

1 AN ACT concerning the regulation of professions.

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

4 Section 1. Short title. This Act may be cited as the
5 Massage Licensing Act.

6 Section 5. Declaration of public policy. The practice
7 of massage therapy is hereby declared to affect the public
8 health, safety, and welfare and to be subject to regulation
9 in the public interest. The purpose of this Act is to
10 protect and benefit the public by setting standards of
11 qualifications, education, training, and experience for those
12 who seek to practice massage therapy, to promote high
13 standards of professional performance for those licensed to
14 practice massage therapy in the State of Illinois, and to
15 protect the public from unprofessional conduct by persons
16 licensed to practice massage therapy.

17 Section 10. Definitions. As used in this Act:

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

21 "Board" means the Massage Therapy Board appointed by the
22 Director.

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

26 "Department" means the Department of Professional
27 Regulation.

28 "Director" means the Director of Professional Regulation.

29 "Massage" or "massage therapy" means a system of
30 structured palpation or movement of the soft tissue of the

1 body. The system may include, but is not limited to,
 2 techniques such as effleurage or stroking and gliding,
 3 petrissage or kneading, tapotement or percussion, friction,
 4 vibration, compression, and stretching activities as they
 5 pertain to massage therapy. These techniques may be applied
 6 by a licensed massage therapist with or without the aid of
 7 lubricants, salt or herbal preparations, hydromassage,
 8 thermal massage, or a massage device that mimics or enhances
 9 the actions possible by human hands. The purpose of the
 10 practice of massage, as licensed under this Act, is to
 11 enhance the general health and well being of the mind and
 12 body of the recipient. "Massage" does not include the
 13 diagnosis and subsequent treatment and rehabilitation of a
 14 specific pathology.

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

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

21 (1) The organization requires that its members meet
 22 minimum educational requirements. The educational
 23 requirements must include anatomy, physiology, hygiene,
 24 sanitation, ethics, technical theory, and application of
 25 techniques.

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

30 Section 15. Licensure requirements. Beginning January
 31 1, 2004, persons engaged in massage for compensation must be
 32 licensed by the Department. The Department shall issue a
 33 license to an individual who meets all of the following

1 requirements:

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

4 (2) The applicant is at least 18 years of age and
5 of good moral character. In determining good moral
6 character, the Department may take into consideration
7 conviction of any crime under the laws of the United
8 States or any state or territory thereof that is a felony
9 or a misdemeanor or any crime that is directly related to
10 the practice of the profession. Such a conviction shall
11 not operate automatically as a complete bar to a license,
12 except in the case of any conviction for prostitution,
13 rape, or sexual misconduct, or where the applicant is a
14 registered sex offender.

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

17 (A) has successfully completed the curriculum
18 or curriculums of one or more massage therapy
19 schools approved by the Department that require a
20 minimum of 500 hours and has passed a competency
21 examination approved by the Department;

22 (B) holds a current license from another
23 jurisdiction having licensure requirements that meet
24 or exceed those defined within this Act; or

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

32 Section 20. Grandfathering provision.

33 (a) For a period of one year after the effective date of

1 the rules adopted under this Act, the Department may issue a
2 license to an individual who, in addition to meeting the
3 requirements set forth in paragraphs (1) and (2) of Section
4 15, produces proof that he or she has met at least one of the
5 following requirements before the effective date of this Act:

6 (1) has been an active member for a period of at
7 least one year prior to the application for licensure, of
8 a national professional massage therapy organization
9 established prior to the year 2000, which offers
10 professional liability insurance and a code of ethics;

11 (2) has passed the National Certification Exam of
12 Therapeutic Massage and Bodywork and has kept his or her
13 certification current;

14 (3) has practiced massage therapy an average of at
15 least 10 hours per week for at least 10 years; or

16 (4) has practiced massage therapy an average of at
17 least 10 hours per week for at least one year prior to
18 the effective date of this Act and has completed at
19 least 100 hours of formal training in massage therapy.

20 (b) An applicant who can show proof of having engaged in
21 the practice of massage therapy for at least 10 hours per
22 week for a minimum of one year prior to the effective date of
23 this Act and has less than 100 hours of formal training or
24 has been practicing for less than one year with 100 hours of
25 formal training must complete at least 100 additional hours
26 of formal training consisting of at least 25 hours in anatomy
27 and physiology by January 1, 2004.

