

## CHAPTER 1053

### REGULATION OF MASSAGE THERAPISTS AND ATHLETIC TRAINERS

S.F. 2269

**AN ACT** providing for the conversion of the existing advisory boards for athletic training and massage therapy into full regulatory examining boards.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 135.11, subsections 11 and 13, Code Supplement 1997, are amended to read as follows:

11. Enforce the law relative to chapter 146 and "Health-related Professions," Title IV, subtitle 3, ~~excluding chapters 152D and chapter 155.~~

13. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125, ~~152D~~, and 155, and Title IV, subtitle 2, ~~excluding chapters 142B, 145B, and 146~~ and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

Sec. 2. Section 147.1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For the purpose of this and the following chapters of this subtitle, ~~excluding chapters 152C and 152D:~~

Sec. 3. Section 147.1, subsections 3 and 6, Code 1997, are amended to read as follows:

3. "Licensed" or "certified" when applied to a physician and surgeon, podiatric physician, osteopath, osteopathic physician and surgeon, physician assistant, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, ~~or~~ social worker, massage therapist, or athletic trainer means a person licensed under this subtitle, ~~excluding chapters 152C and 152D.~~

6. "Profession" means medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, respiratory care, cosmetology arts and sciences, barbering, mortuary science, marital and family therapy, mental health counseling, social work, ~~or~~ dietetics, massage therapy, or athletic training.

Sec. 4. Section 147.3, Code 1997, is amended to read as follows:

#### 147.3 QUALIFICATIONS.

An applicant for a license to practice a profession under this subtitle, ~~excluding chapters 152C and 152D~~, is not ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. A board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of the profession for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

Sec. 5. Section 147.6, Code 1997, is amended to read as follows:

#### 147.6 CERTIFICATE PRESUMPTIVE EVIDENCE.

Every license issued under this subtitle, ~~excluding chapters 152C and 152D~~, shall be presumptive evidence of the right of the holder to practice in this state the profession therein specified.

Sec. 6. Section 147.7, Code 1997, is amended to read as follows:

147.7 DISPLAY OF LICENSE.

Every person licensed under this subtitle, ~~excluding chapters 152C and 152D~~, to practice a profession shall keep the license publicly displayed in the primary place in which the person practices.

Sec. 7. Section 147.9, Code 1997, is amended to read as follows:

147.9 CHANGE OF RESIDENCE.

When any person licensed to practice a profession under this subtitle, ~~excluding chapters 152C and 152D~~, changes a residence or place of practice the person shall notify the department.

Sec. 8. Section 147.12, unnumbered paragraph 1, Code 1997, is amended to read as follows:

For the purpose of giving examinations to applicants for licenses to practice the professions for which licenses are required by this subtitle, ~~excluding chapters 152C and 152D~~, the governor shall appoint, subject to confirmation by the senate, a board of examiners for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

Sec. 9. Section 147.13, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 19. For massage therapists, massage therapy examiners.

NEW SUBSECTION. 20. For athletic trainers, athletic training examiners.

Sec. 10. Section 147.14, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 17. For massage therapists, four members licensed to practice massage therapy and three members who are not licensed to practice massage therapy and who shall represent the general public. A majority of the members of the board constitutes a quorum.

NEW SUBSECTION. 18. For athletic trainers, three members licensed to practice athletic training, three members licensed to practice medicine and surgery, and one member not licensed to practice athletic training or medicine and surgery and who shall represent the general public. A majority of the members of the board constitutes a quorum.

Sec. 11. Section 147.30, Code 1997, is amended to read as follows:

147.30 TIME AND PLACE OF EXAMINATIONS.

The department shall give public notice of the time and place of all examinations to be held under this subtitle, ~~excluding chapters 152C and 152D~~. Such notice shall be given in such manner as the department may deem expedient and in ample time to allow all candidates to comply with the provisions of this subtitle, ~~excluding chapters 152C and 152D~~.

Sec. 12. Section 147.34, Code 1997, is amended to read as follows:

147.34 EXAMINATIONS.

Examinations for each profession licensed under this subtitle, ~~excluding chapters 152C and 152D~~, shall be conducted at least one time per year at such time as the department may fix in cooperation with each examining board. Examinations may be given at the state university of Iowa at the close of each school year for professions regulated by this subtitle, ~~excluding chapters 152C and 152D~~, and examinations may be given at other schools located in the state at which any of the professions regulated by this subtitle, ~~excluding chapters 152C and 152D~~, are taught. At least one session of each examining board shall be held annually at the seat of government and the locations of other sessions shall be determined by the examining board, unless otherwise ordered by the department. Applicants who fail to pass the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, applicants shall be allowed to take the examination at the discretion of the

board. Examinations may be given by an examining board which are prepared and scored by persons outside the state, and examining boards may contract for such services. An examining board may make an agreement with examining boards in other states for administering a uniform examination. An applicant who has failed an examination may request in writing information from the examining board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the examining board administers a uniform, standardized examination, the examining board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the examining board.

