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

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2009-2010 Regular Sessions

I N A S S E M B L Y

May 15, 2009

Introduced by M. of A. MORELLE, COOK, STIRPE, KOON, CASTRO, BOYLAND -- Multi-Sponsored by -- M. of A. FIELDS, McENENY -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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:

Section 1. The education law is amended by adding a new section 7807 to read as follows:

S 7807. MANDATORY CONTINUING EDUCATION. 1. (A) EACH MASSAGE THERAPIST LICENSED PURSUANT TO THIS ARTICLE REQUIRED TO REGISTER TRIENNIALLY WITH THE DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH THE PROVISIONS OF THE MANDATORY CONTINUING EDUCATION REQUIREMENTS PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION EXCEPT AS SET FORTH IN PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION. MASSAGE THERAPISTS WHO DO NOT SATISFY THE MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, AND THEY HAVE BEEN ISSUED A REGISTRATION CERTIFICATE, EXCEPT THAT A MASSAGE THERAPIST MAY PRACTICE WITHOUT HAVING MET SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDITIONAL REGISTRATION CERTIFICATE PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

(B) MASSAGE THERAPISTS SHALL BE EXEMPT FROM THE MANDATORY CONTINUING EDUCATION REQUIREMENT FOR THE TRIENNIAL REGISTRATION PERIOD DURING WHICH THEY ARE FIRST LICENSED. IN ACCORD WITH THE INTENT OF THIS SECTION, ADJUSTMENTS TO THE MANDATORY CONTINUING EDUCATION REQUIREMENT MAY BE GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH CERTIFIED BY AN APPRO-

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

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PRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED ACTIVE DUTY WITH THE ARMED FORCES OF THE UNITED STATES, OR FOR OTHER GOOD CAUSE ACCEPTABLE TO THE DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

(C) A LICENSED MASSAGE THERAPIST NOT ENGAGED IN PROFESSIONAL PRACTICE, AS DETERMINED BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY CONTINUING EDUCATION REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE DEPARTMENT DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRACTICE OF MASSAGE THERAPY DURING THE TRIENNIAL REGISTRATION PERIOD SHALL NOTIFY THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND SHALL MEET SUCH MANDATORY EDUCATION REQUIREMENTS AS SHALL BE PRESCRIBED BY REGULATIONS OF THE COMMISSIONER.

2. DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR REGISTRATION AS A MASSAGE THERAPIST SHALL COMPLETE A MINIMUM OF THIRTY-SIX HOURS OF ACCEPTABLE FORMAL CONTINUING EDUCATION, A MAXIMUM OF TWELVE HOURS OF WHICH MAY BE SELF-INSTRUCTIONAL COURSE WORK ACCEPTABLE TO THE DEPARTMENT. ANY MASSAGE THERAPIST WHOSE FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE, SHALL COMPLETE CONTINUING EDUCATION HOURS ON A PRORATED BASIS AT THE RATE OF ONE HOUR PER MONTH FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE UP TO THE FIRST REGISTRATION DATE THEREAFTER. A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION CERTIFICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION, OR UNTIL HE OR SHE HAS OTHERWISE MET THE REQUIREMENTS OF THIS SECTION.

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

4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE FORMAL CONTINUING EDUCATION" MAY MEAN FORMAL PROGRAMS OF LEARNING WHICH CONTRIBUTE TO PROFESSIONAL PRACTICE IN MASSAGE THERAPY WHICH ARE OFFERED BY SPONSORS OF MASSAGE THERAPY CONTINUING EDUCATION APPROVED BY THE DEPARTMENT IN CONSULTATION WITH THE STATE BOARD FOR MASSAGE THERAPY, TO FULFILL THE MANDATORY CONTINUING EDUCATION REQUIREMENT. SPONSORS OF MASSAGE THERAPY CONTINUING EDUCATION MAY INCLUDE, BUT ARE NOT LIMITED TO, STATE OR NATIONAL PROFESSIONAL ASSOCIATIONS ESTABLISHED TO FURTHER THE MASSAGE THERAPY PROFESSION, AND MAY INCLUDE ANY AFFILIATES OF INTERNATIONAL MASSAGE THERAPY CONFERENCES AT WHICH PROFESSIONAL CONTINUING EDUCATION IS A MAJOR COMPONENT OF SUCH CONFERENCES, AS WELL AS PROGRAMS REGISTERED AS LICENSURE-QUALIFYING FOR THE PROFESSION OF MASSAGE THERAPY BY THE DEPARTMENT. SPONSORS OF MASSAGE THERAPY SHALL FILE AN APPLICATION WITH THE DEPARTMENT AND PAY A FEE OF NINE HUNDRED DOLLARS. WHILE PRESENTERS OF DIDACTIC INSTRUCTION MAY BE PROVIDED BY PERSONS WHO ARE NOT LICENSED BY THE STATE OF NEW YORK AS MASSAGE THERAPISTS, THE PRACTICAL APPLICATION OF SUCH MODALITIES AND TECHNIQUES MUST BE DONE BY

LICENSED MASSAGE THERAPISTS, OR THOSE OTHERWISE AUTHORIZED, WHEN THIS CONTINUING EDUCATION OCCURS IN THE STATE OF NEW YORK.

5. MASSAGE THERAPISTS SHALL MAINTAIN ADEQUATE DOCUMENTATION OF COMPLETION OF ACCEPTABLE FORMAL CONTINUING EDUCATION AND SHALL PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE DEPARTMENT. FAILURE TO PROVIDE SUCH DOCUMENTATION UPON THE REQUEST OF THE DEPARTMENT SHALL BE AN ACT OF MISCONDUCT SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS CHAPTER.

6. THE MANDATORY CONTINUING EDUCATION FEE SHALL BE FORTY-FIVE DOLLARS, SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY OF EACH TRIENNIAL REGISTRATION PERIOD, AND SHALL BE PAID IN ADDITION TO THE TRIENNIAL REGISTRATION FEE REQUIRED BY SECTION SEVENTY-ONE HUNDRED TWENTY-FOUR OF THIS CHAPTER.

S 2. This act shall take effect January 1, 2012. Effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized to be promulgated, repealed and/or amended before such effective date.