

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 619**

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**Introduced by Assembly Member Halderman**

February 16, 2011

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~~An act to amend Section 18600 of the Business and Professions Code, relating to professions and vocations.~~ *An act to amend Sections 4600, 4600.5, 4601, 4601.2, 4601.3, 4601.4, 4602, 4602.5, 4603, 4603.1, 4603.5, 4604, 4612, and 4615 of, and to add Sections 4603.7 and 4616 to, the Business and Professions Code, relating to massage therapy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 619, as amended, Halderman. ~~State Athletic Commission Act.~~ *Massage therapy.*

*Existing law, until January 1, 2015, provides for the voluntary certification of massage practitioners and massage therapists by a nonprofit Massage Therapy Organization, as defined.*

*(1) Existing law requires the initial board of directors to, among other things, establish the organization.*

*This bill would specify that the Massage Therapy Organization is to be known as the California Massage Therapy Council, as defined.*

*(2) Existing law requires applicants for initial certification as massage practitioners and massage therapists to pay a specified fee and meet certain educational requirements, including the completion of a certain number of hours from an approved school or pass a specified examination.*

*This bill would require those hours to be completed from a recognized school, as defined. The bill would require certificate holders to include certain identifying information in advertisements.*

(3) Under existing law, a certificate applicant or certificate holder who is denied a certificate or disciplined shall be liable for any charges incurred, services or benefits actually rendered, dues, assessments, or fees incurred before the denial or discipline.

This bill would delete that provision and would instead authorize the council to charge applicants and certificate holders a reasonable fee as a condition of any hearing requested by the applicant or certificate holder for the purpose of contesting denial of an application or discipline of a certificate holder. The bill would require the council to be sued only in the county of its principal office.

The bill would make various conforming changes.

~~Existing law, the Boxing Act, also known as the State Athletic Commission Act, creates the State Athletic Commission within the Department of Consumer Affairs and regulates boxing, kickboxing, and martial arts matches.~~

~~This bill would make a nonsubstantive change to a provision of the Boxing Act.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4600 of the Business and Professions  
2 Code is amended to read:

3 4600. As used in this chapter, the following terms shall have  
4 the following meanings:

5 (a) ~~“Approved~~ “Recognized school” or ~~“approved~~ “recognized  
6 massage school” means a facility that meets minimum standards  
7 for training and curriculum in massage and related subjects and  
8 that is approved by any of the following:

9 (1) The Bureau for Private Postsecondary and Vocational  
10 Education pursuant to former Section 94739 of the Education Code  
11 prior to July 1, 2007, and as of the date on which an applicant met  
12 the requirements of paragraph (2) of subdivision (b) or  
13 subparagraph (A) of paragraph (2) of subdivision (c) of Section  
14 4601.

15 (2) The Department of Consumer Affairs.

16 (3) An institution accredited by the Accrediting Commission  
17 for Senior Colleges and Universities or the Accrediting  
18 Commission for Community and Junior Colleges of the Western

1 Association of Schools and Colleges and that is one of the  
2 following:

3 (A) A public institution.

4 (B) An institution incorporated and lawfully operating as a  
5 nonprofit public benefit corporation pursuant to Part 2  
6 (commencing with Section 5110) of Division 2 of Title 1 of the  
7 Corporations Code, and that is not managed by any entity for profit.

8 (C) A for-profit institution.

9 (D) An institution that does not meet all of the criteria in  
10 subparagraph (B) that is incorporated and lawfully operating as a  
11 nonprofit public benefit corporation pursuant to Part 2  
12 (commencing with Section 5110) of Division 2 of Title 1 of the  
13 Corporations Code, that has been in continuous operation since  
14 April 15, 1997, and that is not managed by any entity for profit.

15 (4) A college or university of the state higher education system,  
16 as defined in Section 100850 of the Education Code.

17 (5) A school of equal or greater training that is ~~approved~~  
18 *recognized* by the corresponding agency in another state or  
19 accredited by an agency recognized by the United States  
20 Department of Education.

21 (b) “Compensation” means the payment, loan, advance,  
22 donation, contribution, deposit, or gift of money or anything of  
23 value.

24 (c) “Massage therapist,” “bodyworker,” “bodywork therapist,”  
25 or “massage and bodywork therapist” means a person who is  
26 certified by the ~~Message Therapy Organization~~ *California Massage*  
27 *Therapy Council* under subdivision (c) of Section 4601 and who  
28 administers massage for compensation.

