

1 AMENDMENT TO HOUSE BILL 2271

2 AMENDMENT NO. _____. Amend House Bill 2271 by replacing
3 everything after the enacting clause with the following:

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

1 Director.

2 "Compensation" means the payment, loan, advance,
3 donation, contribution, deposit, or gift of money or anything
4 of value.

5 "Department" means the Department of Professional
6 Regulation.

7 "Director" means the Director of Professional Regulation.

8 "Massage" or "massage therapy" means a system of
9 structured palpation or movement of the soft tissue of the
10 body. The system may include, but is not limited to,
11 techniques such as effleurage or stroking and gliding,
12 petrissage or kneading, tapotement or percussion, friction,
13 vibration, compression, and stretching activities as they
14 pertain to massage therapy. These techniques may be applied
15 by a licensed massage therapist with or without the aid of
16 lubricants, salt or herbal preparations, hydromassage,
17 thermal massage, or a massage device that mimics or enhances
18 the actions possible by human hands. The purpose of the
19 practice of massage, as licensed under this Act, is to
20 enhance the general health and well being of the mind and
21 body of the recipient. "Massage" does not include the
22 diagnosis and subsequent treatment and rehabilitation of a
23 specific pathology.

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

26 "Professional massage or bodywork therapy association"
27 means a state or nationally chartered organization that is
28 devoted to the massage specialty and therapeutic approach and
29 meets the following requirements:

30 (1) The organization requires that its members meet
31 minimum educational requirements. The educational
32 requirements must include anatomy, physiology, hygiene,
33 sanitation, ethics, technical theory, and application of
34 techniques.

1 (2) The organization has an established code of
2 ethics and has procedures for the suspension and
3 revocation of membership of persons violating the code of
4 ethics.

5 Section 15. Licensure requirements. Beginning January
6 1, 2004, persons engaged in massage for compensation must be
7 licensed by the Department. The Department shall issue a
8 license to an individual who meets all of the following
9 requirements:

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

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

23 (3) The applicant has met one of the following
24 requirements:

25 (A) has successfully completed the curriculum
26 or curriculums of one or more massage therapy
27 schools approved by the Department that require a
28 minimum of 500 hours and has passed a competency
29 examination approved by the Department;

30 (B) holds a current license from another
31 jurisdiction having licensure requirements that meet
32 or exceed those defined within this Act; or

33 (C) has moved to Illinois from a jurisdiction

1 with no licensure requirement and has provided
2 documentation that he or she has successfully passed
3 the National Certification Board of Therapeutic
4 Massage and Bodywork's examination or another
5 massage therapist certifying examination approved by
6 the Department and maintains current certification.

7 Section 20. Grandfathering provision.

8 (a) For a period of one year after the effective date of
9 the rules adopted under this Act, the Department may issue a
10 license to an individual who, in addition to meeting the
11 requirements set forth in paragraphs (1) and (2) of Section
12 15, produces proof that he or she has met at least one of the
13 following requirements before the effective date of this Act:

14 (1) has been an active member, for a period of at
15 least one year prior to the application for licensure, of
16 a national professional massage therapy organization
17 established prior to the year 2000, which offers
18 professional liability insurance and a code of ethics;

19 (2) has passed the National Certification Exam of
20 Therapeutic Massage and Bodywork and has kept his or her
21 certification current;

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

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

28 (b) An applicant who can show proof of having engaged in
29 the practice of massage therapy for at least 10 hours per
30 week for a minimum of one year prior to the effective date of
31 this Act and has less than 100 hours of formal training or
32 has been practicing for less than one year with 100 hours of
33 formal training must complete at least 100 additional hours

1 of formal training consisting of at least 25 hours in anatomy
2 and physiology by January 1, 2004.

3 (c) An applicant who has training from another state or
4 country may qualify for a license under subsection (a) by
5 showing proof of meeting the requirements of that state or
6 country and demonstrating that those requirements are
7 substantially the same as the requirements in this Section.

