C-4 NMSA 1978 (being Laws 1991,
10 Chapter 147, Section 4, as amended by Laws 1993, Chapter 158,
11 Section 8 and also by Laws 1993, Chapter 173, Section 3) is
12 amended to read:

13 "61-12C-4. [~~MESSAGE THERAPY--THERAPY--DEFINED~~]
14 EXCLUSIONS FROM ACT. --

15 [~~A. Massage therapy is the treatment of soft~~
16 ~~tissues for therapeutic purposes, primarily comfort and relief~~
17 ~~of pain. Massage therapy is a health care service. Massage~~
18 ~~therapy includes but is not limited to effleurage, petrissage,~~
19 ~~tapotement, compression, vibration, friction, nerve strokes~~
20 ~~and Swedish gymnastics. Massage therapy may include the use~~
21 ~~of oils, salt glows, hot or cold packs or hydrotherapy.~~
22 ~~Synonymous terms for massage therapy include massage,~~
23 ~~therapeutic massage, body massage, myomassage, bodywork, body~~
24 ~~rub or any derivation of those terms.~~

25 B. ~~The terms "therapy" and "therapeutic massage"~~

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1 ~~do not include the diagnosis or treatment of illness or~~
2 ~~disease or any service or procedure for which a license to~~
3 ~~practice medicine, nursing, chiropractic, physical therapy,~~
4 ~~occupational therapy, acupuncture or podiatry is required by~~
5 ~~law.] Excluded from the application of other provisions of the~~
6 ~~Massage Therapy Practice Act are:~~

7 A. services or procedures for which a license or
8 registration is required by law or rule and that are provided
9 by licensed or registered members of recognized professions
10 within the scope of the license or registration;

11 B. students who render massage therapy as part of
12 a course of study in a massage therapy school under the
13 supervision of a registered massage therapy instructor;

14 C. a visiting massage therapy instructor from
15 another state or territory of the United States, the District
16 of Columbia or a foreign country if he is licensed or
17 registered in his place of residence if required under that
18 place's laws or, if not required, then if he is qualified in
19 that place to provide massage therapy; and

20 D. traditional Hispanic or Native American healing
21 practices performed by a sobador or a Native American healer."

22 Section 4. Section 61-12C-5 NMSA 1978 (being Laws 1991,
23 Chapter 147, Section 5, as amended) is amended to read:

24 "61-12C-5. LICENSE OR REGISTRATION REQUIRED. -- [Effective
25 ~~April 30, 1992]~~

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1 A. ~~[it is unlawful for any]~~ A person ~~[to practice]~~
2 shall not provide or offer to provide massage therapy for
3 compensation ~~[to offer services as a massage therapist for~~
4 ~~compensation or to purport to be a massage therapist]~~ unless
5 that person ~~[possesses a license to practice massage therapy~~
6 ~~under the provisions of the Massage Therapy Practice Act and]~~
7 is a massage therapist.

8 B. ~~[no]~~ A person shall not use the title of or
9 represent himself to be a massage therapist or use any other
10 title, abbreviations, letters, figures, signs or devices that
11 indicate ~~[that]~~ the person is a massage therapist unless he is
12 ~~[licensed to practice massage therapy pursuant to the~~
13 ~~provisions of the Massage Therapy Practice Act]~~ a massage
14 therapist.

15 C. A person shall not provide or offer to provide
16 massage therapy training as a massage therapy instructor
17 unless he is registered as a massage therapy instructor
18 pursuant to Section 61-12C-9 NMSA 1978.

19 D. A person shall not maintain, manage or operate
20 a school or training program offering education, instruction
21 or training in massage therapy unless the school or program is
22 a massage therapy school or a massage therapy instruction
23 program."

