

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 29, 2008
Date

Committee on Health and Human Services.

After consideration on the merits, the Committee recommends the following:

SB08-219 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend reengrossed bill, strike everything below the enacting clause and
2 substitute the following:

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

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

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

1 include an equivalency program approved by the state educational board
2 or division charged with the responsibility of approving private
3 occupational schools.

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

6 **ARTICLE 35.5**
7 **Massage Therapists**

8 **12-35.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
9 MAY BE CITED AS THE "MESSAGE THERAPY PRACTICE ACT".

10 **12-35.5-102. Legislative declaration.** (1) THE GENERAL
11 ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS IN THE INTEREST OF
12 THE PUBLIC HEALTH, SAFETY, AND WELFARE TO REQUIRE REGISTRATION
13 OF MASSAGE THERAPISTS. BECAUSE PROPER AND SAFE MASSAGE THERAPY
14 IS OF STATEWIDE CONCERN, THIS ARTICLE IS DEEMED TO BE AN EXERCISE
15 OF THE POLICE POWERS OF THE STATE.

16 (2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE
17 PRACTICE OF MASSAGE THERAPY BY ANY PERSON NOT REGISTERED
18 PURSUANT TO THIS ARTICLE IS ADVERSE TO THE BEST INTERESTS OF THE
19 PEOPLE OF THIS STATE. IT IS NOT, HOWEVER, THE INTENT OF THE GENERAL
20 ASSEMBLY IN ENACTING THIS ARTICLE TO PREVENT, RESTRICT, OR INHIBIT
21 THE PRACTICE OF MASSAGE THERAPY BY ANY DULY REGISTERED PERSON.

22 **12-35.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "ADVERTISE" MEANS TO PUBLISH, DISPLAY, OR DISSEMINATE
25 INFORMATION AND INCLUDES, BUT IS NOT LIMITED TO, THE ISSUANCE OF
26 ANY CARD, SIGN, OR DIRECT MAIL, OR CAUSING OR PERMITTING ANY SIGN
27 OR MARKING ON OR IN ANY BUILDING OR STRUCTURE OR IN ANY
28 NEWSPAPER, MAGAZINE, OR DIRECTORY, OR ANY ANNOUNCEMENT OR
29 DISPLAY VIA ANY TELEVISED, COMPUTERIZED, ELECTRONIC, OR
30 TELEPHONIC NETWORKS OR MEDIA.

31 (2) "APPLICANT" MEANS A PERSON APPLYING FOR MASSAGE
32 THERAPY REGISTRATION.

1 (3) "APPROVED MASSAGE SCHOOL" MEANS:

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

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

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

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

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

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

16 (7) "MASSAGE" OR "MASSAGE THERAPY" MEANS A SYSTEM OF
17 STRUCTURED TOUCH, PALPATION, OR MOVEMENT OF THE SOFT TISSUE OF
18 ANOTHER PERSON'S BODY IN ORDER TO ENHANCE OR RESTORE THE
19 GENERAL HEALTH AND WELL-BEING OF THE RECIPIENT. SUCH SYSTEM
20 INCLUDES, BUT IS NOT LIMITED TO, TECHNIQUES SUCH AS EFFLEURAGE,
21 COMMONLY CALLED STROKING OR GLIDING; PETRISSAGE, COMMONLY
22 CALLED KNEADING; TAPOTEMENT OR PERCUSSION; FRICTION; VIBRATION;
23 COMPRESSION; PASSIVE AND ACTIVE STRETCHING WITHIN THE NORMAL
24 ANATOMICAL RANGE OF MOVEMENT; HYDROMASSAGE; AND THERMAL
25 MASSAGE. SUCH TECHNIQUES MAY BE APPLIED WITH OR WITHOUT THE AID
26 OF LUBRICANTS, SALT OR HERBAL PREPARATIONS, WATER, HEAT, OR A
27 MASSAGE DEVICE THAT MIMICS OR ENHANCES THE ACTIONS POSSIBLE BY
28 HUMAN HANDS. "MASSAGE" OR "MASSAGE THERAPY" DOES NOT INCLUDE
29 THERAPEUTIC EXERCISE, INTENTIONAL JOINT MOBILIZATION OR
30 MANIPULATION, OR ANY OF THE METHODS DESCRIBED IN SECTION
31 12-35.5-110 (1) (e).

