

SENATE BILL NO. 338—SENATOR TIFFANY

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Provides for licensing and regulation of massage therapists. (BDR 54-1104)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to massage therapy; creating the Board of Massage Therapists; prescribing the powers and duties of the Board; requiring massage therapists to be licensed by the Board; prescribing the requirements for the issuance or renewal of a license; providing the grounds for disciplinary action against a massage therapist; providing the actions the Board may take against a person who commits certain acts; providing a penalty; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Title 54 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 34, inclusive, of this act.
4 **Sec. 2.** *The Legislature finds and declares that:*
5 1. *The practice of massage therapy by persons who do not*
6 *possess sufficient knowledge of anatomy and physiology or an*
7 *understanding of the relationship between the structure and*
8 *function of the tissues being treated and the total function of the*
9 *body may endanger the health, welfare and safety of the residents*
10 *of this state.*
11 2. *To protect the residents of this state, it is necessary to*
12 *license and regulate the practice of massage therapy.*



* S B 3 3 8 R 1 *

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

4 **Sec. 4.** *“Board” means the Board of Massage Therapists.*

5 **Sec. 5.** *“License” means a license issued by the Board.*

6 **Sec. 6.** *“Massage therapist” means a person who is licensed*
7 *pursuant to the provisions of this chapter.*

8 **Sec. 7. 1.** *“Massage therapy” means the application of a*
9 *system of pressure to the muscular structure and soft tissues of the*
10 *human body for therapeutic purposes, including, without*
11 *limitation:*

12 (i) *Effleurage;*

13 (ii) *Petrissage;*

14 (iii) *Tapotement;*

15 (iv) *Compressions;*

16 (v) *Vibration;*

17 (vi) *Friction; and*

18 (vii) *Movements applied manually with or without superficial*
19 *heat, cold, water or lubricants for the purpose of maintaining good*
20 *health and establishing and maintaining good physical condition.*

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

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

24 (a) *A person licensed pursuant to chapter 630, 630A, 632, 633,*
25 *634, 634A, 635 or 640 of NRS if the massage is performed in the*
26 *course of the practice for which he is licensed.*

27 (b) *A person who is an employee of an athletic department of*
28 *any high school, college or university in this state and who, within*
29 *the scope of that employment, practices massage therapy on*
30 *athletes.*

31 (c) *Students enrolled in a school of massage therapy*
32 *recognized by the Board.*

33 (d) *A person who practices massage therapy solely on*
34 *members of his immediate family.*

35 (e) *A person who performs any activity in a licensed brothel.*

36 2. *Except as provided in subsection 3, the provisions of this*
37 *chapter preempt the licensure and regulation of a massage*
38 *therapist by a county, city or town.*

39 3. *The provisions of this chapter do not prohibit a county, city*
40 *or town from requiring a massage therapist to obtain a license or*
41 *permit to transact business within the jurisdiction of the county,*
42 *city or town, if the license or permit is required of other persons,*
43 *regardless of occupation or profession, who transact business*
44 *within the jurisdiction of the county, city or town.*



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

4 **Sec. 9. 1.** *The Board of Massage Therapists, consisting of*
5 *five members appointed by the Governor, is hereby created.*

6 2. *The Governor shall appoint to the Board:*

7 (a) *Four members who:*

8 (1) *Are licensed to practice massage therapy in this state,*
9 *two of whom represent northern Nevada and two of whom*
10 *represent southern Nevada; and*

11 (2) *Have engaged in the practice of massage therapy for the*
12 *2 years immediately preceding their appointment.*

13 (b) *One member who is a representative of the general public.*

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

18 4. *The members who are appointed to the Board must*
19 *continue to practice massage therapy while they are members of*
20 *the Board.*

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

24 6. *No member of the Board may be held liable in a civil*
25 *action for an act that he performs in good faith in the execution of*
26 *his duties pursuant to this chapter.*

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

29 (a) *Licensure and discipline of massage therapists; and*

30 (b) *Rules and procedures of the Board.*

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

34 2. *After the initial terms, the term of each member of the*
35 *Board is 4 years. The members shall continue in office until their*
36 *successors are appointed. No member of the Board may serve*
37 *more than two consecutive terms. A former member of the Board*
38 *is eligible for reappointment to the Board if that person has not*
39 *served on the Board during the 4 years immediately preceding the*
40 *reappointment. A vacancy must be filled by appointment for the*
41 *unexpired term in the same manner as the original appointment.*

42 **Sec. 11. 1.** *The Board shall meet at least quarterly and may*
43 *meet at other times at the call of the Chairman or upon the written*
44 *request of a majority of the members of the Board. The Board*
45 *shall alternate the location of its meetings between northern*



1 *Nevada and southern Nevada. A meeting of the Board may be*
2 *conducted telephonically or by videoconferencing. A meeting*
3 *conducted telephonically or by videoconferencing must meet the*
4 *requirements of chapter 241 of NRS.*

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

8 3. *Four members of the Board constitute a quorum for the*
9 *purposes of issuing, suspending or revoking a license issued*
10 *pursuant to this chapter.*

