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List of Proposed Amendments to S.B. 338

NOTE: References to sections and locations refer to the original bill.

Sec. 7(1)(g): Delete “nerve strokes,” which is a physical therapy and massage term of art that incorporates the styles of massage listed in Sec. 7(1)(a) – (f) and additional manipulation of flesh. If this term remained in the bill, “massage therapy” would be overly broad and include the manipulation of flesh by physical therapists for rehabilitative purposes, such as the stretching of scar tissue to restore mobility. (Requestor: Nevada Physical Therapy Association)

Sec. 7(2): Delete “or the mobilization of articulations by a thrusting force.” The term is repetitive. The use of thrusting force is included in “adjustment or manipulation of any articulations of the body or spine.” (Requestor: Nevada Physical Therapy Association)

Sec. 7(2): Delete the term “mechanically” so as to reduce confusion. (Requestor: Nevada Physical Therapy Association, Nevada School of Massage Therapy)

Sec. 8(1)(c): Delete the exemption for persons licensed in another state or country. Since we cannot ensure the consistency or quality of licensure standards in other jurisdictions, this provision is meant to ensure that massage therapy is practiced at the same high standards and quality throughout the state by prohibiting the practice of massage therapy in Nevada by an individual licensed in another jurisdiction. A person licensed in another state may obtain Nevada licensure under Sec. 24. (Requestor: Clark County, Nevada Physical Therapy Association)

Sec. 8(3): Add “within the jurisdiction of the city, county or town where the massage therapist conducts his or her massage business.” Clarifies that cities, counties, and towns can still require a massage therapist to obtain a business license in order to conduct business within the jurisdiction. (Requestor: Clark County)

Sec. 10(1)(d), 19(2)(b)(3), 19(3), 21(2)(b)(3), 21(4), 22(2): Replaces “approved” with “recognized” in order to clarify that it is the Commission of Secondary Education’s duty to approve schools and curricular programs, and the Board’s duty to recognize the Commission’s approval of such schools and programs. (Requestor: Associated Bodywork and Massage Professionals)

Sec. 14: Add “that the Board sees fit,” to give the Board the flexibility to impose or not impose, if it chooses, continuing education requirements upon licensees. (Requestor: Senator Tiffany, Nevada School of Physical Therapy)

Sec. 15(2): Add “after July 1, 2004” to clarify that Board Member will not receive per diem or travel expenses until the second year of the Board’s operation. (Requestor: Nevada School of Physical Therapy)

Sec. 18(1): Delete “who is not licensed pursuant to this chapter to practice massage therapy.” By removing this provision, it ensures that other professionals and semi-professionals licensed by another board are not subject to discipline by the Massage Therapy Board for the use of

massage during the professional's normal occupation under subsection 2. For example, a physical therapist using massage techniques to restore mobility to a patient could not be disciplined by the Board of Massage Therapy for the unlicensed practice of massage. (Requestor: Nevada Physical Therapy Association)

Sec. 18: Add a new section 3 making it a misdemeanor for a person who is not licensed pursuant to this chapter to practice massage therapy. Combined with the changes to subsection 1, this provision allows the Attorney General to prosecute the unlicensed practice of massage by someone with no license, a suspended license, or a revoked license as a misdemeanor. (Requestor: Senator Tiffany, Nevada Physical Therapy Association)

Sec. 19(2)(b)(5): Adds "and written permission authorizing the Board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report in order to conduct a criminal background check of the applicant." This ensures that an appropriate background check of the applicant will be performed. (Requestor: Clark County, Nevada School of Massage Therapy)

Sec. 19(2)(c): Add "an examination of Nevada law and regulations regarding massage and massage therapy." This makes clear that the Board can test licensees for local laws and regulations regarding massage and massage therapy in addition to requiring the national test.

Sec. 19(2)(d): Delete "or any other organization approved by the Board." Like the deletion of Sec. 19(2)(c), this change ensures that the Board does not have the run-away power to make any requirement mandatory. Additionally, by limiting examination to the National Certification Board for Therapeutic Massage and Bodywork the standards for Nevada massage therapist licensure are the highest nationally available. (Requestor: Clark County)

Sec. 20: Delete "or any other organization that is approved by the Board to administer the written examination required by section 19 of this act." Deletion of this phrase also prevents the Board from having too much power. (Requestor: Clark County)

