

**Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 08-1060.01 Kate Meyer

SENATE BILL 08-219

SENATE SPONSORSHIP

Romer, Groff, Morse, Tapia, and Tochtrop

HOUSE SPONSORSHIP

McFadyen and Rice, Kerr A., Liston, Looper, Merrifield, Middleton, Pommer, Primavera, and Solano

Senate Committees

Business, Labor and Technology
Appropriations

House Committees

Health and Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING REGISTRATION OF MASSAGE THERAPISTS, AND MAKING**
102 **AN APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Repeals the "Colorado Massage Parlor Code". Enacts the "Massage Therapy Practice Act", requiring persons who are practicing massage therapy in Colorado to obtain licenses. Sets criteria for licensure. Makes the unauthorized practice of massage therapy grounds for discipline and criminal penalties. Identifies exceptions. Defines terms.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
May 2, 2008

HOUSE
Amended 2nd Reading
May 1, 2008

SENATE
3rd Reading Unamended
April 23, 2008

SENATE
Amended 2nd Reading
April 22, 2008

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-48.5-103 (6), Colorado Revised Statutes, is
3 amended to read:

4 **12-48.5-103. Definitions.** As used in this article, unless the
5 context otherwise requires:

6 (6) "Massage parlor" means an establishment providing massage,
7 but it does not include training rooms of public and private schools
8 accredited by the state board of education or approved by the division
9 charged with the responsibility of approving private occupational schools,
10 training rooms of recognized professional or amateur athletic teams, and
11 licensed health care facilities. A facility ~~which~~ THAT is operated for the
12 purpose of massage therapy performed by a massage therapist is not a
13 massage parlor. For purposes of this subsection (6), "massage therapist"
14 ~~means a person who has graduated from a massage therapy school~~
15 ~~accredited by the state educational board or division charged with the~~
16 ~~responsibility of approving private occupational schools, or from a school~~
17 ~~with comparable approval or accreditation from another state with~~
18 ~~transcripts indicating completion of at least five hundred hours of training~~
19 ~~in massage therapy~~ HAS THE MEANING SET FORTH IN SECTION 12-35.5-103.
20 For the purposes of this subsection (6), a massage therapy school may
21 include an equivalency program approved by the state educational board
22 or division charged with the responsibility of approving private
23 occupational schools.

24 **SECTION 2.** Title 12, Colorado Revised Statutes, is amended BY
25 THE ADDITION OF A NEW ARTICLE to read:

26 **ARTICLE 35.5**

1 **Massage Therapists**

2 **12-35.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
3 MAY BE CITED AS THE "MESSAGE THERAPY PRACTICE ACT".

4 **12-35.5-102. Legislative declaration.** (1) THE GENERAL
5 ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS IN THE INTEREST OF
6 THE PUBLIC HEALTH, SAFETY, AND WELFARE TO REQUIRE REGISTRATION
7 OF MESSAGE THERAPISTS. BECAUSE PROPER AND SAFE MESSAGE THERAPY
8 IS OF STATEWIDE CONCERN, THIS ARTICLE IS DEEMED TO BE AN EXERCISE
9 OF THE POLICE POWERS OF THE STATE.

10 (2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE
11 PRACTICE OF MESSAGE THERAPY BY ANY PERSON NOT REGISTERED
12 PURSUANT TO THIS ARTICLE IS ADVERSE TO THE BEST INTERESTS OF THE
13 PEOPLE OF THIS STATE. IT IS NOT, HOWEVER, THE INTENT OF THE GENERAL
14 ASSEMBLY IN ENACTING THIS ARTICLE TO PREVENT, RESTRICT, OR INHIBIT
15 THE PRACTICE OF MESSAGE THERAPY BY ANY DULY REGISTERED PERSON.

16 **12-35.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
17 CONTEXT OTHERWISE REQUIRES:

18 (1) "ADVERTISE" MEANS TO PUBLISH, DISPLAY, OR DISSEMINATE
19 INFORMATION AND INCLUDES, BUT IS NOT LIMITED TO, THE ISSUANCE OF
20 ANY CARD, SIGN, OR DIRECT MAIL, OR CAUSING OR PERMITTING ANY SIGN
21 OR MARKING ON OR IN ANY BUILDING OR STRUCTURE OR IN ANY
22 NEWSPAPER, MAGAZINE, OR DIRECTORY, OR ANY ANNOUNCEMENT OR
23 DISPLAY VIA ANY TELEVISED, COMPUTERIZED, ELECTRONIC, OR
24 TELEPHONIC NETWORKS OR MEDIA.

25 (2) "APPLICANT" MEANS A PERSON APPLYING FOR MESSAGE
26 THERAPY REGISTRATION.

27 (3) "APPROVED MESSAGE SCHOOL" MEANS:

1 (a) A MESSAGE THERAPY EDUCATIONAL SCHOOL THAT HAS A
2 VALID CERTIFICATE OF APPROVAL FROM THE DIVISION OF PRIVATE AND
3 OCCUPATIONAL SCHOOLS IN ACCORDANCE WITH THE PROVISIONS OF
4 ARTICLE 59 OF THIS TITLE;

5 (b) A MESSAGE THERAPY EDUCATIONAL PROGRAM CERTIFIED BY
6 THE COLORADO COMMUNITY COLLEGE SYSTEM; OR

7 (c) A MESSAGE THERAPY EDUCATIONAL ENTITY OR PROGRAM
8 THAT IS ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING
9 AGENCY.

10 (4) "COMPENSATION" MEANS SOMETHING OF VALUE OR BENEFIT,
11 WHETHER IN CASH, IN KIND, OR IN ANY OTHER FORM.

12 (5) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

13 (6) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE
14 DEPARTMENT OF REGULATORY AGENCIES.