11 **Sec. 12.** *The Board shall:*

12 1. *Review and evaluate applications for the licensing of*
13 *massage therapists;*

14 2. *Determine the qualifications and fitness of applicants;*

15 3. *Issue, renew, reinstate, revoke, suspend and deny licenses,*
16 *as appropriate;*

17 4. *Investigate any complaints filed with the Board;*

18 5. *Impose any penalties it determines are necessary for the*
19 *administration of the provisions of this chapter; and*

20 6. *Transact any other business necessary to carry out its*
21 *duties.*

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

24 (a) *Persons issued a license.*

25 (b) *Applicants for a license.*

26 (c) *Persons whose licenses have been revoked or suspended by*
27 *the Board.*

28 *The Board shall, upon request, disclose the information included*
29 *in each list and may charge a fee for a copy of such a list.*

30 2. *The Board shall:*

31 (a) *Prepare and maintain a record of its proceedings and*
32 *transactions;*

33 (b) *Adopt a seal of which each court in this state shall take*
34 *judicial notice; and*

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

37 **Sec. 14.** *The Board shall adopt regulations to carry out the*
38 *provisions of this chapter, including, without limitation,*
39 *regulations that:*

40 1. *Establish the requirements for continuing education for*
41 *the renewal of a license to practice massage therapy;*

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



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

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

5 5. *Prescribe the requirements for any practical, oral or*
6 *written examination for a license to practice massage therapy that*
7 *the Board may require, including, without limitation, the passing*
8 *grade for such an examination.*

9 **Sec. 15. 1.** *The Board may employ an Executive Secretary*
10 *and any other persons necessary to carry out its duties.*

11 2. *While engaged in the business of the Board, each member*
12 *and employee of the Board is entitled to receive a per diem*
13 *allowance and travel expenses at a rate fixed by the Board. The*
14 *rate must not exceed the rate provided for officers and employees*
15 *of this state generally.*

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

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

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

26 3. *All money received by the Board must be deposited in a*
27 *bank or other financial institution in this state and paid out on its*
28 *order for its expenses.*

29 4. *The Board may delegate to a hearing officer or panel its*
30 *authority to take any disciplinary action pursuant to this chapter,*
31 *impose and collect fines and penalties therefor, and deposit the*
32 *money therefrom in a bank or other financial institution in this*
33 *state.*

34 5. *If a hearing officer or panel is not authorized to take*
35 *disciplinary action pursuant to subsection 4 and the Board*
36 *deposits the money collected from the imposition of fines with the*
37 *State Treasurer for credit to the State General Fund, it may*
38 *present a claim to the State Board of Examiners for*
39 *recommendation to the Interim Finance Committee if money is*
40 *required to pay attorney's fees or the costs of an investigation, or*
41 *both.*

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

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



1 (b) *Uses in connection with his name the words or letters*
2 *“L.M.T.,” “licensed massage therapist,” “licensed massage*
3 *technician,” “M.T.,” “massage technician” or “massage*
4 *therapist,” or any other letters, words or insignia indicating or*
5 *implying that he is licensed to practice massage therapy, or who in*
6 *any other way, orally, or in writing or print, or by sign, directly or*
7 *by implication, uses the word “massage” or represents himself as*
8 *licensed or qualified to engage in the practice of massage*
9 *therapy,*
10 *is guilty of a misdemeanor.*

11 2. *If the Board determines that a person has violated or is*
12 *about to violate the provisions of subsection 1, the Board may*
13 *bring an action in a court of competent jurisdiction to enjoin that*
14 *person from engaging in or continuing the violation. An*
15 *injunction:*

16 (a) *May be issued without proof of actual damage sustained by*
17 *any person.*

18 (b) *Does not prevent the criminal prosecution and punishment*
19 *of a person who violates those provisions.*

20 3. *A person who is not licensed pursuant to this chapter to*
21 *practice massage therapy and who:*

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

23 (b) *Uses in connection with his name the words or letters*
24 *“L.M.T.,” “licensed massage therapist,” “licensed massage*
25 *technician,” “M.T.,” “massage technician” or “massage*
26 *therapist,” or any other letters, words or insignia indicating or*
27 *implying that he is licensed to practice massage therapy, or who in*
28 *any other way, orally, or in writing or print, or by sign, directly or*
29 *by implication, uses the word “massage” or represents himself as*
30 *licensed or qualified to engage in the practice of massage therapy,*
31 *is guilty of a misdemeanor.*

32 **Sec. 19. 1.** *The Board may issue a license to practice*
33 *massage therapy.*

34 2. *An applicant for a license to practice massage therapy*
35 *must:*

36 (a) *Be at least 18 years of age.*

37 (b) *Submit to the Board:*

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

40 (2) *The fees prescribed by the Board pursuant to section 25*
41 *of this act;*

42 (3) *Proof that he has successfully completed at least 500*
43 *hours of instruction in a program of massage therapy recognized*
44 *by the Board;*



1 (4) A certification by the licensing entity in each state,
2 territory or possession of the United States or the District of
3 Columbia in which the applicant is or has been licensed to
4 practice massage therapy which states that no disciplinary
5 proceedings relating to his license to practice massage therapy are
6 pending; and

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

11 (c) Pass any other examination prescribed by the Board
12 pursuant to the regulations adopted by the Board under section 14
13 of this act.

