

1 AN ACT concerning the regulation of professions.

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

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

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

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

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

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

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

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

28 "Director" means the Director of Professional Regulation.

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

1 the body. The system may include, but is not limited to,
2 techniques such as effleurage or stroking and gliding,
3 petrissage or kneading, tapotement or percussion, friction,
4 vibration, compression, and range of motion and stretching
5 activities as they pertain to massage therapy. These
6 techniques may be applied by a licensed massage therapist
7 with or without the aid of lubricants, salt or herbal
8 preparations, hydrotherapy, thermal therapy, or a massage
9 device that mimics or enhances the actions possible by human
10 hands.

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

13 "Professional massage, bodywork, or somatic therapies
14 association" means a state or nationally chartered
15 organization that is devoted to the massage specialty and
16 therapeutic approach and meets the following requirements:

17 (1) The organization requires that its members meet
18 minimum educational requirements. The educational
19 requirements must include anatomy, physiology, hygiene,
20 sanitation, ethics, technical theory, and application of
21 modality.

22 (2) The organization has an established code of
23 ethics and has procedures for the suspension and
24 revocation of membership of persons violating the code of
25 ethics.

26 Section 15. Licensure requirements. Beginning January
27 1, 2004, persons engaged in massage for compensation must be
28 licensed by the Department. The Department shall issue a
29 license to an individual who meets all of the following
30 requirements:

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

33 (2) The applicant is at least 18 years of age and

1 of good moral character. In determining good moral
2 character, the Department may take into consideration
3 conviction of any crime under the laws of the United
4 States or any state or territory thereof that is a felony
5 or a misdemeanor or any crime that is directly related to
6 the practice of the profession. Such a conviction shall
7 not operate automatically as a complete bar to a license,
8 except in the case of any conviction for prostitution or
9 sexual misconduct.

10 (3) The applicant has met one of the following
11 requirements:

12 (A) has successfully completed the curriculum
13 or curriculums of one or more approved massage
14 therapy schools that require a minimum of 500 hours
15 and has passed a competency examination approved by
16 the Massage Licensing Board;

17 (B) holds a current license from another
18 jurisdiction having licensure requirements that meet
19 or exceed those defined within this Act; or

20 (C) has moved to Illinois from a jurisdiction
21 with no licensure requirement and has provided
22 documentation that he or she has successfully passed
23 the National Certification Board of Therapeutic
24 Massage and Bodywork's examination or another
25 massage therapist certifying examination approved by
26 the National Commission for Certifying Agencies and
27 maintains current certification.

28 Section 20. Grandfathering provision.

29 (a) For a period of 2 years after the effective date of
30 this Act, the Department may issue a license to an individual
31 who, in addition to meeting the requirements set forth in
32 paragraphs (1) and (2) of Section 15, produces proof that he
33 or she has met at least one of the following requirements

1 before the effective date of this Act:

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

7 (2) has passed the National Certification Exam of
8 Therapeutic Massage and Bodywork and has kept his or her
9 certification current;

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

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

16 (b) An applicant who can show proof of current practice
17 of massage therapy for at least 10 hours per week for a
18 minimum of one year and has less than 100 hours of formal
19 training or has been practicing for less than one year with
20 100 hours of formal training may request a waiver of the
21 grandfathering requirements listed in subsection (a) of this
22 Section and may apply for a temporary 2-year license. This
23 2-year temporary license is not renewable. By the end of the
24 2-year period of the temporary license, the licensee must
25 have completed at least 100 additional hours of formal
26 training consisting of at least 25 hours in anatomy and
27 physiology. A person has 2-years from the effective date of
28 this Act to apply for a temporary license pursuant to this
29 subsection.

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

1 (d) For purposes of this Section, "formal training" means
2 a massage therapy curriculum approved by the Illinois State
3 Board of Education or the Illinois Board of Higher Education,
4 or a curriculum performed by an approved Continuing Education
5 Unit provider.