Sec. 13. Section 147.41, subsection 2, Code 1997, is amended to read as follows:

2. The subjects to be covered by such examination and the subjects to be covered by the final examination to be taken by such applicant after the completion of the professional course and prior to the issuance of the license, but the subjects covered in the partial and final examinations shall be the same as those specified in this subtitle, ~~excluding chapters 152C and 152D~~, for the regular examination.

Sec. 14. Section 147.44, Code 1997, is amended to read as follows:

#### 147.44 AGREEMENTS.

For the purpose of recognizing licenses which have been issued in other states to practice any profession for which a license is required by this subtitle, ~~excluding chapters 152C and 152D~~, the department shall enter into a reciprocal agreement with every state which is certified to it by the proper examining board under the provisions of section 147.45 and with which this state does not have an existing agreement at the time of such certification.

Sec. 15. Section 147.46, subsection 1, Code 1997, is amended to read as follows:

1. PROTECTION TO LICENSEES OF THIS STATE. When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person licensed in this state to practice any profession regulated by this subtitle, ~~excluding chapters 152C and 152D~~, which affects the right of said person to be licensed or to practice the person's profession in said state, then the same requirement or disability shall be placed upon any person licensed in said state when applying for a license to practice in this state.

Sec. 16. Section 147.52, Code 1997, is amended to read as follows:

#### 147.52 RECIPROCITY.

When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person holding a diploma or certificate from any college in this state in which one of the professions regulated by this subtitle, ~~excluding chapters 152C and 152D~~, is taught, which affects the right of said person to be licensed in said state, the same requirement or disability shall be placed upon any person holding a diploma from a similar college situated therein, when applying for a license to practice in this state.

Sec. 17. Section 147.72, Code 1997, is amended to read as follows:

#### 147.72 PROFESSIONAL TITLES AND ABBREVIATIONS.

Any person licensed to practice a profession under this subtitle, ~~excluding chapters 152C and 152D~~, may append to the person's name any recognized title or abbreviation, which the person is entitled to use, to designate the person's particular profession, but no other person shall assume or use such title or abbreviation, and no licensee shall advertise in such a manner as to lead the public to believe that the licensee is engaged in the practice of any other profession than the one which the licensee is licensed to practice.

Sec. 18. Section 147.73, subsection 1, Code 1997, is amended to read as follows:

1. As authorizing any person licensed to practice a profession under this subtitle, ~~excluding chapters 152C and 152D~~, to use or assume any degree or abbreviation of the same unless such degree has been conferred upon said person by an institution of learning accredited by

the appropriate board herein created, together with the director of public health, or by some recognized state or national accredited agency.

Sec. 19. Section 147.74, Code 1997, is amended by adding the following new subsection: **NEW SUBSECTION.** 19A. An athletic trainer licensed under chapter 152D and this chapter may use the title "licensed athletic trainer" after the person's name.

Sec. 20. Section 147.80, Code 1997, is amended by adding the following new subsections:

**NEW SUBSECTION.** 25A. License to practice massage therapy, license to practice massage therapy under a reciprocal license, or renewal of a license to practice massage therapy.

**NEW SUBSECTION.** 25B. License to practice athletic training, license to practice athletic training under a reciprocal license, or renewal of a license to practice athletic training.

Sec. 21. Section 147.83, Code 1997, is amended to read as follows:

147.83 INJUNCTION.

Any person engaging in any business or in the practice of any profession for which a license is required by this subtitle, ~~excluding chapters 152C and 152D~~, without such license may be restrained by permanent injunction.

Sec. 22. Section 147.86, Code 1997, is amended to read as follows:

147.86 PENALTIES.

Any person violating any provision of this or the following chapters of this subtitle, ~~excluding chapters 152C and 152D~~, except insofar as the provisions apply or relate to or affect the practice of pharmacy, or where a specific penalty is otherwise provided, shall be guilty of a serious misdemeanor.

Sec. 23. Section 147.87, Code 1997, is amended to read as follows:

147.87 ENFORCEMENT.

The department shall enforce the provisions of this and the following chapters of this subtitle, ~~excluding chapters 152C and 152D~~, and for that purpose may request the department of inspections and appeals to make necessary investigations. Every licensee and member of an examining board shall furnish the department or the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

Sec. 24. Section 147.88, Code 1997, is amended to read as follows:

147.88 INSPECTIONS.

The department of inspections and appeals may perform inspections as required by this subtitle, ~~excluding chapters 152C and 152D~~, except for the board of medical examiners, board of pharmacy examiners, board of nursing, and the board of dental examiners. The department of inspections and appeals shall employ personnel related to the inspection functions.

Sec. 25. Section 147.90, Code 1997, is amended to read as follows:

147.90 RULES AND FORMS.

The Iowa department of public health and the department of inspections and appeals shall each establish the necessary rules and forms for carrying out the duties imposed upon it by this subtitle, ~~excluding chapters 152C and 152D~~.