14 (d) Pass a written examination administered by the National
15 Certification Board for Therapeutic Massage and Bodywork.

16 3. The Board shall recognize a program of massage therapy
17 that is, including, but not limited to, a program:

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

20 (b) Offered by a public community college in this state.

21 **Sec. 20.** If the National Certification Board for Therapeutic
22 Massage and Bodywork ceases to administer the written
23 examination required by paragraph (d) of subsection 2 of section
24 19 of this act or if the Board, after public comment, determines
25 that such examination inadequately tests the knowledge and
26 competency of applicants, the Board shall:

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

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

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

37 (b) Offered not less than two times each year at a location in
38 northern Nevada and southern Nevada.

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

41 2. An applicant for a license to practice massage therapy
42 pursuant to this section must:

43 (a) Be at least 18 years of age.

44 (b) Submit to the Board:



- 1 (1) *A completed application on a form prescribed by the*
2 *Board;*
3 (2) *The fees prescribed by the Board pursuant to section 25*
4 *of this act;*
5 (3) *Proof that he has successfully completed at least 500*
6 *hours of instruction in a program of massage therapy recognized*
7 *by the Board;*
8 (4) *Proof that he:*
9 (I) *Has taken the examination offered by the National*
10 *Certification Board for Therapeutic Massage and Bodywork; or*
11 (II) *Is scheduled to take the examination offered by the*
12 *National Certification Board for Therapeutic Massage and*
13 *Bodywork within 90 days after the date of application;*
14 (5) *A certification that he has not committed any of the*
15 *offenses for which the Board may refuse to issue a license*
16 *pursuant to section 32 of this act;*
17 (6) *A certification by the licensing entity in each state,*
18 *territory or possession of the United States or the District of*
19 *Columbia in which the applicant is or has been licensed to*
20 *practice massage therapy which states that no disciplinary*
21 *proceedings relating to his license to practice massage therapy are*
22 *pending; and*
23 (7) *A full set of fingerprints and written permission*
24 *authorizing the Board to forward the fingerprints to the Central*
25 *Repository for Nevada Records of Criminal History for submission*
26 *to the Federal Bureau of Investigation for its report.*
27 3. *A license issued pursuant to this section shall expire 90*
28 *days after the date the license is issued and the Board shall not*
29 *renew the license.*
30 4. *The Board shall recognize a program of massage therapy*
31 *that is, including, but not limited to, a program:*
32 (a) *Approved by the Commission on Postsecondary Education;*
33 *or*
34 (b) *Offered by a public community college in this state.*
35 **Sec. 22. 1.** *In addition to the requirements set forth in*
36 *sections 19, 21 and 24 of this act, a natural person who applies for*
37 *the issuance or renewal of a license as a massage therapist shall*
38 *submit to the Board:*
39 (a) *In any application for issuance of a license, the social*
40 *security number of the applicant and the statement prescribed by*
41 *the Welfare Division of the Department of Human Resources*
42 *pursuant to NRS 425.520. The statement must be completed and*
43 *signed by the applicant.*
44 (b) *In any application for renewal of a license, the statement*
45 *prescribed by the Welfare Division of the Department of Human*



1 *Resources pursuant to NRS 425.520. The statement must be*
2 *completed and signed by the applicant.*

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

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

7 (b) *A separate form prescribed by the Board.*

8 3. *The Board shall not issue or renew a license as a massage*
9 *therapist if the applicant is a natural person who:*

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

12 (b) *Indicates on the statement submitted pursuant to*
13 *subsection 1 that he is subject to a court order for the support of a*
14 *child and is not in compliance with the order or a plan approved*
15 *by the district attorney or other public agency enforcing the order*
16 *for the repayment of the amount owed pursuant to the order.*

17 4. *If an applicant indicates on the statement submitted*
18 *pursuant to subsection 1 that he is subject to a court order for the*
19 *support of a child and is not in compliance with the order or a*
20 *plan approved by the district attorney or other public agency*
21 *enforcing the order for the repayment of the amount owed*
22 *pursuant to the order, the Board shall advise the applicant to*
23 *contact the district attorney or other public agency enforcing the*
24 *order to determine the actions that the applicant may take to*
25 *satisfy the arrearage.*

26 **Sec. 23.** 1. *If the Board receives a copy of a court order*
27 *issued pursuant to NRS 425.540 that provides for the suspension*
28 *of all professional, occupational and recreational licenses,*
29 *certificates and permits issued to a person who is the holder of a*
30 *license as a massage therapist, the Board shall deem the license*
31 *issued to that person to be suspended at the end of the 30th day*
32 *after the date on which the court order was issued unless the*
33 *Board receives a letter issued to the holder of the license by the*
34 *district attorney or other public agency pursuant to NRS 425.550*
35 *stating that the holder of the license has complied with the*
36 *subpoena or warrant or has satisfied the arrearage pursuant to*
37 *NRS 425.560.*