29 (d) “Massage practitioner,” “bodywork practitioner,” or  
30 “massage and bodywork practitioner” means a person who is  
31 certified by the ~~Message Therapy Organization~~ *California Massage*  
32 *Therapy Council* under subdivision (b) of Section 4601 and who  
33 administers massage for compensation.

34 (e) ~~“Organization”~~

35 (e) “*Council*” means the ~~Message Therapy Organization~~  
36 *California Massage Therapy Council* created pursuant to this  
37 chapter, which shall be a nonprofit organization exempt from  
38 taxation under Section 501(c)(3) of Title 26 of the United States  
39 Code. The ~~organization~~ *council* may commence activities as

1 authorized by this section once it has submitted a request to the  
2 Internal Revenue Service seeking this exemption.

3 (f) “Registered school” means a facility that meets minimum  
4 standards for training and curriculum in massage and related  
5 subjects and that either was recognized by the Bureau for Private  
6 Postsecondary and Vocational Education pursuant to Section 94931  
7 of the Education Code prior to July 1, 2007, and as of the date on  
8 which an applicant met the requirements of paragraph (2) of  
9 subdivision (b) or subparagraph (A) of paragraph (2) of subdivision  
10 (c) of Section 4601, or is recognized by the Department of  
11 Consumer Affairs, by an institution accredited by the senior  
12 commission or the junior commission of the Western Association  
13 of Schools and Colleges as defined in paragraph (2) of subdivision  
14 (a) of Section 4600, by a college or university of the state higher  
15 education system as defined in Section 100850 of the Education  
16 Code, or by a school of equal or greater training that is approved  
17 by the corresponding agency in another state.

18 (g) For purposes of this chapter, the terms “massage” and  
19 “bodywork” shall have the same meaning.

20 *SEC. 2. Section 4600.5 of the Business and Professions Code*  
21 *is amended to read:*

22 4600.5. (a) ~~A Massage Therapy Organization, The California~~  
23 ~~Massage Therapy Council~~, as defined in subdivision (e) of Section  
24 4600, shall be created and shall have the responsibilities and duties  
25 set forth in this chapter. ~~The organization council~~ may take any  
26 reasonable actions to carry out the responsibilities and duties set  
27 forth in this chapter, including, but not limited to, hiring staff and  
28 entering into contracts.

29 (b) (1) ~~The organization council~~ shall be governed by a board  
30 of directors made up of two representatives selected by each  
31 professional society, association, or other entity, whose  
32 membership is comprised of massage therapists and that chooses  
33 to participate in the ~~organization council~~. To qualify, a professional  
34 society, association, or other entity shall have a dues-paying  
35 membership in California of at least 1,000 individuals for the last  
36 three years, and shall have bylaws that require its members to  
37 comply with a code of ethics. The board of directors shall also  
38 include each of the following persons:

39 (A) One member selected by each statewide association of  
40 private postsecondary schools incorporated on or before January

1 1, 2010, whose member schools have together had at least 1,000  
2 graduates in each of the previous three years from massage therapy  
3 programs meeting the approval standards set forth in subdivision  
4 (a) of Section 4600, except from those qualifying associations that  
5 choose not to exercise this right of selection.

6 (B) One member selected by the League of California Cities,  
7 unless that entity chooses not to exercise this right of selection.

8 (C) One member selected by the California State Association  
9 of Counties, unless that entity chooses not to exercise this right of  
10 selection.

11 (D) One member selected by the Director of Consumer Affairs,  
12 unless that entity chooses not to exercise this right of selection.

13 (E) One member appointed by the California Community  
14 College Chancellor's Office, unless that entity chooses not to  
15 exercise this right of selection. The person appointed, if any, shall  
16 not be part of any massage therapy certificate or degree program.

17 The ~~organization's~~ *council's* bylaws shall establish a process  
18 for appointing other professional directors as determined by the  
19 board.

20 (2) The initial board of directors shall establish the ~~organization~~  
21 *council*, initiate the request for tax-exempt status from the Internal  
22 Revenue Service, and solicit input from the massage community  
23 concerning the operations of the ~~organization~~ *council*. The initial  
24 board of directors, in its discretion, may immediately undertake  
25 to issue the certificates authorized by this chapter after adopting  
26 the necessary bylaws or other rules, or may establish by adoption  
27 of bylaws the permanent governing structure prior to issuing  
28 certificates.

29 (c) The board of directors shall establish fees reasonably related  
30 to the cost of providing services and carrying out its ongoing  
31 responsibilities and duties. Initial and renewal fees shall be  
32 established by the board of directors annually.