15 (7) "MESSAGE" OR "MESSAGE THERAPY" MEANS A SYSTEM OF
16 STRUCTURED TOUCH, PALPATION, OR MOVEMENT OF THE SOFT TISSUE OF
17 ANOTHER PERSON'S BODY IN ORDER TO ENHANCE OR RESTORE THE
18 GENERAL HEALTH AND WELL-BEING OF THE RECIPIENT. SUCH SYSTEM
19 INCLUDES, BUT IS NOT LIMITED TO, TECHNIQUES SUCH AS EFFLEURAGE,
20 COMMONLY CALLED STROKING OR GLIDING; PETRISSAGE, COMMONLY
21 CALLED KNEADING; TAPOTEMENT OR PERCUSSION; FRICTION; VIBRATION;
22 COMPRESSION; PASSIVE AND ACTIVE STRETCHING WITHIN THE NORMAL
23 ANATOMICAL RANGE OF MOVEMENT; HYDROMASSAGE; AND THERMAL
24 MASSAGE. SUCH TECHNIQUES MAY BE APPLIED WITH OR WITHOUT THE AID
25 OF LUBRICANTS, SALT OR HERBAL PREPARATIONS, WATER, HEAT, OR A
26 MESSAGE DEVICE THAT MIMICS OR ENHANCES THE ACTIONS POSSIBLE BY
27 HUMAN HANDS. "MESSAGE" OR "MESSAGE THERAPY" DOES NOT INCLUDE

1 THERAPEUTIC EXERCISE, INTENTIONAL JOINT MOBILIZATION OR
2 MANIPULATION, OR ANY OF THE METHODS DESCRIBED IN SECTION
3 12-35.5-110 (1) (e).

4 (8) "MESSAGE THERAPIST" MEANS AN INDIVIDUAL REGISTERED BY
5 THIS STATE TO ENGAGE IN THE PRACTICE OF MESSAGE THERAPY. THE
6 TERMS "MASSEUSE" AND "MASSEUR" ARE SYNONYMOUS WITH THE TERM
7 "MESSAGE THERAPIST".

8 (9) "PERSON" MEANS A NATURAL PERSON ONLY.

9 (10) "REGISTRANT" MEANS A MESSAGE THERAPIST REGISTERED
10 PURSUANT TO THIS ARTICLE.

11 **12-35.5-104. Use of message titles restricted.** ONLY A PERSON
12 REGISTERED UNDER THIS ARTICLE AS A MESSAGE THERAPIST MAY USE THE
13 TITLES "MESSAGE THERAPIST", "REGISTERED MESSAGE THERAPIST",
14 "MESSAGE PRACTITIONER", "MASSEUSE", "MASSEUR", THE LETTERS "M.T."
15 OR "R.M.T.", OR ANY OTHER GENERALLY ACCEPTED TERMS, LETTERS, OR
16 FIGURES THAT INDICATE THAT THE PERSON IS A MESSAGE THERAPIST.

17 **12-35.5-105. Limitations on authority.** (1) NOTHING IN THIS
18 ARTICLE SHALL BE CONSTRUED AS AUTHORIZING A MESSAGE THERAPIST
19 TO PERFORM ANY OF THE FOLLOWING ACTS:

20 (a) THE PRACTICE OF MEDICINE PURSUANT TO ARTICLE 36 OF THIS
21 TITLE;

22 (b) THE PRACTICE OF PHYSICAL THERAPY PURSUANT TO ARTICLE
23 41 OF THIS TITLE;

24 (c) THE PRACTICE OF CHIROPRACTIC PURSUANT TO ARTICLE 33 OF
25 THIS TITLE; OR

26 (d) ANY OTHER FORMS OF HEALING OR HEALING ARTS NOT
27 AUTHORIZED BY THIS ARTICLE.

1 **12-35.5-106. Registration required.** ON OR AFTER APRIL 1,
2 2009, EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PERSON IN THIS
3 STATE WHO PRACTICES MASSAGE THERAPY OR WHO REPRESENTS ONESELF
4 AS BEING ABLE TO PRACTICE MASSAGE THERAPY MUST POSSESS A VALID
5 REGISTRATION ISSUED BY THE DIRECTOR PURSUANT TO THIS ARTICLE AND
6 RULES PROMULGATED PURSUANT TO THIS ARTICLE.

7 **12-35.5-107. Registration - reciprocity - denial of registration**
8 **application.** (1) EVERY APPLICANT FOR A REGISTRATION TO PRACTICE
9 MASSAGE THERAPY SHALL:

10 (a) ATTAIN A DEGREE, DIPLOMA, OR OTHERWISE SUCCESSFULLY
11 COMPLETE A MASSAGE THERAPY PROGRAM THAT CONSISTS OF AT LEAST
12 FIVE HUNDRED TOTAL HOURS OF COURSE WORK AND CLINICAL WORK FROM
13 AN APPROVED MASSAGE SCHOOL;

14 (b) PASS ONE OF THE FOLLOWING EXAMINATIONS:

15 (I) THE MESSAGE AND BODYWORK LICENSING EXAMINATION
16 OFFERED BY THE FEDERATION OF STATE MASSAGE THERAPY BOARDS;

17 (II) A NATIONAL CERTIFICATION EXAMINATION OFFERED BY THE
18 NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE AND
19 BODYWORK; OR

20 (III) AN EXAMINATION APPROVED BY THE DIRECTOR;

21 (c) SUBMIT AN APPLICATION IN THE FORM AND MANNER SPECIFIED
22 BY THE DIRECTOR;

23 (d) PAY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR; AND

24 (e) SUBMIT TO A CRIMINAL HISTORY RECORD CHECK IN THE FORM
25 AND MANNER AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

26 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS
27 SECTION, EACH APPLICANT SHALL HAVE HIS OR HER FINGERPRINTS TAKEN

1 BY A LOCAL LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF OBTAINING
2 A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE
3 APPLICANT IS REQUIRED TO SUBMIT PAYMENT BY CERTIFIED CHECK OR
4 MONEY ORDER FOR THE FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE
5 RECORD CHECK AT THE TIME THE FINGERPRINTS ARE SUBMITTED TO THE
6 COLORADO BUREAU OF INVESTIGATION. UPON RECEIPT OF FINGERPRINTS
7 AND RECEIPT OF THE PAYMENT FOR COSTS, THE COLORADO BUREAU OF
8 INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL
9 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
10 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
11 FEDERAL BUREAU OF INVESTIGATION AND SHALL FORWARD THE RESULTS
12 OF THE CRIMINAL HISTORY RECORD CHECK TO THE DIRECTOR.

13 (3) AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF
14 SUBSECTIONS (1) AND (2) OF THIS SECTION, THE DIRECTOR SHALL ISSUE A
15 REGISTRATION TO THE APPLICANT.

