



Sent and Posted: June 3, 2014

**SPECIAL MEETING OF THE
BOARD OF DIRECTORS**
(Government Code Section 11125.4)

NOTICE AND AGENDA
Thursday June 5, 2014 at 1:00 p.m.
Radisson Hotel at Los Angeles Airport
Los Angeles Room (second floor)
6225 W. Century Blvd., Los Angeles, CA 90045

1. Roll call
2. Finding pursuant to 11125.4(c) relative to holding special meeting on less than 10 days notice pursuant to Government Code Section:

This meeting has been called and noticed pursuant to the special meeting provision of the Bagley-Keene Open Meeting Act (Act) which allows for a meeting on less than 10 days notice under certain circumstances, including proposed legislation. Based on the immediate need for CAMTC to discuss proposed legislation, CAMTC finds that it would create a substantial hardship to delay this meeting, and so has properly called and noticed this special meeting pursuant to the Act.

3. Public comment
4. Legislation
5. Closed session with the CAMTC's legal counsel pursuant to Government Code Section 11126(e)
6. Return to open session
7. Adjourn

All agenda items are subject to discussion and possible action. To make a request for more information, to submit comments to the Board, or to make a request regarding a disability-related modification or accommodations for the meeting, please contact Sheryl LaFlamme at (916) 669-5336 or One Capitol Mall, Suite 320 Sacramento CA 95814 or via email at camtc@amgroup.us. Requests for disability-related modification or accommodation for the meeting should be made at least 48 hours prior to the meeting time. This notice and agenda is available on the Internet at <http://www.camtc.org>.



June 5, 2014

From: CAMTC Staff

To: CAMTC Board

Re: Summary of Proposed Amendments to AB 1147

Please see the provisions of AB 1147, following this document. This document is intended to be used in conjunction with the current version of AB 1147.

In AB 1147, legislative staff has completely rewritten and renumbered CAMTC's operative statute. Many of the changes were made in an effort to clarify the statute and place the provisions in an easier to follow order, however some of the changes have resulted in technical errors that change the meaning of the existing statute and need to be rectified. For this reason, a number of technical changes that are in line with previous Board decisions need to be proposed. Because these technical changes are just "fixes" to the proposed language, and are in line with previous Board decisions, they are not being addressed in this document.

Staff recommends the following proposed changes to AB 1147.

1. Changes to Certain Definitions

- A) Definition of Massage Establishment (4601(f)).**
- B) Definition of Operator (4601(k)).**
- C) Add Definition of "Sole Provider" (4601(m)).**

2. Board Composition and Board Related Issues

- A) Change date for seating of new Board on or after" Sept. 1, 2015. Current Board remains in effect until new Board takes effect (4602(g)).**

B) Limit Board to 13 members (instead of 11 in AB 1147 and 20 in current law) (4602(g)).

C) Replace governmental appointees in AB 1147 (Senate Rules Committee (1), Speaker of the Assembly (1), Governor (6 appointments) (4602(g)(4)-(6)) **with appointees from interested organizations** (DCA (1), Chancellor of Community Colleges (1), Representatives of Professional Massage Associations (4), and Board itself (3)).

3. Fee Limit (4602(i)).

4. Legal Right to Work in the US (4604(a)(5)).

5. Reciprocity for Individuals Licensed in Other States (4604(a)(7)).

6. Operators (4604.1)

A) CAMTC approves education, providers, and programs.

B) Education is not to exceed 50 hours.

C) Sole Providers issued Operators' Certificate upon request, payment of fee, and application (no additional education) (4604.1(b)). If don't meet the definition of a sole provider, operator's certificate immediately terminated.

7. Background checks for all those at CAMTC Registered Massage Establishments (5% or more owners, operators, and those working on the premises of registered massage establishments) (4606).

8. Continuing Education (4607). Approve programs and providers.

9. Provisions Related to Denial/Discipline (4609).

A) Newly Identified Basis for Denials/Discipline (4609(a)(3).) Failure to fully provide information requested on application.

B) Provisions Related Only to CAMTC Registered Massage Establishments (4609(c)).

1) Unprofessional Business Practices

- a) sexually suggestive advertising related to massage services
- b) advertising for massage services in any adult form of media
- c) being listed on an adult website
- d) address of business is listed in a sexually suggestive advertisement, adult form of media, or adult website

- e) sexual activity occurs on the premises where massage is provided for compensation, excluding a residence
 - f) substantially related criminal activity occurs on the premises
 - g) premises has permanently covered exterior windows or allows clients to enter or leave by a back door
 - h) an arrest with charges filed for any of the following occurred for conduct that occurred on the premises in the last 10 years: 647(a)[lewd conduct], 647(b) [prostitution], 266(h) [pimping], 266(i) [pandering], 315 [living in house of ill fame], 316 [keeping house of ill fame], 653.22 [loitering with intent to commit prostitution], 653.23 [aiding in the commission of loitering with intent to commit prostitution]
- 1) engaged in any other conduct the Board determines is an unprofessional business practice
 - 2) Failure to maintain and provide to CAMTC a complete and accurate list of all 5% or more owners, operators, and those working on the premises
 - 3) Failure to keep and maintain a list of clients with contact information for three years
 - 4) Failure to update CAMTC with information related to new people owning 5% or more, operating, or working on the premises of the business, or updating required information within 5 business days
 - 5) failure to properly supervise those working on the premises
 - 6) failure to provide for reasonable sanitation or comply with health and safety requirements adopted by the Board

10. Provisions applicable to CAMTC Certified Individuals (4612).

A) AB 1147 states: 4612(b)(2)(B): “An ordinance enacted pursuant to this subdivision shall not include any of the following” ...

ADD: (ii) *A requirement that an individual certificate holder providing massage for compensation pursuant to a certificate issued in accordance with this chapter be required to obtain any other license, permit, certificate, or other authorization to provide massage for compensation. This provision does not apply to a massage business.*

B) Unlocked Doors (4612(b)(2)(iii)).

C) Physical Requirements for Privacy (4612)(b)(2)(iv).

D) Hours (4612)(b)(3)).

E) Charges (4612)(b)(4)).

F) Removal of Section (4612(d)).

11. Provisions Applicable to CAMTC Registered Massage Establishments Only (4612).

Specify that local jurisdictions can't do any of the following to CAMTC Registered Massage Establishments:

A) Zone them as adult entertainment or impose regulations that are only imposed on adult entertainment businesses

B) require CUPs unless they are also required for businesses that provide personal services by those licensed by DCA

C) require the business to be an ancillary use to another business

D) post notices saying law enforcement can enter at any time, or describe sex acts, mention genitalia, or specific contraception devices

E) impose dress code requirements that prohibit skirts, specify underwear, specify distance of clothing from anatomical areas. Local jurisdictions are specifically authorized to prohibit massage providers from exposing their breasts and genitals, wearing see-through clothing, and dressing in a manner that violates indecent exposure laws

F) impose draping requirements that go beyond the covering of female breasts and genitalia

G) prohibit massage of the glutes or prohibit specific massage techniques, aside from massage of the genitals, anal region, or female breasts

H) impose ratios for parking spots that are different than those imposed on businesses that provide personal services pursuant to a DCA license

I) impose trip fees unless trip fees are also imposed on businesses that provide personal services pursuant to a DCA license

12. Transition From Current Version of 4612 to Proposed Version of 4612 in AB 1147.

CAMTC will not have the authority to register massage establishments until January of 2016. This leaves an at least one year gap after current law expires and before CAMTC can issue registrations to massage establishments. Staff therefore proposes that a grandfathering provision be implemented that allows for the application of the currently existing provisions of 4612 (with some significant modifications) from January 1, 2015 –

June 30, 2016 to massage businesses that meet, and continue to meet, ALL of the following requirements:

- A) uses and continues to use only CAMTC certified people to provide massage for compensation
- B) is in existence and operational on or before December 31 of 2014
- C) there is no change in ownership
- D) no convictions for 647(b), 315, 653.22, 653.23, 266h, or 266i for conduct that occurred on the premises
- E) is not a CAMTC registered business (once a business is registered, this grandfathering provision no longer applies)

For businesses that meet all of these requirements, the current provisions of 4612 will apply, with the modification that local jurisdictions are specifically authorized to impose caps and moratoriums (as long as they are not retroactively applied) and the local jurisdictions rules/regulations/etc. that are applied to these businesses must also be applied to other businesses that provide personal services by those licensed by DCA. If a business fails to meet any of the requirements above, they lose the application of this grandfathering provision. Local jurisdictions are also specifically allowed to close a massage business where conduct on the premises resulted in a conviction for 647(b), 315, 653.22, 653.23, 266h, or 266i.

