

Szymoniak
Lundby
Sexton

SSB. 3038
State Government

Succeeded By
SF/HF 2113

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the licensing of individuals engaged in the
2 healing art of massage therapy.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 147.2, Code 1999, is amended to read as
2 follows:

3 147.2 LICENSE REQUIRED.

4 A person shall not engage in the practice of medicine and
5 surgery, podiatry, osteopathy, osteopathic medicine and
6 surgery, psychology, chiropractic, physical therapy, nursing,
7 dentistry, dental hygiene, optometry, speech pathology,
8 audiology, occupational therapy, respiratory care, pharmacy,
9 cosmetology, barbering, social work, dietetics, marital and
10 family therapy or mental health counseling, massage therapy,
11 or mortuary science or shall not practice as a physician
12 assistant as defined in the following chapters of this
13 subtitle, unless the person has obtained from the department a
14 license for that purpose.

15 Sec. 2. Section 152C.1, subsection 2, Code 1999, is
16 amended to read as follows:

17 2. "Massage therapist" means a person licensed to practice
18 the health care service of the healing art of massage therapy
19 under this chapter.

20 Sec. 3. Section 152C.4, Code 1999, is amended by striking
21 the section and inserting in lieu thereof the following:

22 152C.4 PRACTICING AS A MASSAGE THERAPIST WITHOUT A LICENSE
23 -- EMPLOYMENT OF PERSON NOT LICENSED -- CIVIL PENALTY.

24 1. The board, or its authorized agents, may inspect any
25 facility that advertises or offers the services of massage
26 therapy. The board may, by order, impose a civil penalty upon
27 a person who practices as a massage therapist without a
28 license issued under this chapter or a person or business that
29 employs an individual who is not licensed under this chapter.
30 The penalty shall not exceed one thousand dollars for each
31 offense. Each day of a continued violation after an order or
32 citation by the board constitutes a separate offense. In
33 determining the amount of a civil penalty, the board may
34 consider the following:

35 a. Whether the amount imposed will be a substantial

1 economic deterrent to the violation.

2 b. The circumstances leading to or resulting in the
3 violation.

4 c. The severity of the violation and the risk of harm to
5 the public.

6 d. The economic benefits gained by the violator as a
7 result of noncompliance.

8 e. The welfare or best interest of the public.

9 2. Before issuing an order or citation under this section,
10 the board shall provide written notice and the opportunity to
11 request a hearing on the record. The hearing must be
12 requested within thirty days of the issuance of the notice and
13 shall be conducted as provided in chapter 17A. The board may,
14 in connection with a proceeding under this section, issue
15 subpoenas to compel the attendance and testimony of witnesses
16 and the disclosure of evidence and may request the attorney
17 general to bring an action to enforce the subpoena.

18 3. A person aggrieved by the imposition of a civil penalty
19 under this section may seek judicial review in accordance with
20 section 17A.19. The board shall notify the attorney general
21 of the failure to pay a civil penalty within thirty days after
22 entry of an order pursuant to subsection 1, or within ten days
23 following final judgment in favor of the board if an order has
24 been stayed pending appeal. The attorney general may commence
25 an action to recover the amount of the penalty, including
26 reasonable attorney fees and costs. An action to enforce an
27 order under this section may be joined with an action for an
28 injunction.

29 Sec. 4. Section 152C.5, Code 1999, is amended by striking
30 the section and inserting in lieu thereof the following:

31 152C.5 PRACTICE OR USE OF TITLE -- LICENSE REQUIRED.

32 The practice of massage therapy as defined in section
33 152C.1 is strictly prohibited by unlicensed individuals. It
34 is unlawful for a person to engage in or offer to engage in
35 the practice of massage therapy, or use in connection with the

1 person's name, the initials "L.M.T." or the words "licensed
2 massage therapist", "massage therapist", "masseur",
3 "masseuse", or any other word or title that implies or
4 represents that the person practices massage therapy, unless
5 the person possesses a license issued under the provisions of
6 section 152C.3.

7 Sec. 5. NEW SECTION. 152C.8 TRANSITION PROVISIONS.

8 1. An applicant for a license to practice massage therapy
9 applying prior to July 1, 2002, shall not be required to meet
10 the completion of curriculum of massage therapy requirements
11 contained in section 152C.3, subsection 1, paragraph "a". The
12 applicant shall, however, be required to pass the board-
13 approved national certification examination and pay the
14 applicable licensing fee.