32 (8) "MASSAGE THERAPIST" MEANS AN INDIVIDUAL REGISTERED BY
33 THIS STATE TO ENGAGE IN THE PRACTICE OF MASSAGE THERAPY. THE

1 TERMS "MASSEUSE" AND "MASSEUR" ARE SYNONYMOUS WITH THE TERM
2 "MESSAGE THERAPIST".

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

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

6 **12-35.5-104. Use of message titles restricted.** ONLY A PERSON
7 REGISTERED UNDER THIS ARTICLE AS A MESSAGE THERAPIST MAY USE THE
8 TITLES "MESSAGE THERAPIST", "REGISTERED MESSAGE THERAPIST",
9 "MESSAGE PRACTITIONER", "MASSEUSE", "MASSEUR", THE LETTERS "M.T."
10 OR "R.M.T.", OR ANY OTHER GENERALLY ACCEPTED TERMS, LETTERS, OR
11 FIGURES THAT INDICATE THAT THE PERSON IS A MESSAGE THERAPIST.

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

15 (a) THE PRACTICE OF MEDICINE PURSUANT TO ARTICLE 36 OF THIS
16 TITLE;

17 (b) THE PRACTICE OF PHYSICAL THERAPY PURSUANT TO ARTICLE
18 41 OF THIS TITLE;

19 (c) THE PRACTICE OF CHIROPRACTIC PURSUANT TO ARTICLE 33 OF
20 THIS TITLE; OR

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

23 **12-35.5-106. Registration required.** ON OR AFTER APRIL 1,
24 2009, EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PERSON IN THIS
25 STATE WHO PRACTICES MESSAGE THERAPY OR WHO REPRESENTS ONESELF
26 AS BEING ABLE TO PRACTICE MESSAGE THERAPY MUST POSSESS A VALID
27 REGISTRATION ISSUED BY THE DIRECTOR PURSUANT TO THIS ARTICLE AND
28 RULES PROMULGATED PURSUANT TO THIS ARTICLE.

29 **12-35.5-107. Registration - reciprocity - denial of registration**
30 **application.** (1) EVERY APPLICANT FOR A REGISTRATION TO PRACTICE
31 MESSAGE THERAPY SHALL:

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

5 (b) PASS ONE OF THE FOLLOWING EXAMINATIONS:

6 (I) THE MASSAGE AND BODYWORK LICENSING EXAMINATION
7 OFFERED BY THE FEDERATION OF STATE MASSAGE THERAPY BOARDS;

8 (II) A NATIONAL CERTIFICATION EXAMINATION OFFERED BY THE
9 NATIONAL CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE AND
10 BODYWORK; OR

11 (III) AN EXAMINATION APPROVED BY THE DIRECTOR;

12 (c) SUBMIT AN APPLICATION IN THE FORM AND MANNER SPECIFIED
13 BY THE DIRECTOR;

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

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

17 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS
18 SECTION, EACH APPLICANT SHALL HAVE HIS OR HER FINGERPRINTS TAKEN
19 BY A LOCAL LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF OBTAINING
20 A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE
21 APPLICANT IS REQUIRED TO SUBMIT PAYMENT BY CERTIFIED CHECK OR
22 MONEY ORDER FOR THE FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE
23 RECORD CHECK AT THE TIME THE FINGERPRINTS ARE SUBMITTED TO THE
24 COLORADO BUREAU OF INVESTIGATION. UPON RECEIPT OF FINGERPRINTS
25 AND RECEIPT OF THE PAYMENT FOR COSTS, THE COLORADO BUREAU OF
26 INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL
27 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
28 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
29 FEDERAL BUREAU OF INVESTIGATION AND SHALL FORWARD THE RESULTS
30 OF THE CRIMINAL HISTORY RECORD CHECK TO THE DIRECTOR.