8 (d) For purposes of this Section, "formal training" means
9 a massage therapy curriculum approved by the Illinois State
10 Board of Education or the Illinois Board of Higher Education
11 or course work provided by continuing education sponsors
12 approved by the Department.

13 Section 25. Exemptions.

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

17 (b) Persons exempted under this Section include, but
18 are not limited to, physicians, podiatrists, naprapaths, and
19 physical therapists.

20 (c) Nothing in this Act prohibits qualified members of
21 other professional groups, including but not limited to
22 nurses, occupational therapists, cosmetologists, and
23 estheticians, from performing massage in a manner consistent
24 with their training and the code of ethics of their
25 respective professions.

26 (d) Nothing in this Act prohibits a student of an
27 approved massage school or program from performing massage,
28 provided that the student does not hold himself or herself
29 out as a licensed massage therapist and does not charge a fee
30 for massage therapy services.

31 (e) Exempt bodywork methods include those that involve
32 energy techniques only without intentional soft tissue
33 manipulation of any kind, movement education and

1 re-education, and somatic education, addressing awareness,
2 posture, and action by verbally and physically guiding the
3 student in the discovery of existing and alternative postures
4 and actions. Specific techniques included in this exemption
5 are Zen Therapy, Rolfing, Alexander Technique, Reiki,
6 Polarity, Feldenkrais, Trager, Therapeutic Touch,
7 OrthoBionomy, Reflexology, and approved Asian bodywork
8 techniques.

9 (f) Practitioners of other forms of bodywork who
10 restrict manipulation of soft tissue to feet, hands, and ears
11 and who do not have the client disrobe are exempt from this
12 Act.

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

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

21 Section 30. Title protection.

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

26 (b) Anyone who knowingly aids and abets one or more
27 persons not authorized to use a professional title regulated
28 by this Act or knowingly employs persons not authorized to
29 use the regulated professional title in the course of their
30 employment, commits a violation of this Act.

31 (c) Anyone not authorized, under the definitions of this
32 Act, to utilize the term "massage", "massage therapy", or
33 "massage therapist" and who knowingly utilizes these terms

1 when advertising commits a violation of this Act.

2 Section 35. Massage Licensing Board.

3 (a) The Director shall appoint a Massage Licensing
4 Board, which shall serve in an advisory capacity to the
5 Director. The Board shall consist of 7 members, of whom 6
6 shall be massage therapists with at least 3 years of
7 experience in massage. One of the massage therapist members
8 shall represent a massage therapy school from the private
9 sector and one of the massage therapist members shall
10 represent a massage therapy school from the public sector.
11 One member of the Board shall be a member of the public who
12 is not licensed under this Act or a similar Act in Illinois
13 or another jurisdiction. Membership on the Board shall
14 reasonably reflect the various massage therapy and non-exempt
15 bodywork organizations. Membership on the Board shall
16 reasonably reflect the geographic areas of the State.

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

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

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

1 (e) The Director shall consider the recommendations of
2 the Board on questions involving the standards of
3 professional conduct, discipline, and qualifications of
4 candidates and licensees under this Act. Nothing shall limit
5 the ability of the Board to provide recommendations to the
6 Director in regard to any matter affecting the administration
7 of this Act. The Director shall give due consideration to
8 all recommendations of the Board. If the Director takes
9 action contrary to a recommendation of the Board, the
10 Director shall provide a written explanation of that action.

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

16 Section 40. Duties of the Department. Subject to
17 provisions of this Act, the Department shall:

18 (1) Formulate rules required for the administration
19 of this Act. Notice of proposed rulemaking shall be
20 transmitted to the Board and the Department shall review
21 the Board's response and any recommendations made in the
22 response.

23 (2) Determine the qualifications of an applicant
24 for licensure by endorsement.

