

BILL ANALYSIS

Senate Research Center

H.B. 1842
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Health & Human Services
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

To become a registered massage therapist in Texas today, an individual must complete a mandated 300-hour curriculum. Texas graduates are prohibited from qualifying for national certification under the present 300-hour state mandated curriculum, because a minimum of 500 hours is required for national recognition. Additionally, most other states require a minimum of 500 hours of massage therapy instruction for the licensing, certification, or registration of massage therapists, making it difficult for a Texas-trained registered massage therapist to take advantage of reciprocity arrangements with other states and the District of Columbia.

H.B. 1842 increases the minimum total number of hours required by massage therapy students to 500 hours, and requires that a massage therapist completing the new curriculum be licensed by the State of Texas.

RULEMAKING AUTHORITY

Rule making authority previously granted to the Texas Board of Health is transferred to the executive commissioner of the Health and Human Services Commission in SECTION 5 (Section 455.051, Occupations Code) and subsequently modified in SECTION 6 (Sections 455.052, 455.053, 455.054, and 455.055, Occupations Code) and SECTION 10 (Section 455.155, Occupation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 455.001(1), (2), (3), (6), (7), and (9), Occupations Code, to redefine "department," "instructor," "massage school," "massage therapist," and "massage therapy instructor." Defines "executive commissioner." Deletes existing definition for "board."

SECTION 2. Amends Sections 455.003 and 455.004, Occupations Code, to provide that massage therapy includes the application of hydrotherapy or temperature for mechanical, thermal, or chemical effect and may include oil, salt glows, heat lamps, hot and cold packs, and tub, shower, or cabinet baths. Makes modifications to the list of individuals and entities to whom this chapter (Massage Therapy) does not apply.

SECTION 3. Amends Section 455.005(b), Occupations Code, to provide that this chapter does not affect a local regulation that does not relate directly to the practice of massage therapy as performed by a licensed, rather than registered, massage therapist, including a regulation related to a license holder listed in Section 455.004 (Applicability of Chapter), while the therapist engages in certain activities. Makes a conforming change.

SECTION 4. Amends the heading to Subchapter B, Chapter 455, Occupations Code, to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND DEPARTMENT

SECTION 5. Amends Section 455.051, Occupations Code, to require the executive commissioner of the Health and Human Services Commission (executive commissioner) (HHSC), rather than the Texas Board of Health (board), to adopt rules consistent with this chapter as necessary for the performance of the Department of State Health Services' (DSHS), rather than the board's, duties under this chapter.

SECTION 6. Amends Sections 455.052-455.057, Occupations Code, as follows:

Sec. 455.052. RULES REGARDING MASSAGE ESTABLISHMENTS. Makes modifications to minimum standards requirements for rules adopted under this chapter relating to a massage establishment.

Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Makes modifications to minimum standards requirements for rules adopted under this chapter relating to a massage school.

Sec. 455.054. RULES REGARDING MASSAGE THERAPISTS. Makes modifications to minimum standards requirements for rules adopted under this chapter relating to a massage therapist.

Sec. 455.055. RULES REGARDING MASSAGE THERAPY INSTRUCTORS. Makes modifications to minimum standards requirements for rules adopted under this chapter relating to a massage therapy instructor.

Sec. 455.056. New heading: RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) Prohibits the executive commissioner, rather than the board, from adopting rules restricting advertising or competitive bidding by a person licensed under this chapter except to prohibit false, misleading, or deceptive practices.

(b) Makes conforming changes.

SEC. 455.057. CONTINUING EDUCATION. Makes conforming changes.

SECTION 7. Amends Section 455.104, Occupations Code, to make conforming changes.

SECTION 8. Amends the heading to Subchapter D, Chapter 455, Occupations Code, to read as follows:

SUBCHAPTER D. LICENSING

SECTION 9. Amends Sections 455.151 and 455.152, Occupations Code, as follows:

Sec. 455.151. New heading: LICENSE REQUIRED. Makes conforming changes.

Sec. 455.152. New heading: INELIGIBILITY FOR LICENSE. Makes conforming changes.

SECTION 10. Amends Sections 455.153-455.156, Occupations Code, as follows:

Sec. 455.153. New heading: APPLICATION FOR LICENSE. Requires a massage therapist applicant to submit proof the applicant has completed the requirements under Sections 455.156 for a license under this chapter. Makes conforming changes.

Sec. 455.154. New heading: GENERAL PROVISIONS RELATING TO LICENSES. Makes conforming changes.

Sec. 455.155. New heading: LICENSE EXEMPTION. Requires the executive commissioner, rather than the board, by rule to provide for a fair and reasonable procedure to grant exemptions from the licensing, rather than registration, requirements of this chapter, rather than section. Makes conforming changes.

Sec. 455.156. New heading: LICENSE REQUIREMENTS FOR MASSAGE THERAPIST. (a) Requires DSHS to issue a license, rather than a certificate of registration, to each qualified applicant who applies for a massage, rather than as a message [sic], therapist license.

(b) Requires an applicant for a license, rather than registration, under this section to be an individual and meet certain requirements. Sets forth said requirements.