38 2. *The Board shall reinstate a license as a massage therapist*
39 *that has been suspended by a district court pursuant to NRS*
40 *425.540 if:*

41 (a) *The Board receives a letter issued by the district attorney or*
42 *other public agency pursuant to NRS 425.550 to the person whose*
43 *license was suspended stating that the person whose license was*
44 *suspended has complied with the subpoena or warrant or has*
45 *satisfied the arrearage pursuant to NRS 425.560.*



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

3 **Sec. 24. 1.** *Except as otherwise provided in subsection 3,*
4 *the Board may issue a license, without regard to the requirements*
5 *of section 19 of this act, to an applicant:*

6 (a) *Who holds a current license to practice massage therapy*
7 *issued by a county, city or town of this state that regulates the*
8 *practice of massage therapy; or*

9 (b) *Who holds a current license to practice massage therapy*
10 *issued by another state, territory or possession of the United*
11 *States.*

12 2. *An applicant for a license issued by the Board pursuant to*
13 *subsection 1 must submit to the Board:*

14 (a) *A completed application on a form prescribed by the*
15 *Board;*

16 (b) *The fees prescribed by the Board pursuant to section 25 of*
17 *this act;*

18 (c) *A notarized statement signed by the applicant that states*
19 *whether any disciplinary proceedings relating to his license to*
20 *practice massage therapy have ever been instituted against him;*
21 *and*

22 (d) *A certification by the licensing entity in each state, territory*
23 *or possession of the United States or the District of Columbia in*
24 *which the applicant is or has been licensed to practice massage*
25 *therapy during the immediately preceding 10 years which states*
26 *that no disciplinary proceedings relating to his license to practice*
27 *massage therapy are pending.*

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

34 **Sec. 25. 1.** *The Board shall establish and may amend a*
35 *schedule of fees and charges for the following items and within*
36 *the following ranges:*

	<i>Not less than</i>	<i>Not more than</i>
37		
38		
39		
40		
41		
42		
43		
44		
45		



1	<i>A background check of an applicant.....</i>	<i>\$48</i>	<i>\$120</i>
2	<i>The issuance of a license</i>	<i>52</i>	<i>156</i>
3	<i>The renewal of a license.....</i>	<i>33</i>	<i>99</i>
4	<i>The restoration of an expired license</i>	<i>33</i>	<i>99</i>
5	<i>The reinstatement of a suspended or</i>		
6	<i>revoked license</i>	<i>99</i>	<i>250</i>
7	<i>The issuance of a duplicate license</i>	<i>25</i>	<i>75</i>
8	<i>The restoration of an inactive license.....</i>	<i>33</i>	<i>99</i>

9

10 *2. In addition to the fees prescribed pursuant to subsection 1,*
 11 *the Board may charge and collect a fee for any other service,*
 12 *including, without limitation, the reinstatement of a suspended or*
 13 *revoked license, it provides.*

14 *3. The total fees collected by the Board pursuant to this*
 15 *section must not exceed the amount of money necessary for the*
 16 *operation of the Board.*

17 **Sec. 26.** *Each licensee shall display his license conspicuously*
 18 *at each place where he practices massage therapy.*

19 **Sec. 27. 1.** *Each license to engage in the practice of*
 20 *massage therapy expires on the last day of the month in which it*
 21 *was issued in the next succeeding calendar year and may be*
 22 *renewed if, before the license expires, the licensee submits to the*
 23 *Board:*

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

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

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

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

33 *2. A license that expires pursuant to the provisions of this*
 34 *section may be restored if the applicant:*

35 *(a) Complies with the provisions of subsection 1;*

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

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

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

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

44 *3. The Board shall send a notice of renewal to each licensee*
 45 *not later than 60 days before his license expires. The notice must*



1 *include a statement of the provisions of this section and the*
2 *amount of the fee for renewal of the license.*

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

7 2. *If an inactive licensee desires to resume the practice of*
8 *massage therapy, the Board shall renew the license upon:*

9 (a) *Demonstration, if deemed necessary by the Board, that the*
10 *licensee is then qualified and competent to practice;*

11 (b) *Completion of an application; and*

12 (c) *Payment of the current fee for renewal of the license*

13 **Sec. 29.** *The Board may refuse to issue a license to an*
14 *applicant, or may initiate disciplinary action against a licensee, if*
15 *the applicant or licensee:*

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

20 2. *Has violated any provision of this chapter or any*
21 *regulation adopted pursuant thereto.*

22 3. *Has been convicted of:*

23 (a) *A crime involving violence, prostitution or any other sexual*
24 *offense, a crime relating to a controlled substance, a crime*
25 *involving any federal or state law or regulation relating to*
26 *massage therapy or a substantially similar business, or a crime*
27 *involving moral turpitude;*

28 (b) *Any other misdemeanor, excluding misdemeanor traffic*
29 *violations, within the past 5 years; or*