25 (3) Conduct hearings or proceedings to refuse to
26 issue or renew or to revoke a license or to suspend,
27 place on probation, reprimand, or otherwise discipline a
28 person licensed under this Act.

29 (4) Solicit the advice and expert knowledge of the
30 Board on any matter relating to the administration and
31 enforcement of this Act.

32 (5) Maintain a roster of the names and addresses of
33 all licensees and all persons whose licenses have been

1 suspended, revoked, or denied renewal for cause within
2 the previous calendar year. The roster shall be
3 available upon written request and payment of the
4 required fee.

5 Section 45. Grounds for discipline.

6 (a) The Department may refuse to issue or renew, or may
7 revoke, suspend, place on probation, reprimand, or take other
8 disciplinary action, as the Department considers appropriate,
9 including the imposition of fines not to exceed \$1,000 for
10 each violation, with regard to any license or licensee for
11 any one or more of the following:

12 (1) being convicted of any crime under the laws of
13 the United States or any state or territory thereof that
14 is a felony or a misdemeanor, an essential element of
15 which is dishonesty, or any that is directly related to
16 the practice of massage. Conviction, as used in this
17 paragraph, shall include a finding or verdict of guilty,
18 an admission of guilt, or a plea of nolo contendere;

19 (2) advertising in a false, deceptive, or
20 misleading manner;

21 (3) aiding, assisting, procuring, or advising any
22 unlicensed person to practice massage contrary to any
23 rules or provisions of this Act;

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

27 (5) engaging in dishonorable, unethical, or
28 unprofessional conduct of a character likely to deceive,
29 defraud, or harm the public;

30 (6) practicing or offering to practice beyond the
31 scope permitted by law or accepting and performing
32 professional responsibilities which the licensee knows or
33 has reason to know that he or she is not competent to

1 perform;

2 (7) knowingly delegating professional
3 responsibilities to a person unqualified by training,
4 experience, or licensure to perform;

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

7 (9) having a habitual or excessive use of or
8 addiction to alcohol, narcotics, stimulants, or any other
9 chemical agent or drug which results in the inability to
10 practice with reasonable judgment, skill, or safety;

11 (10) having a pattern of practice or other behavior
12 that demonstrates incapacity or incompetence to practice
13 under this Act;

14 (11) making a material misstatement in furnishing
15 information to the Department or otherwise making
16 misleading, deceptive, untrue, or fraudulent
17 representations in violation of this Act or otherwise in
18 the practice of the profession;

19 (12) making any misrepresentation for the purpose
20 of obtaining a license; or

21 (13) having a physical illness, including but not
22 limited to deterioration through the aging process or
23 loss of motor skills, that results in the inability to
24 practice the profession with reasonable judgment, skill,
25 or safety.

26 (b) The Department may refuse to issue or may suspend
27 the license of any person who fails to file a tax return, to
28 pay the tax, penalty, or interest shown in a filed tax
29 return, or to pay any final assessment of tax, penalty, or
30 interest, as required by any tax Act administered by the
31 Illinois Department of Revenue, until such time as the
32 requirements of the tax Act are satisfied.

33 (c) The determination by a circuit court that a licensee
34 is subject to involuntary admission or judicial admission, as

1 provided in the Mental Health and Developmental Disabilities
2 Code, operates as an automatic suspension. The suspension
3 will end only upon (i) a finding by a court that the patient
4 is no longer subject to involuntary admission or judicial
5 admission and the issuance of a court order so finding and
6 discharging the patient and (ii) the recommendation of the
7 Board to the Director that the licensee be allowed to resume
8 his or her practice.