24 Section 5. Section 61-12C-7 NMSA 1978 (being Laws 1991,
25 Chapter 147, Section 7, as amended) is amended to read:

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1 "61-12C-7. BOARD CREATED- - MEMBERSHIP. - -

2 A. ~~[There is created]~~ The ~~[board of]~~ "massage
3 therapy board" is created. The board ~~[shall be]~~ is
4 administratively attached to the department.

5 B. The board ~~[shall consist]~~ consists of five
6 members who are New Mexico residents. Members of the board
7 shall be appointed by the governor to terms of four years.
8 The terms shall be staggered, and the governor shall make
9 appointments of two two-year terms, two three-year terms and
10 one four-year term, if necessary to produce staggered terms.
11 Three members of the board shall be massage therapists, each
12 with at least five years of massage therapy practice ~~[in New~~
13 ~~Mexico]~~ and who are actively engaged in the practice of
14 massage therapy during their tenure as members. Two members
15 of the board shall be public members ~~[The initial three~~
16 ~~professional members appointed shall meet the requirements for~~
17 ~~licensure and be licensed by the deadline specified for~~
18 ~~licensure in the Massage Therapy Practice Act. The public~~
19 ~~members shall not]~~ who have not been licensed [or] and have
20 [any] no financial interest, direct or indirect, in the
21 profession [regulated] of massage therapy.

22 C. Each member of the board shall hold office
23 ~~[until the expiration of the term for which appointed or]~~
24 until a successor has been appointed and qualified.

25 D. No board member shall serve more than two full

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1 consecutive terms.

2 E. The board shall elect annually a [~~chairman~~]
3 chair and [~~such~~] other officers as it deems necessary. The
4 board shall meet as often as necessary for the conduct of
5 business, but no less than twice a year. Meetings shall be
6 [~~called by the chairman or upon the written request of three~~
7 ~~or more members of the board~~] held in accordance with the Open
8 Meetings Act. Three members, at least one of whom [~~is~~] must
9 be a public member, shall constitute a quorum.

10 F. [~~Any~~] A board member may be recommended for
11 removal as a member of the board for failing to attend, after
12 proper notice, three consecutive board meetings.

13 G. Members of the board shall be reimbursed as
14 provided for nonsalaried public officers in the Per Diem and
15 Mileage Act and shall receive no other compensation,
16 perquisite or allowance."

17 Section 6. Section 61-12C-8 NMSA 1978 (being Laws 1991,
18 Chapter 147, Section 8, as amended) is amended to read:

19 "61-12C-8. BOARD [~~DUTIES~~] POWERS. -- The board [~~shall~~
20 ~~have~~] has the power to:

21 A. adopt and file, in accordance with the State
22 Rules Act, rules [~~and regulations~~] necessary to carry out the
23 provisions of the Massage Therapy Practice Act, in accordance
24 with the provisions of [~~the Uniform Licensing Act~~] Sections
25 61-1-29 through 61-1-32 NMSA 1978;

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1 B. provide for the evaluation of the
2 qualifications of applicants for licensure or registration
3 under the Massage Therapy Practice Act;

4 C. provide for the issuance of licenses or
5 registrations to applicants who meet the requirements of the
6 Massage Therapy Practice Act;

7 D. provide for the inspection, when required, of
8 the business premises of any licensee or registrant during
9 regular business hours;

10 E. establish minimum training and educational
11 standards for licensure as a massage therapist or registration
12 as a massage therapy instructor;

13 F. establish a process for [~~approval~~] registration
14 of massage therapy training programs and massage therapy
15 schools;

16 [~~G. provide for the investigation of persons~~
17 ~~engaging in practices that may violate the provisions of the~~
18 ~~Massage Therapy Practice Act;~~

19 [~~H. revoke, suspend or deny a license or~~
20 ~~registration in accordance with the provisions of the Uniform~~
21 ~~Licensing Act;~~]

22 G. pursuant to the Uniform Licensing Act, conduct
23 hearings on charges against applicants, licensees or
24 registrants and take actions described in Section 61-1-3 NMSA
25 1978;