15 2. Applicants with a license that has lapsed prior to July
16 1, 2000, who apply for reinstatement prior to July 1, 2002,
17 shall be required to complete a reinstatement application and
18 pay a renewal fee and reinstatement fee pursuant to section
19 147.11 and section 147.80, subsections 26. Penalty fees
20 otherwise incurred pursuant to section 147.10, and continuing
21 education requirements applicable to the period prior to
22 licensure reinstatement, shall be waived by the board.

23 3. Applicants with a license that has lapsed prior to July
24 1, 2000, who do not apply for reinstatement prior to July 1,
25 2002, shall be required to apply for reinstatement in
26 accordance with lapsed license reinstatement provisions
27 established by rule of the board.

28 EXPLANATION

29 This bill provides that an individual shall not engage in
30 the health care service of the healing art of massage therapy
31 without having obtained a license for that purpose.

32 The bill provides that the practice of massage therapy is
33 strictly prohibited by unlicensed individuals, and that it is
34 unlawful to use the initials "L.M.T." or the words "licensed
35 massage therapist", "massage therapist", "masseur",

1 "masseur", or any other word or title that implies or
2 represents that the person practices massage therapy, unless
3 the person possesses a license issued pursuant to Code section
4 152C.3.

5 The bill additionally provides that the board may impose a
6 civil penalty upon a person who practices as a massage
7 therapist without a license, or upon a person or business that
8 employs an individual who is not licensed, in an amount not
9 exceeding \$1,000 for each offense, with each day of a
10 continued violation after an order or citation from the board
11 has been received constituting a separate offense. The bill
12 specifies several factors which the board may consider in
13 determining the amount of a civil penalty, and also prescribes
14 notice, hearing, judicial review, and penalty for nonpayment
15 provisions.

16 The bill additionally provides transition provisions
17 governing situations regarding an applicant for a new license
18 to practice massage therapy applying prior to July 1, 2002, an
19 applicant with a license that has lapsed prior to July 1,
20 2000, who applies for reinstatement prior to July 1, 2002, and
21 an applicant with a license that has lapsed prior to July 1,
22 2000, who does not apply for reinstatement prior to July 1,
23 2002.

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H. 3/24/00 State Gov
H. 3/14/00 Amend/Do Pass
w/H-8341

FILED FEB 9 2000
H. 3/23/00 Enforced/Do Pass
Brennan
Cobden

SENATE FILE 2113
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 3038)

Passed Senate, Date ^(P. 335) 2/22/00 Passed House, Date ^(P. 1207) 4-4-00
Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0
Approved 5/5/00

(P. 1050)

Re-Passed 4-6-00
Vote 46-0

A BILL FOR

1 An Act relating to the licensing of individuals engaged in the
2 healing art of massage therapy.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2113

1 Section 1. Section 147.2, Code 1999, is amended to read as
2 follows:

3 147.2 LICENSE REQUIRED.

4 A person shall not engage in the practice of medicine and
5 surgery, podiatry, osteopathy, osteopathic medicine and
6 surgery, psychology, chiropractic, physical therapy, nursing,
7 dentistry, dental hygiene, optometry, speech pathology,
8 audiology, occupational therapy, respiratory care, pharmacy,
9 cosmetology, barbering, social work, dietetics, marital and
10 family therapy or mental health counseling, massage therapy,
11 or mortuary science or shall not practice as a physician
12 assistant as defined in the following chapters of this
13 subtitle, unless the person has obtained from the department a
14 license for that purpose.

15 Sec. 2. Section 152C.1, subsection 2, Code 1999, is
16 amended to read as follows:

17 2. "Massage therapist" means a person licensed to practice
18 the health care service of the healing art of massage therapy
19 under this chapter.

20 Sec. 3. Section 152C.4, Code 1999, is amended by striking
21 the section and inserting in lieu thereof the following:

22 152C.4 PRACTICING AS A MASSAGE THERAPIST WITHOUT A LICENSE
23 -- EMPLOYMENT OF PERSON NOT LICENSED -- CIVIL PENALTY.