33 (d) The meetings of the ~~organization~~ *council* shall be subject to  
34 the rules of the Bagley-Keene Open Meetings *Meeting Act* (Article  
35 9 (commencing with Section 11120) of Chapter 1 of Part 1 of  
36 Division 3 of Title 2 of the Government Code).

37 *SEC. 3. Section 4601 of the Business and Professions Code is*  
38 *amended to read:*

1 4601. (a) The ~~organization~~ *council* shall issue a certificate  
2 under this chapter to an applicant who satisfies the requirements  
3 of this chapter.

4 (b) (1) In order to obtain certification as a massage practitioner,  
5 an applicant shall submit a written application and provide the  
6 organization with satisfactory evidence that he or she meets all of  
7 the following requirements:

8 (A) The applicant is 18 years of age or older.

9 (B) The applicant has successfully completed, at a single  
10 approved school, curricula in massage and related subjects totaling  
11 a minimum of 250 hours that incorporates appropriate school  
12 assessment of student knowledge and skills. Included in the hours  
13 shall be instruction addressing anatomy and physiology,  
14 contraindications, health and hygiene, and business and ethics,  
15 with at least 100 hours of the required minimum 250 hours devoted  
16 to these curriculum areas.

17 (C) All fees required by the organization have been paid.

18 (2) New certificates shall not be issued pursuant to this  
19 subdivision after December 31, 2015. Certificates issued pursuant  
20 to this section or subdivision (a) or (c) of Section 4604 on or before  
21 December 31, 2015, shall, after December 31, 2015, be renewed  
22 without any additional educational requirements, provided that the  
23 certificate holder continues to be qualified pursuant to this chapter.

24 (c) In order to obtain certification as a massage therapist, an  
25 applicant shall submit a written application and provide the  
26 ~~organization~~ *council* with satisfactory evidence that he or she meets  
27 all of the following requirements:

28 (1) The applicant is 18 years of age or older.

29 (2) The applicant satisfies at least one of the following  
30 requirements:

31 (A) He or she has successfully completed the curricula in  
32 massage and related subjects totaling a minimum of 500 hours. Of  
33 this 500 hours, a minimum of 250 hours shall be from ~~approved~~  
34 *recognized* schools. The remaining 250 hours required may be  
35 secured either from ~~approved~~ *recognized* or registered schools, or  
36 from continuing education providers ~~approved~~ *recognized* by, or  
37 registered with, the ~~organization~~ *council* or the Department of  
38 Consumer Affairs. After December 31, 2015, applicants may only  
39 satisfy the curricula in massage and related subjects from ~~approved~~  
40 *recognized* schools.

1 (B) The applicant has passed a massage and bodywork  
2 competency assessment examination that meets generally  
3 recognized psychometric principles and standards, and that is  
4 approved by the board. The successful completion of this  
5 examination may have been accomplished before the date the  
6 ~~organization~~ *council* is authorized by this chapter to begin issuing  
7 certificates.

8 (3) All fees required by the ~~organization~~ *council* have been paid.

9 (d) The ~~organization~~ *council* shall issue a certificate to an  
10 applicant who meets the other qualifications of this chapter and  
11 holds a current and valid registration, certification, or license from  
12 any other state whose licensure requirements meet or exceed those  
13 defined within this chapter. The ~~organization~~ *council* shall have  
14 discretion to give credit for comparable academic work completed  
15 by an applicant in a program outside of California.

16 (e) An applicant applying for a massage therapist ~~or massage~~  
17 ~~practitioner~~ certificate shall file with the ~~organization~~ *council* a  
18 written application provided by the ~~organization~~ *council*, showing  
19 to the satisfaction of the ~~organization~~ *council* that he or she meets  
20 all of the requirements of this chapter.

21 (f) Any certification issued under this chapter shall be subject  
22 to renewal every two years in a manner prescribed by the  
23 ~~organization~~ *council*, and shall expire unless renewed in that  
24 manner. The ~~organization~~ *council* may provide for the late renewal  
25 of a license.

26 (g) (1) The organization shall have the responsibility to  
27 determine that the school or schools from which an applicant has  
28 obtained the education required by this chapter meet the  
29 requirements of this chapter. If the organization has any reason to  
30 question whether or not the applicant received the education that  
31 is required by this chapter from the school or schools that the  
32 applicant is claiming, the organization shall investigate the facts  
33 to determine that the applicant received the required education  
34 prior to issuing a certificate.