28 (c) An applicant who has training from another state or
29 country may qualify for a license under subsection (a) by
30 showing proof of meeting the requirements of that state or
31 country and demonstrating that those requirements are
32 substantially the same as the requirements in this Section.

33 (d) For purposes of this Section, "formal training" means
34 a massage therapy curriculum approved by the Illinois State

1 Board of Education or the Illinois Board of Higher Education
2 or course work provided by continuing education sponsors
3 approved by the Department.

4 Section 25. Exemptions.

5 (a) This Act does not prohibit a person licensed under
6 any other Act in this State from engaging in the practice for
7 which he or she is licensed.

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

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

17 (d) Nothing in this Act prohibits a student of an
18 approved massage school or program from performing massage,
19 provided that the student does not hold himself or herself
20 out as a licensed massage therapist and does not charge a fee
21 for massage therapy services.

22 (e) Exempt bodywork methods include those that involve
23 energy techniques only without intentional soft tissue
24 manipulation of any kind, movement education and
25 re-education, and somatic education, addressing awareness,
26 posture, and action by verbally and physically guiding the
27 student in the discovery of existing and alternative postures
28 and actions. Specific techniques included in this exemption
29 are Zen Therapy, Rolfing, Alexander Technique, Reiki,
30 Polarity, Feldenkrais, Trager, Therapeutic Touch,
31 OrthoBionomy, Reflexology, and approved Asian bodywork
32 techniques.

33 (f) Practitioners of other forms of bodywork who

1 restrict manipulation of soft tissue to feet, hands, and ears
2 and who do not have the client disrobe are exempt from this
3 Act.

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

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

12 Section 30. Title protection.

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

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

22 (c) Anyone not authorized, under the definitions of this
23 Act, to utilize the term "massage", "massage therapy", or
24 "massage therapist" and who knowingly utilizes these terms
25 when advertising commits a violation of this Act.

26 Section 35. Massage Licensing Board.

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

1 sector and one of the massage therapist members shall
2 represent a massage therapy school from the public sector.
3 One member of the Board shall be a member of the public who
4 is not licensed under this Act or a similar Act in Illinois
5 or another jurisdiction. Membership on the Board shall
6 reasonably reflect the various massage therapy and non-exempt
7 bodywork organizations. Membership on the Board shall
8 reasonably reflect the geographic areas of the State.

9 (b) Members shall be appointed to a 3-year term, except
10 that initial appointees shall serve the following terms: 2
11 members including the non-voting member shall serve for one
12 year, 2 members shall serve for 2 years, and 3 members shall
13 serve for 3 years. A member whose term has expired shall
14 continue to serve until his or her successor is appointed.
15 No member shall be reappointed to the Board for a term that
16 would cause his or her continuous service on the Board to
17 exceed 9 years. Appointments to fill vacancies shall be made
18 in the same manner as the original appointments for the
19 unexpired portion of the vacated term.

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

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

26 (e) The Director shall consider the recommendations of
27 the Board on questions involving the standards of
28 professional conduct, discipline, and qualifications of
29 candidates and licensees under this Act. Nothing shall limit
30 the ability of the Board to provide recommendations to the
31 Director in regard to any matter affecting the administration
32 of this Act. The Director shall give due consideration to
33 all recommendations of the Board. If the Director takes
34 action contrary to a recommendation of the Board, the

1 Director shall provide a written explanation of that action.

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

7 Section 40. Duties of the Department. Subject to
8 provisions of this Act, the Department shall:

9 (1) Formulate rules required for the administration
10 of this Act. Notice of proposed rulemaking shall be
11 transmitted to the Board and the Department shall review
12 the Board's response and any recommendations made in the
13 response.

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

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

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

23 (5) Maintain a roster of the names and addresses of
24 all licensees and all persons whose licenses have been
25 suspended, revoked, or denied renewal for cause within
26 the previous calendar year. The roster shall be
27 available upon written request and payment of the
28 required fee.