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1 H. bring an action for injunctive relief in
2 district court seeking to enjoin a person from violating the
3 provisions of the Massage Therapy Act;

4 I. issue cease and desist orders to persons
5 violating the provisions of the Massage Therapy Practice Act
6 or any rule adopted by the board pursuant to that act;

7 [~~I.~~] J. adopt an annual budget;

8 [~~J.~~] K. adopt a code of [ethics and] professional
9 conduct;

10 [~~K.~~] L. provide for the investigation of
11 complaints against licensees [The board may issue
12 investigation subpoenas prior to the issuance of a notice of
13 contemplated action as set forth in Section 61-1-4 NMSA 1978];
14 and

15 M publish at least annually combined or separate
16 lists of licensed massage therapists, registered massage
17 therapy instructors, registered massage therapy schools and
18 registered massage therapy training programs. "

19 Section 7. Section 61-12C-9 NMSA 1978 (being Laws 1991,
20 Chapter 147, Section 9, as amended) is amended to read:

21 "61-12C-9. REQUIREMENTS FOR LICENSURE [REGISTERED] OF
22 MESSAGE THERAPISTS AND REGISTRATION OF MESSAGE THERAPY
23 INSTRUCTORS. --

24 A. The board shall issue a license to practice
25 massage therapy to any person who files a completed

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1 application, accompanied by the required fees, and who submits
2 satisfactory evidence that the applicant:

3 (1) has reached the age of majority;

4 (2) has completed all educational
5 requirements established by the board;

6 (3) has completed a curriculum at a massage
7 therapy school or a massage therapy training program [~~approved~~
8 ~~by the board, at a school approved by the board, that program~~]
9 being at least six hundred fifty hours in length that includes
10 at least five hundred hours of massage therapy instruction;

11 [~~provided that if the approved training program is~~] if the
12 applicant has completed a curriculum of less than six hundred
13 fifty hours, the applicant shall provide documentation of up
14 to [~~three~~] one hundred fifty hours of alternative qualifying
15 experience, including [~~but not limited to~~] professional
16 massage therapy experience, apprenticeship training in massage
17 therapy, clinical or internship training and prior experience
18 in a health career, to be approved by the board; and

19 (4) demonstrates professional competence by
20 passing [~~a written examination as~~] all examinations prescribed
21 by [~~the~~] board rule.

22 [~~B. The board may also require a practical~~
23 ~~examination as a condition for licensure.~~

24 ~~C.]~~ B. The board shall register as a massage
25 therapy instructor any applicant who:

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(1) is currently licensed as a massage therapist; and
[~~(2) proves to the board's satisfaction that he meets the minimum requirement of two years of experience in his area of instruction~~]

(2) has completed the educational and experience requirements established by the board, which requirements shall meet minimum standards of training and curriculum for massage therapy instructors established by the board.

C. An initial license or registration issued pursuant to this section may be for a period of up to two years pursuant to board rule. "

Section 8. Section 61-12C-10 NMSA 1978 (being Laws 1991, Chapter 147, Section 10, as amended) is amended to read:

"61-12C-10. [APPROVED] REQUIREMENTS FOR REGISTRATION OF MASSAGE THERAPY SCHOOLS [REGISTRATION] AND MASSAGE THERAPY TRAINING PROGRAMS. --

A. The board shall establish by rule procedures for ~~[approval]~~ the registration of massage therapy schools and massage therapy training programs and shall register massage therapy schools and massage therapy training programs that meet the ~~[educational]~~ requirements of the Massage Therapy Practice Act and rules adopted by the board pursuant to that act.

