

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".

\*\* \*\*\* \*\* \*\*\* \*\*