29 Section 45. Grounds for discipline.

30 (a) The Department may refuse to issue or renew, or may
31 revoke, suspend, place on probation, reprimand, or take other
32 disciplinary action, as the Department considers appropriate,

1 including the imposition of fines not to exceed \$1,000 for
2 each violation, with regard to any license or licensee for
3 any one or more of the following:

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

11 (2) advertising in a false, deceptive, or
12 misleading manner;

13 (3) aiding, assisting, procuring, or advising any
14 unlicensed person to practice massage contrary to any
15 rules or provisions of this Act;

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

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

22 (6) practicing or offering to practice beyond the
23 scope permitted by law or accepting and performing
24 professional responsibilities which the licensee knows or
25 has reason to know that he or she is not competent to
26 perform;

27 (7) knowingly delegating professional
28 responsibilities to a person unqualified by training,
29 experience, or licensure to perform;

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

32 (9) having a habitual or excessive use of or
33 addiction to alcohol, narcotics, stimulants, or any other
34 chemical agent or drug which results in the inability to

1 practice with reasonable judgment, skill, or safety;

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

5 (11) making a material misstatement in furnishing
6 information to the Department or otherwise making
7 misleading, deceptive, untrue, or fraudulent
8 representations in violation of this Act or otherwise in
9 the practice of the profession;

10 (12) making any misrepresentation for the purpose
11 of obtaining a license; or

12 (13) having a physical illness, including but not
13 limited to deterioration through the aging process or
14 loss of motor skills, that results in the inability to
15 practice the profession with reasonable judgment, skill,
16 or safety.

17 (b) The Department may refuse to issue or may suspend
18 the license of any person who fails to file a tax return, to
19 pay the tax, penalty, or interest shown in a filed tax
20 return, or to pay any final assessment of tax, penalty, or
21 interest, as required by any tax Act administered by the
22 Illinois Department of Revenue, until such time as the
23 requirements of the tax Act are satisfied.

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

34 (d) In enforcing this Section, the Department or Board

1 upon a showing of a possible violation may compel an
2 individual licensed to practice under this Act, or who has
3 applied for licensure under this Act, to submit to a mental
4 or physical examination, or both, as required by and at the
5 expense of the Department. The Department or Board may order
6 the examining physician to present testimony concerning the
7 mental or physical examination of the licensee or applicant.
8 No information shall be excluded by reason of any common law
9 or statutory privilege relating to communications between the
10 licensee or applicant and the examining physician. The
11 examining physicians shall be specifically designated by the
12 Board or Department. The individual to be examined may have,
13 at his or her own expense, another physician of his or her
14 choice present during all aspects of this examination. The
15 examination shall be performed by a physician licensed to
16 practice medicine in all its branches. Failure of an
17 individual to submit to a mental or physical examination,
18 when directed, shall be grounds for suspension of his or her
19 license until the individual submits to the examination if
20 the Department finds, after notice and hearing, that the
21 refusal to submit to the examination was without reasonable
22 cause.

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

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

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

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

21 Section 50. Advertising. It is a misdemeanor for any
22 person, organization, or corporation to advertise massage
23 services unless the person providing the service holds a
24 valid license under this Act, except for those excluded
25 licensed professionals who are allowed to include massage in
26 their scope of practice. A massage therapist may not
27 advertise unless he or she has a current license issued by
28 this State. "Advertise" as used in this Section includes,
29 but is not limited to, the issuance of any card, sign, or
30 device to any person; the causing, permitting, or allowing of
31 any sign or marking on or in any building, vehicle, or
32 structure; advertising in any newspaper or magazine; any
33 listing or advertising in any directory under a

1 classification or heading that includes the words "massage",
2 "massage therapist", "therapeutic massage", or "massage
3 therapeutic"; or commercials broadcast by any means.

4 Section 55. Exclusive jurisdiction. The regulation and
5 licensing of massage therapy is an exclusive power and
6 function of the State. A home rule unit may not regulate or
7 license massage therapists. This Section is a denial and
8 limitation of home rule powers and functions under subsection
9 (h) of Section 6 of Article VII of the Illinois Constitution.

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

22 Section 65. Renewal of licenses. The expiration date
23 and renewal period for each license issued under this Act
24 shall be set by rule.

25 Section 67. Continuing education. The Department shall
26 adopt rules for continuing education for persons licensed
27 under this Act that require a completion of 24 hours of
28 approved continuing education per license renewal period.
29 The Department shall establish by rule a means for the
30 verification of completion of the continuing education

1 required by this Section. This verification may be
2 accomplished through audits of records maintained by the
3 licensee, by requiring the filing of continuing education
4 certificates with the Department, or by other means
5 established by the Department.