35 (2) For purposes of paragraph (1) and any other provision of  
36 this chapter for which the ~~organization~~ *council* is authorized to  
37 receive factual information as a condition of taking any action, the  
38 ~~organization~~ *council* shall have the authority to conduct oral  
39 interviews of the applicant and others or to make any investigation

1 deemed necessary to establish that the information received is  
2 accurate and satisfies any criteria established by this chapter.

3 *SEC. 4. Section 4601.2 of the Business and Professions Code*  
4 *is amended to read:*

5 4601.2. No certificates shall be issued by the ~~organization~~  
6 *council* pursuant to this chapter prior to September 1, 2009.

7 *SEC. 5. Section 4601.3 of the Business and Professions Code*  
8 *is amended to read:*

9 4601.3. (a) Prior to issuing a certificate to the applicant or  
10 designating a custodian of records, the ~~organization~~ *council* shall  
11 require the applicant or the custodian of records candidate to submit  
12 fingerprint images in a form consistent with the requirements of  
13 this section. The ~~organization~~ *council* shall submit the fingerprint  
14 images and related information to the Department of Justice for  
15 the purpose of obtaining information as to the existence and nature  
16 of a record of state and federal level convictions and of state and  
17 federal level arrests for which the Department of Justice establishes  
18 that the applicant or candidate was released on bail or on his or  
19 her own recognizance pending trial. Requests for federal level  
20 criminal offender record information received by the Department  
21 of Justice pursuant to this section shall be forwarded to the Federal  
22 Bureau of Investigation by the Department of Justice. The  
23 Department of Justice shall review the information returned from  
24 the Federal Bureau of Investigation, and shall compile and  
25 disseminate a fitness determination regarding the applicant or  
26 candidate to the ~~organization~~ *council*.

27 (b) The Department of Justice shall provide information to the  
28 ~~organization~~ *council* pursuant to subdivision (p) of Section 11105  
29 of the Penal Code.

30 (c) The Department of Justice and the ~~organization~~ *council* shall  
31 charge a fee sufficient to cover the cost of processing the request  
32 for state and federal level criminal offender record information.

33 (d) The ~~organization~~ *council* shall request subsequent arrest  
34 notification service from the Department of Justice, as provided  
35 under Section 11105.2 of the Penal Code, for all applicants for  
36 licensure or custodian of records candidates for whom fingerprint  
37 images and related information are submitted to conduct a search  
38 for state and federal level criminal offender record information.

39 (e) This section shall become operative September 1, 2009.

1 SEC. 6. Section 4601.4 of the Business and Professions Code  
2 is amended to read:

3 4601.4. ~~Organization~~ Council directors, employees, or volunteer  
4 individuals may undergo the background investigation process  
5 delineated in Section 4601.3.

6 SEC. 7. Section 4602 of the Business and Professions Code is  
7 amended to read:

8 4602. (a) The ~~organization~~ council may discipline a certificate  
9 holder by any, or a combination, of the following methods:

- 10 (1) Placing the certificate holder on probation.
- 11 (2) Suspending the certificate and the rights conferred by this  
12 chapter on a certificate holder for a period not to exceed one year.
- 13 (3) Revoking the certificate.
- 14 (4) Suspending or staying the disciplinary order, or portions of  
15 it, with or without conditions.
- 16 (5) Taking other action as the ~~organization~~ council, as authorized  
17 by this chapter or its bylaws, deems proper.

18 (b) The ~~organization~~ council may issue an initial certificate on  
19 probation, with specific terms and conditions, to any applicant.

20 (c) (1) Notwithstanding any other provision of law, if the  
21 ~~organization~~ council receives notice that a certificate holder has  
22 been arrested and charges have been filed by the appropriate  
23 prosecuting agency against the certificate holder alleging a  
24 violation of subdivision (b) of Section 647 of the Penal Code or  
25 any other offense described in subdivision (h) of Section 4603,  
26 the ~~organization~~ council shall take all of the following actions:

27 (A) Immediately suspend, on an interim basis, the certificate of  
28 that certificate holder.

29 (B) Notify the certificate holder within 10 days at the address  
30 last filed with the ~~organization~~ council that the certificate has been  
31 suspended, and the reason for the suspension.

32 (C) Notify any business within 10 days that the ~~organization~~  
33 council has in its records as employing the certificate holder that  
34 the certificate has been suspended.

35 (2) Upon notice to the ~~organization~~ council that the charges  
36 described in paragraph (1) have resulted in a conviction, the  
37 suspended certificate shall become subject to permanent revocation.  
38 The ~~organization~~ council shall provide notice to the certificate  
39 holder within 10 days that it has evidence of a valid record of  
40 conviction and that the certificate will be revoked unless the

1 certificate holder provides evidence within 15 days that the  
2 conviction is either invalid or that the information is otherwise  
3 erroneous.