16 (4) FOR A PERIOD OF ONE YEAR AFTER THE DATE THAT
17 APPLICATIONS FOR REGISTRATION ARE MADE AVAILABLE, THE DIRECTOR
18 MAY ISSUE A REGISTRATION TO A PERSON WHO SUBMITS THE APPLICATION,
19 FEE, AND CRIMINAL HISTORY RECORD CHECK PURSUANT TO PARAGRAPHS
20 (c), (d), AND (e) OF SUBSECTION (1) OF THIS SECTION AND WHO:

21 (a) HAS AT LEAST FIVE YEARS OF PROFESSIONAL EXPERIENCE
22 PRACTICING MASSAGE THERAPY AND HAS COMPLETED AT LEAST THREE
23 HUNDRED HOURS OF MASSAGE TRAINING; OR

24 (b) MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

25 (I) THE APPLICANT HAS ATTAINED A DEGREE, DIPLOMA, OR
26 OTHERWISE SUCCESSFULLY COMPLETED A MASSAGE THERAPY PROGRAM
27 THAT CONSISTS OF AT LEAST FIVE HUNDRED TOTAL HOURS OF COURSE

1 WORK AND CLINICAL WORK FROM AN APPROVED MASSAGE SCHOOL; OR

2 (II) THE APPLICANT HAS PASSED AN EXAMINATION DESCRIBED IN
3 PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

4 (5) THE DIRECTOR SHALL ISSUE A REGISTRATION TO AN APPLICANT
5 WHO OTHERWISE MEETS THE QUALIFICATIONS SET FORTH IN THIS ARTICLE
6 AND WHO SUBMITS SATISFACTORY PROOF AND CERTIFIES UNDER PENALTY
7 OF PERJURY THAT THE APPLICANT CURRENTLY POSSESSES AN
8 UNRESTRICTED LICENSE OR REGISTRATION, IN GOOD STANDING, TO
9 PRACTICE MASSAGE THERAPY UNDER THE LAWS OF ANOTHER STATE OR
10 TERRITORY OF THE UNITED STATES OR A FOREIGN COUNTRY IF:

11 (a) THE DIRECTOR DETERMINES THAT THE QUALIFICATIONS FOR
12 MASSAGE THERAPY LICENSURE OR REGISTRATION IN THE OTHER STATE,
13 TERRITORY, OR FOREIGN COUNTRY ARE SUBSTANTIALLY EQUIVALENT TO
14 THOSE REQUIRED BY THIS SECTION;

15 (b) THE APPLICANT SUBMITS PROOF OF EXPERIENCE AND
16 COMPETENCY ON A FORM DETERMINED BY THE DIRECTOR;

17 (c) THE APPLICANT SUBMITS TO A CRIMINAL HISTORY RECORD
18 CHECK PURSUANT TO SUBSECTION (2) OF THIS SECTION; AND

19 (d) THE DIRECTOR REVIEWS ANY DISCIPLINARY ACTIONS TAKEN
20 AGAINST THE APPLICANT.

21 (6) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE
22 DIRECTOR SHALL DENY A REGISTRATION IF THE APPLICANT HAS
23 COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY
24 ACTION UNDER SECTION 12-35.5-111 OR IF THE DIRECTOR DETERMINES,
25 SUBSEQUENT TO THE CRIMINAL HISTORY RECORD CHECK, THAT THE
26 APPLICANT WAS CONVICTED OF OR PLEAD GUILTY TO A CHARGE OF
27 UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102, C.R.S.,

1 OR ANY PROSTITUTION-RELATED OFFENSE, WHETHER OR NOT THE ACT WAS
2 COMMITTED IN COLORADO.

3 **12-35.5-108. Registration expiration - effect - renewal -**
4 **reinstatement - penalty.** (1) REGISTRATIONS ISSUED PURSUANT TO THIS
5 ARTICLE SHALL BE VALID FOR THE PERIOD OF TIME ESTABLISHED BY THE
6 DIRECTOR. REGISTRATIONS SHALL BE RENEWED IN ACCORDANCE WITH
7 THE SCHEDULE SET FORTH BY THE DIRECTOR.

8 (2) A REGISTRATION NOT RENEWED WITHIN THE TIME PERIOD
9 SPECIFIED IN THE SCHEDULE ESTABLISHED BY THE DIRECTOR SHALL BE
10 DEEMED EXPIRED. A PERSON IN POSSESSION OF AN EXPIRED REGISTRATION
11 SHALL NOT PRACTICE MASSAGE THERAPY UNTIL HE OR SHE REINSTATES
12 SUCH REGISTRATION.

13 (3) THE DIRECTOR SHALL ESTABLISH APPLICATION FORMS AND FEE
14 AMOUNTS FOR RENEWAL OF REGISTRATIONS AND REINSTATEMENT OF
15 EXPIRED REGISTRATIONS. A PERSON RENEWING OR REINSTATING A
16 REGISTRATION SHALL SUBMIT AN APPLICATION IN THE FORM AND MANNER
17 SET FORTH BY THE DIRECTOR AND SHALL PAY A FEE IN AN AMOUNT SET
18 FORTH BY THE DIRECTOR.

19 **12-35.5-109. Fees.** ALL FEES COLLECTED PURSUANT TO THIS
20 ARTICLE SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE
21 MANNER SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY
22 ADJUSTED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S. THE FEES
23 SHALL BE ADEQUATE TO COVER THE DIRECT AND INDIRECT EXPENSES
24 INCURRED FOR IMPLEMENTATION OF THIS ARTICLE.

25 **12-35.5-110. Scope of article - exclusions - authority for**
26 **clinical setting.** (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO
27 PROHIBIT OR REQUIRE A MASSAGE THERAPY REGISTRATION FOR ANY OF

1 THE FOLLOWING:

2 (a) THE PRACTICE OF MASSAGE THERAPY THAT IS A PART OF A
3 PROGRAM OF STUDY BY STUDENTS ENROLLED IN A MASSAGE THERAPY
4 PROGRAM AT AN APPROVED MASSAGE THERAPY SCHOOL. STUDENTS
5 ENROLLED IN SUCH PROGRAMS SHALL BE IDENTIFIED AS "STUDENT
6 MASSAGE THERAPISTS" AND SHALL NOT HOLD THEMSELVES OUT AS
7 REGISTERED MASSAGE THERAPISTS. STUDENT MASSAGE THERAPISTS
8 SHALL PRACTICE MASSAGE THERAPY ONLY UNDER THE IMMEDIATE
9 SUPERVISION OF A MASSAGE THERAPIST HOLDING A VALID AND CURRENT
10 REGISTRATION. FACULTY MEMBERS TEACHING NONCLINICAL ASPECTS OF
11 MASSAGE THERAPY SHALL NOT BE REQUIRED TO BE REGISTERED MASSAGE
12 THERAPISTS.