6 Section 70. Restoration of expired licenses. A massage
7 therapist who has permitted his or her license to expire or
8 who has had his or her license on inactive status may have
9 his or her license restored by making application to the
10 Department and filing proof acceptable to the Department of
11 his or her fitness to have his or her license restored,
12 including sworn evidence certifying to active practice in
13 another jurisdiction satisfactory to the Department, and by
14 paying the required restoration fee and showing proof of
15 completion of required continuing education. Licensees must
16 provide proof of completion of 24 hours approved continuing
17 education to renew their license.

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

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

1 However, a massage therapist whose license has expired
2 while he or she has been engaged (i) in active duty with the
3 Army of the United States, the United States Navy, the Marine
4 Corps, the Air Force, the Coast Guard, or the State Militia
5 called into the service or training of the United States of
6 America, or (ii) in training or education under the
7 supervision of the United States preliminary to induction
8 into the military service, may have his or her license
9 restored without paying any lapsed renewal fees or
10 restoration fee if, within 2 years after termination of the
11 service, training, or education, other than by dishonorable
12 discharge, he or she furnishes the Department with an
13 affidavit to the effect that he or she has been so engaged
14 and that his or her service, training, or education has been
15 terminated.

16 Section 75. Inactive licenses. Any massage therapist
17 who notifies the Department in writing on forms prescribed by
18 the Department may elect to place his or her license on
19 inactive status and shall, subject to rules of the
20 Department, be excused from payment of renewal fees until he
21 or she notifies the Department in writing of his or her
22 desire to resume active status.

23 A massage therapist requesting restoration from inactive
24 status shall be required to pay the current renewal fee and
25 shall be required to restore his or her license as provided
26 in Section 70 of this Act.

27 Any massage therapist whose license is on inactive status
28 shall not practice massage therapy in the State, and any
29 practice conducted shall be deemed unlicensed practice.

30 Section 80. Fees. The fees assessed under this Act
31 shall be set by rule.

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

7 Section 90. Violations; injunction; cease and desist
8 order.

9 (a) If any person violates a provision of this Act, the
10 Director may, in the name of the People of the State of
11 Illinois, through the Attorney General of the State of
12 Illinois or the State's Attorney in the county in which the
13 offense occurs, petition for an order enjoining the violation
14 or for an order enforcing compliance with this Act. Upon the
15 filing of a verified petition in court, the court may issue a
16 temporary restraining order, without notice or bond, and may
17 preliminarily and permanently enjoin the violation. If it is
18 established that the person has violated or is violating the
19 injunction, the court may punish the offender for contempt of
20 court. Proceedings under this Section shall be in addition
21 to, and not in lieu of, all other remedies and penalties
22 provided by this Act.

23 (b) If, after January 1, 2004, any person practices as a
24 massage therapist or holds himself or herself out as a
25 massage therapist without being licensed under the provisions
26 of this Act, then the Director, any licensed massage
27 therapist, any interested party, or any person injured
28 thereby may petition for relief as provided in subsection
29 (a) of this Section or may apply to the circuit court of the
30 county in which the violation or some part thereof occurred,
31 or in which the person complained of has his or her principal
32 place of business or resides, to prevent the violation. The
33 court has jurisdiction to enforce obedience by injunction or

1 by other process restricting the person complained of from
2 further violation and enjoining upon him or her obedience.

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

12 Section 95. Investigations; notice and hearing. The
13 Department may investigate the actions of any applicant or of
14 any person holding or claiming to hold a license. The
15 Department shall, before refusing to issue or renew a license
16 or to discipline a licensee pursuant to Section 45, notify
17 the applicant or holder of a license in writing, at least 30
18 days prior to the date set for the hearing, of the nature of
19 the charges and that a hearing will be held on the date
20 designated. The notice shall direct the applicant or
21 licensee to file a written answer to the Board under oath
22 within 20 days after the service of the notice, and shall
23 inform the applicant or licensee that failure to file an
24 answer will result in a default judgment being entered
25 against the applicant or licensee. A default judgment may
26 result in the license being suspended, revoked, or placed on
27 probationary status, or other disciplinary action may be
28 taken, including limiting the scope, nature, or extent of
29 practice, as the Director may deem proper. Written notice may
30 be served by personal delivery or certified or registered
31 mail to the respondent at the address of his or her last
32 notification to the Department. In case the person fails to
33 file an answer after receiving notice, his or her license or