This grandfathering provision applies only to businesses, not individuals.

13. CAMTC Registered Massage Establishments (“RME”) (4613). Staff recommends that the following provisions be added.

- A) Background checks for all non-certified 5% or more owners, operators, and those working on the premises of the business
- B) At least one operator for each RME
- C) Sole providers are automatically registered if they ask for it, pay the fee, and fill out an application. The registration is immediately terminated if they don’t have a valid and active CAMTC certificate.
- D) RME’s must notify CAMTC of new 5% or more owners, operators, and those working on the premises before they start work, and update with new information for these people within 5 days.

14. Information Sharing (4614). Add language to allow for information sharing to and from law enforcement agencies for 5% or more owners, operators, or those working on the premises of RME or RME applicants.

15. Education (4615). Add language from current law to give CAMTC the authority to investigate schools and conduct interviews. Clarify that CAMTC has the authority to approve schools, continuing education providers, and providers of operator’s education, and educational programs and curriculum.

AMENDED IN SENATE APRIL 23, 2014
AMENDED IN ASSEMBLY JANUARY 14, 2014
AMENDED IN ASSEMBLY JANUARY 6, 2014
AMENDED IN ASSEMBLY MAY 31, 2013
AMENDED IN ASSEMBLY MAY 13, 2013
AMENDED IN ASSEMBLY MAY 1, 2013
AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1147

**Introduced by ~~Assembly Member Gomez~~ *Assembly Members Bonilla, Gomez, and Holden*
(~~Coauthor: Assembly Member Muratsuchi~~)**

February 22, 2013

An act to ~~amend Section 4601 of~~ *add and repeal Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as amended, ~~Gomez~~ *Bonilla*. Massage therapy.

Existing law, until January 1, 2015, provides for the voluntary certification of massage practitioners and massage therapists by the California Massage Therapy Council. Existing law specifies the requirements for the council to issue to an applicant a certificate as a ~~massage practitioner, including, but not limited to, successfully completing curricula in massage and related subjects totaling a minimum~~

~~of 250 hours or the credit unit equivalent, as specified. practitioner or massage therapist. Existing law authorizes a city, county, or city and county to impose certain requirements on massage establishments or businesses that are the sole proprietorship of an individual certified pursuant to existing state law or that employ or use only persons who are so certified. Existing law authorizes a city, county, or city and county to, among other things, adopt reasonable health and safety requirements, as specified, pertaining to those massage establishments or businesses, and to require an applicant for a business license to operate a massage business or establishment to fill out an application that requests relevant information, as specified.~~

This bill would reenact, revise, and recast these provisions to, among other things, additionally provide for the registration of massage establishments and the certification of massage establishment operators, as specified. The bill would discontinue the issuance of new massage practitioner certificates after January 1, 2015, except as provided, but would authorize the renewal of massage practitioner certificates issued prior to January 1, 2015. The bill would require that all certificates or registrations issued pursuant to these provisions be subject to renewal every 2 years, except as provided. The bill would require the board of directors of the council to adopt requirements for the continuing education of certificate holders, as specified, and would require the council to inspect and approve schools or continuing education providers.

The bill would authorize the council to deny an application for a certificate or registration, or to discipline a certificate holder or registered establishment for violation of these provisions, as specified. The bill would require the board to exercise its denial or discipline authority by means of fair and reasonable procedures that, among other things, provide the applicant, certificate holder, or registered establishment with notice and an opportunity to be heard, as specified. The bill would provide that unprofessional conduct in violation of these provisions includes, among other things, engaging in sexually suggestive advertising related to massage services and engaging in sexual activity while providing massage services for compensation.

The bill would, notwithstanding any other law, prohibit a city, county, or city and county from enacting an ordinance that conflicts with these provisions and would prohibit any conflicting ordinance that is in effect before the effective date of these provisions from being enforced against a certificate holder or registered establishment. However, the bill would

authorize a city, county, or city and county to enact ordinances that require a certificate holder or registered establishment to, among other things, obtain a license, permit, or other authorization, as specified, and abide by reasonable health and safety requirements, as specified.

The bill would authorize a court to issue an injunction or to provide any other relief it deems appropriate for violations of these provisions, as specified. The bill would provide that the powers and duties of the council are subject to review by the appropriate committees of the Legislature and would require the council to provide a specified report to these committees on or before June 1, 2016.

The bill would provide that these provisions are issues of statewide concern, and therefore applicable statewide. The bill would also provide that its provisions be severable.

The bill would repeal these provisions on January 1, 2017.

~~*This bill would additionally require an applicant for a certificate as a massage practitioner to pass a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards, and that is approved by the council.*~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. It is the intent of Legislature that this act enable*
2 *consumers and local governments to more easily identify trained*
3 *massage professionals, provide for the consistent and statewide*
4 *certification and oversight of massage professionals, ensure that*
5 *schools teaching massage provide a high level of training and*
6 *protection for students, assist local governments and law*
7 *enforcement in maintaining the highest standards of performance*
8 *by certificated professionals, and provide for a self-funded*
9 *nonprofit oversight body to certify massage professionals, register*
10 *massage establishments, and ensure full compliance with, and*
11 *execution of, the requirements of this act.*

12 *SEC. 2. Chapter 10.5 (commencing with Section 4600) is added*
13 *to Division 2 of the Business and Professions Code, to read:*

CHAPTER 10.5. MASSAGE THERAPY ACT

1
2
3 4600. This chapter shall be known and may be cited as the
4 Massage Therapy Act. Whenever a reference is made to the
5 Massage Therapy Act by any statute, it shall be construed to refer
6 to this chapter.

7 4601. As used in this chapter, the following terms shall have
8 the following meanings:

9 (a) "Approved school" or "approved massage school" means
10 a school approved by the council that meets minimum standards
11 for training and curriculum in massage and related subjects, that
12 meets any of the following requirements, and that has not been
13 otherwise disapproved by the council:

14 (1) Is approved by the Bureau for Private Postsecondary
15 Education.

16 (2) Is approved by the Department of Consumer Affairs.

17 (3) Is an institution accredited by the Accrediting Commission
18 for Senior Colleges and Universities or the Accrediting
19 Commission for Community and Junior Colleges of the Western
20 Association of Schools and Colleges and that is one of the
21 following:

22 (A) A public institution.

23 (B) An institution incorporated and lawfully operating as a
24 nonprofit public benefit corporation pursuant to Part 2
25 (commencing with Section 5110) of Division 2 of Title 1 of the
26 Corporations Code, and that is not managed by any entity for
27 profit.

28 (C) A for-profit institution.

29 (D) An institution that does not meet all of the criteria in
30 subparagraph (B) that is incorporated and lawfully operating as
31 a nonprofit public benefit corporation pursuant to Part 2
32 (commencing with Section 5110) of Division 2 of Title 1 of the
33 Corporations Code, that has been in continuous operation since
34 April 15, 1997, and that is not managed by any entity for profit.