Sec. 20: Add "shall accept proof of certification from an equivalent board accredited by the NCCA for the purpose of massage and bodywork. If there is no equivalent board accredited by the NCCA for the purpose of massage and bodywork, then the Board shall." This means that the Board will continue to accept national certification, and retain nationally accepted standards, unless there is no nationally recognized massage and bodywork organization. If there is no nationally recognized massage and bodywork organization, the Board shall craft its own test but the test must be substantially equivalent to a national standard. (Requestor: Clark County)

Sec. 21(2)(b)(4): Adds the requirement that an individual has taken, or will take in the next 90 days, the NCBTMB examination. This allows people who have recently completed their 500 hours of education, or completion of a massage therapy degree program, to practice massage therapy as a temporary licensee while they wait to take the NCBTMB exam. (Requestor: Senator Tiffany—interpreting a request from Clark County)

Sec. 21(2)(B)(6): This is the same change as Sec. 19(2)(b)(5). (Requestor: Clark County,

Nevada School of Massage Therapy)

Sec 21(3): Change the temporary licensing period to 90 days, just long enough for processing of a person's application for a license. This is meant to achieve the same goals as the changes to Sec. 8(c) by preventing persons who have failed to meet the licensure standards from practicing massage therapy in the state. (Requestor: Clark County, Nevada Physical Therapy Association, Senator Tiffany)

Sec. 23: Add a new subsection (c) stating "The licensee otherwise meets the requirements under section 23 of this act." This change is meant to clarify that in order to have a license reinstate, the licensee must comply with the education, testing, and other requirements for being awarded a license. (Requestor: Senator Tiffany, Clark County)

Sec. 24(1): Add an entirely new Grandfather Clause, to ensure that persons currently licensed to practice massage therapy in this state can continue to practice after the creation of the Board. (Requestor: Senator Tiffany, Clark County, Nevada Physical Therapy Association, Nevada School of Massage Therapy, Associated Bodywork and Massage Professionals)

Sec. 25: Revises the bill to include the fee structure for the Board. Deletes Board fees for an examination, as the cost of the NCBTMB exam will be paid directly to the national organization.

	Not More Than	Not Less Than
An application for a license.	\$42.00	\$126.00
A background check of an applicant for a license.	\$40.00	\$120.00
The issuance of a license.	\$52.00	\$156.00
The annual renewal of a license.	\$33.00	\$99.00
The restoration of an expired license.	\$33.00	\$99.00
The reinstatement of a suspended or revoked license.	\$99.00	\$250.00
The issuance of a duplicate license.	\$25.00	\$75.00

Sec. 26: Deletes the ability to get licensed without taking the NCBTMB examination. This ensures that all applicants meet the same requirements. (Requestor: Senator Tiffany, Clark County)

Sec. 27(1)(c): Adds the requirement that a licensee must continue to be certified by the NCBTMB in order to have their license renewed. (Requestor: Clark County) Exempts people admitted under the grandfather clause. (Requestor: Nevada School of Massage Therapy.)

Sec. 27(2)(b): Delete the requirement that a person must be able to engage in massage therapy to have an expired license reinstated. (Requestor: Clark County) Requires that all licensee, including those grandfathered-in, must have current NCBTMB certification to have their license reinstated after it has expired.

Sec. 27(3): Deletes the section providing the method for proving ability under Sec. 27(2)(b). (Requestor: Clark County)

Sec. 28(1): Adds “fraudulent” submission of information to the Board as a reason to deny an application or institute disciplinary action. (Requestor: Clark County)

Sec. 28(3): This section has been changed to read:

(The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a licensee, if the applicant or licensee:)

Has been convicted of a crime involving violence, prostitution, or any other a-sexual offense, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude.

(a) Has been convicted of any other misdemeanor, excluding misdemeanor traffic violations, within the past five (5) years; or

(b) Has been convicted of any other felony within the past ten (10) years.

These changes allow the Board to consider certain crimes at any time when deciding whether to license an applicant or discipline a licensee. For other misdemeanors, the Board can only consider them for 5 years. For other felonies, the Board can only consider them for 10 years. (Requestor: Clark County)

Sec. 28(4)(C): Add “request and.” This requires that a massage client not only consent to massage of his or her genitals or breasts but that he or she must request the massage as well. (Requestor: Nevada School of Massage Therapy)

Sec. 28: Add “If the licensee has failed to maintain current certification with the NCBTMB.” This clarifies that a licensee must maintain current certification at the national level to be a licensed massage therapist in this state. (Requestor: Clark County)

Sec. 33(2): Adds “or any local jurisdiction wherein the licensee is engaging in or intends upon engaging in the massage business.” Clarifies that the Board may cooperate with a county, city, or town in investigating a licensee in relation to the licensee’s massage therapy business. (Requestor: Clark County)