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

1030

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. KLEIN -- 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 professional misconduct by massage therapists who allow commission of prostitution offenses

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 6509-d to read as follows:

S 6509-D. ADDITIONAL DEFINITION OF PROFESSIONAL MISCONDUCT; PROSTITUTION MASSAGE THERAPY. 1. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE LICENSE OF A PERSON TO PRACTICE MASSAGE THERAPY PURSUANT TO ARTICLE ONE HUNDRED FIFTY-FIVE OF THIS TITLE MAY BE REVOKED, SUSPENDED OR ANNULLED, OR SUCH PERSON MAY BE SUBJECT TO ANY OTHER PENALTY PROVIDED IN SECTION SIXTY-FIVE HUNDRED ELEVEN OF THIS ARTICLE IN ACCORDANCE WITH THE PROVISIONS AND PROCEDURES OF THIS ARTICLE, WHEN, (A) WITHIN ANY TWO YEAR PERIOD, THERE HAVE BEEN THREE OR MORE ARRESTS FOR ANY VIOLATION OF ARTICLE TWO HUNDRED THIRTY (PROSTITUTION) OF THE PENAL LAW UPON ANY PREMISES AT WHICH THE LICENSEE REGULARLY ENGAGES IN THE PRACTICE OF THE PROFESSION OF MASSAGE THERAPY; OR (B) SUCH LICENSEE IS ARRESTED FOR ANY VIOLATION OF ARTICLE TWO HUNDRED THIRTY (PROSTITUTION) OF THE PENAL LAW.

2. WHEN AN ARREST FOR A VIOLATION OF ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW HAS TAKEN PLACE UPON THE PREMISES AT WHICH THE LICENSEE REGULARLY ENGAGES IN THE PRACTICE OF THE PROFESSION OF MASSAGE THERAPY, OR UPON THE ARREST OF A LICENSEE FOR A VIOLATION OF SUCH, THE ARRESTING AGENCY SHALL NOTIFY THE DEPARTMENT, IN WRITING WITHIN ONE WEEK OF THE ARREST AND SET FORTH THEREIN THE NAME OF THE PERSON LICENSED PURSUANT TO ARTICLE ONE HUNDRED FIFTY-FIVE OF THIS TITLE AND THE CIRCUMSTANCES AND ARRESTEES OF SUCH OFFENSE. WITHIN TWO WEEKS OF THE RECEIPT OF ANY SUCH

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

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NOTICE, THE DEPARTMENT SHALL CAUSE A HEARING TO BE HELD PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS ARTICLE UPON THE FACTS OF SUCH ARREST AND THE LICENSEE'S INVOLVEMENT OR KNOWLEDGE OF THE CRIMINAL ACTIVITY. UPON RECEIPT AND REVIEW OF ANY NOTICE PURSUANT TO THIS SUBDIVISION THE DEPARTMENT SHALL PROVIDE NOTICE TO THE APPROPRIATE PARTIES THAT SUCH PREMISES ARE A NUISANCE PURSUANT TO TITLE TWO OF ARTICLE TWENTY-THREE OF THE PUBLIC HEALTH LAW, ARTICLE TEN OF THE MULTIPLE DWELLING LAW, SECTION SEVEN HUNDRED FIFTEEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, AND/OR PARAGRAPH THREE OF SUBDIVISION B OF SECTION TWO HUNDRED THIRTY-THREE OF THE REAL PROPERTY LAW.

3. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE LICENSE OF A PERSON TO PRACTICE MASSAGE THERAPY PURSUANT TO ARTICLE ONE HUNDRED FIFTY-FIVE OF THIS TITLE SHALL BE REVOKED BY THE BOARD OF REGENTS WHEN, (A) WITHIN ANY TWO YEAR PERIOD, THERE HAVE BEEN THREE OR MORE CONVICTIONS OF OFFENSES DEFINED IN ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW ARISING OUT OF THREE OR MORE SEPARATE OCCASIONS WHICH WERE COMMITTED UPON PREMISES AT WHICH THE LICENSEE REGULARLY ENGAGES IN THE PRACTICE OF THE PROFESSION OF MASSAGE THERAPY; OR (B) THE LICENSEE HAS BEEN CONVICTED OF ANY OFFENSE DEFINED IN ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW. UPON SUCH A REVOCATION THE DEPARTMENT SHALL PROVIDE NOTICE TO THE APPROPRIATE PARTIES THAT SUCH PREMISES ARE A NUISANCE PURSUANT TO TITLE TWO OF ARTICLE TWENTY-THREE OF THE PUBLIC HEALTH LAW, ARTICLE TEN OF THE MULTIPLE DWELLING LAW, SECTION SEVEN HUNDRED FIFTEEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW, AND/OR PARAGRAPH THREE OF SUBDIVISION B OF SECTION TWO HUNDRED THIRTY-THREE OF THE REAL PROPERTY LAW.

S 2. This act shall take effect immediately and shall apply to criminal offenses committed on or after such date.