1 certificate may, in the discretion of the Department, be
2 suspended, revoked, or placed on probationary status and the
3 Department may take whatever disciplinary action it deems
4 proper, including limiting the scope, nature, or extent of
5 the person's practice or the imposition of a fine, without a
6 hearing, if the act or acts charged constitute sufficient
7 grounds for that action under this Act. At the time and place
8 fixed in the notice, the Board shall proceed to hear the
9 charges and the parties or their counsel shall be accorded
10 ample opportunity to present statements, testimony, evidence
11 and argument that may be pertinent to the charges or to the
12 licensee's defense. The Board may continue a hearing from
13 time to time.

14 Section 100. Stenographer; transcript. The Department,
15 at its expense, shall preserve a record of all proceedings at
16 the formal hearing of any case involving the refusal to issue
17 or renew a license or the discipline of a licensee. The
18 notice of hearing, complaint and all other documents in the
19 nature of pleadings and written motions filed in the
20 proceedings, the transcript of testimony, the report of the
21 Board, and the order of the Department shall be the record of
22 the proceeding.

23 Section 105. Compelling testimony. Any circuit court,
24 upon application of the Department or its designee or of the
25 applicant or licensee against whom proceedings pursuant to
26 Section 95 of this Act are pending, may enter an order
27 requiring the attendance of witnesses and their testimony and
28 the production of documents, papers, files, books, and
29 records in connection with any hearing or investigation. The
30 court may compel obedience to its order by proceedings for
31 contempt.

1 Section 110. Findings and recommendations. At the
2 conclusion of the hearing, the Board shall present to the
3 Director a written report of its findings and
4 recommendations. The report shall contain a finding of
5 whether or not the accused person violated this Act or failed
6 to comply with the conditions required in this Act. The
7 Board shall specify the nature of the violation or failure to
8 comply and shall make its recommendations to the Director.

9 The report of findings and recommendations of the Board
10 shall be the basis for the Department's order or refusal or
11 for the granting of a license unless the Director shall
12 determine that the Board's report is contrary to the manifest
13 weight of the evidence, in which case the Director may issue
14 an order in contravention of the Board's report. The finding
15 is not admissible in evidence against the person in a
16 criminal prosecution brought for the violation of this Act,
17 but the hearing and finding are not a bar to a criminal
18 prosecution brought for the violation of this Act.

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

1 for rehearing, the 20 day period within which the motion may
2 be filed shall commence upon the delivery of the transcript
3 to the respondent.

4 Section 120. Director; rehearing. Whenever the Director
5 is satisfied that substantial justice has not been done in
6 the revocation, suspension, or refusal to issue or renew a
7 license, the Director may order a rehearing by the same or
8 other examiners.

9 Section 125. Appointment of a hearing officer. The
10 Director shall have the authority to appoint any attorney
11 duly licensed to practice law in this State to serve as the
12 hearing officer in any action for refusal to issue or renew a
13 license or permit or for the discipline of a licensee. The
14 hearing officer shall have full authority to conduct the
15 hearing. At least one member of the Board shall attend each
16 hearing. The hearing officer shall report his or her findings
17 and recommendations to the Board and the Director. The Board
18 shall have 60 days after receipt of the report to review the
19 report of the hearing officer and present its findings of
20 fact, conclusions of law, and recommendations to the
21 Director. If the Board fails to present its report within
22 the 60-day period, the Director shall issue an order based on
23 the report of the hearing officer. If the Director
24 determines that the Board's report is contrary to the
25 manifest weight of the evidence, he or she may issue an order
26 in contravention of the Board's report.

27 Section 130. Order or certified copy; prima facie proof.
28 An order or a certified copy thereof, over the seal of the
29 Department and purporting to be signed by the Director, shall
30 be prima facie proof that:

31 (1) the signature is the genuine signature of the

1 Director;

2 (2) the Director is duly appointed and qualified;
3 and

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

6 Section 135. Restoration of suspended or revoked
7 license. At any time after the suspension or revocation of a
8 license, the Department may restore it to the accused person
9 upon the written recommendation of the Board, unless after an
10 investigation and a hearing, the Board determines that
11 restoration is not in the public interest.

