

AN ACT

ENTITLED, An Act to revise certain provisions regarding the regulation of licensing massage therapists.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 36-35-12 be amended to read as follows:

36-35-12. The board shall issue a license to engage in the practice of massage to any person who submits an application form and the nonrefundable application fee as approved in § 36-35-17 and who demonstrates the following qualifications:

- (1) Eighteen years of age or older;
- (2) Completion of no less than five hundred hours of training or study in the practice of massage with a facility or instructor recognized by the board;
- (3) Absence of unprofessional conduct;
- (4) Professional liability insurance coverage pursuant to § 36-35-21; and
- (5) Passing score on a nationally recognized competency examination approved by the board in rules promulgated pursuant to chapter 1-26.

The board may refuse to grant a license to any person based on failure to demonstrate the requirements of this section. The board may grant a license, subdivision 36-35-13(1) notwithstanding, if the applicant has been convicted of, or pled guilty to a felony, any crime involving or relating to the practice of massage, or any crime involving dishonesty or moral turpitude and the board determines that the plea or conviction is of a nature or is sufficiently remote in time that the applicant does not constitute a risk to public safety. An applicant may appeal the denial of a license in compliance with chapter 1-26.

Section 2. That § 36-35-12.1 be amended to read as follows:

36-35-12.1. Upon application and payment of a fee not to exceed seventy-five dollars, the board

may issue a temporary permit to practice as a licensed massage therapist to an applicant who has met the requirements of subdivision 36-35-12(1) to (4), inclusive, pending completion and results of the examination required pursuant to subdivision 36-35-12(5). A temporary license may be issued no more than twice and is effective for a term of not more than one hundred eighty days. A temporary license expires on the occurrence of the following:

- (1) Issuance of a regular license;
- (2) Failure to pass the licensing examination; or
- (3) Expiration of the term for which the temporary license was issued.

Section 3. That § 36-35-13 be amended to read as follows:

36-35-13. For the purposes of this chapter, any of the following acts constitute unprofessional conduct:

- (1) Conviction of or a plea of guilty to any felony, any crime involving or relating to the practice of massage, or any crime involving dishonesty or moral turpitude;
 - (2) Providing the board false or misleading information on any application for a license or renewal of a license;
 - (3) Willful misconduct or negligence in the practice of massage;
 - (4) Exceeding the scope of practice of massage as defined in § 36-35-1;
 - (5) Engaging in any lewd or immoral conduct;
 - (6) Making fraudulent charges for services;
 - (7) Engaging in conduct which endangers the health or welfare of clients or other persons;
- or
- (8) Failure to comply with any provision of this chapter.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1102

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1102

File No. _____

Chapter No. _____

Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State