30 (c) *Any other felony within the past 10 years.*

31 4. *Has engaged in or solicited sexual activity during the*
32 *course of practicing massage on a person, with or without*
33 *the consent of the person, including, without limitation, if the*
34 *applicant or licensee:*

35 (a) *Made sexual advances toward the person.*

36 (b) *Requested sexual favors from the person.*

37 (c) *Massaged, touched or applied any instrument to the breasts*
38 *of the person, unless the person has signed a written consent form*
39 *provided by the Board.*

40 5. *Has habitually abused alcohol or is addicted to a*
41 *controlled substance.*

42 6. *Is, in the judgment of the Board, guilty of gross negligence*
43 *in his practice of massage therapy.*

44 7. *Is determined by the Board to be professionally*
45 *incompetent to engage in the practice of massage therapy.*



- 1 8. *Has failed to provide information requested by the Board*
2 *within 60 days after he received the request.*
- 3 9. *Has, in the judgment of the Board, engaged in unethical or*
4 *unprofessional conduct as it relates to the practice of massage*
5 *therapy.*
- 6 10. *Has been disciplined in another state, a territory or*
7 *possession of the United States or the District of Columbia for*
8 *conduct that would be a violation of the provisions of this chapter*
9 *or any regulations adopted pursuant thereto if the conduct were*
10 *committed in this state.*
- 11 11. *Has solicited or received compensation for services*
12 *relating to the practice of massage therapy that he did not provide.*
- 13 12. *If the licensee is on probation, has violated the terms of*
14 *his probation.*
- 15 13. *Has engaged in false, deceptive or misleading advertising,*
16 *including, without limitation, falsely, deceptively or misleadingly*
17 *advertising training in a specialty technique of massage in which*
18 *the person has not received training.*
- 19 14. *Has failed to maintain certification with the National*
20 *Certification Board for Therapeutic Massage and Bodywork.*
- 21 **Sec. 30.** 1. *The Board or any of its members who become*
22 *aware of any ground for initiating disciplinary action against a*
23 *licensee shall, and any other person who is so aware may, file a*
24 *written complaint with the Board.*
- 25 2. *The complaint must specifically:*
- 26 (a) *Set forth the relevant facts; and*
- 27 (b) *Charge one or more grounds for initiating disciplinary*
28 *action.*
- 29 3. *As soon as practicable after the filing of the complaint, the*
30 *Board shall set a date for a hearing on the matter. The date must*
31 *not be later than 30 days after the complaint is filed, except that*
32 *the date may be extended upon agreement of the person against*
33 *whom the complaint is filed and the Board.*
- 34 4. *The Board shall:*
- 35 (a) *Notify the person that a complaint against him has been*
36 *filed;*
- 37 (b) *Inform that person of the date, time and place set for the*
38 *hearing; and*
- 39 (c) *Include a copy of the complaint with the notice.*
- 40 5. *The notice and complaint may be served on the person by*
41 *delivery to him personally or by registered or certified mail at his*
42 *last known address.*
- 43 **Sec. 31.** 1. *The person against whom the complaint is filed:*
- 44 (a) *May appear in person or through the representation of*
45 *legal counsel;*



1 **(b) Must be given adequate opportunity to confront any**
2 **witness against him;**

3 **(c) May testify and introduce the testimony of witnesses in his**
4 **behalf; and**

5 **(d) May submit arguments and briefs in person or through his**
6 **counsel.**

7 **2. The Board shall issue its decision within 30 days after the**
8 **hearing.**

9 **3. The failure of the person charged to attend the hearing or**
10 **defend himself must not delay and does not void the proceedings.**
11 **The Board may, for good cause shown, continue any hearing from**
12 **time to time.**

13 **Sec. 32. 1. Except as otherwise provided in subsection 3, if**
14 **the Board determines, after notice and hearing, that an applicant**
15 **for a license or a licensee has committed any of the acts charged**
16 **in the complaint, it may:**

17 **(a) Place him on probation for a specified period or until**
18 **further order of the Board;**

19 **(b) Administer to him a public or private reprimand;**

20 **(c) Refuse to renew, reinstate or restore his license;**

21 **(d) Suspend or revoke his license;**

22 **(e) Impose an administrative fine of not more than \$5,000;**

23 **(f) Require him to pay the costs incurred by the Board to**
24 **conduct the investigation and hearing; or**

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

27 **2. The order of the Board may contain such other terms,**
28 **provisions or conditions as the Board deems proper.**

29 **3. The Board may, if the Board finds that the action is**
30 **necessary to protect the health, safety or welfare of the public,**
31 **upon notice to the licensee, temporarily suspend or refuse to**
32 **renew his license for a period not to exceed 30 days. For good**
33 **cause, the Board may extend the period of suspension of the**
34 **license or continue to refuse to renew the license if the Board**
35 **deems such action to be necessary to protect the health, safety or**
36 **welfare of the public. In any such case, a hearing must be held**
37 **and a final decision rendered within 30 days after the Board**
38 **notifies the licensee of the temporary suspension.**

