

# HOUSE RESEARCH

## Bill Summary

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**Authors:** Abeler and others

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### Overview

This bill establishes state registration for massage therapists and Oriental bodywork therapists. Article 1 creates a new chapter, chapter 148D, that contains the substantive registration provisions. Therapists may register with the Board of Chiropractic Examiners upon satisfaction of certain requirements. Only registered therapists may use protected titles. Article 2 makes conforming changes to other statutes.

### Section

#### Article 1

#### Massage Therapists and Oriental Bodywork Therapists

- 1 **Definition.** Adds § 148D.01. Defines the following terms: board, cupping, massage therapist, massage therapy, moxibustion, municipality, Oriental bodywork therapist, Oriental bodywork therapy, and Oriental medicine.
- 2 **Massage therapists and Oriental bodywork therapists.** Adds § 148D.02. States that chapter 148D applies only to people who are applicants for state registration, state registered, use protected titles, or represent they are state registered. Specifies that it does not require state registration by somatic practitioners or touch therapists.
- 3 **Duties of the state board of chiropractic examiners.** Adds § 148D.03. Directs the board of chiropractic examiners, with the advice of the advisory council, to determine necessary forms for registration; issue registrations to qualified applicants; keep and disseminate records of state registered massage therapists and Oriental bodywork therapists; and hire appropriate personnel and establish their duties.
- 4 **Registration.** Adds § 148D.04. Establishes a registration system and registration procedures.
  - Subd. 1. Qualifications for registration.** Directs the board to establish a voluntary registration system for massage therapists and Oriental bodywork therapists.
  - Subd. 2. Registration procedures.** Requires applicants to submit an application and all fees

required by the board.

**Subd. 3. Advertising.** Requires state registered therapists to include their registration numbers in their advertising.

5 **Title protection.** Adds § 148D.05. Lists protected titles, allows certain people who are not registered in Minnesota to use protected titles, and permits the use of certifications from private organizations.

**Subd. 1. Protected titles.** Prevents persons not state registered under this chapter from using one of the listed protected titles.

**Subd. 2. Titles not protected.** Allows massage therapy and Oriental bodywork therapy practitioners, including non-registered practitioners, to use titles that are not protected.

**Subd. 3. Certification from other organizations.** Allows massage therapists and Oriental bodywork therapists to advertise certification earned by private organizations, as long as the body issuing the certification is stated clearly in the advertising.

6 **Qualifications for registration; massage therapy.** Adds § 148D.06. Requires all applicants for a registration to practice massage therapy to be age 18 or older, have a high school diploma or the equivalent, show evidence of professional liability insurance, pass a national examination, successfully complete a qualifying course of study or qualify for the examination by the portfolio review process, and pass an examination of relevant state laws if the board so requires.

7 **Qualifications for registration; Oriental bodywork therapy.** Adds § 148D.07. Requires all applicants for a registration to practice Oriental bodywork therapy to be age 18 or older, have a high school diploma or the equivalent, show evidence of professional liability insurance, pass a national examination, successfully complete a qualifying course of study or qualify for the examination by the portfolio review process, and pass an examination of relevant state laws, if the board so requires.

8 **Individuals from other jurisdictions.** Adds § 148D.08. Establishes requirements for individuals to register by reciprocity, and specifies that visiting instructors from other jurisdictions who want to teach in Minnesota need not be registered.

9 **Rulemaking.** Adds § 148D.09. Directs the board to adopt a code of ethics, a client bill of rights, continuing education requirements, procedures for registration and registration renewal and other rules.

10 **Municipal regulation.** Adds § 148D.10. Specifies the subjects over which a municipality may enact ordinances and the subjects over which municipal regulation is preempted.

**Subd. 1. Preemption.** Preempts municipalities from issuing licenses to therapists who are state registered under this chapter, but permits municipalities to adopt ordinances relating to land use, zoning, controlling nuisances, or individuals who are not state registered but who perform massage therapy or Oriental bodywork therapy.

