

S T A T E O F N E W Y O R K

5431--C

2009-2010 Regular Sessions

I N S E N A T E

May 4, 2009

Introduced by Sen. STACHOWSKI -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to mandatory continuing education for massage therapists

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding a new section 7807
2 to read as follows:
3 S 7807. MANDATORY CONTINUING EDUCATION. 1. (A) EACH MASSAGE THERAPIST
4 LICENSED PURSUANT TO THIS ARTICLE REQUIRED TO REGISTER TRIENNIALLY WITH
5 THE DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH THE PROVISIONS
6 OF THE MANDATORY CONTINUING EDUCATION REQUIREMENTS PRESCRIBED IN SUBDI-
7 VISION TWO OF THIS SECTION EXCEPT AS SET FORTH IN PARAGRAPHS (B) AND
8 (C) OF THIS SUBDIVISION. MASSAGE THERAPISTS WHO DO NOT SATISFY THE
9 MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT PRACTICE UNTIL
10 THEY HAVE MET SUCH REQUIREMENTS, AND THEY HAVE BEEN ISSUED A REGISTRA-
11 TION CERTIFICATE, EXCEPT THAT A MASSAGE THERAPIST MAY PRACTICE WITHOUT
12 HAVING MET SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDITIONAL REGIS-
13 TRATION CERTIFICATE PURSUANT TO SUBDIVISION THREE OF THIS SECTION.
14 (B) MASSAGE THERAPISTS SHALL BE EXEMPT FROM THE MANDATORY CONTINUING
15 EDUCATION REQUIREMENT FOR THE TRIENNIAL REGISTRATION PERIOD DURING WHICH
16 THEY ARE FIRST LICENSED. IN ACCORD WITH THE INTENT OF THIS SECTION,
17 ADJUSTMENTS TO THE MANDATORY CONTINUING EDUCATION REQUIREMENT MAY BE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD11689-13-0

1 GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH CERTIFIED BY AN APPRO-
2 PRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED ACTIVE DUTY WITH THE ARMED
3 FORCES OF THE UNITED STATES, OR FOR OTHER GOOD CAUSE ACCEPTABLE TO THE
4 DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

5 (C) A LICENSED MASSAGE THERAPIST NOT ENGAGED IN PROFESSIONAL PRACTICE,
6 AS DETERMINED BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY
7 CONTINUING EDUCATION REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE
8 DEPARTMENT DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRAC-
9 TICE OF MASSAGE THERAPY DURING THE TRIENNIAL REGISTRATION PERIOD SHALL
10 NOTIFY THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND SHALL MEET
11 SUCH MANDATORY EDUCATION REQUIREMENTS AS SHALL BE PRESCRIBED BY REGU-
12 LATIONS OF THE COMMISSIONER.

13 2. DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR REGIS-
14 TRATION AS A MASSAGE THERAPIST SHALL COMPLETE A MINIMUM OF THIRTY-SIX
15 HOURS OF ACCEPTABLE FORMAL CONTINUING EDUCATION, A MAXIMUM OF TWELVE
16 HOURS OF WHICH MAY BE SELF-INSTRUCTIONAL COURSE WORK ACCEPTABLE TO THE
17 DEPARTMENT. ANY MASSAGE THERAPIST WHOSE FIRST REGISTRATION DATE FOLLOW-
18 ING THE EFFECTIVE DATE OF THIS SECTION OCCURS LESS THAN THREE YEARS FROM
19 SUCH EFFECTIVE DATE, SHALL COMPLETE CONTINUING EDUCATION HOURS ON A
20 PRORATED BASIS AT THE RATE OF ONE HOUR PER MONTH FOR THE PERIOD BEGIN-
21 NING JANUARY FIRST, TWO THOUSAND TWELVE UP TO THE FIRST REGISTRATION
22 DATE THEREAFTER. A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINU-
23 ING EDUCATION REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION
24 CERTIFICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A
25 CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR IN SUBDI-
26 VISION THREE OF THIS SECTION, OR UNTIL HE OR SHE HAS OTHERWISE MET THE
27 REQUIREMENTS OF THIS SECTION.