39 **Sec. 33. 1. The Board may conduct investigations and hold**
40 **hearings to carry out its duties pursuant to the provisions of this**
41 **chapter.**

42 **2. In such a hearing:**

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



* S B 3 3 8 R 1 *

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

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

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

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

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

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

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

31 **(b) The person who was investigated submits a written request**
32 **to the Board asking that the information and records be made**
33 **public records.**

34 **2. The provisions of this section do not prohibit the Board**
35 **from cooperating with another licensing board, any agency or any**
36 **county, city or town in which the licensee practices massage**
37 **therapy that is investigating a licensee, including, without**
38 **limitation, a law enforcement agency.**

39 **Sec. 35. NRS 622.010 is hereby amended to read as follows:**

40 622.010 As used in this chapter, unless the context otherwise
41 requires, "occupational licensing board" includes, without
42 limitation:

43 1. The State Board of Architecture, Interior Design and
44 Residential Design.

45 2. The State Board of Landscape Architecture.



- 1 3. The State Contractors' Board.
- 2 4. The State Board of Professional Engineers and Land
- 3 Surveyors.
- 4 5. The Board of Registered Environmental Health Specialists.
- 5 6. The Nevada State Board of Accountancy.
- 6 7. The Board of Medical Examiners.
- 7 8. The Board of Homeopathic Medical Examiners.
- 8 9. The Board of Dental Examiners of Nevada.
- 9 10. The State Board of Nursing.
- 10 11. The State Board of Osteopathic Medicine.
- 11 12. The Chiropractic Physicians' Board of Nevada.
- 12 13. The State Board of Oriental Medicine.
- 13 14. The State Board of Podiatry.
- 14 15. The Nevada State Board of Optometry.
- 15 16. The Board of Dispensing Opticians.
- 16 17. The Board of Hearing Aid Specialists.
- 17 18. The Board of Examiners for Audiology and Speech
- 18 Pathology.
- 19 19. The Nevada State Board of Veterinary Medical Examiners.
- 20 20. The State Board of Pharmacy.
- 21 21. The State Board of Physical Therapy Examiners.
- 22 22. The Board of Occupational Therapy.
- 23 23. The Board of Psychological Examiners.
- 24 24. The Board of Examiners for Marriage and Family
- 25 Therapists.
- 26 25. The Board of Examiners for Social Workers.
- 27 26. The Board of Examiners for Alcohol and Drug Abuse
- 28 Counselors.
- 29 27. The State Board of Funeral Directors, Embalmers and
- 30 Operators of Cemeteries and Crematories.
- 31 28. The State Barbers' Health and Sanitation Board.
- 32 29. The State Board of Cosmetology.
- 33 30. The Real Estate Division of the Department of Business
- 34 and Industry.
- 35 31. The Commissioner of Financial Institutions.
- 36 32. The Private Investigator's Licensing Board.
- 37 33. The Health Division of the Department of Human
- 38 Resources.
- 39 34. The Nevada State Board of Examiners for Administrators
- 40 of Facilities for Long-Term Care.
- 41 35. The Certified Court Reporters' Board of Nevada.
- 42 **36. *The Board of Massage Therapists.***
- 43 **Sec. 36.** NRS 218.825 is hereby amended to read as follows:
- 44 218.825 1. Each of the boards and commissions created by
- 45 the provisions of chapters 623 to 625A, inclusive, 628 to 644,



1 inclusive, ~~[and 641C.]~~ 654 and 656 of NRS *and sections 2 to 34,*
2 *inclusive, of this act,* shall engage the services of a certified public
3 accountant or public accountant, or firm of either of such
4 accountants, to audit all its fiscal records once each year for the
5 preceding fiscal year or once every other year for the 2 preceding
6 fiscal years. The cost of the audit must be paid by the board or
7 commission audited.

8 2. A report of each such audit must be filed by the board or
9 commission with the Legislative Auditor and the ~~[Director]~~ *Chief*
10 of the Budget *Division of the Department of Administration* on or
11 before December 1 of each year in which an audit is conducted. All
12 audits must be conducted in accordance with generally accepted
13 auditing standards and all financial statements must be prepared in
14 accordance with generally accepted principles of accounting for
15 special revenue funds.

16 3. The Legislative Auditor shall audit the fiscal records of any
17 such board or commission whenever directed to do so by the
18 Legislative Commission. When the Legislative Commission directs
19 such an audit, it shall also determine who is to pay the cost of the
20 audit.

21 **Sec. 37.** NRS 284.013 is hereby amended to read as follows:

22 284.013 1. Except as otherwise provided in subsection 4, this
23 chapter does not apply to:

24 (a) Agencies, bureaus, commissions, officers or personnel in the
25 Legislative Department or the Judicial Department of State
26 Government, including the Commission on Judicial Discipline;

27 (b) Any person who is employed by a board, commission,
28 committee or council created in chapters 590, 623 to 625A,
29 inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS
30 ~~[and sections 2 to 34, inclusive, of this act;~~ or

31 (c) Officers or employees of any agency of the Executive
32 Department of the State Government who are exempted by specific
33 statute.