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

32 If the Department or Board finds an individual unable to
33 practice because of the reasons set forth in this Section,
34 the Department or Board may require that individual to submit

1 to care, counseling, or treatment by physicians approved or
2 designated by the Department or Board, as a condition, term,
3 or restriction for continued, reinstated, or renewed
4 licensure to practice; or, in lieu of care, counseling, or
5 treatment, the Department may file, or the Board may
6 recommend to the Department to file, a complaint to
7 immediately suspend, revoke, or otherwise discipline the
8 license of the individual. An individual whose license was
9 granted, continued, reinstated, renewed, disciplined or
10 supervised subject to such terms, conditions, or
11 restrictions, and who fails to comply with such terms,
12 conditions, or restrictions, shall be referred to the
13 Director for a determination as to whether the individual
14 shall have his or her license suspended immediately, pending
15 a hearing by the Department.

16 In instances in which the Director immediately suspends a
17 person's license under this Section, a hearing on that
18 person's license must be convened by the Department within 15
19 days after the suspension and completed without appreciable
20 delay. The Department and Board shall have the authority to
21 review the subject individual's record of treatment and
22 counseling regarding the impairment to the extent permitted
23 by applicable federal statutes and regulations safeguarding
24 the confidentiality of medical records.

25 An individual licensed under this Act and affected under
26 this Section shall be afforded an opportunity to demonstrate
27 to the Department or Board that he or she can resume practice
28 in compliance with acceptable and prevailing standards under
29 the provisions of his or her license.

30 Section 50. Advertising. It is a misdemeanor for any
31 person, organization, or corporation to advertise massage
32 services unless the person providing the service holds a
33 valid license under this Act, except for those excluded

1 licensed professionals who are allowed to include massage in
2 their scope of practice. A massage therapist may not
3 advertise unless he or she has a current license issued by
4 this State. "Advertise" as used in this Section includes,
5 but is not limited to, the issuance of any card, sign, or
6 device to any person; the causing, permitting, or allowing of
7 any sign or marking on or in any building, vehicle, or
8 structure; advertising in any newspaper or magazine; any
9 listing or advertising in any directory under a
10 classification or heading that includes the words "massage",
11 "massage therapist", "therapeutic massage", or "massage
12 therapeutic"; or commercials broadcast by any means.

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

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

31 Section 65. Renewal of licenses. The expiration date

1 and renewal period for each license issued under this Act
2 shall be set by rule.

3 Section 67. Continuing education. The Department shall
4 adopt rules for continuing education for persons licensed
5 under this Act that require a completion of 24 hours of
6 approved continuing education per license renewal period.
7 The Department shall establish by rule a means for the
8 verification of completion of the continuing education
9 required by this Section. This verification may be
10 accomplished through audits of records maintained by the
11 licensee, by requiring the filing of continuing education
12 certificates with the Department, or by other means
13 established by the Department.

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

26 If the massage therapist has not maintained an active
27 practice in another jurisdiction satisfactory to the
28 Department, the Board shall determine, by an evaluation
29 program established by rule his or her fitness to resume
30 active status and may require the massage therapist to
31 complete a period of evaluated clinical experience and may
32 require successful completion of an examination.

1 A massage therapist whose license has been expired or
2 placed on inactive status for more than 5 years may have his
3 or her license restored by making application to the
4 Department and filing proof acceptable to the Department of
5 his or her fitness to have his or her license restored,
6 including sworn evidence certifying to active practice in
7 another jurisdiction, by paying the required restoration fee,
8 and by showing proof of the completion of 24 hours of
9 continuing education.

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

25 Section 75. Inactive licenses. Any massage therapist
26 who notifies the Department in writing on forms prescribed by
27 the Department may elect to place his or her license on
28 inactive status and shall, subject to rules of the
29 Department, be excused from payment of renewal fees until he
30 or she notifies the Department in writing of his or her
31 desire to resume active status.

32 A massage therapist requesting restoration from inactive
33 status shall be required to pay the current renewal fee and

1 shall be required to restore his or her license as provided
2 in Section 70 of this Act.

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

6 Section 80. Fees. The fees assessed under this Act
7 shall be set by rule.

8 Section 85. Deposit of fees and fines; appropriations.
9 All fees and fines collected under this Act shall be
10 deposited into the General Professions Dedicated Fund. All
11 moneys in the Fund shall be used by the Department of
12 Professional Regulation, as appropriated, for the ordinary
13 and contingent expenses of the Department.