13 (b) THE PRACTICE OF MASSAGE THERAPY BY A PERSON EMPLOYED
14 BY THE UNITED STATES GOVERNMENT OR ANY FEDERAL GOVERNMENTAL
15 ENTITY WHILE ACTING IN THE COURSE AND SCOPE OF SUCH EMPLOYMENT;

16 (c) THE PRACTICE OF MASSAGE THERAPY BY A PERSON WHO IS A
17 RESIDENT OF ANOTHER STATE AND WHO IS IN COLORADO TEMPORARILY
18 UNDER ONE OF THE FOLLOWING CIRCUMSTANCES:

19 (I) THE PERSON IS TRAVELING WITH AND ADMINISTERING MASSAGE
20 THERAPY TO MEMBERS OF A PROFESSIONAL OR AMATEUR SPORTS
21 ORGANIZATION, DANCE TROUPE, OR OTHER SUCH ATHLETIC
22 ORGANIZATION;

23 (II) THE PERSON PROVIDES MASSAGE THERAPY, WITHOUT
24 COMPENSATION, AT A PUBLIC ATHLETIC EVENT SUCH AS THE OLYMPIC
25 GAMES, SPECIAL OLYMPICS, YOUTH OLYMPICS, OR MARATHONS, IF THE
26 MASSAGE THERAPY IS PROVIDED NO EARLIER THAN FORTY-EIGHT HOURS
27 PRIOR TO THE COMMENCEMENT OF THE EVENT AND NO LATER THAN

1 TWENTY-FOUR HOURS AFTER THE CONCLUSION OF THE EVENT;

2 (III) THE PERSON IS PART OF AN EMERGENCY RESPONSE TEAM OR
3 IS OTHERWISE WORKING WITH OR FOR DISASTER RELIEF OFFICIALS TO
4 PROVIDE MASSAGE THERAPY IN CONNECTION WITH A DISASTER SITUATION;
5 OR

6 (IV) THE PERSON IS PARTICIPATING AS A STUDENT IN OR
7 INSTRUCTOR OF AN EDUCATIONAL PROGRAM, IF:

8 (A) THE PROGRAM DOES NOT EXCEED SIXTEEN DAYS IN DURATION;
9 OR

10 (B) THE PROGRAM EXCEEDS SIXTEEN DAYS IN DURATION AND THE
11 PERSON OBTAINS A GRANT OF AN EXTENSION OF TIME FROM THE DIRECTOR
12 PRIOR TO THE SEVENTEENTH DAY;

13 (d) THE PERSON PROVIDES MASSAGE THERAPY TO MEMBERS OF THE
14 PERSON'S IMMEDIATE FAMILY;

15 (e) THE PERSON PROVIDES ALTERNATIVE METHODS THAT EMPLOY
16 CONTACT AND DOES NOT HOLD HIMSELF OR HERSELF OUT AS A MASSAGE
17 THERAPIST. FOR THE PURPOSES OF THIS PARAGRAPH (e), "ALTERNATIVE
18 METHODS THAT EMPLOY CONTACT" INCLUDE, BUT ARE NOT LIMITED TO:

19 (I) PRACTICES IN WHICH ONLY THE SOFT TISSUE OF A PERSON'S
20 HANDS, FEET, OR EARS ARE MANIPULATED;

21 (II) PRACTICES USING TOUCH, WORDS, AND DIRECTED MOVEMENTS
22 TO DEEPEN A PERSON'S AWARENESS OF MOVEMENT PATTERNS IN HIS OR
23 HER BODY, SUCH AS THE FELDENKRAIS METHOD, THE TRAGER APPROACH,
24 AND BODY-MIND CENTERING;

25 (III) PRACTICES USING TOUCH TO AFFECT THE HUMAN ENERGY
26 SYSTEMS, SUCH AS REIKI, SHIATSU, AND ASIAN OR POLARITY BODYWORK
27 THERAPY;

1 (IV) STRUCTURAL INTEGRATION PRACTICES SUCH AS ROLFING AND
2 HELLERWORK; AND

3 (V) THE PROCESS OF MUSCLE ACTIVATION TECHNIQUES.

4 **12-35.5-111. Grounds for discipline.** (1) THE DIRECTOR IS
5 AUTHORIZED TO TAKE DISCIPLINARY ACTION PURSUANT TO SECTION
6 12-35.5-112 AGAINST ANY PERSON WHO HAS:

7 (a) ADVERTISED, REPRESENTED, OR HELD HIMSELF OR HERSELF
8 OUT AS A REGISTERED MASSAGE THERAPIST AFTER THE EXPIRATION,
9 SUSPENSION, OR REVOCATION OF HIS OR HER REGISTRATION;

10 (b) ENGAGED IN A SEXUAL ACT WITH A CLIENT WHILE A
11 THERAPEUTIC RELATIONSHIP EXISTS. FOR THE PURPOSES OF THIS
12 PARAGRAPH (b):

13 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
14 OR SEXUAL PENETRATION AS DEFINED IN SECTION 18-3-401, C.R.S.

15 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD OF TIME
16 COMMENCING WITH THE INITIAL SESSION OF MASSAGE AND ENDING UPON
17 WRITTEN TERMINATION OF THE RELATIONSHIP FROM EITHER PARTY.