Sec. 26. Section 147.92, Code 1997, is amended to read as follows:

147.92 ATTORNEY GENERAL.

Upon request of the department the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this or the following chapters of this subtitle, ~~excluding chapters 152C and 152D~~.

Sec. 27. Section 147.93, Code 1997, is amended to read as follows:

147.93 PRIMA FACIE EVIDENCE.

The opening of an office or place of business for the practice of any profession for which a license is required by this subtitle, ~~excluding chapters 152C and 152D~~, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, or advertisement, as a practitioner of any such profession, or as a person skilled in the same, shall be prima facie evidence of engaging in the practice of such profession.

Sec. 28. Section 147.111, Code 1997, is amended to read as follows:

147.111 REPORT OF TREATMENT OF WOUNDS AND OTHER INJURIES.

Any person licensed under the provisions of this subtitle, ~~excluding chapters 152C and 152D~~, who shall administer any treatment to any person suffering a gunshot or stab wound or other serious bodily injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or an application therefor was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious bodily injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious bodily injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

Sec. 29. Section 152C.1, subsection 1, Code 1997, is amended to read as follows:

1. "Board" means the ~~massage therapy advisory board established in section 152C.2~~ board of examiners for massage therapy created under chapter 147.

Sec. 30. Section 152C.1, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 31. Section 152C.3, subsection 1, Code 1997, is amended to read as follows:

1. The ~~department board~~ shall adopt rules pursuant to chapter 17A establishing a procedure for licensing of massage therapists. License requirements shall include the following:

a. Completion of a curriculum of massage education at a school approved by the ~~department board~~ board which requires for admission a diploma from an accredited high school or the equivalent and requires completion of at least five hundred hours of supervised academic instruction. However, educational requirements under this paragraph are subject to reduction by the ~~department board~~ board if, after public notice and hearing, the ~~department board~~ board determines that the welfare of the public may be adequately protected with fewer hours of education.

b. Passage of an examination given or approved by the ~~department board~~ board.

c. Payment of a reasonable fee required by the ~~department board~~ board which shall compensate and be retained by the ~~department board~~ board for the costs of administering this chapter.

Sec. 32. Section 152C.3, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. Requirements regarding completion of at least twelve hours of continuing education annually regarding subjects concerning massage and related techniques or the health and safety of the public, subject to reduction by the ~~department board~~ board if, after public notice and hearing, the ~~department board~~ board determines that the welfare of the public may be adequately protected with fewer hours.

Sec. 33. Section 152C.3, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 34. Section 152C.4, Code 1997, is amended to read as follows:

152C.4 EMPLOYMENT OF PERSON NOT LICENSED — CIVIL PENALTY.

A person as defined in section 4.1, who employs to provide services to other persons a person who is not licensed pursuant to this chapter, shall not use the initials "L.M.T." or the words "licensed massage therapist", "massage therapist", "masseur", or "masseuse", or any other words or titles which imply or represent that the person employed practices massage therapy. A person who violates this section is subject to imposition, at the discretion of the board, of a civil penalty not to exceed one thousand dollars. Each violation of this section is a separate offense. Each day a violation of this section occurs after citation by the board is a separate offense. The department board may inspect any facility which advertises or offers services purporting to be delivered by massage therapists.

Sec. 35. Section 152C.7, Code 1997, is amended to read as follows:

152C.7 SUSPENSION AND REVOCATION OF LICENSES.

The department board may suspend, revoke, or impose probationary conditions upon a license issued pursuant to rules adopted in accordance with section 152C.3.

Sec. 36. Section 152D.1, subsection 1, Code 1997, is amended to read as follows:

1. "Board" means the athletic trainer advisory board established pursuant to this chapter board of examiners for athletic training created under chapter 147.

Sec. 37. Section 152D.1, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 38. Section 152D.3, subsection 1, paragraphs a and b, Code 1997, are amended to read as follows:

a. Graduation from an accredited college or university and compliance with the minimum athletic training curriculum requirements established by the ~~department in consultation with the board.~~

b. Successful completion of an examination prepared or selected by the ~~department in consultation with the board.~~

Sec. 39. Section 152D.5, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The ~~department in consultation with the board~~ shall:

Sec. 40. Section 152D.6, Code 1997, is amended to read as follows:

152D.6 LICENSE SUSPENSION AND REVOCATION.

A license issued by the department board under the provisions of this chapter may be suspended or revoked, or renewal denied by the department board, for violation of any provision of this chapter or section 147.55, section 272C.10, or rules adopted by the department board.

Sec. 41. Section 272C.1, subsection 6, paragraph ab, Code 1997, is amended to read as follows:

ab. The ~~Iowa department of public health~~ board of examiners for athletic training in licensing athletic trainers pursuant to chapter 152D.

Sec. 42. Section 272C.1, subsection 6, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. ac. The board of examiners for massage therapy in licensing massage therapists pursuant to chapter 152C.

Sec. 43. Sections 152C.2 and 152D.7, Code 1997, are repealed.