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1 B. The board shall establish minimum standards of
2 training and curriculum for ~~[approved training programs and~~
3 ~~for approved]~~ massage therapy schools. ~~[At a minimum,~~
4 ~~approved]~~ Massage therapy schools shall provide ~~[training~~
5 ~~programs]~~ a curriculum that ~~[include]~~ includes a minimum of
6 ~~[three]~~ six hundred fifty hours of training ~~[This]~~ and shall
7 include instruction in:

- 8 (1) anatomy;
- 9 (2) physiology;
- 10 (3) at least five hundred hours in massage
11 therapy;
- 12 (4) business;
- 13 (5) hydrotherapy;
- 14 (6) first aid;
- 15 (7) cardiopulmonary resuscitation; and
- 16 (8) professional ethics.

17 C. The board shall establish minimum standards of
18 training and curriculum for massage therapy training programs.
19 Massage therapy training programs shall provide a curriculum
20 that includes a minimum of six hundred fifty hours of training
21 and instruction in the subjects described in Paragraphs (1)
22 through (8) of Subsection B of this section.

23 ~~[C.]~~ D. The board shall establish a list of
24 ~~[approved]~~ registered massage therapy schools and ~~[shall~~
25 ~~register any institution that meets the requirements of the~~

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1 ~~board and files a current curriculum and list of instructors.~~

2 ~~D. An approved massage therapy school shall~~
3 ~~register annually with the board]~~ massage therapy training
4 programs.

5 E. A massage therapy school or a massage therapy
6 training program shall limit the description on its diplomas,
7 certificates or other evidences of successful completion of
8 training to the words "massage therapy" to describe the
9 content of the training. "

10 Section 9. Section 61-12C-11 NMSA 1978 (being Laws 1991,
11 Chapter 147, Section 11, as amended) is amended to read:

12 "61-12C-11. DISPLAY OF LICENSE OR REGISTRATION. -- A
13 massage therapy license or registration issued by the board
14 shall at all times be posted in a conspicuous place in the
15 holder's principal place of business. "

16 Section 10. Section 61-12C-13 NMSA 1978 (being Laws
17 1991, Chapter 147, Section 13, as amended) is amended to read:

18 "61-12C-13. EXAMINATIONS. --

19 A. ~~[Examinations shall be held at least twice each~~
20 ~~year on a date and at a location established by the board.~~
21 ~~Applicants who have been found to meet the education and~~
22 ~~experience requirements for licensure shall be scheduled for~~
23 ~~the next examination following the filing of the application.]~~

24 The board shall establish by rule the [~~examination application~~
25 ~~deadline and other rules relating to~~] required examinations

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1 and the procedures for taking and retaking [~~licensure~~
2 ~~examinations~~] them. The board shall determine the passing
3 grade on examinations.

4 B. The board shall specify by rule the general
5 areas of competency to be covered by examinations for
6 licensure and ensure that the examinations measure adequately
7 both an applicant's competency and knowledge of related
8 statutory requirements. Professional testing services may be
9 utilized for the examinations.

10 [~~C. After taking the written examination, each~~
11 ~~applicant may be tested in the practical application of~~
12 ~~massage therapy techniques in such a manner and by such~~
13 ~~methods as shall reveal the applicant's skill and knowledge.~~

14 [~~D. All licensing examinations shall be conducted~~
15 ~~in such a manner that the applicants shall be known to the~~
16 ~~board by number until the examination is completed and the~~
17 ~~grade determined. A record of each examination shall be filed~~
18 ~~in the board office and available for inspection for a period~~
19 ~~of not less than two years immediately following the~~
20 ~~examination.]"~~

21 Section 11. Section 61-12C-14 NMSA 1978 (being Laws
22 1991, Chapter 147, Section 14, as amended) is amended to read:

23 "61-12C-14. TEMPORARY LICENSE. --

24 A. Prior to examination, an applicant for
25 licensure may obtain a temporary license to engage in the

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1 practice of massage therapy [~~provided that~~] if the applicant
2 meets all the requirements for licensure except completion of
3 the examination.