35 (4) Is a college or university of the state higher education
36 system, as defined in Section 100850 of the Education Code.

37 (5) Is a school requiring equal or greater training than what is
38 required pursuant to this chapter and is recognized by the
39 corresponding agency in another state or accredited by an agency
40 recognized by the United States Department of Education.

1 (b) “Certificate” means a valid certificate issued by the council
2 pursuant to this chapter.

3 (c) “Compensation” means a payment, loan, advance, donation,
4 contribution, deposit, or gift of money, or anything of value.

5 (d) “Council” means the California Massage Therapy Council
6 created pursuant to this chapter, which shall be a nonprofit
7 organization exempt from taxation under Section 501(c)(3) of Title
8 26 of the United States Code.

9 (e) “Massage” means the scientific manipulation of the soft
10 tissues. For purposes of this chapter, the terms “massage” and
11 “bodywork” shall have the same meaning.

12 (f) “Massage establishment” or “establishment” means a
13 business, studio, facility, or other entity that provides massage for
14 compensation on its premises.

15 (g) “Massage practitioner” means a person who is certified by
16 the council under Section 4604.2 and who administers massage
17 for compensation.

18 (h) “Massage therapist” means a person who is certified by the
19 council under Section 4604 and who administers massage for
20 compensation.

21 (i) “Registration” means a valid establishment registration
22 issued by the council pursuant to this chapter.

23 (j) “Registered massage establishment” or “registered
24 establishment” means a massage establishment that is registered
25 with the council pursuant to Section 4613 as employing or using
26 only certificate holders to administer massage for compensation,
27 and that is in good standing and otherwise in compliance with the
28 requirements of this chapter.

29 (k) “Operator” means a person, whether owner or nonowner,
30 who manages the day-to-day operations of a massage establishment
31 and supervises two or more certificate holders in the administration
32 of massage for compensation. An operator need not be an owner
33 of the establishment.

34 (l) “Owner” means a person having any ownership interest in
35 a massage establishment, including, but not limited to, an officer,
36 director, manager, or partner of a corporation, a partnership, or
37 any other business entity, formation, or relationship.

38 4602. (a) The California Massage Therapy Council, as defined
39 in subdivision (d) of Section 4601, is hereby established and shall
40 carry out the responsibilities and duties set forth in this chapter.

1 ***(b) The council may take any reasonable actions necessary to***
 2 ***carry out the responsibilities and duties set forth in this chapter,***
 3 ***including, but not limited to, the hiring of staff, entering into***
 4 ***contracts, and developing policies and procedures to implement***
 5 ***this chapter.***

6 ***(c) The council may require background checks for all***
 7 ***employees, contractors, volunteers, and board members as a***
 8 ***condition of their employment or participation in council activities.***

9 ***(d) The council shall issue a certificate to an individual***
 10 ***applicant who satisfies the requirements of this chapter for that***
 11 ***certificate, and shall issue a registration to a massage***
 12 ***establishment that satisfies the requirements of this chapter.***

13 ***(e) The council shall determine that the information provided***
 14 ***to the council in relation to the certification of an applicant or***
 15 ***registration of an establishment is true and correct and meets the***
 16 ***requirements of this chapter. If the council has any reason to***
 17 ***question whether or not the information provided is true or correct***
 18 ***or meets the requirements of this chapter, the council is authorized***
 19 ***to make any investigation it deems necessary to establish that the***
 20 ***information received is accurate and satisfies any criteria***
 21 ***established by this chapter.***

22 ***(f) Until July 1, 2015, the council shall be governed by a board***
 23 ***of directors comprised of two representatives selected by each***
 24 ***professional society, association, or other entity, which membership***
 25 ***is comprised of massage therapists and that chooses to participate***
 26 ***in the council. To qualify, a professional society, association, or***
 27 ***other entity shall have a dues-paying membership in California***
 28 ***of at least 1,000 individuals for the last three years and shall have***
 29 ***bylaws that require its members to comply with a code of ethics.***
 30 ***The board of directors shall also include each of the following***
 31 ***persons:***

32 ***(1) One member selected by each statewide association of***
 33 ***private postsecondary schools incorporated on or before January***
 34 ***1, 2010, which member schools have together had at least 1,000***
 35 ***graduates in each of the previous three years from massage therapy***
 36 ***programs that meet the approval standards set forth in subdivision***
 37 ***(a) of Section 4601, except from those qualifying associations that***
 38 ***choose not to exercise this right of selection.***

39 ***(2) One member selected by the League of California Cities,***
 40 ***unless that entity chooses not to exercise this right of selection.***

1 (3) One member selected by the California State Association of
2 Counties, unless that entity chooses not to exercise this right of
3 selection.

4 (4) One member selected by the Director of Consumer Affairs,
5 unless that entity chooses not to exercise this right of selection.

6 (5) One member appointed by the Office of the Chancellor of
7 the California Community Colleges, unless that entity chooses not
8 to exercise this right of selection. The person appointed, if any,
9 shall not be part of any massage therapy certificate or degree
10 program.

11 (6) The council's bylaws shall establish a process for appointing
12 other professional directors, as determined by the board.

13 (g) On July 1, 2015, the board of directors established pursuant
14 to subdivision (f) shall be dissolved, and the council shall instead
15 be governed by a board of directors comprised of 11 members
16 chosen in the following manner:

17 (1) One member shall be a representative of the League of
18 California Cities, unless that entity chooses not to exercise this
19 right of selection.

20 (2) One member shall be a representative of the California
21 Police Chiefs Association, unless that entity chooses not to exercise
22 this right of selection.

23 (3) One member shall be a representative of the California State
24 Association of Counties, unless that entity chooses not to exercise
25 this right of selection.

26 (4) One member shall be appointed to the board by the Senate
27 Committee on Rules, who shall be a member of the public.

28 (5) One member shall be appointed to the board by the Speaker
29 of the Assembly, who shall be a member of the public.

30 (6) Six members shall be appointed to the board by the
31 Governor. One member shall represent the Department of
32 Consumer Affairs, one member shall be a member of the public,
33 and four members shall be representatives of the massage industry.

34 (h) Board member terms shall be four years.

35 (i) The board of directors shall establish fees reasonably related
36 to the cost of providing services and carrying out its ongoing
37 responsibilities and duties. Initial and renewal fees for certificates
38 shall be in an amount sufficient to support the functions of the
39 council in the administration of this chapter, but in no event shall

1 exceed two hundred fifty dollars (\$250). The renewal fee shall be
2 reassessed biennially by the board.

3 (j) The meetings of the council shall be subject to the rules of
4 the Bagley-Keene Open Meeting Act (Article 9 (commencing with
5 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
6 the Government Code).

7 4603. Protection of the public shall be the highest priority for
8 the council in exercising its certification, registration, disciplinary,
9 and other functions. Whenever the protection of the public is
10 inconsistent with other interests sought to be promoted, the
11 protection of the public shall be paramount.

12 4604. (a) In order to obtain certification as a massage
13 therapist, an applicant shall submit a written application and
14 provide the council with satisfactory evidence that he or she meets
15 all of the following requirements:

16 (1) The applicant is 18 years of age or older.

17 (2) The applicant has successfully completed the curricula in
18 massage and related subjects totaling a minimum of 500 hours,
19 or the credit unit equivalent, that incorporates appropriate school
20 assessment of student knowledge and skills.

21 (A) Of the 500 hours, a minimum of 100 hours of instruction
22 shall address anatomy and physiology, contraindications, health
23 and hygiene, and business and ethics.

24 (B) Of the 500 hours, a minimum of 250 hours shall be from
25 approved schools. The remaining 250 hours required may be
26 secured either from approved schools or from a continuing
27 education provider approved by the council.