4 (3) Upon notice that the charges have resulted in an acquittal,  
5 or have otherwise been dismissed prior to conviction, the certificate  
6 shall be immediately reinstated and the certificate holder and any  
7 business that received notice pursuant to subparagraph (C) of  
8 paragraph (1) shall be notified of the reinstatement within 10 days.

9 *SEC. 8. Section 4602.5 of the Business and Professions Code*  
10 *is amended to read:*

11 4602.5. (a) Upon the request of any law enforcement agency  
12 or any other representative of a local government agency with  
13 responsibility for regulating, or administering a local ordinance  
14 relating to, massage or massage businesses, the ~~organization~~  
15 *council* shall provide information concerning a certificate holder,  
16 including, but not limited to, the current status of the certificate,  
17 any history of disciplinary actions taken against the certificate  
18 holder, the home and work addresses of the certificate holder, and  
19 any other information in the ~~organization's~~ *council's* possession  
20 that is necessary to verify facts relevant to administering the local  
21 ordinance.

22 (b) The ~~organization~~ *council* shall accept information provided  
23 by any law enforcement agency or any other representative of a  
24 local government agency with responsibility for regulating, or  
25 administering a local ordinance relating to, massage or massage  
26 businesses. The ~~organization~~ *council* shall have the responsibility  
27 to review any information received and to take any actions  
28 authorized by this chapter that are warranted by that information.

29 *SEC. 9. Section 4603 of the Business and Professions Code is*  
30 *amended to read:*

31 4603. It is a violation of this chapter for a certificate holder to  
32 commit, and the ~~organization~~ *council* may deny an application for  
33 a certificate or discipline a certificate holder for, any of the  
34 following:

35 (a) Unprofessional conduct, including, but not limited to, denial  
36 of licensure, revocation, suspension, restriction, or any other  
37 disciplinary action against a certificate holder by another state or  
38 territory of the United States, by any other government agency, or  
39 by another California health care professional licensing board. A

1 certified copy of the decision, order, or judgment shall be  
2 conclusive evidence of these actions.

3 (b) Procuring a certificate by fraud, misrepresentation, or  
4 mistake.

5 (c) Violating or attempting to violate, directly or indirectly, or  
6 assisting in or abetting the violation of, or conspiring to violate,  
7 any provision or term of this chapter or any rule or bylaw adopted  
8 by the ~~organization~~ *council*.

9 (d) Conviction of any felony, or conviction of a misdemeanor  
10 that is substantially related to the qualifications or duties of a  
11 certificate holder, in which event the record of the conviction shall  
12 be conclusive evidence of the crime.

13 (e) Impersonating an applicant or acting as a proxy for an  
14 applicant in any examination referred to under this chapter for the  
15 issuance of a certificate.

16 (f) Impersonating a certified practitioner or therapist, or  
17 permitting or allowing an uncertified person to use a certificate.

18 (g) Committing any fraudulent, dishonest, or corrupt act that is  
19 substantially related to the qualifications or duties of a certificate  
20 holder.

21 (h) Committing any act punishable as a sexually related crime.

22 *SEC. 10. Section 4603.1 of the Business and Professions Code*  
23 *is amended to read:*

24 4603.1. (a) No certificate holder or certificate applicant may  
25 be disciplined or denied a certificate pursuant to Section 4603  
26 except according to procedures satisfying the requirements of this  
27 section. A denial or discipline not in accord with this section or  
28 subdivision (c) of Section 4602 shall be void and without effect.

29 (b) Any certificate applicant denial or certificate holder  
30 discipline shall be done in good faith and in a fair and reasonable  
31 manner. Any procedure that conforms to the requirements of  
32 subdivision (c) is fair and reasonable, but a court may also find  
33 other procedures to be fair and reasonable when the full  
34 circumstances of the certificate denial or certificate holder  
35 discipline are considered.

36 (c) A procedure is fair and reasonable when the procedures in  
37 subdivision (c) of Section 4602 are followed, or if all of the  
38 following apply:

1 (1) The provisions of the procedure have been set forth in the  
2 articles or bylaws, or copies of those provisions are sent annually  
3 to all the members as required by the articles or bylaws.

4 (2) It provides the giving of 15 days prior notice of the certificate  
5 denial or certificate holder discipline and the reasons therefor.