**Subd. 2. Municipal discretion.** Permits a municipality, by ordinance, to require all people performing massage therapy or Oriental bodywork therapy within its jurisdiction to hold a current state registration.

11 **Advisory council.** Adds § 148D.11. **Paragraph (a)** establishes an advisory council of 7 members.

**Paragraph (b)** specifies that the membership of the advisory council must include 3 registered massage therapists, 2 registered Oriental bodywork therapists, and 2 public members.

**Paragraph (c)** specifies the duties of the advisory council.

**Paragraph (d)** specifies that the advisory council must be organized and administered under an existing statute that governs the operation of advisory councils generally.

- 12 **Grounds for disciplinary action.** Adds § 148D.12. Specifies grounds for disciplinary action. Provides that a copy of a judgment is admissible as evidence and is prima facie evidence of the violation alleged. Requires therapists to submit to certain examinations, and gives the board access to certain health and medical data about registrants.
- Subd. 1. Grounds listed.** Permits the board to deny, revoke, suspend, limit, or condition a therapist's registration for a violation of one of the listed grounds for disciplinary action.
- Subd. 2. Evidence.** Provides that, for certain grounds, a copy of a judgment with the seal of the court administrator or the administrative agency is admissible into evidence without further authentication and is prima facie evidence of the violation alleged.
- Subd. 3. Examination; access to medical data. Paragraph (a)** permits the board to take the actions in paragraphs (b) and (c) if it has probable cause to believe a therapist is unable to practice with reasonable skill and safety.
- Paragraph (b)** permits the board to direct the applicant or therapist to submit to a psychological or physical examination or chemical dependency evaluation. Failure to submit constitutes an admission, unless the failure was due to circumstances beyond the person's control. Specifies that a person is deemed to have consented to examination and to have waived all objections to admissibility on grounds of privilege. Permits therapists affected by this paragraph to demonstrate that they are competent to resume practice.
- Paragraph (c)** permits the board to obtain medical data and health records relating to a therapist or applicant without the person's consent. States that data may be requested from a provider, insurance company, or government agency. Requires these entities to comply with requests for information, and gives immunity to entities who comply. Classifies information obtained as private data on individuals.
- Subd. 4. Data.** Classifies data held by the board in the data practices act.
- 13 **Forms of disciplinary action; automatic suspension; temporary suspension; reissuance.** Adds § 148D.13. Established forms of disciplinary action. Specifies when automatic suspension, temporary suspension, and reissuance of a registration are required or permitted.
- Subd. 1. Forms of disciplinary action.** Permits the board to do one or more of the following when it finds that grounds for disciplinary action exist: deny, revoke, suspend, limit, or condition a registration; impose a civil penalty not exceeding \$10,000 for each violation; order unremunerated services; reprimand the therapist; or take any other action justified by the facts of the case.
- Subd. 2. Automatic suspension.** Requires automatic suspension of a registration if a guardian is appointed; if the therapist is committed; or if the therapist is determined mentally incompetent, mentally ill, chemically dependent, or dangerous to the public. Specifies that the registration remains suspended until the therapist is restored to capacity and the suspension is terminated by the board.
- Subd. 3. Temporary suspension.** Permits the board, without a hearing, to temporarily suspend a registration if a therapist has violated a statute or rule enforced by the board and if continued practice would create an imminent risk of harm to others. Specifies requirements for the suspension process.
- Subd. 4. Reinstatement.** Permits the board to reinstate and reissue a registration and also impose any disciplinary or corrective measure that might have originally been imposed, when the board finds the action is warranted.
- 14 **Reporting requirement.** Adds § 148D.14. Requires health-related professionals to report grounds for disciplinary action. Establishes a deadline for reporting and directs the board to provide reporting forms.

**Subd. 1. Licensed professionals.** Requires a person licensed or registered by a health-related board to report to the board personal knowledge of any conduct constituting grounds for disciplinary action by a therapist.

**Subd. 2. Deadline; forms.** Requires reports to be submitted within 30 days after the occurrence of the reportable event, and directs the board to provide forms for submitting reports.