24 1. The board, or its authorized agents, may inspect any
25 facility that advertises or offers the services of massage
26 therapy. The board may, by order, impose a civil penalty upon
27 a person who practices as a massage therapist without a
28 license issued under this chapter or a person or business that
29 employs an individual who is not licensed under this chapter.
30 The penalty shall not exceed one thousand dollars for each
31 offense. Each day of a continued violation after an order or
32 citation by the board constitutes a separate offense. In
33 determining the amount of a civil penalty, the board may
34 consider the following:

35 a. Whether the amount imposed will be a substantial

1 economic deterrent to the violation.

2 b. The circumstances leading to or resulting in the
3 violation.

4 c. The severity of the violation and the risk of harm to
5 the public.

6 d. The economic benefits gained by the violator as a
7 result of noncompliance.

8 e. The welfare or best interest of the public.

9 2. Before issuing an order or citation under this section,
10 the board shall provide written notice and the opportunity to
11 request a hearing on the record. The hearing must be
12 requested within thirty days of the issuance of the notice and
13 shall be conducted as provided in chapter 17A. The board may,
14 in connection with a proceeding under this section, issue
15 subpoenas to compel the attendance and testimony of witnesses
16 and the disclosure of evidence and may request the attorney
17 general to bring an action to enforce the subpoena.

18 3. A person aggrieved by the imposition of a civil penalty
19 under this section may seek judicial review in accordance with
20 section 17A.19. The board shall notify the attorney general
21 of the failure to pay a civil penalty within thirty days after
22 entry of an order pursuant to subsection 1, or within ten days
23 following final judgment in favor of the board if an order has
24 been stayed pending appeal. The attorney general may commence
25 an action to recover the amount of the penalty, including
26 reasonable attorney fees and costs. An action to enforce an
27 order under this section may be joined with an action for an
28 injunction.

29 Sec. 4. Section 152C.5, Code 1999, is amended by striking
30 the section and inserting in lieu thereof the following:

31 152C.5 PRACTICE OR USE OF TITLE -- LICENSE REQUIRED.

32 The practice of massage therapy as defined in section
33 152C.1 is strictly prohibited by unlicensed individuals. It
34 is unlawful for a person to engage in or offer to engage in
35 the practice of massage therapy, or use in connection with the

1 person's name, the initials "L.M.T." or the words "licensed
2 massage therapist", "massage therapist", "masseur",
3 "masseuse", or any other word or title that implies or
4 represents that the person practices massage therapy, unless
5 the person possesses a license issued under the provisions of
6 section 152C.3.

7 Sec. 5. NEW SECTION. 152C.8 TRANSITION PROVISIONS.

8 1. An applicant for a license to practice massage therapy
9 applying prior to July 1, 2002, shall not be required to meet
10 the completion of curriculum of massage therapy requirements
11 contained in section 152C.3, subsection 1, paragraph "a". The
12 applicant shall, however, be required to pass the board-
13 approved national certification examination and pay the
14 applicable licensing fee.

15 2. Applicants with a license that has lapsed prior to July
16 1, 2000, who apply for reinstatement prior to July 1, 2002,
17 shall be required to complete a reinstatement application and
18 pay a renewal fee and reinstatement fee pursuant to section
19 147.11 and section 147.80, subsections 26. Penalty fees
20 otherwise incurred pursuant to section 147.10, and continuing
21 education requirements applicable to the period prior to
22 licensure reinstatement, shall be waived by the board.

23 3. Applicants with a license that has lapsed prior to July
24 1, 2000, who do not apply for reinstatement prior to July 1,
25 2002, shall be required to apply for reinstatement in
26 accordance with lapsed license reinstatement provisions
27 established by rule of the board.

28 EXPLANATION

29 This bill provides that an individual shall not engage in
30 the health care service of the healing art of massage therapy
31 without having obtained a license for that purpose.

32 The bill provides that the practice of massage therapy is
33 strictly prohibited by unlicensed individuals, and that it is
34 unlawful to use the initials "L.M.T." or the words "licensed
35 massage therapist", "massage therapist", "masseur",

1 "masseur", or any other word or title that implies or
2 represents that the person practices massage therapy, unless
3 the person possesses a license issued pursuant to Code section
4 152C.3.