18 (c) FAILED TO REFER A PATIENT TO A GENERAL HEALTH CARE
19 PRACTITIONER WHEN THE SERVICES REQUIRED BY THE CLIENT ARE BEYOND
20 THE LEVEL OF COMPETENCE OF THE MASSAGE THERAPIST OR BEYOND THE
21 SCOPE OF MASSAGE PRACTICE;

22 (d) FALSIFIED INFORMATION IN ANY APPLICATION OR ATTEMPTED
23 TO OBTAIN OR OBTAINED A REGISTRATION BY FRAUD, DECEPTION, OR
24 MISREPRESENTATION;

25 (e) FRAUDULENTLY OBTAINED OR FURNISHED A MASSAGE
26 THERAPY REGISTRATION; A RENEWAL OR REINSTATEMENT OF A
27 REGISTRATION, DIPLOMA, CERTIFICATE, OR RECORD; OR AIDED AND

1 ABETTED ANY SUCH ACTS;

2 (f) A DEPENDENCE ON OR ADDICTION TO ALCOHOL OR ANY
3 HABIT-FORMING DRUG OR ABUSES OR ENGAGES IN THE HABITUAL OR
4 EXCESSIVE USE OF ANY SUCH HABIT-FORMING DRUG OR ANY CONTROLLED
5 SUBSTANCE AS DEFINED IN SECTION 18-18-102, C.R.S., BUT THE DIRECTOR
6 MAY TAKE INTO ACCOUNT THE REGISTRANT'S PARTICIPATION IN A
7 REHABILITATION PROGRAM WHEN CONSIDERING DISCIPLINARY ACTION;

8 (g) A PHYSICAL OR MENTAL CONDITION OR DISABILITY THAT
9 RENDERS THE REGISTRANT UNABLE TO PROVIDE MASSAGE THERAPY WITH
10 REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR
11 SAFETY OF CLIENTS RECEIVING MASSAGE SERVICES;

12 (h) REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION
13 WHEN SO ORDERED BY THE DIRECTOR PURSUANT TO SECTION 12-35.5-114;

14 (i) FAILED TO NOTIFY THE DIRECTOR, IN WRITING, OF THE ENTRY
15 OF A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION IN FAVOR
16 OF ANY PARTY AND AGAINST THE LICENSEE FOR MALPRACTICE OF
17 MASSAGE THERAPY OR ANY SETTLEMENT BY THE LICENSEE IN RESPONSE
18 TO CHARGES OR ALLEGATIONS OF MALPRACTICE OF MASSAGE THERAPY.
19 SUCH NOTICE SHALL BE GIVEN WITHIN NINETY DAYS AFTER THE ENTRY OF
20 THE JUDGMENT OR SETTLEMENT AND, IN THE CASE OF A JUDGMENT, SHALL
21 CONTAIN THE NAME OF THE COURT, THE CASE NUMBER, AND THE NAMES
22 OF ALL PARTIES TO THE ACTION.

23 (j) BEEN CONVICTED OF A FELONY OR PLED GUILTY OR NOLO
24 CONTENDERE TO A FELONY OR COMMITTED ANY ACT SPECIFIED IN THIS
25 SECTION. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
26 COMPETENT JURISDICTION OF A CONVICTION OR PLEA SHALL BE
27 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE

1 DISCIPLINARY ACTION, THE DIRECTOR SHALL BE GOVERNED BY THE
2 PROVISIONS OF SECTION 24-5-101, C.R.S.

3 (k) ADVERTISED, REPRESENTED, HELD HIMSELF OR HERSELF OUT
4 IN ANY MANNER, OR USED ANY DESIGNATION IN CONNECTION WITH HIS OR
5 HER NAME AS A MASSAGE THERAPIST WITHOUT BEING REGISTERED OR
6 EXEMPT PURSUANT TO THIS ARTICLE; OR

7 (l) VIOLATED OR AIDED OR ABETTED A VIOLATION OF ANY
8 PROVISION OF THIS ARTICLE, ANY RULE ADOPTED UNDER THIS ARTICLE, OR
9 ANY LAWFUL ORDER OF THE DIRECTOR.

10 **12-35.5-112. Disciplinary proceedings - injunctions -**
11 **investigations - hearings - judicial review.** (1) THE DIRECTOR MAY
12 REVOKE, SUSPEND, DENY, OR REFUSE TO RENEW A REGISTRATION OF OR
13 PLACE ON PROBATION A REGISTRANT IN ACCORDANCE WITH THE
14 DISCIPLINARY PROCEEDINGS DESCRIBED IN THIS SECTION UPON PROOF
15 THAT THE PERSON COMMITTED A VIOLATION OF SECTION 12-35.5-111.

16 (2) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
17 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
18 ENJOIN ANY PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS
19 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS SUBSECTION (2),
20 THE ATTORNEY GENERAL SHALL NOT BE REQUIRED TO ALLEGE OR PROVE
21 THE INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
22 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
23 VIOLATION OF THIS ARTICLE.

24 (3) (a) THE DIRECTOR IS AUTHORIZED TO INVESTIGATE, HOLD
25 HEARINGS, AND GATHER EVIDENCE IN ALL MATTERS RELATED TO THE
26 EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE
27 DIRECTOR PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AND THIS

1 ARTICLE.

2 (b) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE SHALL
3 HAVE THE POWER TO ADMINISTER OATHS, TAKE AFFIRMATIONS OF
4 WITNESSES, AND ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF
5 WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS,
6 RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
7 INVESTIGATION, ACCUSATION, OR OTHER MATTER COMING BEFORE THE
8 DIRECTOR. THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
9 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT
10 HEARINGS, TAKE EVIDENCE, AND TO MAKE FINDINGS AND REPORT THEM TO
11 THE DIRECTOR.

12 (c) UPON FAILURE OF ANY WITNESS TO COMPLY WITH SUCH
13 SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH
14 THE SUBPOENAED PERSON OR REGISTRANT RESIDES OR CONDUCTS
15 BUSINESS, UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE
16 SUBPOENAED PERSON OR REGISTRANT, MAY ISSUE TO THE PERSON OR
17 REGISTRANT AN ORDER REQUIRING THAT PERSON OR REGISTRANT TO
18 APPEAR BEFORE THE DIRECTOR; TO PRODUCE THE RELEVANT PAPERS,
19 BOOKS, RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO
20 ORDERED; OR TO GIVE EVIDENCE TOUCHING THE MATTER UNDER
21 INVESTIGATION OR IN QUESTION. FAILURE TO OBEY THE ORDER OF THE
22 COURT MAY BE PUNISHED BY THE COURT AS A CONTEMPT OF COURT.

23 (4) (a) THE DIRECTOR, THE DIRECTOR'S STAFF, ANY PERSON ACTING
24 AS A WITNESS OR CONSULTANT TO THE DIRECTOR, ANY WITNESS
25 TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY
26 PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE SHALL BE
27 IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR

1 HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS
2 DIRECTOR, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF SUCH
3 INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER
4 RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE
5 FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE
6 REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS
7 WARRANTED BY THE FACTS.

8 (b) A PERSON WHO IN GOOD FAITH MAKES A COMPLAINT OR
9 REPORT OR PARTICIPATES IN AN INVESTIGATIVE OR ADMINISTRATIVE
10 PROCEEDING PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM
11 LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT FROM
12 SUCH PARTICIPATION.