6 Section 25. Exemptions.

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

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

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

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

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

1 (f) Nothing in this Act limits persons who restrict
2 their manipulation of the soft tissues of the human body to
3 the hands, feet, or ears; persons who manipulate the human
4 body above the neck, below the elbow, and below the knee and
5 do not have the client disrobe; persons practicing the
6 healing arts with the primary purpose of their modality and
7 practice recognized as treatment of the energetic systems of
8 the body rather than treatment for the tonus system of the
9 body, and who may incidentally contact or manipulate soft
10 tissue within the practice of their profession; persons who
11 use touch and verbal communication to deepen awareness of
12 existing patterns of movement in the human body, as well as
13 to suggest new possibilities for movement, and who may
14 incidentally contact or manipulate soft tissue within the
15 practice of their profession.

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

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

24 Section 30. Title protection.

25 (a) Therapists regulated by this Act are designated as
26 massage therapists and therefore are entitled to utilize the
27 term "massage" when advertising or printing promotional
28 material.

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

1 (c) Anyone not authorized, under the definitions of this
2 Act, to utilize the term "massage" and who knowingly utilizes
3 the term "massage" when advertising commits a violation of
4 this Act.

5 Section 35. Massage Licensing Board.

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

21 (b) Members shall be appointed to a 3-year term, except
22 that initial appointees shall serve the following terms: 3
23 members including one of the non-voting members shall serve
24 for one year, 4 members including one of the non-voting
25 members shall serve for 2 years, and 4 members shall serve
26 for 3 years. A member whose term has expired shall continue
27 to serve until his or her successor is appointed. No member
28 shall be reappointed to the Board for a term that would cause
29 his or her continuous service on the Board to exceed 9 years.
30 Appointments to fill vacancies shall be made in the same
31 manner as the original appointments for the unexpired portion
32 of the vacated term.

33 (c) The members of the Board are entitled to receive as

1 compensation a reasonable sum as determined by the Director
2 for each day that they are actually engaged in the duties of
3 the Board and for all legitimate and necessary expenses
4 incurred while attending Board and Department meetings.

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

8 (e) The Director shall consider the recommendations of
9 the Board on questions involving the standards of
10 professional conduct, discipline, and qualifications of
11 candidates and licensees under this Act. Nothing shall limit
12 the ability of the Board to provide recommendations to the
13 Director in regard to any matter affecting the administration
14 of this Act. The Director shall give due consideration to
15 all recommendations of the Board. If the Director takes
16 action contrary to a recommendation of the Board, the
17 Director shall within 10 business days provide a written
18 explanation of that action.

19 (f) The Director may terminate the appointment of any
20 member of the Board for cause which, in the opinion of the
21 Director, reasonably justifies termination. The Director must
22 supply to the Board member being terminated a written
23 explanation no later than the date of termination stating the
24 effective date of the termination and the reason for the
25 termination.

26 Section 40. Duties of the Department. Subject to
27 provisions of this Act, the Department shall:

28 (1) Formulate rules required for the administration
29 of this Act. Notice of proposed rulemaking shall be
30 transmitted to the Board and the Department shall review
31 the Board's response and any recommendations made in the
32 response.

33 (2) Determine the qualifications of an applicant

1 for licensure by endorsement.

2 (3) Conduct hearings or proceedings to refuse to
3 issue or renew or to revoke a license or to suspend,
4 place on probation, or reprimand a person licensed under
5 this Act.

6 (4) Solicit the advice and expert knowledge of the
7 Board on any matter relating to the administration and
8 enforcement of this Act.

9 (5) Issue a quarterly report to the Board of the
10 status of all complaints related to this Act received by
11 the Department.

12 (6) Maintain a roster of the names and addresses of
13 all licensees and all persons whose licenses have been
14 suspended, revoked, or denied renewal for cause within
15 the previous calendar year. The roster shall be
16 available upon written request and payment of the
17 required fee.

18 Section 45. Grounds for discipline.

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

25 (1) being convicted of any crime under the laws of
26 the United States or any state or territory thereof that
27 is a felony or a misdemeanor, an essential element of
28 which is dishonesty, or any that is directly related to
29 the practice of massage. Conviction, as used in this
30 paragraph, shall include a finding or verdict of guilty,
31 an admission of guilt, or a plea of nolo contendere;

32 (2) advertising in a false, deceptive, or
33 misleading manner;

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

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

7 (5) engaging in dishonorable, unethical, or
8 unprofessional conduct of a character likely to deceive,
9 defraud, or harm the public;