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

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

6 (a) HAS AT LEAST FIVE YEARS OF PROFESSIONAL EXPERIENCE
7 PRACTICING MASSAGE THERAPY AND HAS COMPLETED AT LEAST THREE
8 HUNDRED HOURS OF MASSAGE TRAINING; OR

9 (b) MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

10 (I) THE APPLICANT HAS ATTAINED A DEGREE, DIPLOMA, OR
11 OTHERWISE SUCCESSFULLY COMPLETED A MASSAGE THERAPY PROGRAM
12 THAT CONSISTS OF AT LEAST FIVE HUNDRED TOTAL HOURS OF COURSE
13 WORK AND CLINICAL WORK FROM AN APPROVED MASSAGE SCHOOL; OR

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

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

23 (a) THE DIRECTOR DETERMINES THAT THE QUALIFICATIONS FOR
24 MASSAGE THERAPY LICENSURE OR REGISTRATION IN THE OTHER STATE,
25 TERRITORY, OR FOREIGN COUNTRY ARE SUBSTANTIALLY EQUIVALENT TO
26 THOSE REQUIRED BY THIS SECTION;

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

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

31 (d) THE DIRECTOR REVIEWS ANY DISCIPLINARY ACTIONS TAKEN
32 AGAINST THE APPLICANT.

1 (6) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE
2 DIRECTOR SHALL DENY A REGISTRATION IF THE APPLICANT HAS
3 COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY
4 ACTION UNDER SECTION 12-35.5-111 OR IF THE DIRECTOR DETERMINES,
5 SUBSEQUENT TO THE CRIMINAL HISTORY RECORD CHECK, THAT THE
6 APPLICANT WAS CONVICTED OF OR PLEAD GUILTY TO A CHARGE OF
7 UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102, C.R.S.,
8 OR ANY PROSTITUTION-RELATED OFFENSE, WHETHER OR NOT THE ACT WAS
9 COMMITTED IN COLORADO.

10 **12-35.5-108. Registration expiration - effect - renewal -**
11 **reinstatement - penalty.** (1) REGISTRATIONS ISSUED PURSUANT TO THIS
12 ARTICLE SHALL BE VALID FOR THE PERIOD OF TIME ESTABLISHED BY THE
13 DIRECTOR. REGISTRATIONS SHALL BE RENEWED IN ACCORDANCE WITH
14 THE SCHEDULE SET FORTH BY THE DIRECTOR.

15 (2) A REGISTRATION NOT RENEWED WITHIN THE TIME PERIOD
16 SPECIFIED IN THE SCHEDULE ESTABLISHED BY THE DIRECTOR SHALL BE
17 DEEMED EXPIRED. A PERSON IN POSSESSION OF AN EXPIRED REGISTRATION
18 SHALL NOT PRACTICE MASSAGE THERAPY UNTIL HE OR SHE REINSTATES
19 SUCH REGISTRATION.

20 (3) THE DIRECTOR SHALL ESTABLISH APPLICATION FORMS AND FEE
21 AMOUNTS FOR RENEWAL OF REGISTRATIONS AND REINSTATEMENT OF
22 EXPIRED REGISTRATIONS. A PERSON RENEWING OR REINSTATING A
23 REGISTRATION SHALL SUBMIT AN APPLICATION IN THE FORM AND MANNER
24 SET FORTH BY THE DIRECTOR AND SHALL PAY A FEE IN AN AMOUNT SET
25 FORTH BY THE DIRECTOR.

26 **12-35.5-109. Fees.** ALL FEES COLLECTED PURSUANT TO THIS
27 ARTICLE SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE
28 MANNER SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY
29 ADJUSTED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S. THE FEES
30 SHALL BE ADEQUATE TO COVER THE DIRECT AND INDIRECT EXPENSES
31 INCURRED FOR IMPLEMENTATION OF THIS ARTICLE.

32 **12-35.5-110. Scope of article - exclusions - authority for**
33 **clinical setting.** (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO
34 PROHIBIT OR REQUIRE A MASSAGE THERAPY REGISTRATION FOR ANY OF
35 THE FOLLOWING:

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

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

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

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

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

28 (III) THE PERSON IS PART OF AN EMERGENCY RESPONSE TEAM OR
29 IS OTHERWISE WORKING WITH OR FOR DISASTER RELIEF OFFICIALS TO
30 PROVIDE MASSAGE THERAPY IN CONNECTION WITH A DISASTER SITUATION;
31 OR

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

34 (A) THE PROGRAM DOES NOT EXCEED SIXTEEN DAYS IN DURATION;
35 OR

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

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

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

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

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

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

19 (IV) STRUCTURAL INTEGRATION PRACTICES SUCH AS ROLFING AND
20 HELLERWORK; AND

21 (V) THE PROCESS OF MUSCLE ACTIVATION TECHNIQUES.

