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

2099--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 13, 2011

Introduced by M. of A. LATIMER, PAULIN, LUPARDO, DenDEKKER, MAISEL, ROBERTS, BARRON, BENEDETTO -- Multi-Sponsored by -- M. of A. ABINANTI, AUBRY, CALHOUN, COOK, CROUCH, GABRYSZAK, GALEF, HIKIND, KATZ, KELLNER, PEOPLES-STOKES, RAIA, P. RIVERA, ROBINSON, THIELE, WEISENBERG, WRIGHT -- 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

AN ACT to amend the education law, in relation to the licensing and regulation of the profession of reflexology

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 article 155-A to read as follows:

ARTICLE 155-A
REFLEXOLOGY

SECTION 7850. INTRODUCTION.
7851. DEFINITIONS.
7852. PRACTICE OF REFLEXOLOGY AND USE OF TITLE "REFLEXOLOGIST".
7853. STATE BOARD FOR REFLEXOLOGY.
7854. REQUIREMENTS FOR A PROFESSIONAL LICENSE.
7855. EXEMPT PERSONS.
7856. LIMITED PERMITS.
7857. SPECIAL PROVISIONS.

S 7850. INTRODUCTION. THIS ARTICLE APPLIES TO THE PROFESSION OF REFLEXOLOGY. THE GENERAL PROVISIONS FOR ALL PROFESSIONS CONTAINED IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE APPLY TO THIS ARTICLE.

S 7851. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "BOARD" MEANS THE STATE BOARD FOR REFLEXOLOGY CREATED BY SECTION SEVENTY-EIGHT HUNDRED FIFTY-THREE OF THIS ARTICLE.

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

LBD00310-03-2

2. "PRACTITIONER" MEANS A PERSON WHO PRACTICES REFLEXOLOGY FOR COMPENSATION AND WHO HOLDS CURRENT CERTIFICATION FROM AN ENTITY APPROVED BY THE COMMISSIONER.

3. "REFLEXOLOGY" MEANS THE SYSTEMATIC APPLICATION OF ALTERNATING PRESSURE BY THE USE OF A PRACTITIONER'S HANDS, THUMBS AND FINGERS TO REFLEX POINTS ON AN INDIVIDUAL'S HANDS, FEET, FACE OR EARS, USING ALTERNATING PRESSURE AND SUCH TECHNIQUES AS THUMB AND FINGER WALKING, HOOK AND BACK UP, AND ROTATION ON A REFLEX FOR THE PURPOSE OF HEALTH PROMOTION.

S 7852. PRACTICE OF REFLEXOLOGY AND USE OF TITLE "REFLEXOLOGIST". ONLY A PERSON LICENSED OR AUTHORIZED PURSUANT TO THIS ARTICLE SHALL PRACTICE REFLEXOLOGY AND ONLY A PERSON SO LICENSED SHALL USE THE TITLE "REFLEXOLOGIST". NO PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION SHALL DESCRIBE ITS SERVICES IN ANY MANNER UNDER THE TITLE "REFLEXOLOGY" UNLESS SUCH SERVICES ARE PERFORMED BY A PERSON LICENSED OR AUTHORIZED PURSUANT TO THIS ARTICLE.

S 7853. STATE BOARD FOR REFLEXOLOGY. 1. A STATE BOARD FOR REFLEXOLOGY SHALL BE ESTABLISHED AND APPOINTED BY THE BOARD OF REGENTS ON THE RECOMMENDATION OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPARTMENT ON MATTERS OF PROFESSIONAL LICENSING AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE. THE BOARD SHALL BE COMPOSED OF NOT LESS THAN SEVEN PERSONS, FOUR OF WHOM SHALL HAVE BEEN ENGAGED IN THE TEACHING, RESEARCH OR PRACTICE OF REFLEXOLOGY FOR AT LEAST THREE YEARS, TWO OF WHOM SHALL BE PHYSICIANS OR NURSES LICENSED IN THIS STATE AND ONE WHO SHALL BE A PUBLIC MEMBER REPRESENTING CONSUMERS AND THE COMMUNITY. AN EXECUTIVE SECRETARY TO THE BOARD SHALL BE APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER.