6 (3) It provides an opportunity for the certificate applicant or  
7 certificate holder to be heard, orally or in writing, not less than  
8 five days before the effective date of the certificate denial or  
9 certificate holder discipline by a person or body authorized to  
10 decide that the proposed certificate denial or certificate holder  
11 discipline not take place.

12 (d) Any notice required under this section may be given by any  
13 method reasonably calculated to provide actual notice. Any notice  
14 given by mail must be given by first-class or certified mail sent to  
15 the last address of the certificate applicant or certificate holder  
16 shown on the ~~organization's~~ *council's* records.

17 (e) Any action challenging a certificate denial or certificate  
18 holder discipline, including any claim alleging defective notice,  
19 shall be commenced within one year after the date of the certificate  
20 denial or certificate holder discipline. If the action is successful,  
21 the court may order any relief, including reinstatement, that it finds  
22 equitable under the circumstances.

23 (f) This section governs only the procedures for certificate denial  
24 or certificate holder discipline and not the substantive grounds  
25 therefor. A certificate denial or certificate holder discipline based  
26 upon substantive grounds that violates contractual or other rights  
27 of the member or is otherwise unlawful is not made valid by  
28 compliance with this section.

29 ~~(g) A certificate applicant or certificate holder who is denied or  
30 disciplined shall be liable for any charges incurred, services or  
31 benefits actually rendered, dues, assessments, or fees incurred  
32 before the certificate denial or certificate holder discipline or arising  
33 from contract or otherwise.~~

34 (g) *The council may charge applicants and certificate holders  
35 a reasonable fee as a condition of any hearing requested by the  
36 applicant or certificate holder for the purpose of contesting denial  
37 of an application or discipline of a certificate holder. The council  
38 shall be sued only in the county of its principal office.*

39 *SEC. 11. Section 4603.5 of the Business and Professions Code*  
40 *is amended to read:*

1 4603.5. It shall be the responsibility of any certificate holder  
2 to notify the ~~organization~~ *council* of his or her home address, as  
3 well as the address of any business establishment where he or she  
4 regularly works as a massage therapist or massage practitioner,  
5 whether as an employee or as an independent contractor. A  
6 certificate holder shall notify the ~~organization~~ *council* within 30  
7 days of changing either his or her home address or the address of  
8 the business establishment where he or she regularly works as a  
9 massage therapist or massage practitioner.

10 *SEC. 12. Section 4603.7 is added to the Business and*  
11 *Professions Code, to read:*

12 4603.7. A certificate holder shall include the name under which  
13 he or she is certified and his or her certificate number in any and  
14 all advertising and shall display his or her certificate at his or her  
15 place of business.

16 *SEC. 13. Section 4604 of the Business and Professions Code*  
17 *is amended to read:*

18 4604. (a) Notwithstanding Section 4601, the ~~organization~~  
19 *council* may grant a massage practitioner certificate to any person  
20 who applies on or before January 1, 2012, with one of the  
21 following:

22 (1) A current valid massage permit or license from a California  
23 city, county, or city and county and documentation evidencing that  
24 the person has completed at least a 100-hour course in massage at  
25 a ~~state-approved~~ *recognized* or registered school, or out-of-state  
26 school recognized by the ~~organization~~ *council* as providing  
27 comparable education, has been practicing for at least three years,  
28 and has provided at least 1,000 hours of massage to members of  
29 the public for compensation.

30 (2) Documentation evidencing that the person has completed  
31 at least a 100-hour course in massage at a ~~state-approved~~  
32 *recognized* or registered school, or out-of-state school recognized  
33 by the ~~organization~~ *council* as providing comparable education,  
34 has been practicing for at least three years, and has provided at  
35 least 1,750 hours of massage to members of the public for  
36 compensation. For purposes of this subdivision, evidence of  
37 practice shall include either of the following:

38 (A) A W-2 form or employer's affidavit containing the dates  
39 of the applicant's employment.

1 (B) Tax returns indicating self-employment as a massage  
2 practitioner or massage therapist or any other title that may  
3 demonstrate experience in the field of massage.

4 (3) Documentation evidencing that the person holds a current  
5 valid certificate of authorization as an instructor at ~~an approved a~~  
6 *recognized* massage school, or holds the position of a massage  
7 instructor at a school accredited by an agency recognized by the  
8 United States Department of Education, or colleges and universities  
9 of the state higher education system, as defined in Section 100850  
10 of the Education Code.