14 Section 90. Violations; injunction; cease and desist
15 order.

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

30 (b) If, after January 1, 2004, any person practices as a
31 massage therapist or holds himself or herself out as a

1 massage therapist without being licensed under the provisions
2 of this Act, then the Director, any licensed massage
3 therapist, any interested party, or any person injured
4 thereby may petition for relief as provided in subsection
5 (a) of this Section or may apply to the circuit court of the
6 county in which the violation or some part thereof occurred,
7 or in which the person complained of has his or her principal
8 place of business or resides, to prevent the violation. The
9 court has jurisdiction to enforce obedience by injunction or
10 by other process restricting the person complained of from
11 further violation and enjoining upon him or her obedience.

12 (c) Whenever, in the opinion of the Department, a person
13 violates any provision of this Act, the Department may issue
14 a rule to show cause why an order to cease and desist should
15 not be entered against him. The rule shall clearly set forth
16 the grounds relied upon by the Department and shall provide a
17 period of 7 days from the date of the rule to file an answer
18 to the satisfaction of the Department. Failure to answer to
19 the satisfaction of the Department shall cause an order to
20 cease and desist to be issued immediately.

21 Section 95. Investigations; notice and hearing. The
22 Department may investigate the actions of any applicant or of
23 any person holding or claiming to hold a license. The
24 Department shall, before refusing to issue or renew a license
25 or to discipline a licensee pursuant to Section 45, notify
26 the applicant or holder of a license in writing, at least 30
27 days prior to the date set for the hearing, of the nature of
28 the charges and that a hearing will be held on the date
29 designated. The notice shall direct the applicant or
30 licensee to file a written answer to the Board under oath
31 within 20 days after the service of the notice, and shall
32 inform the applicant or licensee that failure to file an
33 answer will result in a default judgment being entered

1 against the applicant or licensee. A default judgment may
2 result in the license being suspended, revoked, or placed on
3 probationary status, or other disciplinary action may be
4 taken, including limiting the scope, nature, or extent of
5 practice, as the Director may deem proper. Written notice may
6 be served by personal delivery or certified or registered
7 mail to the respondent at the address of his or her last
8 notification to the Department. In case the person fails to
9 file an answer after receiving notice, his or her license or
10 certificate may, in the discretion of the Department, be
11 suspended, revoked, or placed on probationary status and the
12 Department may take whatever disciplinary action it deems
13 proper, including limiting the scope, nature, or extent of
14 the person's practice or the imposition of a fine, without a
15 hearing, if the act or acts charged constitute sufficient
16 grounds for that action under this Act. At the time and place
17 fixed in the notice, the Board shall proceed to hear the
18 charges and the parties or their counsel shall be accorded
19 ample opportunity to present statements, testimony, evidence
20 and argument that may be pertinent to the charges or to the
21 licensee's defense. The Board may continue a hearing from
22 time to time.

23 Section 100. Stenographer; transcript. The Department,
24 at its expense, shall preserve a record of all proceedings at
25 the formal hearing of any case involving the refusal to issue
26 or renew a license or the discipline of a licensee. The
27 notice of hearing, complaint and all other documents in the
28 nature of pleadings and written motions filed in the
29 proceedings, the transcript of testimony, the report of the
30 Board, and the order of the Department shall be the record of
31 the proceeding.

32 Section 105. Compelling testimony. Any circuit court,

1 upon application of the Department or its designee or of the
2 applicant or licensee against whom proceedings pursuant to
3 Section 95 of this Act are pending, may enter an order
4 requiring the attendance of witnesses and their testimony and
5 the production of documents, papers, files, books, and
6 records in connection with any hearing or investigation. The
7 court may compel obedience to its order by proceedings for
8 contempt.

