

5431

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

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 ASSEM-
BLY, 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 LICENSED MASSAGE
4 THERAPIST REQUIRED UNDER THIS ARTICLE TO REGISTER TRIENNIALLY WITH THE
5 DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH THE PROVISIONS OF
6 THE MANDATORY CONTINUING EDUCATION REQUIREMENTS PRESCRIBED IN SUBDIVI-
7 SION TWO OF THIS SECTION EXCEPT AS SET FORTH IN PARAGRAPHS (B) AND (C)
8 OF THIS SUBDIVISION. MASSAGE THERAPISTS WHO DO NOT SATISFY THE MANDATO-
9 RY CONTINUING EDUCATION REQUIREMENTS SHALL NOT PRACTICE UNTIL THEY HAVE
10 MET SUCH REQUIREMENTS, AND THEY HAVE BEEN ISSUED A REGISTRATION CERTIF-
11 ICATE, EXCEPT THAT A MASSAGE THERAPIST MAY PRACTICE WITHOUT HAVING MET
12 SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDITIONAL REGISTRATION
13 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 ADJUSTMENT TO THE MANDATORY CONTINUING EDUCATION REQUIREMENT MAY BE
18 GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH CERTIFIED BY AN APPRO-
19 PRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED ACTIVE DUTY WITH THE ARMED
20 FORCES OF THE UNITED STATES, OR FOR OTHER GOOD CAUSE ACCEPTABLE TO THE
21 DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

22 (C) A LICENSED MASSAGE THERAPIST NOT ENGAGED IN PRACTICE, AS DETER-
23 MINED BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY CONTINUING
24 EDUCATION REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE DEPARTMENT
25 DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRACTICE OF

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

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1 MASSAGE THERAPY DURING THE TRIENNIAL REGISTRATION PERIOD SHALL NOTIFY
2 THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND SHALL MEET SUCH
3 MANDATORY EDUCATION REQUIREMENTS AS SHALL BE PRESCRIBED BY REGULATIONS
4 OF THE COMMISSIONER.

5 2. DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR REGIS-
6 TRATION AS A MASSAGE THERAPIST SHALL COMPLETE A MINIMUM OF THIRTY-SIX
7 HOURS OF ACCEPTABLE FORMAL CONTINUING EDUCATION, AS SPECIFIED IN SUBDI-
8 VISION FOUR OF THIS SECTION. ANY MASSAGE THERAPIST WHOSE FIRST REGISTRA-
9 TION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION OCCURS LESS THAN
10 THREE YEARS FROM SUCH EFFECTIVE DATE, BUT ON OR AFTER JANUARY FIRST, TWO
11 THOUSAND ELEVEN, SHALL COMPLETE CONTINUING EDUCATION HOURS ON A PRORATED
12 BASIS AT THE RATE OF ONE-HALF HOUR PER MONTH FOR THE PERIOD BEGINNING
13 JANUARY FIRST, TWO THOUSAND TEN UP TO THE FIRST REGISTRATION DATE THERE-
14 AFTER. A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINUING EDUCA-
15 TION REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION CERTIF-
16 ICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A
17 CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR IN SUBDI-
18 VISION THREE OF THIS SECTION. CONTINUING EDUCATION HOURS TAKEN DURING
19 ONE TRIENNIUM MAY NOT BE TRANSFERRED TO A SUBSEQUENT TRIENNIUM.

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

33 4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE FORMAL
34 EDUCATION" SHALL MEAN FORMAL COURSES OF LEARNING WHICH CONTRIBUTE TO
35 PROFESSIONAL PRACTICE IN MASSAGE THERAPY AND WHICH MEET THE STANDARDS
36 PRESCRIBED BY REGULATIONS OF THE COMMISSIONER. SUCH FORMAL COURSES OF
37 LEARNING SHALL INCLUDE, BUT NOT BE LIMITED TO, COLLEGIATE LEVEL CREDIT
38 AND NON-CREDIT COURSES, PROFESSIONAL DEVELOPMENT PROGRAMS AND TECHNICAL
39 SESSIONS OFFERED BY NATIONAL, STATE, AND LOCAL PROFESSIONAL ASSOCIATIONS
40 AND OTHER ORGANIZATIONS ACCEPTABLE TO THE DEPARTMENT, AND ANY OTHER
41 ORGANIZED EDUCATIONAL AND TECHNICAL PROGRAMS ACCEPTABLE TO THE DEPART-
42 MENT. THE DEPARTMENT MAY, IN ITS DISCRETION AND AS NEEDED TO CONTRIBUTE
43 TO THE HEALTH AND WELFARE OF THE PUBLIC, REQUIRE THE COMPLETION OF
44 CONTINUING EDUCATION COURSES IN SPECIFIC SUBJECTS TO FULFILL THIS MANDA-
45 TORY CONTINUING EDUCATION REQUIREMENT. COURSES MUST BE TAKEN FROM A
46 SPONSOR APPROVED BY THE DEPARTMENT, PURSUANT TO THE REGULATIONS OF THE
47 COMMISSIONER.

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

54 6. THE MANDATORY CONTINUING EDUCATION FEE SHALL BE FORTY-FIVE DOLLARS,
55 SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY OF EACH TRIENNIAL REGISTRA-

1 TION PERIOD, AND SHALL BE PAID IN ADDITION TO THE TRIENNIAL REGISTRATION
2 FEE REQUIRED BY SECTION SEVENTY-ONE HUNDRED TWENTY-FOUR OF THIS ARTICLE.
3 S 2. This act shall take effect January 1, 2010. Effective immediate-
4 ly, any rules and regulations necessary to implement the provisions of
5 this act on its effective date are authorized to be promulgated,
6 repealed and/or amended before such effective date.