13 (5) AN EMPLOYER OF A MASSAGE THERAPIST SHALL REPORT TO
14 THE DIRECTOR ANY DISCIPLINARY ACTION TAKEN AGAINST THE MASSAGE
15 THERAPIST OR THE RESIGNATION OF SUCH MASSAGE THERAPIST IN LIEU OF
16 DISCIPLINARY ACTION FOR CONDUCT THAT VIOLATES THIS ARTICLE.

17 (6) ON COMPLETION OF AN INVESTIGATION, THE DIRECTOR SHALL
18 FIND ONE OF THE FOLLOWING:

19 (a) THE COMPLAINT IS WITHOUT MERIT AND NO FURTHER ACTION
20 NEED BE TAKEN WITH REFERENCE THERETO;

21 (b) THERE IS NO REASONABLE CAUSE TO WARRANT FURTHER
22 ACTION; OR

23 (c) THE COMPLAINT DISCLOSES MISCONDUCT BY THE REGISTRANT
24 THAT WARRANTS FORMAL ACTION. WHEN A COMPLAINT OR AN
25 INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE
26 OPINION OF THE DIRECTOR, WARRANTS FORMAL ACTION, THE COMPLAINT
27 SHALL NOT BE RESOLVED BY A DEFERRED SETTLEMENT, ACTION,

1 JUDGMENT, OR PROSECUTION. RATHER, THE DIRECTOR SHALL INITIATE
2 DISCIPLINARY PROCEEDINGS PURSUANT TO SUBSECTION (7) OF THIS
3 SECTION.

4 (7) (a) A DISCIPLINARY PROCEEDING SHALL BE COMMENCED WHEN
5 THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE THAT A
6 REGISTRANT HAS COMMITTED ANY ACT THAT VIOLATES SECTION
7 12-35.5-111.

8 (b) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED PURSUANT
9 TO ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND OPPORTUNITY
10 FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT ARTICLE BY THE
11 DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE DIRECTOR'S
12 DISCRETION.

13 (c) IF, AFTER THE HEARING, THE DIRECTOR FINDS THE CHARGES
14 PROVEN AND ORDERS THAT DISCIPLINE BE IMPOSED, HE OR SHE SHALL
15 ALSO DETERMINE THE EXTENT OF SUCH DISCIPLINE. THE DIRECTOR MAY
16 REVOKE, SUSPEND, DENY, OR REFUSE TO RENEW A REGISTRATION, OR
17 PLACE A REGISTRANT ON PROBATION.

18 (d) IF THE DIRECTOR FINDS THE CHARGES AGAINST THE
19 REGISTRANT PROVED AND ORDERS THAT DISCIPLINE BE IMPOSED, THE
20 DIRECTOR MAY REQUIRE, AS A CONDITION OF REINSTATEMENT, THAT THE
21 REGISTRANT TAKE THERAPY OR COURSES OF TRAINING OR EDUCATION AS
22 MAY BE NEEDED TO CORRECT ANY DEFICIENCY FOUND.

23 (8) A FINAL ACTION OF THE DIRECTOR MAY BE JUDICIALLY
24 REVIEWED BY THE COURT OF APPEALS IN ACCORDANCE WITH SECTION
25 24-4-106 (11), C.R.S., AND JUDICIAL PROCEEDINGS FOR THE
26 ENFORCEMENT OF AN ORDER OF THE DIRECTOR MAY BE INSTITUTED IN
27 ACCORDANCE WITH SECTION 24-4-106, C.R.S.

1 **12-35.5-113. Cease-and-desist orders.** (1) (a) IF IT APPEARS TO
2 THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE AS PRESENTED IN A
3 WRITTEN COMPLAINT BY ANY PERSON, THAT A REGISTRANT IS ACTING IN
4 A MANNER THAT IS AN IMMINENT THREAT TO THE HEALTH AND SAFETY OF
5 THE PUBLIC, OR A PERSON IS ACTING OR HAS ACTED WITHOUT THE
6 REQUIRED REGISTRATION, THE DIRECTOR MAY ISSUE AN ORDER TO CEASE
7 AND DESIST SUCH ACTIVITY. THE ORDER SHALL SET FORTH THE STATUTES
8 AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO
9 HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT THAT ALL
10 UNLAWFUL ACTS OR UNREGISTERED PRACTICES IMMEDIATELY CEASE.

11 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
12 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE
13 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
14 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED.
15 SUCH HEARING SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104
16 AND 24-4-105, C.R.S.

17 (2) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
18 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
19 A PERSON HAS VIOLATED ANY OTHER PROVISION OF THIS ARTICLE, THEN,
20 IN ADDITION TO ANY SPECIFIC POWERS GRANTED PURSUANT TO THIS
21 ARTICLE, THE DIRECTOR MAY ISSUE TO SUCH PERSON AN ORDER TO SHOW
22 CAUSE AS TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER
23 DIRECTING SUCH PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT.

24 (b) A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
25 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL
26 BE PROMPTLY NOTIFIED BY THE DIRECTOR OF THE ISSUANCE OF THE
27 ORDER, ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL

1 BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
2 HEARING ON THE ORDER. SUCH NOTICE MAY BE SERVED BY PERSONAL
3 SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS
4 MAY BE PRACTICABLE UPON ANY PERSON AGAINST WHOM SUCH ORDER IS
5 ISSUED. PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT
6 PURSUANT TO THIS SUBSECTION (2) SHALL CONSTITUTE NOTICE THEREOF
7 TO THE PERSON.

8 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE
9 COMMENCED NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
10 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
11 NOTIFICATION BY THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS
12 SUBSECTION (2). THE HEARING MAY BE CONTINUED BY AGREEMENT OF
13 ALL PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
14 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
15 BUT IN NO EVENT SHALL THE HEARING COMMENCE LATER THAN SIXTY
16 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
17 NOTIFICATION.

18 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
19 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) DOES
20 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
21 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED UPON SUCH PERSON
22 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) AND SUCH OTHER
23 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
24 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
25 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
26 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER SHALL BECOME
27 FINAL AS TO THAT PERSON BY OPERATION OF LAW. SUCH HEARING SHALL

1 BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

2 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
3 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
4 HAS ACTED WITHOUT THE REQUIRED REGISTRATION, OR HAS OR IS ABOUT
5 TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS
6 ARTICLE, A FINAL CEASE-AND-DESIST ORDER MAY BE ISSUED, DIRECTING
7 SUCH PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR
8 UNREGISTERED PRACTICES.

