

## **BILL ANALYSIS**

Senate Research Center  
79R7795 MSE-D

S.B. 1725  
By: Gallegos  
Health & Human Services  
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As Filed

### **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.

As proposed, SB 1725 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 (Sections 455.051 and 455.155, 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), and (6), Occupations Code, to redefine "department," "instructor," and "massage school." Defines "executive commissioner." Deletes existing definition for "board."

SECTION 2. Amends Section 455.003, 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.

SECTION 3. Amends Section 455.003, Occupations Code, to make modifications to the list of individuals and entities to whom this chapter (Massage Therapy) does not apply.

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 455.053-455.057, Occupations Code, as follows:

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 BY LICENSE OR CERTIFICATE HOLDER. (a) Prohibits the executive commissioner, rather than the board, from adopting rules restricting advertising or competitive bidding by a person licensed or registered 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 AND REGISTRATION

SECTION 9. Amends Sections 455.151-455.154, Occupations Code, as follows:

Sec. 455.151. New heading: LICENSE OR REGISTRATION REQUIRED. (a) Makes conforming changes.

(b) Makes modifications to representations that are prohibited by an individual, unless the person is exempt from the licensing or registration.

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

Sec. 455.153. New heading: APPLICATION. Makes modifications to the requirements for an applicant for licensing or registration under this chapter. Makes conforming changes.

Sec. 455.154. New heading: GENERAL PROVISIONS RELATING TO LICENSING AND REGISTRATION. Makes conforming changes.

SECTION 10. Amends Sections 455.155(b) and (c), Occupations Code, to make conforming changes.

SECTION 11. Amends Subchapter D, Chapter 455, Occupations Code, by adding Section 455.1555, as follows:

Sec. 455.1555. REQUIREMENTS FOR LICENSED MASSAGE THERAPIST. (a) Requires DSHS to issue a massage therapist license to each qualified applicant.

(b) Requires an applicant for licensing under this section to be an individual and meet certain requirements. Sets forth said requirements.

SECTION 12. Amends Section 455.156, Occupations Code, as follows:

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

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

SECTION 13. Amends Sections 455.1565(a) and (d), Occupations Code, to make conforming changes.

SECTION 14. Amends Sections 455.1571, 455.1572, and 455.158, Occupations Code, as follows:

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

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

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

SECTION 15. 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 16. Amends Sections 455.160 and 455.161, Occupations Code, as follows:

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

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

SECTION 17. Amends Sections 455.201 and 455.202, Occupations Code, to make conforming changes.

SECTION 18. Amends Section 455.203(c), Occupations Code, to make conforming changes.

SECTION 19. Amends Section 455.204, Occupations Code, as follows:

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

SECTION 20. Amends Sections 455.205(b), (c), and (d), 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 that has not successfully completed at least, rather than requiring the successful completion of more course hours than, the number of course hours required for licensing or registration as a massage therapist under this chapter.

(c) Makes conforming changes.

(d) Prohibits a sexually oriented business from using the term "massage therapy" or "massage therapist," rather than the word "massage," on a sign or any form of advertising.

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

Sec. 455.251. GROUND FOR LICENSE OR REGISTRATION DENIAL OR DISCIPLINARY ACTION.

SECTION 22. Amends Sections 455.251(a) and (b), Occupations Code, to make conforming changes.

SECTION 23. Amends Section 455.252(a), Occupations Code, to make conforming changes.

SECTION 24. Amends Section 455.253, Occupations Code, to make conforming changes.

SECTION 25. Amends Sections 455.254(a) and (b), Occupations Code, to make conforming changes.

SECTION 26. 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 27. Amends Section 455.305(b), Occupations Code, to make conforming changes.

SECTION 28. Amends Section 455.306(a), Occupations Code, to make conforming changes.

SECTION 29. Amends Section 455.310(b), Occupations Code, to make conforming changes.

SECTION 30. Amends Sections 455.351(a) and (b), Occupations Code, to make conforming changes.

SECTION 31. Amends Section 455.352, Occupations Code, as follows:

Sec. 455.352. New heading: CRIMINAL PENALTIES. (a) Makes modifications to the list of items that constitute an offense if engaged in by a person required to be licensed or registered under this chapter.

(b) Deletes existing text stating that an owner or operator of a massage establishment commits an offense if the person knowingly violates Section 455.205(d).

(c) Makes a conforming change.

(d) Provides that except as provided by Subsections (e) and (f), an offense under this section is a Class C misdemeanor.

(e) Makes a conforming change.

(f) Provides that a person commits an offense if the person violates Section 455.205(d). Provides that an offense under this subsection is a state jail felony.

SECTION 32. Repealer: Sections 455.102 (Examiners; Compensation) and 455.157 (Temporary Registration), Occupations Code.

SECTION 33. (a) Requires the executive commissioner to adopt the rules necessary to establish the licensing program for licensed massage therapists not later than January 1, 2006.

(b) Requires DSHS to adopt the procedures necessary to establish the licensing program for licensed massage therapists not later than January 1, 2006.

SECTION 34. Makes application of this Act prospective.

SECTION 35. Effective date: September 1, 2005.