11 (b) (1) After reviewing the information submitted under  
12 subdivision (a), the ~~organization~~ *council* may require additional  
13 information necessary to enable it to determine whether to issue  
14 a certificate.

15 (2) If an applicant under paragraph (1) of subdivision (a) or  
16 paragraph (1) of subdivision (c) has not complied with Section  
17 4601.3, or its equivalent, when obtaining a license or permit from  
18 the city, county, or city and county, the ~~organization~~ *council* shall  
19 require the applicant to comply with Section 4601.3 prior to issuing  
20 a certificate pursuant to this section.

21 (c) (1) A person applying for a massage practitioner certificate  
22 on or before January 1, 2012, who meets the educational  
23 requirements of either paragraph (1) or (2) of subdivision (a), but  
24 who has not completed the required number of practice hours prior  
25 to submitting an application pursuant to this section, may apply  
26 for a conditional certificate.

27 (2) An applicant for a conditional certificate shall, within five  
28 years of being issued the conditional certificate, be required to  
29 complete at least 30 hours of additional education per year from  
30 schools or courses described in paragraph (5) until he or she has  
31 completed a total of at least 250 hours of education, which may  
32 include massage education hours previously completed in a  
33 massage course described in either paragraph (1) or (2) of  
34 subdivision (a).

35 (3) Upon successful completion of the requirements of this  
36 subdivision, the ~~organization~~ *council* shall issue a certificate to the  
37 person that is not conditional.

38 (4) ~~The organization shall immediately revoke the~~ A conditional  
39 certificate issued to any person pursuant to this subdivision *shall*  
40 *immediately be nullified, without need for further action by the*

1 *council*, if the time period specified in paragraph (2) expires  
2 without proof of completion of the requirements having been filed  
3 with the ~~organization~~ *council*.

4 (5) Any additional education required by this section may be  
5 completed through courses provided by any of the following:

6 (A) ~~An approved~~ *A recognized school*.

7 (B) A registered school.

8 (C) A provider approved by, or registered with, the ~~organization~~  
9 *council* or the Department of Consumer Affairs.

10 (D) A provider that establishes to the satisfaction of the  
11 ~~organization~~ *council* that its course or courses are appropriate  
12 educational programs for this purpose.

13 (d) Nothing in this section shall preclude the ~~organization~~  
14 *council* from exercising any power or authority conferred by this  
15 chapter with respect to a conditional certificate holder.

16 *SEC. 14. Section 4612 of the Business and Professions Code*  
17 *is amended to read:*

18 4612. (a) (1) The holder of a certificate issued pursuant to  
19 this chapter shall have the right to practice massage, consistent  
20 with this chapter and the qualifications established by his or her  
21 certification, in any city, county, or city and county in this state  
22 and shall not be required to obtain any other license, permit, or  
23 other authorization, except as provided in this section, to engage  
24 in that practice.

25 (2) Notwithstanding any other provision of law, a city, county,  
26 or city and county shall not enact an ordinance that requires a  
27 license, permit, or other authorization to practice massage by an  
28 individual who is certified pursuant to this chapter and who is  
29 practicing consistent with the qualifications established by his or  
30 her certification. No provision of any ordinance enacted by a city,  
31 county, or city and county that is in effect before the effective date  
32 of this chapter, and that requires a license, permit, or other  
33 authorization to practice massage, may be enforced against an  
34 individual who is certified pursuant to this chapter.

35 (3) Except as provided in subdivision (b), nothing in this section  
36 shall be interpreted to prevent a city, county, or city and county  
37 from adopting or enforcing any local ordinance governing zoning,  
38 business licensing, and reasonable health and safety requirements  
39 for massage establishments or businesses. Subdivision (b) shall  
40 not apply to any massage establishment or business that employs

1 or uses persons to provide massage services who are not certified  
2 pursuant to this chapter.

3 (b) (1) This subdivision shall apply only to massage  
4 establishments or businesses that are sole proprietorships, where  
5 the sole proprietor is certified pursuant to this chapter, and to  
6 massage establishments or businesses that employ or use only  
7 persons certified pursuant to this chapter to provide massage  
8 services. For purposes of this subdivision, a sole proprietorship is  
9 a business where the owner is the only person employed by that  
10 business to provide massage services.

11 (2) (A) Any massage establishment or business described in  
12 paragraph (1) shall maintain on its premises evidence for review  
13 by local authorities that demonstrates that all persons providing  
14 massage services are certified.

15 (B) Nothing in this section shall preclude a city, county, or city  
16 and county from including in a local ordinance a provision that  
17 requires a business described in paragraph (1) to file copies or  
18 provide other evidence of the certificates held by the persons who  
19 are providing massage services at the business.