5 The bill additionally provides that the board may impose a
6 civil penalty upon a person who practices as a massage
7 therapist without a license, or upon a person or business that
8 employs an individual who is not licensed, in an amount not
9 exceeding \$1,000 for each offense, with each day of a
10 continued violation after an order or citation from the board
11 has been received constituting a separate offense. The bill
12 specifies several factors which the board may consider in
13 determining the amount of a civil penalty, and also prescribes
14 notice, hearing, judicial review, and penalty for nonpayment
15 provisions.

16 The bill additionally provides transition provisions
17 governing situations regarding an applicant for a new license
18 to practice massage therapy applying prior to July 1, 2002, an
19 applicant with a license that has lapsed prior to July 1,
20 2000, who applies for reinstatement prior to July 1, 2002, and
21 an applicant with a license that has lapsed prior to July 1,
22 2000, who does not apply for reinstatement prior to July 1,
23 2002.

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H-8341

1 Amend Senate File 2113, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting after line 19 the
4 following:

5 "Sec. ____ . Section 152C.1, subsection 3, Code
6 1999, is amended to read as follows:

7 3. "Massage therapy" means performance for
8 compensation of massage, myotherapy, massotherapy,
9 bodywork, bodywork therapy, or therapeutic massage
10 including hydrotherapy, superficial hot and cold
11 applications, vibration and topical applications, or
12 other therapy which involves manipulation of the
13 muscle and connective tissue of the body, excluding
14 osseous tissue, to treat the muscle tonus system for
15 the purpose of enhancing health, muscle relaxation,
16 increasing range of motion, reducing stress, relieving
17 pain, or improving circulation. "Massage therapy"
18 does not include diagnosis or service which requires a
19 license to practice medicine or surgery, osteopathic
20 medicine and surgery, osteopathy, chiropractic,
21 cosmetology arts and sciences, or podiatry, and does
22 not include service performed by athletic trainers,
23 technicians, nurses, occupational therapists, or
24 physical therapists who act under a professional
25 license, certificate, or registration or under the
26 prescription or supervision of a person licensed to
27 practice medicine or surgery or osteopathic medicine
28 and surgery."

29 2. Page 1, line 32, by inserting after the word
30 "offense" the following: ", with the maximum penalty
31 not to exceed ten thousand dollars".

32 3. Page 3, line 19, by striking the word
33 "subsections" and inserting the following:
34 "subsection".

35 4. By renumbering as necessary.

By COMMITTEE ON STATE GOVERNMENT
MARTIN of Scott, Chairperson

H-8341 FILED MARCH 14, 2000

Adopted
4-4-00
(p. 1207)

HOUSE AMENDMENT TO
SENATE FILE 2113

S-5335

1 Amend Senate File 2113, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting after line 19 the
4 following:

5 "Sec. ____ Section 152C.1, subsection 3, Code
6 1999, is amended to read as follows:

7 3. "Massage therapy" means performance for
8 compensation of massage, myotherapy, massotherapy,
9 bodywork, bodywork therapy, or therapeutic massage
10 including hydrotherapy, superficial hot and cold
11 applications, vibration and topical applications, or
12 other therapy which involves manipulation of the
13 muscle and connective tissue of the body, excluding
14 osseous tissue, to treat the muscle tonus system for
15 the purpose of enhancing health, muscle relaxation,
16 increasing range of motion, reducing stress, relieving
17 pain, or improving circulation. "Massage therapy"
18 does not include diagnosis or service which requires a
19 license to practice medicine or surgery, osteopathic
20 medicine and surgery, osteopathy, chiropractic,
21 cosmetology arts and sciences, or podiatry, and does
22 not include service performed by athletic trainers,
23 technicians, nurses, occupational therapists, or
24 physical therapists who act under a professional
25 license, certificate, or registration or under the
26 prescription or supervision of a person licensed to
27 practice medicine or surgery or osteopathic medicine
28 and surgery."

29 2. Page 1, line 32, by inserting after the word
30 "offense" the following: ", with the maximum penalty
31 not to exceed ten thousand dollars".

32 3. Page 3, line 19, by striking the word
33 "subsections" and inserting the following:
34 "subsection".

35 4. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5335 FILED APRIL 4, 2000

Senate Concurred
4-6-00 (p. 1050)

SENATE FILE 2113

AN ACT

RELATING TO THE LICENSING OF INDIVIDUALS ENGAGED IN THE
HEALING ART OF MASSAGE THERAPY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 147.2, Code 1999, is amended to read as follows:

147.2 LICENSE REQUIRED.

A person shall not engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, occupational therapy, respiratory care, pharmacy, cosmetology, barbering, social work, dietetics, marital and family therapy or mental health counseling, massage therapy, or mortuary science or shall not practice as a physician

assistant as defined in the following chapters of this subtitle, unless the person has obtained from the department a license for that purpose.