28 (3) The applicant has passed a massage and bodywork
29 competency assessment examination that meets generally
30 recognized psychometric principles and standards, and that is
31 approved by the council. The successful completion of this
32 examination may have been accomplished before the date the
33 council is authorized by this chapter to begin issuing certificates.

34 (4) The applicant has successfully passed a background
35 investigation pursuant to Section 4606.

36 (5) All fees required by the council have been paid.

37 (b) A certificate issued pursuant to this chapter and any
38 identification card issued by the council shall be surrendered to
39 the council by any certificate holder whose certificate has been
40 suspended or revoked.

1 4604.1. (a) In order to obtain certification as a massage
2 establishment operator, an applicant shall submit a written
3 application and provide the council with satisfactory evidence that
4 he or she meets all of the following requirements:

- 5 (1) The applicant is 18 years of age or older.
- 6 (2) The applicant has successfully completed curricula related
7 to massage management and related subjects totaling a minimum
8 of 50 hours, or the credit unit equivalent, that incorporates health
9 and hygiene, and business and ethics. The 50 hours may be secured
10 either from approved schools or from a continuing education
11 provider approved by the council.
- 12 (3) The applicant has successfully passed a background
13 investigation pursuant to Section 4606.
- 14 (4) All fees required by the council have been paid.

15 (b) A certificate issued pursuant to this chapter and any
16 identification card issued by the council shall be surrendered to
17 the council by any certificate holder whose certificate has been
18 suspended or revoked.

19 (c) An operator of a massage establishment may be held
20 responsible and disciplined by the council for conduct by any
21 employee, independent contractor, or volunteer working on the
22 premises of the operator's establishment that violates any law or
23 the policies and procedures of the council, if the operator knew
24 or should have known of the conduct.

25 (d) A certificate may be issued by the council pursuant to this
26 section on or after January 1, 2016.

27 4604.2. (a) The council shall not issue any new certificates to
28 practice as a certified massage practitioner on or after January
29 1, 2015.

30 (b) Certificates to practice as a certified massage practitioner
31 issued prior to January 1, 2015, may be renewed, if the certificate
32 holder continues to be qualified pursuant to this chapter and is
33 not otherwise out of compliance with the requirements of this
34 chapter.

35 (c) A massage practitioner certificate issued prior to January
36 1, 2015, and any identification card issued by the council, shall
37 be surrendered to the council by any certificate holder whose
38 certificate has been suspended or revoked.

39 4604.3. (a) A person who was issued a conditional certificate
40 to practice as a massage practitioner shall, within five years of

1 *being issued the conditional certificate, complete at least 30 hours*
2 *of additional education per year from approved schools or from*
3 *providers approved by the council.*

4 *(b) A conditional certificate shall immediately be nullified,*
5 *without need for further action by the council, if proof of*
6 *completion of the requirements specified in subdivision (a) is not*
7 *filed with the council within five years of the issuance of the*
8 *conditional certificate.*

9 *(c) Notwithstanding subdivision (a) of Section 4604.2, the*
10 *council shall issue a new certificate to practice as a massage*
11 *practitioner to a person that successfully completes the*
12 *requirements described in subdivision (a).*

13 *4605. (a) Except as otherwise provided, a certification or*
14 *registration issued pursuant to this chapter shall be subject to*
15 *renewal every two years in the manner prescribed by the council.*
16 *A certificate or registration issued by the council shall expire after*
17 *two years unless renewed as prescribed. The council may provide*
18 *for the late renewal of a certificate or registration.*

19 *(b) To the extent required by this chapter, a certificate holder*
20 *seeking renewal shall submit proof satisfactory to the council that,*
21 *during the preceding two years, he or she has completed the*
22 *required number of continuing education hours in an approved*
23 *form and from an approved provider, as determined by the council.*

24 *4606. (a) Prior to issuing a certificate or a registration to an*
25 *applicant, or designating a custodian of records, the council shall*
26 *require the applicant or the custodian of records candidate to*
27 *submit fingerprint images as directed by the council and in a form*
28 *consistent with the requirements of this section.*

29 *(b) The council shall submit the fingerprint images and related*
30 *information to the Department of Justice for the purpose of*
31 *obtaining information as to the existence and nature of a record*
32 *of state and federal level convictions and of state and federal level*
33 *arrests for which the Department of Justice establishes that the*
34 *applicant or candidate was released on bail or on his or her own*
35 *recognizance pending trial.*

36 *(c) Requests for federal level criminal offender record*
37 *information received by the Department of Justice pursuant to this*
38 *section shall be forwarded to the Federal Bureau of Investigation*
39 *by the Department of Justice. The Department of Justice shall*
40 *review the information returned from the Federal Bureau of*

1 *Investigation, and shall compile and disseminate a fitness*
2 *determination regarding the applicant or candidate to the council.*
3 *The Department of Justice shall provide information to the council*
4 *pursuant to subdivision (p) of Section 11105 of the Penal Code.*

5 *(d) The Department of Justice and the council may charge a*
6 *fee sufficient to cover the cost of processing the request for state*
7 *and federal level criminal offender record information.*

8 *(e) The council shall request subsequent arrest notification*
9 *service from the Department of Justice, as provided under Section*
10 *11105.2 of the Penal Code, for all applicants for certification or*
11 *registration, or custodian of records candidates for whom*
12 *fingerprint images and related information are submitted to*
13 *conduct a search for state and federal level criminal offender*
14 *record information.*

15 *(f) The council is authorized to receive arrest notifications and*
16 *other background material about applicants and certificate and*
17 *registration holders from a city, county, or city and county.*

18 *4607. (a) The council shall adopt requirements for the*
19 *continuing education of certificate holders, to become effective on*
20 *the date specified by the council. The requirements shall address*
21 *the total number of hours required, acceptable forms of continuing*
22 *education, approved providers of continuing education, and any*
23 *other matters deemed necessary by the council. Continuing*
24 *education requirements for certificate holders shall not exceed 30*
25 *hours every two years.*

26 *(b) The council shall perform random audits in order to ensure*
27 *compliance with these requirements.*

28 *(c) The administration of this section may be funded through*
29 *renewal fees and continuing education provider fees, not to exceed*
30 *the amounts necessary to cover the reasonable costs of*
31 *administering this section.*

32 *(d) This section shall become effective on January 1, 2016.*

33 *4608. In addition to the other requirements of this chapter, a*
34 *certificate holder shall:*

35 *(a) Display his or her original certificate wherever he or she*
36 *provides massage for compensation. A certificate holder shall*
37 *have his or her identification card in his or her possession while*
38 *providing massage services for compensation.*

39 *(b) Provide his or her full name and certificate number upon*
40 *the request of a member of the public, the council, or a member*

1 of law enforcement, or a local government agency charged with
2 regulating massage or massage establishments, at the location
3 where he or she is providing massage services for compensation.

4 (c) Include the name under which he or she is certified and his
5 or her certificate number in any and all advertising of massage
6 for compensation.

7 (d) Notify the council within 30 days of any changes in the
8 certificate holder's home address or the address of any massage
9 establishment or other location where he or she regularly practices
10 massage.

11 4609. (a) It is a violation of this chapter for a certificate holder
12 to commit any of the following acts:

13 (1) Unprofessional conduct, including, but not limited to, any
14 of the following:

15 (A) Engaging in sexually suggestive advertising related to
16 massage services.

17 (B) Engaging in any form of sexual activity on the premises of
18 a massage establishment where massage is provided for
19 compensation, excluding a residence.

20 (C) Engaging in sexual activity while providing massage
21 services for compensation.

22 (D) Practicing massage on a suspended license, or practicing
23 outside of the conditions of a restricted license.

24 (2) Procuring or attempting to procure a certificate by fraud,
25 material misrepresentation, or mistake.

26 (3) Impersonating an applicant or acting as a proxy for an
27 applicant in any examination referred to in this chapter for the
28 issuance of a certificate.