12 Section 140. Surrender of license. Upon the revocation
13 or suspension of any license, the licensee shall surrender
14 the license to the Department and, if the licensee fails to
15 do so, the Department shall have the right to seize the
16 license.

17 Section 145. Temporary suspension of a license. The
18 Director may temporarily suspend the license of a massage
19 therapist without a hearing, simultaneously with the
20 institution of proceedings for a hearing provided for in
21 Section 95 of this Act, if the Director finds that the
22 evidence in his or her possession indicates that continuation
23 in practice would constitute an imminent danger to the
24 public. In the event that the Director temporarily suspends
25 the license of a massage therapist without a hearing, a
26 hearing by the Board must be held within 30 calendar days
27 after the suspension has occurred.

28 Section 150. Administrative review; venue. All final
29 administrative decisions of the Department are subject to
30 judicial review pursuant to the Administrative Review Law and

1 its rules. The term "administrative decision" is defined as
2 in Section 3-101 of the Code of Civil Procedure.

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

7 The Department shall not be required to certify any
8 record to the court or file any answer in court or otherwise
9 appear in any court in a judicial review proceeding, unless
10 there is filed in the court, with the complaint, a receipt
11 from the Department acknowledging payment of the costs of
12 furnishing and certifying the record. Failure on the part of
13 the plaintiff to file a receipt in court shall be grounds for
14 dismissal of the action.

15 Section 155. Violations. A person who is found to have
16 violated any provision of this Act is guilty of a Class A
17 misdemeanor for the first offense and a Class 4 felony for
18 the second and any subsequent offense.

19 Section 160. Returned checks; fines. Any person who
20 delivers a check or other payment to the Department that is
21 returned to the Department unpaid by the financial
22 institution upon which it is drawn shall pay to the
23 Department, in addition to the amount already owed to the
24 Department, a fine of \$50. If the check or other payment was
25 for a renewal or issuance fee and that person practices
26 without paying the renewal fee or issuance fee and the fine
27 due, an additional fine of \$100 shall be imposed. The fines
28 imposed by this Section are in addition to any other
29 discipline provided under this Act for unlicensed practice or
30 practice on a nonrenewed license. The Department shall notify
31 the person that payment of fees and fines shall be paid to
32 the Department by certified check or money order within 30

1 calendar days of the notification. If, after the expiration
2 of 30 days from the date of the notification, the person has
3 failed to submit the necessary remittance, the Department
4 shall automatically terminate the license or deny the
5 application, without hearing. If, after termination or
6 denial, the person seeks a license, he or she shall apply to
7 the Department for restoration or issuance of the license and
8 pay all fees and fines due to the Department. The Department
9 may establish a fee for the processing of an application for
10 restoration of a license to pay all expenses of processing
11 this application. The Director may waive the fines due under
12 this Section in individual cases where the Director finds
13 that the fines would be unreasonable or unnecessarily
14 burdensome.

15 Section 165. Unlicensed practice; violation; civil
16 penalty.

17 (a) Any person who practices, offers to practice,
18 attempts to practice, or holds himself or herself out to
19 practice massage therapy or as a massage therapist without
20 being licensed under this Act shall, in addition to any other
21 penalty provided by law, pay a civil penalty to the
22 Department in an amount not to exceed \$5,000 for each offense
23 as determined by the Department. The civil penalty shall be
24 assessed by the Department after a hearing is held in
25 accordance with the provisions set forth in this Act
26 regarding the provision of a hearing for the discipline of a
27 licensee.

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

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

1 any court of record.

2 Section 170. Severability. If any provision of this Act
3 or the application of any provision of this Act to any person
4 or circumstance is held invalid, the invalidity does not
5 affect other provisions or applications of the Act that can
6 be given effect without the invalid provision or application,
7 and for this purpose the provisions of this Act are
8 severable.

9 Section 950. The Regulatory Sunset Act is amended by
10 adding Section 4.22 as follows:

11 (5 ILCS 80/4.22 new)

12 Sec. 4.22. Act repealed on January 1, 2012. The
13 following Act is repealed on January 1, 2012:

14 The Massage Licensing Act.