SECTION 11. Amends Sections 455.1565(a) and (d), Occupations Code, to make conforming changes.

SECTION 12. Amends Sections 455.1571-455.158, Occupations Code, as follows:

Sec. 455.1571. New heading: APPLICANT LICENSED IN ANOTHER JURISDICTION. Makes conforming changes.

Sec. 455.1572. New heading: PROVISIONAL LICENSE. Makes conforming changes.

Sec. 455.158. New heading: STUDENT EXEMPTION FROM LICENSING REQUIREMENTS. Makes conforming changes.

SECTION 13. Amends Sections 455.159(a) and (b), Occupations Code, as follows:

(a) Makes a conforming change.

(b) Requires a student to complete at least, rather than the first, 250 hours of required training at a massage school or with a massage therapy instructor that provides to the student a written acknowledgment of the student's successful completion of the required hours before the student is eligible to enter an internship program.

SECTION 14. Amends Sections 455.160 and 455.161, Occupations Code, as follows:

Sec. 455.160. New heading: LICENSE RENEWAL. Makes conforming changes.

Sec. 455.161. New heading: RENEWAL OF EXPIRED LICENSE OF OUT-OF-STATE PRACTITIONER. Makes conforming changes.

SECTION 15. Amends the heading to Subchapter E, Chapter 455, Occupations Code, to read as follows:

SUBCHAPTER E. PRACTICE BY LICENSE HOLDERS

SECTION 16. Amends Sections 455.201 and 455.202, Occupations Code, to make conforming changes.

SECTION 17. Amends Sections 455.203(a), (b), and (c), Occupations Code, to make conforming changes.

SECTION 18. Amends Section 455.204, Occupations Code, as follows:

Sec. 455.204. New heading: DISPLAY OF LICENSE. Makes conforming changes.

SECTION 19. Amends Sections 455.205(b) and (c), Occupations Code, as follows:

(b) Prohibits a massage school or a massage therapy instructor from awarding a diploma or a certificate of completion to a student who has not successfully completed at least the number of course hours required for licensing as a massage therapist under this chapter. Deletes existing prohibition against requiring the completion of more course hours than the number required for registration under this chapter.

(c) Makes conforming changes.

SECTION 20. Amends the heading to Subchapter F, Chapter 455, Occupations Code, to read as follows:

SUBCHAPTER F. LICENSE DENIAL OR DISCIPLINARY PROCEDURES

SECTION 21. Amends Section 455.251, Occupations Code, to read as follows:

Sec. 455.251. New heading: **GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION.** Makes conforming changes.

SECTION 22. Amends Section 455.252(a), Occupations Code, to make conforming changes.

SECTION 23. Amends Section 455.253, Occupations Code, to make conforming changes.

SECTION 24. Amends Sections 455.254(a) and (b), Occupations Code, to make conforming changes.

SECTION 25. Amends Section 455.304(b), Occupations Code, to require the executive commissioner, rather than the commissioner of public health, or the executive commissioner's designee by order to approve the determination that a person violated this chapter or a rule under this chapter and require the person to pay the recommended penalty if the person accepts DSHS's determination.

SECTION 26. Amends Section 455.305(b), Occupations Code, to make a conforming change.

SECTION 27. Amends Section 455.306, Occupations Code, as follows:

Sec. 455.306. New heading: **DECISION BY EXECUTIVE DIRECTOR.** Makes a conforming change

SECTION 28. Amends Section 455.310(b), Occupations Code, to make a conforming change.

SECTION 29. Amends Sections 455.351(a) and (b), Occupations Code, to make conforming changes.

SECTION 30. Amends Section 455.352(a), Occupations Code, to make conforming changes.

SECTION 31. Repealer: Sections 455.102 (Examiners; Compensation), 455.103 (Memorandum of Understanding Regarding Massage Schools), and 455.157 (Temporary Registration), Occupations Code.

SECTION 32. (a) Requires DSHS to prescribe the forms and procedures and the executive commissioner to adopt the rules that are necessary to implement Chapter 455 (Massage Therapy), Occupations Code, as amended by this Act, as soon as practicable after the effective date of this Act.

(b) Makes application of the changes in law made by this Act with regard to the requirements for issuing a license under Chapter 455, Occupations Code, prospective to September 1, 2007.

(c) Requires DSHS to treat a person who holds a certificate of registration under Chapter 455, Occupations Code, immediately before the effective date of this Act, as if the person holds a license under Chapter 455, Occupations Code, as amended by this Act. Entitles a person who holds a certificate of registration under Chapter 455, Occupations Code, on the effective date of this Act to issuance of a license on expiration of the certificate of registration if the person otherwise meets the requirements for renewal of a license.

(d) Provides that a person who holds a certificate of registration under Chapter 455, Occupations Code, immediately before the effective date of this Act, or is issued a certificate of registration under Subsection (b) of this section, and otherwise complies with Chapter 455 is not subject to disciplinary action or penalties, including a criminal penalty under Section 455.352, Occupations Code, as amended by this Act, for failure to hold a license under Chapter 455 until the certificate of registration's expiration date.

SECTION 33. Effective date: September 1, 2005.