4 B. The temporary license is valid until the
5 results of the next scheduled examination are available and a
6 license is issued or denied. [~~If approved, the applicant~~
7 ~~shall be issued the initial license for the remainder of the~~
8 ~~year.~~]

9 C. No more than one temporary license may be
10 issued to an individual, and no temporary license shall be
11 issued to an applicant who has previously failed the
12 examinations. "

13 Section 12. Section 61-12C-16 NMSA 1978 (being Laws
14 1991, Chapter 147, Section 16, as amended) is amended to read:

15 "61-12C-16. LICENSURE BY CREDENTIALS. --After successful
16 completion of a jurisprudence examination, the board may
17 license an applicant, provided that he possesses a valid
18 license or registration to practice massage therapy issued by
19 the appropriate examining board under the laws of any other
20 state or territory of the United States, the District of
21 Columbia or any foreign nation and has met educational and
22 examination requirements [~~substantially equivalent~~] equal to
23 or exceeding those established pursuant to the Massage Therapy
24 Practice Act. "

25 Section 13. Section 61-12C-17 NMSA 1978 (being Laws

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1 1991, Chapter 147, Section 17, as amended) is amended to read:

2 "61-12C-17. LICENSE OR REGISTRATION RENEWAL--CONTINUING
3 EDUCATION.--

4 A. Massage therapy licenses and massage therapy
5 instructor registrations shall expire biennially. [~~and~~]
6 Massage therapy school registrations and massage therapy
7 training program registrations shall expire annually. [~~on a~~
8 ~~date~~] Expiration dates shall be established by rule.

9 [~~B. Each licensee shall renew his license by~~
10 ~~submitting a renewal application on a form provided by the~~
11 ~~board. Initial licenses may be valid for one or two years,~~
12 ~~depending on assigned license number and board rule.~~

13 ~~C.] B.~~ The board may establish continuing
14 educational requirements as a condition of the renewal of
15 massage therapy licenses

16 [~~D. Each massage therapy school shall renew its~~
17 ~~registration by submitting a renewal application and providing~~
18 ~~a description of its current curriculum and list of all~~
19 ~~instructors]~~ and massage therapy instructor registrations.

20 C. A license or registration shall be renewed by
21 submitting a renewal application on a form provided by the
22 board.

23 [~~E.] D.~~ A sixty-day grace period shall be allowed
24 each license or registration holder after the end of the
25 renewal period, during which time a license or registration

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1 may be renewed upon payment of the renewal fee and a late fee
2 as prescribed by the board. "

3 Section 14. Section 61-12C-18 NMSA 1978 (being Laws
4 1991, Chapter 147, Section 18) is amended to read:

5 "61-12C-18. INACTIVE STATUS. --

6 A. [~~Any license~~] A massage therapy license or
7 massage therapy instructor registration not renewed at the end
8 of the sixty-day grace period shall be placed on inactive
9 status for a period not to exceed two years. At the end of
10 two years, if the license or registration has not been
11 reactivated, it shall automatically expire.

12 B. If within a period of two years from the date
13 the license or registration was placed on inactive status the
14 massage therapist or massage therapy instructor wishes to
15 resume practice, the board shall be notified in writing, and,
16 upon proof of completion of any continuing education or
17 refresher courses prescribed by [~~regulation~~] rule of the board
18 and payment of an amount set by the board in lieu of all
19 lapsed renewal fees, the license or registration shall be
20 restored in full. "

21 Section 15. Section 61-12C-20 NMSA 1978 (being Laws
22 1991, Chapter 147, Section 20, as amended) is amended to read:

23 "61-12C-20. LICENSE FEES. -- [~~A-~~] The board shall
24 establish by rule a schedule of reasonable fees for
25 applications, examinations, licenses, registrations,