29 (4) Impersonating a certificate holder, or permitting or allowing
30 a noncertified person to use a certificate.

31 (5) Violating or attempting to violate, directly or indirectly, or
32 assisting in or abetting the violation of, or conspiring to violate,
33 any provision of this chapter or any rule or bylaw adopted by the
34 council.

35 (6) Committing any fraudulent, dishonest, or corrupt act that
36 is substantially related to the qualifications or duties of a certificate
37 holder.

38 (7) Being the subject, while holding a valid certificate, of a
39 denial of licensure, revocation, suspension, restriction, or any
40 other disciplinary action by another state or territory of the United

1 States, by any other government agency, or by another California
2 health care professional licensing board, or having been the subject
3 of such discipline before submitting an application without fully
4 disclosing that fact to the council. A certified copy of the decision,
5 order, or judgment shall be conclusive evidence of these actions.

6 (8) Being convicted of any felony, misdemeanor, infraction, or
7 municipal code violation, or being held liable in an administrative
8 or civil action for an act, that is substantially related to the
9 qualifications, functions, or duties of a certificate holder while
10 holding a valid certificate. A record of the conviction or other
11 judgment shall be conclusive evidence of the crime or liability.

12 (9) Having been convicted of crimes or held liable for acts
13 described in paragraph (8) prior to submitting an application for
14 certification and failing to fully disclose that fact to the council.
15 A record of the conviction or other judgment shall be conclusive
16 evidence of the crime or liability.

17 (10) Committing any act punishable as a sexually related crime
18 or being required to register pursuant to the Sex Offender
19 Registration Act (Chapter 5.5 (commencing with Section 290) of
20 Title 9 of Part 1 of the Penal Code), or being required to register
21 as a sex offender in another state.

22 (11) Failing to pay fines or fees levied by a city, county, or city
23 and county for violations pertaining to the practice of massage
24 within 90 days of becoming due, unless a formal dispute process
25 is pending, the certificate holder is in bankruptcy proceedings, or
26 the fines or fees are otherwise waived by the council.

27 (b) The council may deny an application for a certificate or
28 registration for the commission of any of the acts described in
29 subdivision (a). The council may also discipline a certificate holder
30 or registered massage establishment, in any manner permitted by
31 this chapter, for the commission of any of those acts by a certificate
32 holder, or by an employee, contractor, or volunteer of a registered
33 establishment while on the premises, if any owner or operator of
34 the establishment knew or should have known of the acts.

35 4610. (a) An applicant for a certificate or registration shall
36 not be denied a certificate or registration, and a certificate holder
37 or registered establishment shall not be disciplined, pursuant to
38 this chapter except according to procedures satisfying the
39 requirements of this section. Denial or discipline not in accord
40 with this section shall be void and without effect.

1 (b) The council may discipline a certificate holder or a
2 registered establishment by any, or a combination, of the following
3 methods:

4 (1) Placing the certificate holder or registered establishment
5 on probation, which may include limitations or conditions on
6 practice.

7 (2) Suspending the certificate or registration and the rights
8 conferred by this chapter on a certificate holder or registered
9 establishment for a period not to exceed one year.

10 (3) Suspending or staying the disciplinary order, or portions of
11 it, with or without conditions.

12 (4) Revoking the certificate or registration.

13 (5) Taking other action as the council, as authorized by this
14 chapter or its bylaws, deems proper.

15 (c) The council may issue an initial certificate or registration
16 on probation, with specific terms and conditions, to any applicant.

17 (d) A registered establishment may be held accountable for the
18 conduct of employees, independent contractors, and volunteers
19 working on the premises of the establishment, including individuals
20 not authorized to provide massage services for compensation, and
21 may be disciplined by the council pursuant to this chapter, if any
22 owner or operator of the registered establishment knew or should
23 have known of the conduct.

24 (e) Any denial or discipline shall be decided upon and imposed
25 in good faith and in a fair and reasonable manner. Any procedure
26 that conforms to the requirements of subdivision (f) is fair and
27 reasonable, but a court may also find other procedures to be fair
28 and reasonable when the full circumstances of the denial or
29 discipline are considered.

30 (f) A procedure is fair and reasonable if all of the following
31 apply:

32 (1) Denial or discipline shall be based on a preponderance of
33 the evidence. In determining the basis for the denial or discipline,
34 the council may consider all written documents or statements as
35 evidence, but shall weigh the reliability of those documents or
36 statements.

37 (2) The provisions of the procedure are publically available on
38 the council's Internet Web site.

39 (3) The council provides 15 calendar days prior notice of the
40 denial or discipline and the reasons for the denial or discipline.

1 (4) *The council provides an opportunity for the applicant,*
2 *certificate holder, or registered establishment to be heard, orally*
3 *or in writing, not less than five days before the effective date of*
4 *the denial or discipline, by a person or body authorized to decide*
5 *whether or not the proposed denial or discipline should go into*
6 *effect.*

7 (g) (1) *Notwithstanding any other law, if the council receives*
8 *notice that a certificate holder has been arrested and charges have*
9 *been filed by the appropriate prosecuting agency against the*
10 *certificate holder alleging a violation of subdivision (b) of Section*
11 *647 of the Penal Code or any other offense described in paragraph*
12 *(10) of subdivision (a) of Section 4609, the council shall*
13 *immediately suspend, on an interim basis, the certificate of that*
14 *certificate holder, and take all of the following additional actions:*

15 (A) *Notify the certificate holder at the address last filed with*
16 *the council that the certificate has been suspended and the reason*
17 *for the suspension within 5 business days.*

18 (B) *Notify any establishment or employer, whether public or*
19 *private, that the council has in its records as employing the*
20 *certificate holder that the certificate has been suspended within 5*
21 *business days.*

22 (2) *Upon notice to the council that the charges described in*
23 *paragraph (1) have resulted in a conviction, the council may*
24 *permanently revoke the suspended permit. However, the certificate*
25 *shall remain suspended during any appeal of the conviction. The*
26 *council shall provide notice to the certificate holder within 10*
27 *business days that it has evidence of a valid record of conviction*
28 *and that the certificate will be revoked unless the certificate holder*
29 *provides evidence within 15 days from the date of receiving notice*
30 *that the evidence of conviction is incorrect or that the conviction*
31 *is under appeal.*

32 (3) *Upon notice that the charges described in paragraph (1)*
33 *have resulted in an acquittal or have been otherwise dismissed*
34 *prior to conviction, the certificate shall be immediately reinstated*
35 *and the certificate holder and any establishment or employer that*
36 *received notice pursuant to this section shall be notified of the*
37 *reinstatement within 5 business days.*

38 (h) (1) *Notwithstanding any other law, if the council determines*
39 *that a certificate holder has committed an act punishable as a*
40 *sexually related crime or a felony that is substantially related to*

1 *the qualifications, functions, or duties of a certificate holder, the*
2 *council may immediately suspend the certificate of that certificate*
3 *holder. A determination to immediately suspend a certificate*
4 *pursuant to this subdivision shall be based upon a preponderance*
5 *of the evidence and the council shall also consider any available*
6 *credible mitigating evidence before making a decision. Written*
7 *statements by any person shall not be considered by the council*
8 *when determining whether to immediately suspend a certificate*
9 *unless made under penalty of perjury. If the council suspends a*
10 *certificate in accordance with this subdivision, the council shall*
11 *take all of the following additional actions:*

12 *(A) Notify the certificate holder, at the address last filed with*
13 *the council, by a method providing delivery confirmation, that the*
14 *certificate has been suspended, the reason for the suspension, and*
15 *that the certificate holder has the right to request a hearing*
16 *pursuant to paragraph (3) within 5 business days.*