34 2. Except as otherwise provided in subsection 3, the terms and
35 conditions of employment of all persons referred to in subsection 1,
36 including salaries not prescribed by law and leaves of absence,
37 including, without limitation, annual leave and sick and disability
38 leave, must be fixed by the appointing or employing authority
39 within the limits of legislative appropriations or authorizations.

40 3. Except as otherwise provided in this subsection, leaves of
41 absence prescribed pursuant to subsection 2 must not be of lesser
42 duration than those provided for other state officers and employees
43 pursuant to the provisions of this chapter. The provisions of this
44 subsection do not govern the Legislative Commission with respect
45 to the personnel of the Legislative Counsel Bureau.



1 4. Any board, commission, committee or council created in
2 chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive,
3 648, 652, 654 and 656 of NRS *and sections 2 to 34, inclusive, of*
4 *this act* which contracts for the services of a person, shall require the
5 contract for those services to be in writing. The contract must be
6 approved by the State Board of Examiners before those services
7 may be provided.

8 **Sec. 38.** NRS 353.005 is hereby amended to read as follows:
9 353.005 The provisions of this chapter do not apply to boards
10 created pursuant to chapters 623 to 625A, inclusive, 628, 630 to
11 640A, inclusive, 641 to 644, inclusive, 654 and 656 of NRS *and*
12 *sections 2 to 34, inclusive, of this act* and the officers and
13 employees thereof.

14 **Sec. 39.** NRS 353A.020 is hereby amended to read as follows:
15 353A.020 1. The Director, in consultation with the
16 Committee and Legislative Auditor, shall adopt a uniform system of
17 internal accounting and administrative control for agencies. The
18 elements of the system must include, without limitation:

- 19 (a) A plan of organization which provides for a segregation of
20 duties appropriate to safeguard the assets of the agency;
21 (b) A plan which limits access to assets of the agency to persons
22 who need the assets to perform their assigned duties;
23 (c) Procedures for authorizations and recordkeeping which
24 effectively control accounting of assets, liabilities, revenues and
25 expenses;
26 (d) A system of practices to be followed in the performance of
27 the duties and functions of each agency; and
28 (e) An effective system of internal review.

29 2. The Director, in consultation with the Committee and
30 Legislative Auditor, may modify the system whenever he considers
31 it necessary.

32 3. Each agency shall develop written procedures to carry out
33 the system of internal accounting and administrative control adopted
34 pursuant to this section.

35 4. For the purposes of this section, "agency" does not include:

- 36 (a) A board created by the provisions of chapters 623 to 625A,
37 inclusive, 628, 630 to 640A, inclusive, 641 to 644, inclusive, 654
38 and 656 of NRS ~~H~~ *and sections 2 to 34, inclusive, of this act.*
39 (b) The University and Community College System of Nevada.
40 (c) The Public Employees' Retirement System.
41 (d) The Housing Division of the Department of Business and
42 Industry.
43 (e) The Colorado River Commission of Nevada.



1 **Sec. 40.** NRS 353A.025 is hereby amended to read as follows:
2 353A.025 1. The head of each agency shall periodically
3 review the agency's system of internal accounting and
4 administrative control to determine whether it is in compliance with
5 the uniform system of internal accounting and administrative control
6 for agencies adopted pursuant to subsection 1 of NRS 353A.020.

7 2. On or before July 1 of each even-numbered year, the head of
8 each agency shall report to the Director whether the agency's
9 system of internal accounting and administrative control is in
10 compliance with the uniform system adopted pursuant to subsection
11 1 of NRS 353A.020. The reports must be made available for
12 inspection by the members of the Legislature.

13 3. For the purposes of this section, "agency" does not include:
14 (a) A board created by the provisions of chapters 623 to 625A,
15 inclusive, 628, 630 to 640A, inclusive, 641 to 644, inclusive, 654
16 and 656 of NRS ~~and~~ *and sections 2 to 34, inclusive, of this act.*

17 (b) The University and Community College System of Nevada.

18 (c) The Public Employees' Retirement System.

19 (d) The Housing Division of the Department of Business and
20 Industry.

21 (e) The Colorado River Commission of Nevada.

22 4. The Director shall, on or before the first Monday in
23 February of each odd-numbered year, submit a report on the status
24 of internal accounting and administrative controls in agencies to the:

25 (a) Director of the Legislative Counsel Bureau for transmittal to
26 the:

27 (1) Senate Standing Committee on Finance; and

28 (2) Assembly Standing Committee on Ways and Means;

29 (b) Governor; and

30 (c) Legislative Auditor.

31 5. The report submitted by the Director pursuant to subsection
32 4 must include, without limitation:

33 (a) The identification of each agency that has not complied with
34 the requirements of subsections 1 and 2;

35 (b) The identification of each agency that does not have an
36 effective method for reviewing its system of internal accounting and
37 administrative control; and

38 (c) The identification of each agency that has weaknesses in its
39 system of internal accounting and administrative control, and the
40 extent and types of such weaknesses.