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1 inspections, renewals, [placement on inactive status]
2 penalties, reactivation and necessary administrative fees,
3 ~~[B. The initial licensure application fee shall~~
4 ~~not exceed fifty dollars (\$50.00).-~~
5 ~~C. The initial license fee shall not exceed one~~
6 ~~hundred fifty dollars (\$150).-~~
7 ~~D. The examination fee shall not exceed four~~
8 ~~hundred dollars (\$400).-~~
9 ~~E. The biennial renewal fee shall not exceed three~~
10 ~~hundred dollars (\$300).-~~
11 ~~F. The fee for reactivation of an inactive license~~
12 ~~shall not exceed four hundred dollars (\$400).-~~
13 ~~G. A late renewal fee shall not exceed one hundred~~
14 ~~dollars (\$100).-~~
15 ~~H. The registration fee for an approved massage~~
16 ~~therapy school shall not exceed one hundred dollars (\$100).-~~
17 ~~I. The registration fee for a massage therapy~~
18 ~~instructor shall not exceed fifty dollars (\$50.00).] but no~~
19 single fee shall exceed five hundred dollars (\$500). All fees
20 collected shall be deposited in the massage therapy fund. "

21 Section 16. Section 61-12C-21 NMSA 1978 (being Laws
22 1991, Chapter 147, Section 21, as amended) is amended to read:
23 "61-12C-21. ADVERTISING. -- [Each] A massage therapist,
24 massage therapist instructor, massage therapy school and
25 massage therapy training program licensed or registered [under

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1 ~~the provisions of]~~ pursuant to the Massage Therapy Practice
2 Act shall include the number of [~~his~~] the license or
3 registration, and the designation as [~~either~~] a [~~license or~~
4 ~~registration~~] "massage therapist", "registered massage therapy
5 instructor", "registered massage therapy school" or
6 "registered massage therapy training program" in any
7 advertisement of massage therapy services [~~appearing in any~~
8 ~~newspaper, airwave transmission, telephone directory or other~~
9 ~~advertising medium~~] as established by board rule. "

10 Section 17. Section 61-12C-24 NMSA 1978 (being Laws
11 1991, Chapter 147, Section 24, as amended) is amended to read:

12 "61-12C-24. DENIAL, SUSPENSION, REVOCATION AND
13 REINSTATEMENT OF LICENSES. --

14 [~~A. The board may impose a fine not to exceed one~~
15 ~~thousand dollars (\$1,000), place on probation as specified by~~
16 ~~the board or refuse to issue or renew or may deny, suspend or~~
17 ~~revoke any license, temporary license or registration held or~~
18 ~~applied for under the Massage Therapy Practice Act in~~
19 ~~accordance with the procedures]~~

20 A. Pursuant to the Uniform Licensing Act, the
21 board may take disciplinary action against a person licensed
22 or registered pursuant to the Massage Therapy Practice Act.

23 B. The board has authority to take an action set
24 forth in [the Uniform Licensing Act] Section 61-1-3 NMSA 1978
25 upon a finding by the board that the licensee, registrant or

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1 applicant:

2 (1) is guilty of fraud, deceit or
3 misrepresentation [~~in procuring or attempting to procure a~~
4 ~~license or registration provided for in the Massage Therapy~~
5 ~~Practice Act~~];

6 (2) attempted to use as his own the license
7 or registration of another;

8 (3) allowed the use of his license or
9 registration by another;

10 (4) has been adjudicated as mentally
11 incompetent by regularly constituted authorities;

12 (5) has been convicted [~~or found guilty,~~
13 ~~regardless of adjudication, of a crime, in any jurisdiction,~~
14 ~~that directly relates to the practice of massage therapy or to~~
15 ~~the ability to practice massage therapy. Any plea of nolo~~
16 ~~contendere shall be considered a conviction for the purposes~~
17 ~~of this section]~~ of any offense punishable by incarceration in
18 a state penitentiary or federal prison. A copy of the record
19 of conviction, certified by the clerk of the court entering
20 the conviction, is conclusive evidence of conviction;