2. THE BOARD OF REGENTS AND THE COMMISSIONER, IN CONSULTATION WITH THE BOARD, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS THEY DEEM NECESSARY AND APPROPRIATE TO EFFECTUATE THE PROVISIONS OF THIS ARTICLE.

S 7854. REQUIREMENTS FOR A PROFESSIONAL LICENSE. 1. TO QUALIFY FOR A LICENSE AS A REFLEXOLOGIST, AN APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

(A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

(B) CERTIFICATE: HOLD A CURRENT CERTIFICATE FROM THE AMERICAN REFLEXOLOGY CERTIFICATION BOARD (ARCB) OR ANY OTHER INDEPENDENT NATIONAL CERTIFICATION PROGRAM APPROVED BY THE BOARD;

(C) EDUCATION: HAVE RECEIVED AN EDUCATION, INCLUDING HIGH SCHOOL GRADUATION AND GRADUATION FROM A SCHOOL OR INSTITUTE OF REFLEXOLOGY WITH A PROGRAM REGISTERED BY THE DEPARTMENT, OR ITS SUBSTANTIAL EQUIVALENT IN BOTH SUBJECT MATTER AND EXTENT OF TRAINING, PROVIDED THAT THE PROGRAM IN SUCH A SCHOOL OR INSTITUTE SHALL CONSIST OF TRAINING FOR A TOTAL OF NOT LESS THAN TWO HUNDRED HOURS IN SUBJECTS SATISFACTORY TO THE DEPARTMENT;

(D) EXAMINATION: PASS AN EXAMINATION SATISFACTORY TO THE BOARD AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

(E) AGE: BE AT LEAST EIGHTEEN YEARS OF AGE;

(F) CITIZENSHIP OR IMMIGRATION STATUS: BE A UNITED STATES CITIZEN OR AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES;

(G) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT;

(H) CRIMINAL BACKGROUND: SUBMIT A STATEMENT CERTIFYING THAT THE APPLICANT HAS NOT BEEN CONVICTED IN THIS STATE OR IN ANY OTHER STATE FOR ANY CRIME INVOLVING VIOLENCE INFLICTED ON A PERSON OR THREATENED AGAINST A PERSON, OR ANY SEXUALLY-RELATED CRIME; AND

(I) FEES: PAY FEES REQUIRED IN RULES ADOPTED BY THE DEPARTMENT AND THE BOARD OF REGENTS.

2. LICENSES SHALL BE VALID FOR FOUR YEARS.

S 7855. EXEMPT PERSONS. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT:

1. THE PRACTICE OF REFLEXOLOGY BY ANY PERSON WHO IS AUTHORIZED TO PRACTICE MEDICINE, NURSING, OSTEOPATHY, CHIROPRACTIC, PHYSIOTHERAPY, PODIATRY OR MASSAGE THERAPY IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE.

2. THE PRACTICE OF THAT FORM OF MASSAGE WHICH IS CUSTOMARILY GIVEN IN BARBER SHOPS OR BEAUTY PARLORS FOR THE PURPOSE OF BEAUTIFICATION BY ANY LICENSED BARBER OR COSMETOLOGIST.

3. THE PRACTICE OF REFLEXOLOGY BY ANY PERSON EMPLOYED IN A MEDICAL INSTITUTION LICENSED OR CHARTERED BY THE STATE OF NEW YORK, PROVIDED THAT SUCH PERSON IS UNDER THE ON-SITE SUPERVISION OF THE PERSON LICENSED TO PRACTICE REFLEXOLOGY OR AUTHORIZED TO PRACTICE REFLEXOLOGY PURSUANT TO SUBDIVISION ONE OF THIS SECTION OR BY ANY PERSON ENROLLED IN THE PROGRAM OF A SCHOOL OR INSTITUTE OF REFLEXOLOGY REGISTERED BY THE DEPARTMENT OR ENROLLED IN A PROGRAM WHICH SATISFIES THE REQUIREMENTS OF SECTION SEVENTY-EIGHT HUNDRED FIFTY-FOUR OF THIS ARTICLE, PROVIDED THAT SUCH PERSON IS UNDER THE ON-SITE SUPERVISION OF A PERSON LICENSED TO PRACTICE REFLEXOLOGY OR AUTHORIZED TO PRACTICE REFLEXOLOGY PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