9 Section 110. Findings and recommendations. At the
10 conclusion of the hearing, the Board shall present to the
11 Director a written report of its findings and
12 recommendations. The report shall contain a finding of
13 whether or not the accused person violated this Act or failed
14 to comply with the conditions required in this Act. The
15 Board shall specify the nature of the violation or failure to
16 comply and shall make its recommendations to the Director.

17 The report of findings and recommendations of the Board
18 shall be the basis for the Department's order or refusal or
19 for the granting of a license unless the Director shall
20 determine that the Board's report is contrary to the manifest
21 weight of the evidence, in which case the Director may issue
22 an order in contravention of the Board's report. The finding
23 is not admissible in evidence against the person in a
24 criminal prosecution brought for the violation of this Act,
25 but the hearing and finding are not a bar to a criminal
26 prosecution brought for the violation of this Act.

27 Section 115. Rehearing. In any case involving the
28 refusal to issue or renew a license or discipline of a
29 licensee, a copy of the Board's report shall be served upon
30 the respondent by the Department, either personally or as
31 provided in this Act for the service of the notice of
32 hearing. Within 20 days after service, the respondent may

1 present to the Department a motion, in writing and specifying
2 particular grounds, for a rehearing. If no motion for
3 rehearing is filed, then upon the expiration of the time
4 specified for filing the motion, or if a motion for rehearing
5 is denied, then upon the denial, the Director may enter an
6 order in accordance with recommendations of the Board, except
7 as provided in Section 110 of this Act. If the respondent
8 shall order from the reporting service and pay for a
9 transcript of the record within the time for filing a motion
10 for rehearing, the 20 day period within which the motion may
11 be filed shall commence upon the delivery of the transcript
12 to the respondent.

13 Section 120. Director; rehearing. Whenever the Director
14 is satisfied that substantial justice has not been done in
15 the revocation, suspension, or refusal to issue or renew a
16 license, the Director may order a rehearing by the same or
17 other examiners.

18 Section 125. Appointment of a hearing officer. The
19 Director shall have the authority to appoint any attorney
20 duly licensed to practice law in this State to serve as the
21 hearing officer in any action for refusal to issue or renew a
22 license or permit or for the discipline of a licensee. The
23 hearing officer shall have full authority to conduct the
24 hearing. At least one member of the Board shall attend each
25 hearing. The hearing officer shall report his or her findings
26 and recommendations to the Board and the Director. The Board
27 shall have 60 days after receipt of the report to review the
28 report of the hearing officer and present its findings of
29 fact, conclusions of law, and recommendations to the
30 Director. If the Board fails to present its report within
31 the 60-day period, the Director shall issue an order based on
32 the report of the hearing officer. If the Director

1 determines that the Board's report is contrary to the
2 manifest weight of the evidence, he or she may issue an order
3 in contravention of the Board's report.

4 Section 130. Order or certified copy; prima facie proof.
5 An order or a certified copy thereof, over the seal of the
6 Department and purporting to be signed by the Director, shall
7 be prima facie proof that:

8 (1) the signature is the genuine signature of the
9 Director;

10 (2) the Director is duly appointed and qualified;
11 and

12 (3) the Board and the members of the Board are
13 qualified to act.

14 Section 135. Restoration of suspended or revoked
15 license. At any time after the suspension or revocation of a
16 license, the Department may restore it to the accused person
17 upon the written recommendation of the Board, unless after an
18 investigation and a hearing, the Board determines that
19 restoration is not in the public interest.

20 Section 140. Surrender of license. Upon the revocation
21 or suspension of any license, the licensee shall surrender
22 the license to the Department and, if the licensee fails to
23 do so, the Department shall have the right to seize the
24 license.