22 **12-35.5-111. Grounds for discipline.** (1) THE DIRECTOR IS
23 AUTHORIZED TO TAKE DISCIPLINARY ACTION PURSUANT TO SECTION
24 12-35.5-112 AGAINST ANY PERSON WHO HAS:

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

28 (b) ENGAGED IN A SEXUAL ACT WITH A CLIENT WHILE A
29 THERAPEUTIC RELATIONSHIP EXISTS. FOR THE PURPOSES OF THIS
30 PARAGRAPH (b):

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

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

6 (c) FAILED TO REFER A PATIENT TO A GENERAL HEALTH CARE
7 PRACTITIONER WHEN THE SERVICES REQUIRED BY THE CLIENT ARE BEYOND
8 THE LEVEL OF COMPETENCE OF THE MASSAGE THERAPIST OR BEYOND THE
9 SCOPE OF MASSAGE PRACTICE;

10 (d) FALSIFIED INFORMATION IN ANY APPLICATION OR ATTEMPTED
11 TO OBTAIN OR OBTAINED A REGISTRATION BY FRAUD, DECEPTION, OR
12 MISREPRESENTATION;

13 (e) FRAUDULENTLY OBTAINED OR FURNISHED A MASSAGE
14 THERAPY REGISTRATION; A RENEWAL OR REINSTATEMENT OF A
15 REGISTRATION, DIPLOMA, CERTIFICATE, OR RECORD; OR AIDED AND
16 ABETTED ANY SUCH ACTS;

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

23 (g) A PHYSICAL OR MENTAL CONDITION OR DISABILITY THAT
24 RENDERS THE REGISTRANT UNABLE TO PROVIDE MASSAGE THERAPY WITH
25 REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR
26 SAFETY OF CLIENTS RECEIVING MASSAGE SERVICES;

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

29 (i) BEEN CONVICTED OF A FELONY OR PLED GUILTY OR NOLO
30 CONTENDERE TO A FELONY OR COMMITTED ANY ACT SPECIFIED IN THIS
31 SECTION. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
32 COMPETENT JURISDICTION OF A CONVICTION OR PLEA SHALL BE
33 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
34 DISCIPLINARY ACTION, THE DIRECTOR SHALL BE GOVERNED BY THE

1 PROVISIONS OF SECTION 24-5-101, C.R.S.

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

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

9 **12-35.5-112. Disciplinary proceedings - injunctions -**
10 **investigations - hearings - judicial review.** (1) THE DIRECTOR MAY
11 REVOKE, SUSPEND, DENY, OR REFUSE TO RENEW A REGISTRATION OR PLACE
12 ON PROBATION OR ISSUE A LETTER OF ADMONITION TO A REGISTRANT IN
13 ACCORDANCE WITH THE DISCIPLINARY PROCEEDINGS DESCRIBED IN THIS
14 SECTION UPON PROOF THAT THE PERSON COMMITTED A VIOLATION OF
15 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
28 ARTICLE.

29 (b) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE SHALL
30 HAVE THE POWER TO ADMINISTER OATHS, TAKE AFFIRMATIONS OF
31 WITNESSES, AND ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF
32 WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS,
33 RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
34 INVESTIGATION, ACCUSATION, OR OTHER MATTER COMING BEFORE THE
35 DIRECTOR. THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
36 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT

1 HEARINGS, TAKE EVIDENCE, AND TO MAKE FINDINGS AND REPORT THEM TO
2 THE DIRECTOR.

3 (c) UPON FAILURE OF ANY WITNESS TO COMPLY WITH SUCH
4 SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH
5 THE SUBPOENAED PERSON OR REGISTRANT RESIDES OR CONDUCTS
6 BUSINESS, UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE
7 SUBPOENAED PERSON OR REGISTRANT, MAY ISSUE TO THE PERSON OR
8 REGISTRANT AN ORDER REQUIRING THAT PERSON OR REGISTRANT TO
9 APPEAR BEFORE THE DIRECTOR; TO PRODUCE THE RELEVANT PAPERS,
10 BOOKS, RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO
11 ORDERED; OR TO GIVE EVIDENCE TOUCHING THE MATTER UNDER
12 INVESTIGATION OR IN QUESTION. FAILURE TO OBEY THE ORDER OF THE
13 COURT MAY BE PUNISHED BY THE COURT AS A CONTEMPT OF COURT.