17 *(B) Notify by electronic mail or any other means consistent with*
18 *the notice requirements of this chapter, any business or employer,*
19 *whether public or private, that the council has in its records as*
20 *employing or contracting with the certificate holder for massage*
21 *services, and the California city, county, or city and county that*
22 *has jurisdiction over that establishment or employer, that the*
23 *certificate has been suspended within 5 business days.*

24 *(2) A certificate holder whose certificate is suspended pursuant*
25 *to this subdivision shall have the right to request, in writing, a*
26 *hearing to challenge the factual basis for the suspension. If the*
27 *holder of the suspended certificate requests a hearing on the*
28 *suspension, the hearing shall be held within 30 calendar days after*
29 *receipt of the request. A holder whose certificate is suspended*
30 *based on paragraph (1) shall be subject to revocation or other*
31 *discipline in accordance with subdivision (a).*

32 *(3) If the council determines, after a hearing conducted pursuant*
33 *to this subdivision, to lift the suspension, the certificate shall be*
34 *immediately reinstated and the certificate holder, any establishment*
35 *or employer, and the California city, county, or city and county*
36 *that has jurisdiction over that establishment or employer, that*
37 *received notice pursuant to this section shall be notified of the*
38 *reinstatement within 5 business days.*

39 *(i) Any notice required under this section may be given by any*
40 *method reasonably calculated to provide actual notice. Any notice*

1 given by mail shall be given by first-class or certified mail sent to
2 the last address of the applicant, certificate holder, or registered
3 establishment shown on the council's records.

4 (j) An applicant, certificate holder, or registered establishment
5 may challenge a denial or discipline issued pursuant to this section
6 in a court of competent jurisdiction. Any action challenging a
7 denial or discipline, including any claim alleging defective notice,
8 shall be commenced within one year after the date of the denial
9 or discipline. If the action is successful, the court may order any
10 relief, including reinstatement, that it finds equitable under the
11 circumstances.

12 (k) This section governs only the procedures for denial or
13 discipline and not the substantive grounds for the denial or
14 discipline. Denial or discipline based upon substantive grounds
15 that violates contractual or other rights of the applicant, certificate
16 holder, or registered establishment, or is otherwise unlawful, is
17 not made valid by compliance with this section.

18 4611. (a) It is an unfair business practice for a person to do
19 any of the following:

20 (1) To hold himself or herself out or to use the title of "certified
21 massage therapist," "certified massage practitioner," or any other
22 term, such as "licensed," "certified," "registered," "CMT," or
23 "CMP," that implies or suggests that the person is certified as a
24 massage therapist or practitioner without meeting the requirements
25 of Section 4604 or 4604.2.

26 (2) To hold his or her massage establishment out or to use the
27 title of "registered massage establishment," "certified massage
28 establishment," or any other term, such as "licensed," "certified,"
29 "registered," or "RME," that implies or suggests that the
30 establishment is a registered massage establishment without
31 meeting the requirements of Section 4613.

32 (3) To falsely state or advertise or put out any sign or card or
33 other device, or to falsely represent to the public through any print
34 or electronic media, that he or she or any other individual is
35 licensed, certified, or registered by a governmental agency as a
36 massage therapist or massage practitioner, or that an
37 establishment is registered pursuant to this chapter.

38 (b) In addition to any other available remedies, engaging in
39 any of the prohibited behaviors described in subdivision (a)
40 constitutes unfair competition under Section 17200.

1 4612. (a) Notwithstanding any other law, a city, county, or
2 city and county shall not enact an ordinance that conflicts with
3 this chapter, nor shall any ordinance enacted by a city, county, or
4 city and county that is in effect before the effective date of this
5 chapter that conflicts with this chapter be enforced against a
6 certificate holder or registered massage establishment.

7 (b) A city, county, or city and county may enact an ordinance
8 pursuant to Section 37101 of the Government Code that requires
9 a certificate holder or registered massage establishment to:

10 (1) Obtain a license, permit, or other authorization if the license,
11 permit, or other authorization is required of any other individual
12 or business providing other professional services as defined in
13 subdivision (a) of Section 13401 of the Corporations Code.

14 (2) (A) Abide by reasonable health and safety requirements
15 including, but not limited to, external window transparency,
16 cleanliness of massage rooms, towels, and linens, reasonable attire
17 and personal hygiene of persons providing massage services, and
18 prohibitions against nonsecurity related camera systems or other
19 recording and display devices.

20 ~~(2)~~

21 (B) An ordinance enacted pursuant to this subdivision shall not
22 include any of the following:

23 (i) A requirement that a certificate holder take or pass any test,
24 medical examination, or background check, or demonstrate
25 educational experience beyond what is required by this chapter.

26 (ii) A prohibition against locked doors in a registered massage
27 establishment with two or more people working at the
28 establishment.

29 (iii) A requirement that a registered massage establishment
30 provide additional restroom, shower, or other facilities.

31 (iv) A requirement that a registered massage establishment have
32 massage room windows that interfere with the privacy of the clients
33 of the establishment.

34 (3) Abide by hours of operation set forth in the ordinance.

35 (4) Pay charges imposed in accordance with paragraph (3) of
36 subdivision (e) of Section 1 of Article XIII C of the California
37 Constitution.

38 (5) Comply with any other requirement consistent with this
39 chapter.

1 (c) A city, county, or city and county may adopt a local
2 ordinance requiring a certificate holder or a registered massage
3 establishment to comply with the following requirements as a
4 condition of operation, although other requirements consistent
5 with this chapter may additionally be imposed by ordinance:

6 (1) Submit an application for a business license to operate a
7 massage establishment that requires information relevant to the
8 practice of massage, including whether or not the establishment
9 is registered or will exclusively employ or use certified massage
10 professionals to perform massage services.

11 (2) Comply with reasonable investigations regarding
12 information provided in the course of a business license
13 application.

14 (3) File copies or provide other evidence of the certificates held
15 by the persons who are providing massage services at the
16 establishment.

17 (4) Maintain on its premises, for review by local authorities,
18 evidence that demonstrates that all persons providing massage
19 services are certified and that the establishment is duly registered
20 with the council.

21 (5) Permit duly authorized officials of a city, county, or city and
22 county to conduct reasonable inspections, during regular business
23 hours, to ensure compliance with this chapter, the local ordinance,
24 or any other applicable requirements.

25 (6) Notify the city, county, or city and county of any intention
26 to rename, or to change the ownership of, a massage establishment,
27 or to convey the establishment to another person.

28 (7) Pay a business license tax applicable to all other individuals
29 or businesses providing professional services, as defined in
30 subdivision (a) of Section 13401 of the Corporations Code.

31 (d) If a city, county, or city and county provides the council with
32 evidence that a registered establishment has failed or is failing to
33 exclusively employ or use certificate holders to perform massage
34 services for compensation, and the council fails to make an official
35 determination within 90 days of being providing with that evidence,
36 then the city, county, or city and county may seek relief, including,
37 but not limited to, a declaration that the massage establishment's
38 registration is void pursuant to Section 4617.