15 **Immunity.** Adds § 148D.15. Establishes civil and criminal immunity for people and entities who report or investigate grounds for disciplinary action.

**Subd. 1. Reporting.** Confers civil and criminal immunity on any person who reports, in good faith, conduct constituting grounds for disciplinary action.

**Subd. 2. Investigation.** Confers civil and criminal immunity on members of the board, people who investigate violations and prepare and manage charges of violations, and people who participate in the investigation or testify on charges of violations.

16 **Therapist cooperation.** Adds § 148D.16. Requires a therapist being investigated to cooperate fully with the investigation.

17 **Violations; penalty.** Adds § 148D.17. Makes certain actions unlawful, and specifies a penalty of misdemeanor for violations.

**Subd. 1. Violations described.** Makes it unlawful for any person or entity to sell or fraudulently obtain a therapy diploma, registration, or record; practice therapy under an illegally or fraudulently obtained or issued diploma, registration, or certificate; use a massage therapy or Oriental bodywork therapy title without a registration; practice therapy in a way prohibited by the board; and knowingly employ people who are practicing massage therapy or Oriental bodywork therapy under cover of an illegally or fraudulently obtained record.

**Subd. 2. Penalty.** Makes a violation of subdivision 1 a misdemeanor.

**Subd. 3. Local enforcement.** Allows a municipality to issue a citation for a violation of subdivision 1.

**Subd. 4. Nuisance violation.** Specifies a violation of subdivision 1 is a nuisance.

18 **Education.** Adds § 148D.18. Establishes training and continuing education requirements.

**Subd. 1. Massage therapy training requirements.** Specifies minimum training requirements for massage therapy, and permits the board to raise any of the requirements by rule.

**Subd. 2. Oriental bodywork therapy training requirements.** Specifies minimum training requirements for Oriental bodywork therapy, and permits the board to raise any of the requirements by rule.

**Subd. 3. Continuing education requirements for licensure renewal.** For registration renewal, requires therapists to complete all continuing education courses prescribed by the board.

19 **Registration renewal and fees.** Adds § 148D.19. Provides that registrations must be renewed biennially.

20 **Registration during transitional period; massage therapists.** Specifies registration requirements for applicants who do not meet the examination and educational requirements for registration. These requirements are valid for one year, beginning on a date determined by the board. For renewal, requires applicants to meet the continuing education requirements specified by the board.

21 **Registration during transitional period; Oriental bodywork therapists.** Specifies registration requirements for applicants who do not meet the examination and educational requirements for registration. These requirements are valid for one year, beginning on a date determined by the board. For renewal, requires applicants to meet the continuing education requirements specified by the board.

- 22 **Initial advisory council.** Specifies the membership terms for the initial advisory council. Provides that initial members need not be registered, as long as they meet the qualifications to practice massage therapy or Oriental bodywork therapy specified in statute.
- 23 **Effective date.** Makes this article effective 60 days following final enactment.

## **Article 2**

### **Conforming Amendments**

- 1 **Massage therapists and Oriental bodywork therapists.** Adds subd. 5a to § 13.411. Adds a cross-reference in the data practices act to a data classification subdivision.
- 2 **License; exceptions.** Amends § 116J.70, subd. 2a. In a chapter on business licensing, specifies that massage therapists and Oriental bodywork therapists are not included in the term "business license," and renumbers the other listed occupations.
- 3 **Definitions.** Amends § 144.335, subd. 1. In a section regulating access to health records, specifies that the term "patient" includes a client who receives services from a massage therapist or Oriental bodywork therapist. Also specifies that the term "provider" includes a massage therapist or Oriental bodywork therapist registered under chapter 148D.
- 4 **Commissioner of health.** Amends § 214.23, subd. 1. Adds a cross-reference in a section on the HIV/HBV prevention program.
- 5 **General immunity from liability.** Amends § 604.01, subd. 2. In a section providing immunity from liability to good Samaritans, modifies the definition of "the scene of an emergency" to exclude the office of a licensed massage therapist or Oriental bodywork therapist.
- 6 **Effective date.** Makes this article effective 60 days following final enactment.