14 (4) (a) THE DIRECTOR, THE DIRECTOR'S STAFF, ANY PERSON ACTING
15 AS A WITNESS OR CONSULTANT TO THE DIRECTOR, ANY WITNESS
16 TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY
17 PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE SHALL BE
18 IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR
19 HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS
20 DIRECTOR, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF SUCH
21 INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER
22 RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE
23 FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE
24 REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS
25 WARRANTED BY THE FACTS.

26 (b) A PERSON WHO IN GOOD FAITH MAKES A COMPLAINT OR
27 REPORT OR PARTICIPATES IN AN INVESTIGATIVE OR ADMINISTRATIVE
28 PROCEEDING PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM
29 LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT FROM
30 SUCH PARTICIPATION.

31 (5) AN EMPLOYER OF A MASSAGE THERAPIST SHALL REPORT TO
32 THE DIRECTOR ANY DISCIPLINARY ACTION TAKEN AGAINST THE MASSAGE
33 THERAPIST OR THE RESIGNATION OF SUCH MASSAGE THERAPIST IN LIEU OF
34 DISCIPLINARY ACTION FOR CONDUCT THAT VIOLATES THIS ARTICLE.

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

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

3 (b) THERE IS NO REASONABLE CAUSE TO WARRANT FURTHER
4 ACTION; OR

5 (c) THE COMPLAINT DISCLOSES MISCONDUCT BY THE REGISTRANT
6 THAT WARRANTS FORMAL ACTION. WHEN A COMPLAINT OR AN
7 INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE
8 OPINION OF THE DIRECTOR, WARRANTS FORMAL ACTION, THE COMPLAINT
9 SHALL NOT BE RESOLVED BY A DEFERRED SETTLEMENT, ACTION,
10 JUDGMENT, OR PROSECUTION. RATHER, THE DIRECTOR SHALL INITIATE
11 DISCIPLINARY PROCEEDINGS PURSUANT TO SUBSECTION (7) OF THIS
12 SECTION.

13 (7)(a) A DISCIPLINARY PROCEEDING SHALL BE COMMENCED WHEN
14 THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE THAT A
15 REGISTRANT HAS COMMITTED ANY ACT THAT VIOLATES SECTION
16 12-35.5-111.

17 (b) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED PURSUANT
18 TO ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND OPPORTUNITY
19 FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT ARTICLE BY THE
20 DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE DIRECTOR'S
21 DISCRETION.

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

27 (d) IF THE DIRECTOR FINDS THE CHARGES AGAINST THE
28 REGISTRANT PROVED AND ORDERS THAT DISCIPLINE BE IMPOSED, THE
29 DIRECTOR MAY REQUIRE, AS A CONDITION OF REINSTATEMENT, THAT THE
30 REGISTRANT TAKE THERAPY OR COURSES OF TRAINING OR EDUCATION AS
31 MAY BE NEEDED TO CORRECT ANY DEFICIENCY FOUND.

32 (8) A FINAL ACTION OF THE DIRECTOR MAY BE JUDICIALLY
33 REVIEWED BY THE COURT OF APPEALS IN ACCORDANCE WITH SECTION
34 24-4-106 (11), C.R.S., AND JUDICIAL PROCEEDINGS FOR THE
35 ENFORCEMENT OF AN ORDER OF THE DIRECTOR MAY BE INSTITUTED IN

1 ACCORDANCE WITH SECTION 24-4-106, C.R.S.

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

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

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

25 (b) A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
26 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL
27 BE PROMPTLY NOTIFIED BY THE DIRECTOR OF THE ISSUANCE OF THE
28 ORDER, ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL
29 BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
30 HEARING ON THE ORDER. SUCH NOTICE MAY BE SERVED BY PERSONAL
31 SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS
32 MAY BE PRACTICABLE UPON ANY PERSON AGAINST WHOM SUCH ORDER IS
33 ISSUED. PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT
34 PURSUANT TO THIS SUBSECTION (2) SHALL CONSTITUTE NOTICE THEREOF
35 TO THE PERSON.

36 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE
37 COMMENCED NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE

1 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
2 NOTIFICATION BY THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS
3 SUBSECTION (2). THE HEARING MAY BE CONTINUED BY AGREEMENT OF
4 ALL PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
5 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
6 BUT IN NO EVENT SHALL THE HEARING COMMENCE LATER THAN SIXTY
7 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
8 NOTIFICATION.