9 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
10 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (2), OF THE FINAL
11 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
12 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
13 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER
14 ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) SHALL
15 BE EFFECTIVE WHEN ISSUED AND SHALL BE A FINAL ORDER FOR PURPOSES
16 OF JUDICIAL REVIEW.

17 (3) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
18 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED IN
19 OR IS ABOUT TO ENGAGE IN ANY ACT OR PRACTICE CONSTITUTING A
20 VIOLATION OF THIS ARTICLE, ANY RULE PROMULGATED PURSUANT TO THIS
21 ARTICLE, ANY ORDER ISSUED PURSUANT TO THIS ARTICLE, OR ANY ACT OR
22 PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE SANCTION
23 PURSUANT TO THIS ARTICLE, THE DIRECTOR MAY ENTER INTO A
24 STIPULATION WITH SUCH PERSON.

25 (4) IF ANY PERSON FAILS TO COMPLY WITH A FINAL
26 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
27 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE

1 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
2 AND IF SO REQUESTED SUCH ATTORNEY SHALL BRING, SUIT FOR A
3 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
4 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

5 (5) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST ORDER
6 MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION OR OF
7 THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (2) OF THIS
8 SECTION.

9 **12-35.5-114. Mental and physical examination of registrants.**

10 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
11 REGISTRANT IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND
12 SAFETY, THE DIRECTOR MAY ORDER THE REGISTRANT TO TAKE A MENTAL
13 OR PHYSICAL EXAMINATION ADMINISTERED BY A PHYSICIAN OR OTHER
14 LICENSED HEALTH CARE PROFESSIONAL DESIGNATED BY THE DIRECTOR.
15 REFUSAL BY A REGISTRANT TO SUBMIT TO A MENTAL OR PHYSICAL
16 EXAMINATION THAT HAS BEEN PROPERLY ORDERED BY THE DIRECTOR
17 PURSUANT TO SUBSECTION (2) OF THIS SECTION, UNLESS DUE TO
18 CIRCUMSTANCES BEYOND THE REGISTRANT'S CONTROL, CONSTITUTES
19 GROUNDS FOR DISCIPLINE PURSUANT TO SECTION 12-35.5-111, AND THE
20 DIRECTOR MAY SUSPEND THE REGISTRANT'S REGISTRATION IN
21 ACCORDANCE WITH SECTION 12-35.5-112 UNTIL THE RESULTS OF THE
22 EXAMINATION ARE KNOWN, AND THE DIRECTOR HAS MADE A
23 DETERMINATION OF THE REGISTRANT'S FITNESS TO PRACTICE. THE
24 DIRECTOR SHALL PROCEED WITH ANY SUCH ORDER FOR EXAMINATION AND
25 DETERMINATION IN A TIMELY MANNER.

26 (2) AN ORDER TO A REGISTRANT PURSUANT TO SUBSECTION (1) OF
27 THIS SECTION TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION SHALL

1 CONTAIN THE BASIS OF THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE
2 THAT THE REGISTRANT IS UNABLE TO PRACTICE WITH REASONABLE SKILL
3 AND SAFETY. FOR THE PURPOSES OF ANY DISCIPLINARY PROCEEDING
4 AUTHORIZED UNDER THIS ARTICLE, THE REGISTRANT SHALL BE DEEMED TO
5 HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING
6 PHYSICIAN'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUND THAT
7 THEY ARE PRIVILEGED COMMUNICATIONS.

8 (3) THE REGISTRANT MAY SUBMIT TO THE DIRECTOR TESTIMONY
9 OR EXAMINATION REPORTS FROM A PHYSICIAN OR OTHER LICENSED
10 HEALTH CARE PROFESSIONAL CHOSEN BY THE REGISTRANT AND
11 PERTAINING TO ANY CONDITION THAT THE DIRECTOR HAS ALLEGED MAY
12 PRECLUDE THE REGISTRANT FROM PRACTICING WITH REASONABLE SKILL
13 AND SAFETY. THESE MAY BE CONSIDERED BY THE DIRECTOR IN
14 CONJUNCTION WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION
15 REPORTS OF THE PHYSICIAN OR OTHER LICENSED HEALTH CARE
16 PROFESSIONAL DESIGNATED BY THE DIRECTOR.

17 (4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION
18 ORDERED BY THE DIRECTOR SHALL NOT BE USED AS EVIDENCE IN ANY
19 PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR AND SHALL NOT BE
20 DEEMED PUBLIC RECORDS NOR MADE AVAILABLE TO THE PUBLIC.

21 **12-35.5-115. Unauthorized practice - criminal penalties.** A
22 PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE MASSAGE
23 THERAPY WITHOUT AN ACTIVE REGISTRATION ISSUED UNDER THIS ARTICLE
24 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
25 IN SECTION 18-1.3-501, C.R.S., FOR THE FIRST OFFENSE, AND FOR THE
26 SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 1
27 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION

1 18-1.3-501, C.R.S.

2 **12-35.5-116. Professional liability insurance required.** IT IS
3 UNLAWFUL FOR ANY PERSON TO PRACTICE MASSAGE THERAPY WITHIN THIS
4 STATE UNLESS THE PERSON PURCHASES AND MAINTAINS PROFESSIONAL
5 LIABILITY INSURANCE IN AN AMOUNT NOT LESS THAN FIFTY THOUSAND
6 DOLLARS PER CLAIM WITH AN AGGREGATE LIABILITY LIMIT FOR ALL
7 CLAIMS DURING THE YEAR OF THREE HUNDRED THOUSAND DOLLARS.
8 PROFESSIONAL LIABILITY INSURANCE REQUIRED BY THIS SECTION SHALL
9 COVER ALL ACTS WITHIN THE SCOPE OF MASSAGE THERAPY PRACTICE AS
10 DEFINED BY SECTION 12-35.5-103.

11 **12-35.5-117. Rule-making authority.** THE DIRECTOR SHALL
12 PROMULGATE RULES FOR THE ADMINISTRATION OF THIS ARTICLE.

