

ACT 190

H.B. NO. 492

A Bill for an Act Relating to Massage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- [(3) Chapter 452 (Board of Massage)
- (4) (3) Chapter 471 (Board of Veterinary Examiners)
- [(5) (4) Chapter 441 (Cemeteries and Mortuaries)
- [(6) (5) Chapter 463 (Board of Detectives and Guards)
- [(7) (6) Chapter 455 (Board of Examiners in Naturopathy)

(b) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(c) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(d) The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 462A (Pilotage)
- (6) Chapter 438 (Board of Barbers)

(e) The following chapters are hereby repealed effective December 31, 1991:

- (1) Chapter 448H (Elevator Mechanics Licensing Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 460 (Board of Osteopathic Examiners)
- (5) Chapter 461 (Board of Pharmacy)
- (6) Chapter 461J (Board of Physical Therapy)
- (7) Chapter 463E (Podiatry)

(f) The following chapters are hereby repealed effective December 31, 1992:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)[.]

(g) The following chapter is hereby repealed effective December 31, 1993:

- (1) Chapter 452 (Board of Massage).”

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SECTION 2. Section 452-1, Hawaii Revised Statutes, is amended by amending the definition of "out-call massage service" to read:

"“Out-call massage service” means any business[, the primary function of] which [is to engage] engages in or [carry] carries on the practice of massage, not at a fixed location but at a location designated by the customer, client, or service.”

SECTION 3. Section 452-3, Hawaii Revised Statutes, is amended to read as follows:

“§452-3 Massage establishments and out-call massage services to be licensed. No massage establishment or out-call massage service shall be operated unless [the same] it has been duly licensed as provided for in this chapter[.]; provided that a licensed massage therapist who does not operate a business employing other persons is exempt from the requirement for an out-call service license, unless that therapist is affiliated with a business providing massage as an adjunct service.”

SECTION 4. Section 452-4, Hawaii Revised Statutes, is amended to read as follows:

“§452-4 Creation of state board[.]; qualifications. (a) There is established within the department of commerce and consumer affairs for administrative purposes a state board of massage consisting of five members appointed by the governor as provided in section 26-34.

(b) Three members shall have at least three years of practical experience as licensed massage therapists, who shall be actively employed as massage therapists, and two shall be public members.

(c) Board members affiliated with any school teaching massage shall disclose that affiliation and shall at all times adhere to the provisions of chapter 84 and the interpretations of that chapter by the state ethics commission.”

SECTION 5. Section 452-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and licensing.

- (1) A nonrefundable application fee shall be paid to the board at the time of the application.
- (2) The examination fee shall be refunded only if the applicant is found not qualified to take the license examination.
- (3) An applicant for examination shall have completed academic training in anatomy, physiology, and the theory and demonstration of massage which is not confined to any specific system or method of massage, spent at least six months as a massage therapist apprentice, and [have] met all other requirements set for apprentices by the board pursuant to section 452-6(c).”

SECTION 6. Section 452-14, Hawaii Revised Statutes, is amended to read as follows:

“§452-14 Examination. The department of commerce and consumer affairs or the board may contract with professional testing services to prepare, administer, and grade the examinations [and tests] for applicants as may be required for the purposes of this chapter. The examination of applicants for [licenses] a license to practice massage shall be conducted

under rules prescribed by the board and shall include both practical demonstrations and a written [or oral tests and shall] examination which is not [be] confined to any specific system or method[,] and [the examination shall be] which is consistent with the practical and theoretical requirements of the occupation as provided by this chapter.

[Any law to the contrary notwithstanding, the department of commerce and consumer affairs, or the board, may contract with professional testing services to prepare, administer, and grade examinations and tests for license applicants under this chapter. For these purposes, the department of commerce and consumer affairs or the board may require applicants to pay the examination fee directly to the testing agency.]”

SECTION 7. The board of massage shall submit a proposal to the legislature twenty days prior to the convening of the Regular Session of 1988 on standards of competency for the practical examination required under section 452-14, Hawaii Revised Statutes.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 6, 1987.)