9 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
10 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) DOES
11 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
12 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED UPON SUCH PERSON
13 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) AND SUCH OTHER
14 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
15 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
16 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
17 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER SHALL BECOME
18 FINAL AS TO THAT PERSON BY OPERATION OF LAW. SUCH HEARING SHALL
19 BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

20 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
21 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
22 HAS ACTED WITHOUT THE REQUIRED REGISTRATION, OR HAS OR IS ABOUT
23 TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS
24 ARTICLE, A FINAL CEASE-AND-DESIST ORDER MAY BE ISSUED, DIRECTING
25 SUCH PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR
26 UNREGISTERED PRACTICES.

27 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
28 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (2), OF THE FINAL
29 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
30 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
31 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER
32 ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) SHALL
33 BE EFFECTIVE WHEN ISSUED AND SHALL BE A FINAL ORDER FOR PURPOSES
34 OF JUDICIAL REVIEW.

35 (3) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
36 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED IN
37 OR IS ABOUT TO ENGAGE IN ANY ACT OR PRACTICE CONSTITUTING A
38 VIOLATION OF THIS ARTICLE, ANY RULE PROMULGATED PURSUANT TO THIS

1 ARTICLE, ANY ORDER ISSUED PURSUANT TO THIS ARTICLE, OR ANY ACT OR
2 PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE SANCTION
3 PURSUANT TO THIS ARTICLE, THE DIRECTOR MAY ENTER INTO A
4 STIPULATION WITH SUCH PERSON.

5 (4) IF ANY PERSON FAILS TO COMPLY WITH A FINAL
6 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
7 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
8 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
9 AND IF SO REQUESTED SUCH ATTORNEY SHALL BRING, SUIT FOR A
10 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
11 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

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

16 **12-35.5-114. Mental and physical examination of registrants.**

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

33 (2) AN ORDER TO A REGISTRANT PURSUANT TO SUBSECTION (1) OF
34 THIS SECTION TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION SHALL
35 CONTAIN THE BASIS OF THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE
36 THAT THE REGISTRANT IS UNABLE TO PRACTICE WITH REASONABLE SKILL
37 AND SAFETY. FOR THE PURPOSES OF ANY DISCIPLINARY PROCEEDING
38 AUTHORIZED UNDER THIS ARTICLE, THE REGISTRANT SHALL BE DEEMED TO

1 HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING
2 PHYSICIAN'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUND THAT
3 THEY ARE PRIVILEGED COMMUNICATIONS.

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

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

17 **12-35.5-115. Unauthorized practice - criminal penalties.** A
18 PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE MASSAGE
19 THERAPY WITHOUT AN ACTIVE REGISTRATION ISSUED UNDER THIS ARTICLE
20 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
21 IN SECTION 18-1.3-501, C.R.S., FOR THE FIRST OFFENSE, AND FOR THE
22 SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 1
23 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
24 18-1.3-501, C.R.S.

25 **12-35.5-116. Professional liability insurance required.** IT IS
26 UNLAWFUL FOR ANY PERSON TO PRACTICE MASSAGE THERAPY WITHIN THIS
27 STATE UNLESS THE PERSON PURCHASES AND MAINTAINS PROFESSIONAL
28 LIABILITY INSURANCE IN AN AMOUNT NOT LESS THAN FIFTY THOUSAND
29 DOLLARS PER CLAIM WITH AN AGGREGATE LIABILITY LIMIT FOR ALL
30 CLAIMS DURING THE YEAR OF THREE HUNDRED THOUSAND DOLLARS.
31 PROFESSIONAL LIABILITY INSURANCE REQUIRED BY THIS SECTION SHALL
32 COVER ALL ACTS WITHIN THE SCOPE OF MASSAGE THERAPY PRACTICE AS
33 DEFINED BY SECTION 12-35.5-103.

34 **12-35.5-117. Rule-making authority.** THE DIRECTOR SHALL
35 PROMULGATE RULES FOR THE ADMINISTRATION OF THIS ARTICLE.

1 **12-35.5-118. Local government - regulations - enforcement.**

2 (1) NO CITY, COUNTY, CITY AND COUNTY, OR OTHER POLITICAL
3 SUBDIVISION OF THIS STATE SHALL ENACT OR ENFORCE ANY LOCAL
4 ORDINANCE THAT REGULATES THE PRACTICE OR THE PROFESSION OF
5 MASSAGE THERAPY.