20 (3) A city, county, or city and county may charge a massage  
21 business or establishment a business licensing fee sufficient to  
22 cover the costs of the business licensing activities established by  
23 a local ordinance described in this section.

24 (4) Nothing in this section shall prohibit a city, county, or city  
25 and county from adopting land use and zoning requirements  
26 applicable to massage establishments or businesses, provided that  
27 these requirements shall be no different than the requirements that  
28 are uniformly applied to other professional or personal services  
29 businesses.

30 (5) Local building code or physical facility requirements  
31 applicable to massage establishments or businesses shall not require  
32 additional restroom, shower, or other facilities that are not  
33 uniformly applicable to other professional or personal service  
34 businesses, nor shall building or facility requirements be adopted  
35 that (A) require unlocked doors when there is no staff available to  
36 assure security for clients and massage staff who are behind closed  
37 doors, or (B) require windows that provide a view into massage  
38 rooms that interfere with the privacy of clients of the massage  
39 business.

1 (6) A city, county, or city and county may adopt reasonable  
2 health and safety requirements with respect to massage  
3 establishments or businesses, including, but not limited to,  
4 requirements for cleanliness of massage rooms, towels and linens,  
5 and reasonable attire and personal hygiene requirements for persons  
6 providing massage services, provided that nothing in this paragraph  
7 shall be interpreted to authorize adoption of local ordinances that  
8 impose additional qualifications, such as medical examinations,  
9 background checks, or other criteria, upon any person certified  
10 pursuant to this chapter.

11 (7) Nothing in this section shall preclude a city, county, or city  
12 and county from doing any of the following:

13 (A) Requiring an applicant for a business license to operate a  
14 massage business or establishment to fill out an application that  
15 requests the applicant to provide relevant information.

16 (B) Making reasonable investigations into the information so  
17 provided.

18 (C) Denying or restricting a business license if the applicant  
19 has provided materially false information.

20 (c) An owner or operator of a massage business or establishment  
21 subject to subdivision (b) shall be responsible for the conduct of  
22 all employees or independent contractors working on the premises  
23 of the business. *Failure to comply with this provision may result*  
24 *in revocation of the owner's or operator's certificate in accordance*  
25 *with Section 4603.* Nothing in this section shall preclude a local  
26 ordinance from authorizing suspension, revocation, or other  
27 restriction of a license or permit issued to a massage establishment  
28 or business if violations of this chapter, or of the local ordinance,  
29 occur on the business premises.

30 (d) Nothing in this section shall preclude a city, county, or city  
31 and county from adopting a local ordinance that is applicable to  
32 massage businesses or establishments described in paragraph (1)  
33 of subdivision (b) and that does either of the following:

34 (1) Provides that duly authorized officials of the city, county,  
35 or city and county have the right to conduct reasonable inspections,  
36 during regular business hours, to ensure compliance with this  
37 chapter, the local ordinance, or other applicable fire and health  
38 and safety requirements.

1 (2) Requires an owner or operator to notify the city, county, or  
2 city and county of any intention to rename, change management,  
3 or convey the business to another person.

4 *SEC. 15. Section 4615 of the Business and Professions Code*  
5 *is amended to read:*

6 4615. This chapter shall be subject to the review required by  
7 ~~Division 1.2 (commencing with Section 473)~~ *Article 7.5*  
8 *(commencing with Section 9147.7) of Chapter 1.5 of Part 1 of*  
9 *Division 2 of the Government Code.*

10 *SEC. 16. Section 4616 is added to the Business and Professions*  
11 *Code, to read:*

12 4616. *This chapter shall be liberally construed to effectuate*  
13 *its purposes. If any provision of this chapter or the application*  
14 *thereof to any person or circumstance is held to be invalid, the*  
15 *invalidity shall not affect other provisions or applications of the*  
16 *chapter that can be given effect without the invalid provision or*  
17 *application, and to this end the provisions of this chapter are*  
18 *severable.*

19 ~~SECTION 1. Section 18600 of the Business and Professions~~  
20 ~~Code is amended to read:~~

21 ~~18600. This chapter shall be known and may be cited as the~~  
22 ~~Boxing Act or the State Athletic Commission Act.~~

23 ~~Whenever a reference is made to the Boxing Act or the State~~  
24 ~~Athletic Commission Act by the provisions of any statute, that~~  
25 ~~reference is to be construed as referring to the provisions of this~~  
26 ~~chapter.~~