

BILL ANALYSIS

Senate Research Center

C.S.H.B. 727
By: Van de Putte (Gallegos)
Health & Human Services
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Committee Report (Substituted)

DIGEST

The massage therapy profession, which includes the practice of massage therapy and massage therapy education, is regulated by the Texas Department of Health (department). To become a registered massage therapist a person must successfully complete the required state-approved 300-hour course of instruction as offered at private and junior or community college massage schools and by independent massage therapy instructors. A registered massage therapist must also pass a written and practical exam administered by the department. This bill will provide regulations for massage therapy and provide penalties.

PURPOSE

As proposed, C.S.H.B. 727 provides regulations for massage therapy and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Board of Health in SECTION 3 (Section 2(c), Article 4512k, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 4512k, V.T.C.S., to redefine "massage therapy," "massage therapist," "massage therapy instructor," "massage school," "instructor," "applicant," and "internship program." Defines "commissioner," "independent massage therapy instructor," "advanced program," and "advanced program presenter." Deletes the definition of "advisory council."

SECTION 2. Amends Article 4512k, V.T.C.S., by adding Section 1B, as follows:

Sec. 1B. REGISTRATION REQUIRED. Prohibits a person from practicing massage therapy or representing to the public that the person practices massage therapy unless the person is registered under this Act or exempt under Section 4 of this Act. Prohibits a person from using the title of "massage therapist" or "registered massage therapist" or the initials "R.M.T." unless the person is registered as provided under this Act.

SECTION 3. Amends Section 2, Article 4512k, V.T.C.S., as follows:

Sec. 2. New heading: MASSAGE THERAPIST REGISTRATION REQUIREMENTS. Requires an applicant for registration as a massage therapist to meet certain requirements. Requires a person applying to take the examination required for registration as a massage therapist to present evidence that the person has met certain requirements. Sets forth regulations for the 300-hour course of instruction in massage therapy studies required for registration under this Act. Requires the board to adopt rules that mandate course content and the minimum number of hours of instruction required in each of the subjects. Authorizes only course work taught by a massage school or independent massage therapy instructor (independent instructor) to qualify for credit under Subsection (b)(1) of this section, except that the Texas Department of Health (department) may accept massage therapy course work taken outside of this state to satisfy one or more of the subject requirements contained in Subsection (c) of this section if the out-of-state course work is equivalent to the course work required by the department. Prohibits a massage therapist from performing massage therapy

at or for a sexually oriented business regardless of whether the massage therapist receives compensation or not. Makes conforming changes.

SECTION 4. Amends Section 2A, Article 4512k, V.T.C.S., as follows:

Sec. 2A. New heading: MASSAGE SCHOOLS, INDEPENDENT MASSAGE THERAPY INSTRUCTORS, AND INTERNSHIPS. Requires a person that offers the 300-hour course of instruction required for registration as a massage therapist or an advanced program to register with the department as a massage school or as an independent instructor. Requires a massage school or an independent instructor to meet the minimum standards of operation established by board rule at a location approved by the department and may only provide a 300-hour course of instruction that is approved by the department. Requires a massage therapy instructor employed or retained by a massage school who teaches the Swedish massage technique or internship sections within the 300-hour course of instruction required for registration as a massage therapist to register with the department as provided by this Act. Requires a student who is participating in an internship program conducted by an independent instructor to be under the supervision of that instructor during the hours the student is working in the internship program. Requires a massage school or independent instructor to notify the department on the prescribed form of any advanced program to be offered by the school or instructor for placement on the massage therapy advanced program registry. Requires the credentials of the advanced program presenter to be submitted to the department with the notification. Prohibits the proposed advanced program, in order to qualify for placement on the advanced program registry, from authorizing certain activities. Requires an advanced program presenter to have the experience and credentials necessary to provide effective instruction in the topic covered in the advanced program. Provides that an advanced program presenter is not required to be a registered massage therapist under this Act or regulated by another jurisdiction unless that person is offering instruction in massage techniques as a portion of the advanced program. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Section 4, Article 4512k, V.T.C.S., to provide that this Act does not apply to an employer that sponsors a course of instruction, other than the 300-hour course of instruction required for registration as a massage therapist, for training the employer's employees and for which no tuition is charged to the employees; or a trade, business, or professional organization that sponsors a course of instruction for members or guests of the organization at a meeting or convention if the course is not offered for a fee. Deletes existing text regarding a school approved by the Central Education Agency or an instructor who is otherwise approved by the state. Makes a conforming change.

SECTION 6. Amends Article 4512k, V.T.C.S., by adding Section 4A, as follows:

Sec. 4A. PROSPECTIVE CLIENT INTERVIEW REQUIRED. Sets forth regulations regarding an interview of a prospective client.