6 (2) LOCAL GOVERNMENT LAW ENFORCEMENT AGENCIES MAY
7 INSPECT MASSAGE THERAPY REGISTRATIONS AND THE BUSINESS PREMISES
8 WHERE MASSAGE THERAPY IS PRACTICED FOR COMPLIANCE WITH
9 APPLICABLE LAWS. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
10 PRECLUDE CRIMINAL PROSECUTION FOR A VIOLATION OF ANY CRIMINAL
11 LAW. IF SUCH INSPECTION REVEALS THE PRACTICE OF MASSAGE THERAPY
12 BY A PERSON WITHOUT A VALID REGISTRATION, THE PERSON SHALL BE
13 CHARGED WITH A MISDEMEANOR PURSUANT TO SECTION 12-35.5-115.

14 **12-35.5-119. Severability.** IF ANY PROVISION OF THIS ARTICLE IS
15 HELD TO BE INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER
16 PROVISIONS OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT SUCH
17 INVALID PROVISION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE
18 ARE DECLARED TO BE SEVERABLE.

19 **12-35.5-120. Repeal of article - review of functions.** (1) THIS
20 ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2013.

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

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

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

27 **24-34-104. General assembly review of regulatory agencies
28 and functions for termination, continuation, or reestablishment.**

29 (44.5) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL
30 TERMINATE ON SEPTEMBER 1, 2013: THE REGISTRATION OF MASSAGE
31 THERAPISTS BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN
32 ACCORDANCE WITH ARTICLE 35.5 OF TITLE 12, C.R.S.

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

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

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

17 (2) In addition to any other appropriation, there is hereby
18 appropriated, out of any moneys in the division of registrations cash fund
19 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
20 otherwise appropriated, to the department of regulatory agencies, for
21 allocation to the division of registrations, for regulation of massage
22 therapists, for the fiscal year beginning July 1, 2008, the sum of two
23 hundred twenty-eight thousand eighty dollars (\$228,080) and 3.3 FTE, or
24 so much thereof as may be necessary, for the implementation of this act.

25 (3) In addition to any other appropriation, there is hereby
26 appropriated to the department of regulatory agencies, for allocation to
27 the division of registrations, for the fiscal year beginning July 1, 2008, the
28 sum of two hundred twenty-three thousand six hundred dollars
29 (\$223,600), or so much thereof as may be necessary, for pass through to
30 the department of public safety, to perform criminal history record checks
31 for massage therapists related to the implementation of this act. Said sum
32 shall be from application processing fees collected by the division of
33 registrations.

34 (4) In addition to any other appropriation, there is hereby
35 appropriated to the department of law, for the fiscal year beginning July
36 1, 2008, the sum of eighteen thousand eight dollars (\$18,008) and 0.2
37 FTE, or so much thereof as may be necessary, for the provision of legal
38 services to the department of regulatory agencies related to the

1 implementation of this act. Said sum shall be from reappropriated funds
2 received from the executive director's office out of the appropriation
3 made in subsection (1) of this section.

4 (5) In addition to any other appropriation, there is hereby
5 appropriated, to the department of public safety, for allocation to the
6 Colorado bureau of investigation, for processing of fingerprint-based
7 criminal history record checks for massage therapists, for the fiscal year
8 beginning July 1, 2008, the sum of one hundred twenty thousand one
9 hundred dollars (\$120,100) and 1.1 FTE, or so much thereof as may be
10 necessary, for the implementation of this act. Said sum shall be from
11 reappropriated funds received from the department of regulatory
12 agencies, division of registrations, out of the appropriation made in
13 subsection (3) of this section.

14 (6) In addition to any other appropriation, there is hereby
15 appropriated to the department of public safety, for the fiscal year
16 beginning July 1, 2008, the sum of one hundred three thousand five
17 hundred dollars (\$103,500), or so much thereof as may be necessary, for
18 pass through to the federal bureau of investigation for fingerprint-based
19 national criminal history record checks for massage therapists related to
20 the implementation of this act. Said sum shall be from reappropriated
21 funds received from the department of regulatory agencies, division of
22 registrations, out of the appropriation made in subsection (3) of this
23 section.

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

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

30 Page 1, line 101, strike "LICENSURE" and substitute "REGISTRATION".

** *** ** *** **