21 (6) is guilty of unprofessional or unethical
22 conduct or a violation of the code of ethics;

23 (7) is habitually or excessively using
24 controlled substances or alcohol;

25 (8) is guilty of false, deceptive or

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1 misleading advertising;

2 (9) is guilty of aiding, assisting or
3 advertising any unlicensed or unregistered person in the
4 practice of ~~massage~~ therapy;

5 (10) is grossly negligent or incompetent in
6 the practice of ~~massage~~ therapy; ~~[or]~~

7 (11) has had a license or registration to
8 practice ~~massage~~ therapy revoked, suspended or denied in any
9 jurisdiction, territory or possession of the United States or
10 another country for acts of the licensee or registrant similar
11 to acts described in this section. A certified copy of the
12 record of conviction shall be conclusive evidence of ~~[such]~~
13 the conviction; or

14 (12) is guilty of failing to comply with a
15 provision of the Massage Therapy Practice Act or rules of the
16 board adopted pursuant to that act and filed in accordance
17 with the State Rules Act.

18 ~~[B.]~~ C. Disciplinary proceedings may be instituted
19 by sworn complaint of any person, including members of the
20 board, and shall conform with the provisions of the Uniform
21 Licensing Act.

22 ~~[C.]~~ D. The board may establish the guidelines for
23 the disposition of ~~[the]~~ disciplinary cases. ~~[Such]~~
24 Guidelines may include but shall not be limited to minimum and
25 maximum fines, periods of probation, conditions of probation

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1 or reissuance of a license or registration.

2 [D-] E. License and registration holders who have
3 been found culpable and sanctioned by the board shall be
4 responsible for the payments of all costs of the disciplinary
5 proceedings. "

6 Section 18. Section 61-12C-27 NMSA 1978 (being Laws
7 1993, Chapter 173, Section 20) is amended to read:

8 "61-12C-27. OFFENSES--CRIMINAL PENALTIES. -- [~~Any person~~
9 ~~who violates any provision of the Massage Therapy Practice Act~~
10 ~~is guilty of a misdemeanor and upon conviction shall be~~
11 ~~punished by a fine not to exceed one thousand dollars (\$1,000)~~
12 ~~or imprisonment for a period not to exceed one year or both.~~]

13 A person who does any of the following is guilty of a
14 misdemeanor and shall be sentenced pursuant to Section 31-19-1
15 NMSA 1978:

16 A. violates a provision of the Massage Therapy
17 Practice Act or rules adopted pursuant to that act;

18 B. renders or attempts to render massage therapy
19 services, instruction as a massage therapy instructor,
20 instruction as a massage therapy school or massage therapy
21 training program without the required current valid license or
22 registration issued by the board; or

23 C. advertises or uses a designation, diploma or
24 certificate implying that he is a massage therapist, massage
25 therapy instructor, massage therapy school or massage therapy

underscored material = new
[bracketed material] = delete

1 training program unless he holds a current valid license or
2 registration issued by the board. "

3 Section 19. Section 61-12C-28 NMSA 1978 (being Laws
4 1993, Chapter 173, Section 21) is amended to read:

5 "61-12C-28. TERMINATION OF AGENCY LIFE--DELAYED
6 REPEAL.--The board of massage therapy is terminated on [~~July~~
7 ~~1, 1999~~] July 1, 2006 pursuant to the provisions of the Sunset
8 Act. The board shall continue to operate according to the
9 provisions of Chapter 61, Article 12C NMSA 1978 until [~~July 1,~~
10 ~~2000~~] July 1, 2007. Effective [~~July 1, 2000, Article 12C of~~
11 July 1, 2007, Chapter 61, Article 12C NMSA 1978 is repealed. "

12 Section 20. REPEAL.--Section 61-12C-6 NMSA 1978 (being
13 Laws 1991, Chapter 147, Section 6, as amended) is repealed.

14 Section 21. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 1999.