S 7856. LIMITED PERMITS. 1. THE DEPARTMENT MAY ISSUE A LIMITED PERMIT TO PRACTICE REFLEXOLOGY AS A LICENSED REFLEXOLOGIST TO A PERSON WHO HAS NOT PREVIOUSLY HELD SUCH A PERMIT AND WHO FULFILLS ALL EXCEPT THE EXAMINATION AND CITIZENSHIP REQUIREMENTS FOR A LICENSE, PROVIDED HOWEVER THAT A PERMIT SHALL NOT BE ISSUED TO A PERSON WHO HAS FAILED THE STATE LICENSING EXAMINATION.

2. THE LIMITED PERMIT SHALL BE VALID FOR A PERIOD OF NOT MORE THAN TWELVE MONTHS OR UNTIL THE RESULTS OF THE NEXT LICENSING EXAMINATION FOR WHICH THE PERSON IS ELIGIBLE ARE OFFICIALLY AVAILABLE, WHICHEVER COMES FIRST.

3. A LIMITED PERMIT SHALL ENTITLE THE HOLDER TO PRACTICE REFLEXOLOGY ONLY UNDER THE PERSONAL SUPERVISION OF A PERSON CURRENTLY LICENSED TO PRACTICE REFLEXOLOGY IN THIS STATE.

4. THE FEE FOR A LIMITED PERMIT SHALL BE REQUIRED AND SHALL BE AS ADOPTED IN THE RULES OF THE DEPARTMENT AND THE BOARD OF REGENTS.

S 7857. SPECIAL PROVISIONS. 1. NOTWITHSTANDING THE REQUIREMENTS OF SECTIONS SEVENTY-EIGHT HUNDRED FIFTY-FOUR AND SEVENTY-EIGHT HUNDRED FIFTY-SIX OF THIS ARTICLE, AN INDIVIDUAL CURRENTLY ENGAGING IN THE PRACTICE OF REFLEXOLOGY MAY CONTINUE TO PRACTICE AFTER THE EFFECTIVE DATE OF THIS ARTICLE, WHEN AN INDIVIDUAL FULFILLS ALL EXCEPT THE CERTIFICATION AND APPLICATION REQUIREMENTS OF SECTION SEVENTY-EIGHT HUNDRED FIFTY-FOUR OF THIS ARTICLE. SUCH INDIVIDUAL SHALL HAVE EIGHTEEN MONTHS TO ATTAIN SUCH CERTIFICATION FROM THE AMERICAN REFLEXOLOGY CERTIFICATION BOARD AND APPLY FOR A LICENSE TO PRACTICE REFLEXOLOGY.

2. FOR THE PURPOSES OF SUBDIVISION ONE OF THIS SECTION, IT SHALL BE DETERMINED THAT THE FILING OF AN APPLICATION WITH THE DEPARTMENT ON OR BEFORE THE EXPIRATION OF THE EIGHTEEN MONTH PERIOD SHALL QUALIFY FOR PURPOSES OF SUCH SUBDIVISION, REGARDLESS OF THE TIME PERIOD REQUIRED FOR PROCESSING SUCH APPLICATION.

3. ANY CERTIFICATION FROM THE AMERICAN REFLEXOLOGY CERTIFICATION BOARD WHICH HAS BEEN ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE SHALL BE DEEMED VOID AND INVALID IF THE HOLDER HAS NOT MET THE EDUCATIONAL REQUIREMENTS OF SECTION SEVENTY-EIGHT HUNDRED FIFTY-FOUR OF THIS ARTICLE.

S 2. The department of education shall transmit to the state comptroller for deposit in the special revenues account of the department of education all fees submitted to such department pursuant to sections 7854 and 7855 of the education law as added by section one of this act.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.