41 **Sec. 41.** NRS 353A.045 is hereby amended to read as follows:

42 353A.045 The Chief shall:

43 1. Report to the Director.

44 2. Develop long-term and annual work plans to be based on the
45 results of periodic documented risk assessments. The annual work



- 1 plan must list the agencies to which the Division will provide
- 2 training and assistance and be submitted to the Director for
- 3 approval. Such agencies must not include:
 - 4 (a) A board created by the provisions of chapters 623 to 625A,
 - 5 inclusive, 628, 630 to 640A, inclusive, 641 to 644, inclusive, 654
 - 6 and 656 of NRS ~~H~~ *and sections 2 to 34, inclusive, of this act.*
 - 7 (b) The University and Community College System of Nevada.
 - 8 (c) The Public Employees' Retirement System.
 - 9 (d) The Housing Division of the Department of Business and
 - 10 Industry.
 - 11 (e) The Colorado River Commission of Nevada.
- 12 3. Provide a copy of the approved annual work plan to the
- 13 Legislative Auditor.
- 14 4. In consultation with the Director, prepare a plan for auditing
- 15 executive branch agencies for each fiscal year and present the plan
- 16 to the Committee for its review and approval. Each plan for auditing
- 17 must:
 - 18 (a) State the agencies which will be audited, the proposed scope
 - 19 and assignment of those audits and the related resources which will
 - 20 be used for those audits; and
 - 21 (b) Ensure that the internal accounting, administrative controls
 - 22 and financial management of each agency are reviewed periodically.
- 23 5. Perform the audits of the programs and activities of the
- 24 agencies in accordance with the plan approved pursuant to
- 25 subsection 5 of NRS 353A.038 and prepare audit reports of his
- 26 findings.
- 27 6. Review each agency that is audited pursuant to subsection 5
- 28 and advise those agencies concerning internal accounting,
- 29 administrative controls and financial management.
- 30 7. Submit to each agency that is audited pursuant to subsection
- 31 5 analyses, appraisals and recommendations concerning:
 - 32 (a) The adequacy of the internal accounting and administrative
 - 33 controls of the agency; and
 - 34 (b) The efficiency and effectiveness of the management of the
 - 35 agency.
- 36 8. Report any possible abuses, illegal actions, errors, omissions
- 37 and conflicts of interest of which the Division becomes aware
- 38 during the performance of an audit.
- 39 9. Adopt the standards of the Institute of Internal Auditors for
- 40 conducting and reporting on audits.
- 41 10. Consult with the Legislative Auditor concerning the plan
- 42 for auditing and the scope of audits to avoid duplication of effort
- 43 and undue disruption of the functions of agencies that are audited
- 44 pursuant to subsection 5.
- 45 11. Appoint a Manager of Internal Controls.



1 **Sec. 42.** NRS 608.0116 is hereby amended to read as follows:
2 608.0116 "Professional" means pertaining to an employee who
3 is licensed or certified by the State of Nevada for and engaged in the
4 practice of law or any of the professions regulated by chapters 623
5 to 645, inclusive, and 656A of NRS ~~§~~ *and sections 2 to 34,*
6 *inclusive, of this act.*

7 **Sec. 43.** Notwithstanding the provisions of subsection 2 of
8 section 15 of this act, a member or employee of the Board of
9 Massage Therapists shall not be eligible for payment of any per
10 diem allowance or travel expense until July 1, 2004.

11 **Sec. 44.** 1. By July 1, 2005, a person licensed to practice
12 massage therapy by a county, city or town in this state must become
13 licensed pursuant to the provisions of sections 2 to 34, inclusive, of
14 this act to practice massage therapy in this state.

15 2. Until a person licensed to practice massage therapy by a
16 county, city or town in this state becomes licensed to practice
17 massage therapy pursuant to the provisions of sections 2 to 34,
18 inclusive, of this act, the person shall comply with:

19 (a) All ordinances and regulations of the county, city or town
20 that issued a license to the person until the person becomes licensed
21 pursuant to the provisions of sections 2 to 34, inclusive, of this act;
22 and

23 (b) The provisions of sections 2 to 18, inclusive, 20, 22, 23 and
24 25 to 34, inclusive, of this act.

25 **Sec. 45.** As soon as practicable after October 1, 2003, the
26 Governor shall appoint to the Board of **Massage** Therapists:

27 1. Two members whose term expires on June 30, 2004.

28 2. Three members whose terms expire on June 30, 2005.

29 **Sec. 46.** 1. This act becomes effective on October 1, 2003.

30 2. Sections 22 and 23 of this act expire by limitation on the
31 date on which the provisions of 42 U.S.C. § 666 requiring each state
32 to establish procedures under which the state has authority to
33 withhold or suspend, or to restrict the use of professional,
34 occupational or recreational licenses of persons who:

35 (a) Have failed to comply with a subpoena or warrant relating to
36 a proceeding to determine the paternity of a child or to establish or
37 enforce an obligation for the support of a child; or

38 (b) Are in arrears in the payment for the support of one or more
39 children,
40 are repealed by the Congress of the United States.