10 (6) practicing or offering to practice beyond the
11 scope permitted by law or accepting and performing
12 professional responsibilities which the licensee knows or
13 has reason to know that he or she is not competent to
14 perform;

15 (7) knowingly delegating professional
16 responsibilities to a person unqualified by training,
17 experience, or licensure to perform;

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

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

24 (10) having a pattern of practice or other behavior
25 that demonstrates incapacity or incompetence to practice
26 under this Act;

27 (11) making a material misstatement in furnishing
28 information to the Department or otherwise making
29 misleading, deceptive, untrue, or fraudulent
30 representations in violation of this Act or otherwise in
31 the practice of the profession;

32 (12) making any misrepresentation for the purpose
33 of obtaining a license; or

34 (13) having a physical illness, including but not

1 limited to deterioration through the aging process or
2 loss of motor skills, that results in the inability to
3 practice the profession with reasonable judgment, skill,
4 or safety.

5 (b) The Department may refuse to issue or may suspend
6 the license of any person who fails to file a tax return, to
7 pay the tax, penalty, or interest shown in a filed tax
8 return, or to pay any final assessment of tax, penalty, or
9 interest, as required by any tax Act administered by the
10 Illinois Department of Revenue, until such time as the
11 requirements of the tax Act are satisfied.

12 Section 50. Advertising. It is a misdemeanor for any
13 person, organization, or corporation to advertise massage
14 services unless the person providing the service holds a
15 valid license under this Act, except for those excluded
16 licensed professionals who are allowed to include massage in
17 their scope of practice. A massage therapist may not
18 advertise unless he or she has a current license issued by
19 this State. "Advertise" as used in this Section includes,
20 but is not limited to, the issuance of any card, sign, or
21 device to any person; the causing, permitting, or allowing of
22 any sign or marking on or in any building, vehicle, or
23 structure; advertising in any newspaper or magazine; any
24 listing or advertising in any directory under a
25 classification or heading that includes the words "massage",
26 or "massage therapist", or "therapeutic massage", or "massage
27 therapeutic"; or commercials broadcast by any means.

28 Section 55. Exclusive jurisdiction. The regulation and
29 licensing of massage therapy is an exclusive power and
30 function of the State. A home rule unit may not regulate or
31 license massage therapists. This Section is a denial and
32 limitation of home rule powers and functions under subsection

1 (h) of Section 6 of Article VII of the Illinois Constitution.

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

14 Section 65. Renewal of licenses. The expiration date
15 and renewal period for each license issued under this Act
16 shall be set by rule. The holder of a license may renew the
17 license during the month preceding the expiration date of the
18 license by paying the required fee and showing proof of the
19 completion of 24 hours of approved continuing education. The
20 Department shall establish rules concerning this Section.

21 Section 70. Restoration of expired licenses. A massage
22 and body work therapist who has permitted his or her license
23 to expire or who has had his or her license on inactive
24 status may have his or her license restored by making
25 application to the Department and filing proof acceptable to
26 the Department of his or her fitness to have his or her
27 license restored, including sworn evidence certifying to
28 active practice in another jurisdiction satisfactory to the
29 Department, and by paying the required restoration fee.

30 If the massage and bodywork therapist has not maintained
31 an active practice in another jurisdiction satisfactory to

1 the Department, the Committee shall determine, by an
2 evaluation program established by rule his or her fitness to
3 resume active status and may require the massage therapist
4 to complete a period of evaluated clinical experience and may
5 require successful completion of an examination.

6 A massage therapist whose license has been expired or
7 placed on inactive status for more than 5 years may have his
8 or her license restored by making application to the
9 Department and filing proof acceptable to the Department of
10 his or her fitness to have his or her license restored,
11 including sworn evidence certifying to active practice in
12 another jurisdiction, and by paying the required restoration
13 fee.

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

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

1 or she notifies the Department in writing of his or her
2 desire to resume active status.

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

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

10 Section 80. Fees.

11 (a) The application fee for a license is \$100.

12 (b) The fee for the renewal of a license shall be
13 calculated at the rate of \$50 per year.

14 (c) The fee for the restoration of a license other than
15 from inactive status is \$10 plus payment of all lapsed
16 renewal fees.

17 (d) The fee to be paid for the issuance of a duplicate
18 license, for the issuance of a replacement license, for a
19 replacement license for a license that has been lost or
20 destroyed, or for the issuance of a license with a change of
21 name or address other than during the renewal period is \$20.