25 Section 145. Temporary suspension of a license. The
26 Director may temporarily suspend the license of a massage
27 therapist without a hearing, simultaneously with the
28 institution of proceedings for a hearing provided for in
29 Section 95 of this Act, if the Director finds that the
30 evidence in his or her possession indicates that continuation

1 in practice would constitute an imminent danger to the
2 public. In the event that the Director temporarily suspends
3 the license of a massage therapist without a hearing, a
4 hearing by the Board must be held within 30 calendar days
5 after the suspension has occurred.

6 Section 150. Administrative review; venue. All final
7 administrative decisions of the Department are subject to
8 judicial review pursuant to the Administrative Review Law and
9 its rules. The term "administrative decision" is defined as
10 in Section 3-101 of the Code of Civil Procedure.

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

15 The Department shall not be required to certify any
16 record to the court or file any answer in court or otherwise
17 appear in any court in a judicial review proceeding, unless
18 there is filed in the court, with the complaint, a receipt
19 from the Department acknowledging payment of the costs of
20 furnishing and certifying the record. Failure on the part of
21 the plaintiff to file a receipt in court shall be grounds for
22 dismissal of the action.

23 Section 155. Violations. A person who is found to have
24 violated any provision of this Act is guilty of a Class A
25 misdemeanor for the first offense and a Class 4 felony for
26 the second and any subsequent offense.

27 Section 160. Returned checks; fines. Any person who
28 delivers a check or other payment to the Department that is
29 returned to the Department unpaid by the financial
30 institution upon which it is drawn shall pay to the
31 Department, in addition to the amount already owed to the

1 Department, a fine of \$50. If the check or other payment was
2 for a renewal or issuance fee and that person practices
3 without paying the renewal fee or issuance fee and the fine
4 due, an additional fine of \$100 shall be imposed. The fines
5 imposed by this Section are in addition to any other
6 discipline provided under this Act for unlicensed practice or
7 practice on a nonrenewed license. The Department shall notify
8 the person that payment of fees and fines shall be paid to
9 the Department by certified check or money order within 30
10 calendar days of the notification. If, after the expiration
11 of 30 days from the date of the notification, the person has
12 failed to submit the necessary remittance, the Department
13 shall automatically terminate the license or deny the
14 application, without hearing. If, after termination or
15 denial, the person seeks a license, he or she shall apply to
16 the Department for restoration or issuance of the license and
17 pay all fees and fines due to the Department. The Department
18 may establish a fee for the processing of an application for
19 restoration of a license to pay all expenses of processing
20 this application. The Director may waive the fines due under
21 this Section in individual cases where the Director finds
22 that the fines would be unreasonable or unnecessarily
23 burdensome.

24 Section 165. Unlicensed practice; violation; civil
25 penalty.

26 (a) Any person who practices, offers to practice,
27 attempts to practice, or holds himself or herself out to
28 practice massage therapy or as a massage therapist without
29 being licensed under this Act shall, in addition to any other
30 penalty provided by law, pay a civil penalty to the
31 Department in an amount not to exceed \$5,000 for each offense
32 as determined by the Department. The civil penalty shall be
33 assessed by the Department after a hearing is held in

1 accordance with the provisions set forth in this Act
2 regarding the provision of a hearing for the discipline of a
3 licensee.

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

6 (c) The civil penalty shall be paid within 60 days after
7 the effective date of the order imposing the civil penalty.
8 The order shall constitute a judgment and may be filed and
9 execution had thereon in the same manner as any judgment from
10 any court of record.

11 Section 170. Severability. If any provision of this Act
12 or the application of any provision of this Act to any person
13 or circumstance is held invalid, the invalidity does not
14 affect other provisions or applications of the Act that can
15 be given effect without the invalid provision or application,
16 and for this purpose the provisions of this Act are
17 severable.

18 Section 950. The Regulatory Sunset Act is amended by
19 adding Section 4.22 as follows:

20 (5 ILCS 80/4.22 new)

21 Sec. 4.22. Act repealed on January 1, 2012. The
22 following Act is repealed on January 1, 2012:

23 The Massage Licensing Act."