SECTION 7. Amends Sections 7(a), (b), (d)-(f), Article 4512k, V.T.C.S., to authorize the department to adopt fees for those regulated by this Act in amounts necessary to cover the costs of administering this Act. Requires the department to appoint task forces as necessary to advise the department. Sets forth composition of the task force. Requires the board to adopt rules to prohibit false, misleading, or deceptive practices by persons regulated under this Act. Prohibits the board from including certain rules in its rules to prohibit false, misleading, or deceptive practices. Requires the department to review the results of the state examination and student evaluations in determining school compliance with the 300-hour course of instruction required for registration as a massage therapist. Makes conforming and standard recodification changes.

SECTION 8. Amends Section 7C, Article 4512k, V.T.C.S., as follows:

Sec. 7C. New heading: BOARD RULES FOR INDEPENDENT MASSAGE THERAPY INSTRUCTORS. Makes conforming changes.

SECTION 9. Amends Section 11, Article 4512k, V.T.C.S., to authorize the department to take certain actions against a massage school, an independent instructor, a massage therapy instructor, or a massage establishment for certain reasons. Requires the department to consider certain factors in determining whether a conviction, plea, deferred adjudication, or community supervision under Subsection (a)(8) or (a)(9) of this section shall be the basis to deny, probate, suspend or revoke a certificate of registration. Requires the department to consider certain factors in addition to the factors considered under Subsection (b) in determining the fitness of a person under Subsection (a)(8) or (a)(9) of this section. Provides that it is the responsibility of the applicant or registrant, to the extent possible, to provide to the department the recommendations of prosecution, law enforcement, and correctional authorities. Requires the applicant or registrant to also furnish proof of certain facts in the form required by the department. Authorizes a conviction, a plea, deferred adjudication, or community supervision to be considered by the department under Subsection (a)(8) or (a)(9) of this section notwithstanding Sections 5(c) and 20(a), Article 42.12, Code of Criminal Procedure. Deletes existing text regarding the denial, probation, suspension, or revocation of registration. Makes conforming and standard recodification changes.

SECTION 10. Amends Article 4512k, V.T.C.S., by adding Section 11A, as follows:

Sec. 11A. ADMINISTRATIVE PENALTY. Sets forth regulations regarding the assessment of administrative penalties by the department.

SECTION 10. Amends Section 12(b), Article 4512k, V.T.C.S., to require the department to renew each registration within a reasonable time period provided that the application for renewal was submitted no later than four weeks before expiration of the renewal. Deletes existing text regarding initial registration fees.

SECTION 12. Amends Section 14, Article 4512k, V.T.C.S., to delete a provision that this Act does not affect certain local regulations. Makes conforming changes.

SECTION 13. Repealers: Sections 3, 8, 9, and 16, Article 4512k, V.T.C.S. (Application for Registration, Advisory Council, Powers and Duties of the Advisory Council, and Effective Date).

SECTION 14. (a) Effective date: September 1, 1997.

(b) Sets forth regulations regarding registration under this Act.

(c) Provides that a rule of the Texas Board of Health adopted under Article 4512k, V.T.C.S., that is in effect on the effective date of this Act remains in effect until the board adopts rules under Article 4512k, V.T.C.S., as amended by this Act, unless the rule is in conflict with this Act.

SECTION 15. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 1, Article 4512k, V.T.C.S., to redefine "massage therapy," "massage therapist," "massage therapy instructor," "instructor," and "independent massage therapy instructor."

SECTION 3.

Amends Section 2, Article 4512k, V.T.C.S., to provide regulations requiring an applicant to take the exam. Makes nonsubstantive changes.

SECTION 4.

Amends Section 2A, Article 4512k, V.T.C.S., to provide regulations regarding advance

programs. Makes conforming and nonsubstantive changes.

SECTION 5.

Amends Section 4, Article 4512k, V.T.C.S., to make a conforming change.

SECTION 6.

Adds Section 4A, Article 4512k, V.T.C.S., regarding interviewing a prospective client. Redesignates subsequent SECTIONS.

SECTION 7.

Amends Sections 7(e) and (g), Article 4512k, V.T.C.S., regarding appointment of a task force; rules regarding false, misleading, or deceptive practices; and review by the department of the results of the state examination and student evaluations.

SECTION 9.

Amends Section 11, Article 8512k, V.T.C.S., regarding registration, denial, probation, suspension, or revocation of a registration certificate.

SECTION 10.

Amends Section 11A, Article 4512k, V.T.C.S., to add regulations regarding an administrative penalty. Makes nonsubstantive changes.

SECTION 10.

Amends Section 12(b), Article 4512k, V.T.C.S., to add regulations regarding renewal of a registration.

SECTION 12.

Amends Section 14, Article 4512k, V.T.C.S., to delete Subsection (c) regarding the adoption of regulations.

SECTION 14.

Amends Subsection (b), to delete proposed text and add new text regarding the registration of certain persons or schools.