22 (e) The fee for a certification of a license for any
23 purpose is \$20.

24 (f) The fee for a wall certificate evidencing licensing
25 shall be the actual cost of producing that certificate.

26 (g) The fee for a roster of persons licensed as massage
27 therapists in this State shall be the actual cost of
28 producing that roster.

29 Section 85. Deposit of fees and fines; appropriations.

30 All fees and fines collected under this Act shall be
31 deposited into the General Professions Dedicated Fund. All
32 moneys in the Fund shall be used by the Department of

1 Professional Regulation, as appropriated, for the ordinary
2 and contingent expenses of the Department.

3 Section 90. Violations; injunction; cease and desist
4 order.

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

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

32 (c) Whenever, in the opinion of the Department, a person
33 violates any provision of this Act, the Department may issue

1 a rule to show cause why an order to cease and desist should
2 not be entered against him. The rule shall clearly set forth
3 the grounds relied upon by the Department and shall provide a
4 period of 7 days from the date of the rule to file an answer
5 to the satisfaction of the Department. Failure to answer to
6 the satisfaction of the Department shall cause an order to
7 cease and desist to be issued immediately.

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

1 the person's practice or the imposition of a fine, without a
2 hearing, if the act or acts charged constitute sufficient
3 grounds for that action under this Act. At the time and place
4 fixed in the notice, the Board shall proceed to hear the
5 charges and the parties or their counsel shall be accorded
6 ample opportunity to present statements, testimony, evidence
7 and argument that may be pertinent to the charges or to the
8 licensee's defense. The Board may continue a hearing from
9 time to time.

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

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

28 Section 110. Findings and recommendations. At the
29 conclusion of the hearing, the Board shall present to the
30 Director a written report of its findings and
31 recommendations. The report shall contain a finding of

1 whether or not the accused person violated this Act or failed
2 to comply with the conditions required in this Act. The
3 Board shall specify the nature of the violation or failure to
4 comply and shall make its recommendations to the Director.

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

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

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

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

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

- 28 (1) the signature is the genuine signature of the
29 Director;
30 (2) the Director is duly appointed and qualified;
31 and
32 (3) the Board and the members of the Board are

1 qualified to act.

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

8 Section 140. Surrender of license. Upon the revocation
9 or suspension of any license, the licensee shall surrender
10 the license to the Department and, if the licensee fails to
11 do so, the Department shall have the right to seize the
12 license.

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

24 Section 150. Administrative review; venue. All final
25 administrative decisions of the Department are subject to
26 judicial review pursuant to the Administrative Review Law and
27 its rules. The term "administrative decision" is defined as
28 in Section 3-101 of the Code of Civil Procedure.

29 Proceedings for judicial review shall be commenced in the
30 circuit court of the county in which the party applying for

1 relief resides; but if the party is not a resident of this
2 State, the venue shall be in Sangamon County.

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

11 Section 155. Violations. A person who is found to have
12 violated any provision of this Act is guilty of a Class A
13 misdemeanor for the first offense and a Class 4 felony for
14 the second and any subsequent offense.

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

1 application, without hearing. If, after termination or
2 denial, the person seeks a license, he or she shall apply to
3 the Department for restoration or issuance of the license and
4 pay all fees and fines due to the Department. The Department
5 may establish a fee for the processing of an application for
6 restoration of a license to pay all expenses of processing
7 this application. The Director may waive the fines due under
8 this Section in individual cases where the Director finds
9 that the fines would be unreasonable or unnecessarily
10 burdensome.

11 Section 165. Unlicensed practice; violation; civil
12 penalty.

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

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

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

31 Section 170. Severability. If any provision of this Act
32 or the application of any provision of this Act to any person

1 or circumstance is held invalid, the invalidity does not
2 affect other provisions or applications of the Act that can
3 be given effect without the invalid provision or application,
4 and for this purpose the provisions of this Act are
5 severable.

6 Section 950. The Regulatory Sunset Act is amended by
7 adding Section 4.22 as follows:

8 (5 ILCS 80/4.22 new)

9 Sec. 4.22. Act repealed on January 1, 2012. The
10 following Act is repealed on January 1, 2012:
11 The Massage Licensing Act.