39 (e) Nothing in this chapter shall prevent a city, county, or city
40 and county from licensing, regulating, prohibiting, or permitting

1 *an individual who provides massage for compensation without a*
2 *valid certificate, or a massage establishment that is not registered*
3 *with the council or does not otherwise exclusively utilize certificate*
4 *holders to provide massage for compensation, in any manner it*
5 *deems proper that is in accordance with the law.*

6 *4613. (a) An owner of a massage establishment wishing to*
7 *register with the council shall submit a written application in a*
8 *form provided by the council and provide the council with*
9 *satisfactory evidence of all of the following:*

10 *(1) All fees required by the council have been paid.*

11 *(2) All individuals providing massage for compensation and all*
12 *massage establishment operators are certified pursuant to this*
13 *chapter as of the date of the application.*

14 *(3) A declaration is made that all future individuals who will*
15 *massage for compensation and all massage establishment*
16 *operators will be certified pursuant to this chapter, until the*
17 *establishment notifies the council of its intention to cancel its*
18 *registration or the registration is not renewed.*

19 *(4) A complete list has been provided to the council identifying*
20 *each person who owns 5 percent or more of the massage*
21 *establishment, operates the massage establishment, or works at*
22 *the massage establishment in any capacity whatsoever. The list*
23 *shall include the full legal name, certification number, if any,*
24 *mailing address, residential address, and position at the*
25 *establishment of each individual, and any other information the*
26 *council may require.*

27 *(5) All owners who own 5 percent or more of the massage*
28 *establishment and all others working on the premises of the*
29 *massage establishment who are not certificate holders pursuant*
30 *to this chapter have submitted fingerprint images in a form*
31 *consistent with the requirements of Section 4606.*

32 *(b) The council shall determine that the information provided*
33 *to the council in relation to the registration of an establishment is*
34 *true and correct and meets the requirements of this section. An*
35 *applicant for a massage establishment registration shall have the*
36 *burden to prove that the massage establishment is in compliance*
37 *with all of the requirements of this section. If the council has any*
38 *reason to question whether or not the information provided is true,*
39 *correct, or meets the requirements of this chapter, the council is*
40 *authorized to investigate. The investigation may include conducting*

1 oral interviews, inspecting the massage establishment's premises
2 during business hours without prior notice, and making any
3 investigation necessary to establish that the information received
4 is accurate and satisfies any criteria established by this chapter.

5 (c) An establishment registration issued pursuant to this chapter
6 shall be surrendered to the council if the registration has been
7 suspended or revoked.

8 (d) The council shall maintain a regularly updated list of
9 registered establishments on its Internet Web site. The council
10 shall, upon request, confirm the names and registration numbers
11 of any certificate holder listed as working at the registered
12 establishment to any law enforcement agency or any other
13 representative of a local government agency with responsibility
14 for regulating or administering a local ordinance relating to
15 massage or massage establishments.

16 (e) A registered establishment shall inform the council of any
17 change in the owners, operators, or workers required to be listed
18 in paragraphs (4) and (5) of subdivision (a) within 10 business
19 days of the change. If the registered establishment fails to notify
20 the council of a change in a timely manner, the council may
21 suspend or revoke the establishment's registration.

22 (f) Once an establishment registration has been issued, neither
23 the location nor ownership of the establishment registration shall
24 be transferred, except as follows:

25 (1) An establishment registration may be transferred from one
26 location to another if there is no change in ownership and only
27 after approval by the council, following the receipt of a written
28 application for business location change and payment of a fee, not
29 to exceed the reasonable costs of administering this paragraph.

30 (2) An establishment registration may be transferred from one
31 business name to another if there is no change in ownership and
32 only after approval by the council, following the receipt of a written
33 application for business name change and payment of a fee, not
34 to exceed the reasonable costs of administering this paragraph.

35 (g) A registered massage establishment shall obtain, keep, and
36 maintain for three years, records of the full legal name, address,
37 and telephone number of all persons to which it provides massage
38 services for compensation. Registered massage establishments
39 shall not provide massage services for compensation to clients
40 who fail to provide this information.

1 (h) A registered massage establishment shall include its business
2 name and registration number in all advertising and shall display
3 the original registration at the place of business.

4 (i) A registered massage establishment shall provide, upon
5 request, the name and registration number of the registered
6 massage establishment to a member of the public, the council, or
7 a member of law enforcement, or a local government agency
8 charged with regulating massage or massage establishments.

9 (j) A registered massage establishment and its employees,
10 contractors, and volunteers shall comply with all other applicable
11 requirements of this chapter.

12 (k) The council is authorized to adopt policies and procedures
13 for the periodic inspection of registered massage establishments.

14 (l) The council shall not accept a massage establishment
15 registration application prior to September 1, 2015, and shall not
16 issue a registration prior to December 1, 2015.

17 4614. (a) Upon the request of any law enforcement agency or
18 any other representative of a local government agency with
19 responsibility for regulating or administering a local ordinance
20 relating to massage or massage establishments, the council shall
21 provide information concerning a certificate holder or registered
22 establishment, including, but not limited to, the current status of
23 the certificate or registration, any history of disciplinary actions
24 taken against the certificate holder or registered establishment,
25 the home and work addresses of the applicant, certificate holder,
26 or establishment owner, and any other information in the council's
27 possession that is necessary to verify facts relevant to administering
28 the local ordinance.

29 (b) Upon the request of the council, any law enforcement agency
30 or any other representative of a local government agency with
31 responsibility for regulating or administering a local ordinance
32 relating to massage or massage establishments is authorized to
33 provide information to the council concerning an applicant,
34 certificate holder, or registered establishment, including, but not
35 limited to, the current status of any local application or permit,
36 any history of legal or administrative action taken against the
37 applicant, certificate holder, or registered establishment, any
38 information related to criminal activity or unprofessional conduct
39 allegedly engaged in by a certificate applicant or certificate holder,
40 including, but not limited to, police reports and declarations of

1 *conduct, the home and work addresses of the applicant, certificate*
2 *holder, or establishment owner, and any other information in the*
3 *possession of the law enforcement agency or other local*
4 *government agency that is necessary to verify information or*
5 *otherwise implement this chapter.*

6 *(c) The council shall accept information provided by any law*
7 *enforcement agency or any other representative of a local*
8 *government agency with responsibility for regulating or*
9 *administering a local ordinance relating to massage or massage*
10 *establishments and review that information in a timely manner.*

11 *4615. (a) The council shall have the responsibility to determine*
12 *whether the school or continuing education provider from which*
13 *an applicant has obtained the education required by this chapter*
14 *meets the requirements of this chapter.*

15 *(b) The council may charge a reasonable fee for inspection or*
16 *approval, provided the fees do not exceed the reasonable cost of*
17 *the inspection or approval process.*

18 *(c) The council shall develop policies and procedures governing*
19 *the requirements and approval process, including provisions for*
20 *acceptance of accreditation from a recognized accreditation body*
21 *or other form of acceptance, at the discretion of the council.*

22 *4616. The council shall be sued only in the county of its*
23 *principal office, which shall be in Sacramento, unless otherwise*
24 *designated by the council.*

25 *4617. The superior court of a county of competent jurisdiction*
26 *may, upon a petition by any person, issue an injunction or any*
27 *other relief the court deems appropriate for a violation of this*
28 *chapter by any person or establishment operating in that county*
29 *subject to the provisions of this chapter. An injunction proceeding*
30 *under this section shall be governed by Chapter 3 (commencing*
31 *with Section 525) of Title 7 of Part 2 of the Code of Civil*
32 *Procedure.*

33 *4618. (a) The Legislature finds and declares that due to*
34 *important health, safety, and welfare concerns that affect the entire*
35 *state, establishing a uniform standard of certification for massage*
36 *practitioners, massage therapists, and massage establishments*
37 *upon which consumers may rely to identify individuals who have*
38 *achieved specified levels of education, training, and skill is a matter*
39 *of statewide concern and not a municipal affair, as that term is*
40 *used in Section 5 of Article XI of the California Constitution.*

1 *Therefore, this chapter shall apply to all cities and counties,*
2 *including charter cities and charter counties.*

3 *(b) Notwithstanding any other law, this chapter shall supersede*
4 *Chapter 6 (commencing with Section 51030) of Part 1 of Division*
5 *1 of Title 5 of the Government Code.*

6 *4619. (a) This chapter shall be liberally construed to effectuate*
7 *its purposes.*

8 *(b) If any provision of this chapter or the application of these*
9 *provisions to any person or circumstance is held to be invalid, the*
10 *invalidity shall not affect other provisions or applications of the*
11 *chapter that can be given effect without the invalid provision or*
12 *application, and to this end the provisions of this chapter are*
13 *severable.*