13 **12-35.5-118. Local government - regulations - enforcement.**

14 (1) NO CITY, COUNTY, CITY AND COUNTY, OR OTHER POLITICAL
15 SUBDIVISION OF THIS STATE SHALL ENACT OR ENFORCE ANY LOCAL
16 ORDINANCE THAT REGULATES THE PRACTICE OR THE PROFESSION OF
17 MASSAGE THERAPY.

18 (2) LOCAL GOVERNMENT LAW ENFORCEMENT AGENCIES MAY
19 INSPECT MASSAGE THERAPY REGISTRATIONS AND THE BUSINESS PREMISES
20 WHERE MASSAGE THERAPY IS PRACTICED FOR COMPLIANCE WITH
21 APPLICABLE LAWS. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
22 PRECLUDE CRIMINAL PROSECUTION FOR A VIOLATION OF ANY CRIMINAL
23 LAW. IF SUCH INSPECTION REVEALS THE PRACTICE OF MASSAGE THERAPY
24 BY A PERSON WITHOUT A VALID REGISTRATION, THE PERSON SHALL BE
25 CHARGED WITH A MISDEMEANOR PURSUANT TO SECTION 12-35.5-115.

26 **12-35.5-119. Severability.** IF ANY PROVISION OF THIS ARTICLE IS
27 HELD TO BE INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER

1 PROVISIONS OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT SUCH
2 INVALID PROVISION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE
3 ARE DECLARED TO BE SEVERABLE.

4 **12-35.5-120. Repeal of article - review of functions.** (1) THIS
5 ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2013.

6 (2) (a) THE REGISTRATION FUNCTIONS OF THE DIRECTOR AS SET
7 FORTH IN THIS ARTICLE ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2013.

8 (b) PRIOR TO SUCH REPEAL, THE REGISTRATION FUNCTIONS SHALL
9 BE REVIEWED PURSUANT TO SECTION 24-34-104, C.R.S.

10 **SECTION 3.** 24-34-104, Colorado Revised Statutes, is amended
11 BY THE ADDITION OF A NEW SUBSECTION to read:

12 **24-34-104. General assembly review of regulatory agencies
13 and functions for termination, continuation, or reestablishment.**

14 (44.5) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL
15 TERMINATE ON SEPTEMBER 1, 2013: THE REGISTRATION OF MASSAGE
16 THERAPISTS BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN
17 ACCORDANCE WITH ARTICLE 35.5 OF TITLE 12, C.R.S.

18 **SECTION 4.** 10-4-637, Colorado Revised Statutes, is amended
19 to read:

20 **10-4-637. No discrimination by profession.** Reimbursement for
21 lawfully performed health care services covered by a policy providing
22 medical payments coverage under a motor vehicle policy issued pursuant
23 to this part 6 shall not be denied when such services are a covered benefit
24 and rendered within the scope of practice for ~~the~~ A licensed health care
25 provider as defined in section 10-4-902 (3), A MASSAGE THERAPIST AS
26 DEFINED IN SECTION 12-35.5-103, C.R.S., or an occupational therapist as
27 described in section 6-1-707 (1) (c), C.R.S., performing the services.

1 **SECTION 5. Appropriation.** (1) In addition to any other
2 appropriation, there is hereby appropriated, out of any moneys in the
3 division of registrations cash fund created in section 24-34-105 (2) (b) (I),
4 Colorado Revised Statutes, not otherwise appropriated, to the department
5 of regulatory agencies, for allocation to the executive director's office, for
6 legal services, for the fiscal year beginning July 1, 2008, the sum of
7 eighteen thousand eight dollars (\$18,008), or so much thereof as may be
8 necessary, for the implementation of this act.

9 (2) In addition to any other appropriation, there is hereby
10 appropriated, out of any moneys in the division of registrations cash fund
11 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
12 otherwise appropriated, to the department of regulatory agencies, for
13 allocation to the division of registrations, for regulation of massage
14 therapists, for the fiscal year beginning July 1, 2008, the sum of two
15 hundred fifty-four thousand five hundred eighty-three dollars (\$254,583)
16 and 3.5 FTE, or so much thereof as may be necessary, for the
17 implementation of this act.

18 (3) In addition to any other appropriation, there is hereby
19 appropriated to the department of regulatory agencies, for allocation to
20 the division of registrations, for the fiscal year beginning July 1, 2008, the
21 sum of two hundred forty-three thousand seven hundred sixty-eight
22 dollars (\$243,768), or so much thereof as may be necessary, for pass
23 through to the department of public safety, to perform criminal history
24 background checks for massage therapists related to the implementation
25 of this act. Said sum shall be from application processing fees collected
26 by the division of registrations.

27 (4) In addition to any other appropriation, there is hereby

1 appropriated to the department of law, for the fiscal year beginning July
2 1, 2008, the sum of eighteen thousand eight dollars (\$18,008) and 0.2
3 FTE, or so much thereof as may be necessary, for the provision of legal
4 services to the department of regulatory agencies related to the
5 implementation of this act. Said sum shall be from reappropriated funds
6 received from the executive director's office out of the appropriation
7 made in subsection (1) of this section.

8 (5) In addition to any other appropriation, there is hereby
9 appropriated, to the department of public safety, for allocation to the
10 Colorado bureau of investigation, for processing of fingerprint-based
11 criminal history background checks for massage therapists, for the fiscal
12 year beginning July 1, 2008, the sum of one hundred thirty-one thousand
13 six hundred forty-three dollars (\$131,643) and 1.2 FTE, or so much
14 thereof as may be necessary, for the implementation of this act. Said sum
15 shall be from reappropriated funds received from the department of
16 regulatory agencies, division of registrations, out of the appropriation
17 made in subsection (3) of this section.

18 (6) In addition to any other appropriation, there is hereby
19 appropriated to the department of public safety, for the fiscal year
20 beginning July 1, 2008, the sum of one hundred twelve thousand one
21 hundred twenty-five dollars (\$112,125), or so much thereof as may be
22 necessary, for pass through to the federal bureau of investigation for
23 fingerprint-based national criminal history background checks for
24 massage therapists related to the implementation of this act. Said sum
25 shall be from reappropriated funds received from the department of
26 regulatory agencies, division of registrations, out of the appropriation
27 made in subsection (3) of this section.

1 **SECTION 6. Effective date - applicability.** This act shall take
2 effect July 1, 2008, and shall apply to the registration of massage
3 therapists on or after April 1, 2009.

4 **SECTION 7. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.