28 3. THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGIS-
29 TRATION TO A LICENSEE WHO FAILS TO MEET THE CONTINUING EDUCATION
30 REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION BUT WHO
31 AGREES TO MAKE UP ANY DEFICIENCIES AND COMPLETE ANY ADDITIONAL EDUCATION
32 WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDITIONAL REGIS-
33 TRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE FOR THE TRIEN-
34 NIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGISTRATION SHALL
35 BE DETERMINED BY THE DEPARTMENT BUT SHALL NOT EXCEED ONE YEAR. ANY
36 LICENSEE WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR FAILURE TO
37 SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED CONTINUING
38 EDUCATION AND WHO PRACTICES WITHOUT SUCH REGISTRATION, MAY BE SUBJECT TO
39 DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF
40 THIS CHAPTER.

41 4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE FORMAL
42 CONTINUING EDUCATION" MAY MEAN FORMAL PROGRAMS OF LEARNING WHICH
43 CONTRIBUTE TO PROFESSIONAL PRACTICE IN MASSAGE THERAPY WHICH ARE OFFERED
44 BY SPONSORS OF MASSAGE THERAPY CONTINUING EDUCATION APPROVED BY THE
45 DEPARTMENT IN CONSULTATION WITH THE STATE BOARD FOR MASSAGE THERAPY, TO
46 FULFILL THE MANDATORY CONTINUING EDUCATION REQUIREMENT. SPONSORS OF
47 MASSAGE THERAPY CONTINUING EDUCATION MAY INCLUDE, BUT ARE NOT LIMITED
48 TO, STATE OR NATIONAL PROFESSIONAL ASSOCIATIONS ESTABLISHED TO FURTHER
49 THE MASSAGE THERAPY PROFESSION, AND MAY INCLUDE ANY AFFILIATES OF INTER-
50 NATIONAL MASSAGE THERAPY CONFERENCES AT WHICH PROFESSIONAL CONTINUING
51 EDUCATION IS A MAJOR COMPONENT OF SUCH CONFERENCES, AS WELL AS PROGRAMS
52 REGISTERED AS LICENSURE-QUALIFYING FOR THE PROFESSION OF MASSAGE THERAPY
53 BY THE DEPARTMENT. SPONSORS OF MASSAGE THERAPY SHALL FILE AN APPLICA-
54 TION WITH THE DEPARTMENT AND PAY A FEE OF NINE HUNDRED DOLLARS. WHILE
55 PRESENTERS OF DIDACTIC INSTRUCTION MAY BE PROVIDED BY PERSONS WHO ARE
56 NOT LICENSED BY THE STATE OF NEW YORK AS MASSAGE THERAPISTS, THE PRACTI-

1 CAL APPLICATION OF SUCH MODALITIES AND TECHNIQUES MUST BE DONE BY
2 LICENSED MASSAGE THERAPISTS, OR THOSE OTHERWISE AUTHORIZED, WHEN THIS
3 CONTINUING EDUCATION OCCURS IN THE STATE OF NEW YORK.
4 5. MASSAGE THERAPISTS SHALL MAINTAIN ADEQUATE DOCUMENTATION OF
5 COMPLETION OF ACCEPTABLE FORMAL CONTINUING EDUCATION AND SHALL PROVIDE
6 SUCH DOCUMENTATION AT THE REQUEST OF THE DEPARTMENT. FAILURE TO PROVIDE
7 SUCH DOCUMENTATION UPON THE REQUEST OF THE DEPARTMENT SHALL BE AN ACT OF
8 MISCONDUCT SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION
9 SIXTY-FIVE HUNDRED TEN OF THIS CHAPTER.
10 6. THE MANDATORY CONTINUING EDUCATION FEE SHALL BE FORTY-FIVE DOLLARS,
11 SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY OF EACH TRIENNIAL REGISTRA-
12 TION PERIOD, AND SHALL BE PAID IN ADDITION TO THE TRIENNIAL REGISTRATION
13 FEE REQUIRED BY SECTION SEVENTY-ONE HUNDRED TWENTY-FOUR OF THIS CHAPTER.
14 S 2. This act shall take effect January 1, 2012. Effective immediate-
15 ly, any rules and regulations necessary to implement the provisions of
16 this act on its effective date are authorized to be promulgated,
17 repealed and/or amended before such effective date.