14 *The provisions of this chapter are severable. If any provision of*
15 *this chapter or its application is held invalid, that invalidity shall*
16 *not affect other provisions or applications that can be given effect*
17 *without the invalid provision or application.*

18 *4620. (a) On or before June 1, 2016, the council shall provide*
19 *a report to the appropriate policy committees of the Legislature*
20 *that includes all of the following:*

21 *(1) A feasibility study of licensure for the massage profession,*
22 *including a proposed scope of practice and related statutory*
23 *recommendations.*

24 *(2) The council's compensation guidelines and current salary*
25 *levels.*

26 *(3) Performance metrics, including, but not limited to:*

27 *(A) The annual number of denied certificate and registration*
28 *applications, and a brief description of the grounds for each*
29 *decision.*

30 *(B) The annual number of suspended, revoked, or otherwise*
31 *disciplined certificates and registrations, and a brief description*
32 *of the grounds for each decision.*

33 *(C) The number of certificates taken off suspension, and a brief*
34 *description of the grounds for each decision.*

35 *(D) The number of schools inspected, approved, and*
36 *disapproved, the number of schools that have had their approvals*
37 *suspended or revoked, and a brief description of the grounds for*
38 *each decision.*

39 *(E) The total number of complaints about certificate holders*
40 *and registered establishments received annually, including a*

1 *subtotal of complaints received from local law enforcement and*
2 *the action taken by the council as a result of those complaints.*

3 *(b) The council shall testify in person if requested by the*
4 *appropriate policy committees of the Legislature on matters*
5 *included in the report described in subdivision (a).*

6 4621. *(a) This chapter shall remain in effect only until January*
7 *1, 2017, and as of that date is repealed, unless a later enacted*
8 *statute, that is enacted before January 1, 2017, deletes or extends*
9 *that date.*

10 *(b) Notwithstanding any other law, the powers and duties of*
11 *the council shall be subject to review by the appropriate policy*
12 *committees of the Legislature.*

13 SECTION 1. ~~Section 4601 of the Business and Professions~~
14 ~~Code is amended to read:~~

15 4601. ~~(a) The council shall issue a certificate under this chapter~~
16 ~~to an applicant who satisfies the requirements of this chapter.~~

17 ~~(b) (1) In order to obtain certification as a massage practitioner,~~
18 ~~an applicant shall submit a written application and provide the~~
19 ~~council with satisfactory evidence that he or she meets all of the~~
20 ~~following requirements:~~

21 ~~(A) The applicant is 18 years of age or older.~~

22 ~~(B) The applicant has successfully completed, at an approved~~
23 ~~school, curricula in massage and related subjects, totaling a~~
24 ~~minimum of 250 hours or the credit unit equivalent, that~~
25 ~~incorporates appropriate school assessment of student knowledge~~
26 ~~and skills. Included in the hours shall be instruction addressing~~
27 ~~anatomy and physiology, contraindications, health and hygiene,~~
28 ~~and business and ethics, with at least 100 hours of the required~~
29 ~~minimum 250 hours devoted to these curriculum areas.~~

30 ~~(C) The applicant has passed a massage and bodywork~~
31 ~~competency assessment examination that meets generally~~
32 ~~recognized psychometric principles and standards, and that is~~
33 ~~approved by the council. The successful completion of this~~
34 ~~examination may have been accomplished before the date the~~
35 ~~council is authorized by this chapter to begin issuing certificates.~~

36 ~~(D) All fees required by the council have been paid.~~

37 ~~(2) New certificates shall not be issued pursuant to this~~
38 ~~subdivision after December 31, 2015. Certificates issued pursuant~~
39 ~~to this section or subdivision (a) or (c) of Section 4604 on or before~~
40 ~~December 31, 2015, shall, after December 31, 2015, be renewed~~

1 without any additional educational requirements, provided that the
2 certificate holder continues to be qualified pursuant to this chapter.

3 ~~(e) In order to obtain certification as a massage therapist, an~~
4 ~~applicant shall submit a written application and provide the council~~
5 ~~with satisfactory evidence that he or she meets all of the following~~
6 ~~requirements:~~

7 ~~(1) The applicant is 18 years of age or older.~~

8 ~~(2) The applicant satisfies at least one of the following~~
9 ~~requirements:~~

10 ~~(A) He or she has successfully completed the curricula in~~
11 ~~massage and related subjects totaling a minimum of 500 hours or~~
12 ~~the credit unit equivalent. Of this 500 hours, a minimum of 250~~
13 ~~hours shall be from approved schools. The remaining 250 hours~~
14 ~~required may be secured either from approved or registered schools,~~
15 ~~or from continuing education providers approved by, or registered~~
16 ~~with, the council or the Department of Consumer Affairs. After~~
17 ~~December 31, 2015, applicants may only satisfy the curricula in~~
18 ~~massage and related subjects from approved schools.~~

19 ~~(B) The applicant has done both of the following:~~

20 ~~(i) Successfully completed, at an approved school, curricula in~~
21 ~~massage and related subjects totaling a minimum of 250 hours that~~
22 ~~incorporates appropriate school assessment of student knowledge~~
23 ~~and skills. Included in the hours shall be instruction addressing~~
24 ~~anatomy and physiology, contraindications, health and hygiene,~~
25 ~~and business and ethics, with at least 100 hours of the required~~
26 ~~minimum 250 hours devoted to these curriculum areas.~~

27 ~~(ii) Passed a massage and bodywork competency assessment~~
28 ~~examination that meets generally recognized psychometric~~
29 ~~principles and standards, and that is approved by the board. The~~
30 ~~successful completion of this examination may have been~~
31 ~~accomplished before the date the council is authorized by this~~
32 ~~chapter to begin issuing certificates.~~

33 ~~(3) All fees required by the council have been paid.~~

34 ~~(d) The council shall issue a certificate to an applicant who~~
35 ~~meets the other qualifications of this chapter and holds a current~~
36 ~~and valid registration, certification, or license from any other state~~
37 ~~whose licensure requirements meet or exceed those defined within~~
38 ~~this chapter. The council shall have discretion to give credit for~~
39 ~~comparable academic work completed by an applicant in a program~~
40 ~~outside of California.~~

- 1 ~~(e) An applicant applying for a massage therapist certificate~~
2 ~~shall file with the council a written application provided by the~~
3 ~~council, showing to the satisfaction of the council that he or she~~
4 ~~meets all of the requirements of this chapter.~~
- 5 ~~(f) Any certification issued under this chapter shall be subject~~
6 ~~to renewal every two years in a manner prescribed by the council,~~
7 ~~and shall expire unless renewed in that manner. The council may~~
8 ~~provide for the late renewal of a license.~~
- 9 ~~(g) (1) The council shall have the responsibility to determine~~
10 ~~that the school or schools from which an applicant has obtained~~
11 ~~the education required by this chapter meet the requirements of~~
12 ~~this chapter. If the council has any reason to question whether or~~
13 ~~not the applicant received the education that is required by this~~
14 ~~chapter from the school or schools that the applicant is claiming,~~
15 ~~the council shall investigate the facts to determine that the applicant~~
16 ~~received the required education prior to issuing a certificate.~~
- 17 ~~(2) For purposes of paragraph (1) and any other provision of~~
18 ~~this chapter for which the council is authorized to receive factual~~
19 ~~information as a condition of taking any action, the council shall~~
20 ~~have the authority to conduct oral interviews of the applicant and~~
21 ~~others or to make any investigation deemed necessary to establish~~
22 ~~that the information received is accurate and satisfies any criteria~~
23 ~~established by this chapter.~~
- 24 ~~(h) The certificate issued pursuant to this chapter, as well as~~
25 ~~any identification card issued by the council, shall be surrendered~~
26 ~~to the council by any certificate holder whose certificate has been~~
27 ~~suspended or revoked.~~