Sec. 2. Section 152C.1, subsection 2, Code 1999, is amended to read as follows:

2. "Massage therapist" means a person licensed to practice the health care service of the healing art of massage therapy under this chapter.

Sec. 3. Section 152C.1, subsection 3, Code 1999, is amended to read as follows:

3. "Massage therapy" means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation. "Massage therapy" does not include diagnosis or service which requires a license to practice medicine or surgery, osteopathic medicine and surgery, osteopathy, chiropractic, cosmetology arts and sciences, or podiatry, and does not include service performed by athletic trainers, technicians, nurses, occupational therapists, or physical therapists who act under a professional license, certificate, or registration or under the prescription or supervision of a person licensed to practice medicine or surgery or osteopathic medicine and surgery.

Sec. 4. Section 152C.4, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

152C.4 PRACTICING AS A MESSAGE THERAPIST WITHOUT A LICENSE
-- EMPLOYMENT OF PERSON NOT LICENSED -- CIVIL PENALTY.

1. The board, or its authorized agents, may inspect any facility that advertises or offers the services of massage

therapy. The board may, by order, impose a civil penalty upon a person who practices as a massage therapist without a license issued under this chapter or a person or business that employs an individual who is not licensed under this chapter. The penalty shall not exceed one thousand dollars for each offense. Each day of a continued violation after an order or citation by the board constitutes a separate offense, with the maximum penalty not to exceed ten thousand dollars. In determining the amount of a civil penalty, the board may consider the following:

- a. Whether the amount imposed will be a substantial economic deterrent to the violation.
 - b. The circumstances leading to or resulting in the violation.
 - c. The severity of the violation and the risk of harm to the public.
 - d. The economic benefits gained by the violator as a result of noncompliance.
 - e. The welfare or best interest of the public.
2. Before issuing an order or citation under this section, the board shall provide written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted as provided in chapter 17A. The board may, in connection with a proceeding under this section, issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.
3. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19. The board shall notify the attorney general of the failure to pay a civil penalty within thirty days after entry of an order pursuant to subsection 1, or within ten days following final judgment in favor of the board if an order has been stayed pending appeal. The attorney general may commence

an action to recover the amount of the penalty, including reasonable attorney fees and costs. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 5. Section 152C.5, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

152C.5 PRACTICE OR USE OF TITLE -- LICENSE REQUIRED.

The practice of massage therapy as defined in section 152C.1 is strictly prohibited by unlicensed individuals. It is unlawful for a person to engage in or offer to engage in the practice of massage therapy, or use in connection with the person's name, the initials "L.M.T." or the words "licensed massage therapist", "massage therapist", "masseur", "masseuse", or any other word or title that implies or represents that the person practices massage therapy, unless the person possesses a license issued under the provisions of section 152C.3.

Sec. 6. NEW SECTION. 152C.8 TRANSITION PROVISIONS.

1. An applicant for a license to practice massage therapy applying prior to July 1, 2002, shall not be required to meet the completion of curriculum of massage therapy requirements contained in section 152C.3, subsection 1, paragraph "a". The applicant shall, however, be required to pass the board-approved national certification examination and pay the applicable licensing fee.

2. Applicants with a license that has lapsed prior to July 1, 2000, who apply for reinstatement prior to July 1, 2002, shall be required to complete a reinstatement application and pay a renewal fee and reinstatement fee pursuant to section 147.11 and section 147.80, subsection 26. Penalty fees otherwise incurred pursuant to section 147.10, and continuing education requirements applicable to the period prior to licensure reinstatement, shall be waived by the board.

3. Applicants with a license that has lapsed prior to July 1, 2000, who do not apply for reinstatement prior to July 1,

2002, shall be required to apply for reinstatement in accordance with lapsed license reinstatement provisions established by rule of the board.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2113, Seventy-eighth General Assembly.

MICHAEL E. MARGHALL
Secretary of the Senate

Approved 5/15, 2000

THOMAS J. VILSACK
Governor