

7. "Remediation" means a process used to protect the public health and safety or the environment from contamination, including by doing all of the following:

- a. Controlling, containing, or stabilizing the effects caused by a prohibited release.
- b. Investigating, identifying, or analyzing a contaminant or a contamination source; collecting samples, including soil and water samples; assessing the condition of a site; monitoring a contaminated site; providing for structural testing; or providing for engineering services.
- c. Providing for site cleanup.

8. a. "Responsible person" means a person who is legally liable for the contamination or who is legally responsible for abating contamination under any applicable law, including chapters 455B and 455E, and the common law. This may include a person causing, allowing, or otherwise participating in the activities or events which cause the contamination, persons who have failed to conduct their activities so as to prevent the release of contaminants into groundwater, persons who are obligated to abate a condition, or persons responsible for or a successor to such persons.

b. "Responsible person" does not include a person who caused contamination by acting in a manner unauthorized by the owner of the pesticide or fertilizer, including a person who trespasses upon a site.

9. "Site cleanup" means measures used to contain, reduce, or eliminate contamination present at a site including by using active site cleanup or passive site cleanup measures, or complying with a correction action required or recommended by the department of natural resources or the United States environmental protection agency.

Sec. 15. FULL-TIME EQUIVALENT POSITIONS. There is authorized for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following full-time equivalent positions within the department of agriculture and land stewardship, in order to support administration of chapter 161, as enacted by this Act, in addition to any other full-time equivalent positions authorized by the Seventy-eighth General Assembly, 2000 Session, to support the department:

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Approved May 15, 2000

CHAPTER 1185

MESSAGE THERAPY — LICENSING

S.F. 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 MASSAGE 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.

Approved May 15, 2000

CHAPTER 1186

SCHOOL FINANCE FORMULA — CONTINUATION — REVIEW

S.F. 2252

AN ACT eliminating the future repeal of the school finance formula and providing for periodic legislative review.

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

Section 1. 1989 Iowa Acts, chapter 135, section 135, is repealed effective July 1, 2000.

Sec. 2. Section 257.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. **LEGISLATIVE REVIEW.** The provisions of this chapter shall be subject to legislative review at least every five years. The review shall be based upon a school finance formula status report containing the recommendations of a legislative interim committee appointed to conduct a review of the school finance formula, to be prepared with the assistance of the department of education, in association with the departments of management and revenue and finance. The report shall include recommendations for school finance formula changes or revisions based upon demographic changes, enrollment trends,