

SENATE BILL NO. 119—SENATOR CARLTON (BY REQUEST)

FEBRUARY 5, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing massage therapists.
(BDR 54-162)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to professions; revising provisions governing the regulation of massage therapists by the Board of Massage Therapists; prohibiting certain misleading and deceptive practices relating to massage therapy; revising provisions governing the discipline of massage therapists; authorizing the Board to issue administrative citations and to impose administrative fines for certain violations; revising provisions governing the temporary suspension of licenses of massage therapists; requiring governmental agencies and courts of competent jurisdiction to provide certain records to the Board or its Executive Director upon request; authorizing governmental agencies and courts of competent jurisdiction to redact certain confidential information from records provided to the Board or its Executive Director; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, massage therapists must be licensed by the Board of
- 2 Massage Therapists. (Chapter 640C of NRS) **Sections 2, 3 and 11** of this bill
- 3 require a massage therapist to display his original license, not a copy or replica, at
- 4 each location where he practices massage therapy. (NRS 640C.450) **Section 3**
- 5 prohibits a person from: (1) forging or counterfeiting a license; (2) altering, copying
- 6 or replicating a license for the purpose of aiding or abetting an unlawful act; or (3)



7 using or displaying a license that has been forged or counterfeited or has been
8 altered, copied or replicated for the purpose of aiding or abetting an unlawful act.

9 **Sections 4 and 16** of this bill prohibit an unlicensed person from advertising as
10 a massage therapist and prohibit a licensed person from using any false or
11 misleading statements in advertising. (NRS 640C.910) **Sections 4 and 16** also
12 prohibit an unlicensed person from having his name listed in a telephone directory
13 under a heading such as "massage" which indicates or implies that he is licensed or
14 qualified to practice massage therapy. **Sections 4 and 16** also authorize the Board
15 to issue an order to cease and desist from engaging in unlawful advertising.
16 **Sections 4, 18 and 19** of this bill contain provisions whereby the Board can have
17 telephone numbers for any type of telephone, messaging or paging service
18 disconnected because they are included in unlawful advertising. (NRS 703.175,
19 707.355)

20 Existing law authorizes the Board to take disciplinary action by imposing
21 administrative fines. (NRS 640C.710) **Section 14** of this bill provides that the
22 Board may impose an administrative fine of not more than \$5,000 for each
23 violation, unless a greater fine is required pursuant to **section 5** of this bill. **Section**
24 **5** requires the Board to impose, based on the number of violations, increasing
25 administrative fines of not more than \$10,000 against a licensee who has engaged
26 in or solicited sexual activity during a massage therapy session or has been
27 convicted of prostitution or any other sexual offense that occurred during a massage
28 therapy session.

29 **Section 6.3** of this bill authorizes the Board to issue administrative citations for
30 any statutory or regulatory violations relating to massage therapy and provides that
31 an unlicensed person who fails to comply with a citation is guilty of a
32 misdemeanor. A citation may include an order to: (1) pay an administrative fine;
33 (2) correct a condition resulting from a violation; and (3) reimburse the Board for
34 expenses incurred to investigate the violation, not to exceed \$150. **Section 6.5** of
35 this bill allows a person to request a hearing before the Board to contest an
36 administrative citation.

37 Under existing law, an applicant for a license to practice massage therapy is
38 required to pass a written examination. (NRS 640C.400) **Section 10.5** of this bill
39 authorizes an applicant, at his discretion, to pass an oral examination in lieu of the
40 written examination.

41 Existing law provides for the temporary suspension of a massage therapy
42 license without a prior hearing for a period of 15 or 30 days under certain exigent
43 circumstances. (NRS 640C.720) Generally, procedural due process entitles a
44 licensee to a hearing before his license is suspended. (*Barry v. Barchi*, 443 U.S. 55,
45 99 S. Ct. 2642 (1979); U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8)
46 However, when exigent circumstances justify immediate action, a statute may
47 provide for the temporary suspension of a license without a prior hearing if the
48 statute requires a post-suspension administrative review where a hearing is held and
49 a final decision is rendered as promptly as is practicable. (*Federal Deposit*
50 *Insurance Corporation v. Mallen*, 486 U.S. 230, 108 S. Ct. 1780 (1988); *Sierra Life*
51 *Insurance Company v. Rottman*, 95 Nev. 654 (1979)) **Section 15** of this bill: (1)
52 provides for the temporary suspension of a massage therapy license without a prior
53 hearing for a period not to exceed 15 business days under certain exigent
54 circumstances; (2) authorizes the licensee to request a post-suspension
55 administrative review; and (3) requires the Board to hold a hearing and render a
56 final decision as promptly as is practicable but not later than 15 business days after
57 the date on which the Board receives the licensee's written request for review.
58 (NRS 640C.720)

59 **Section 15** of this bill also authorizes the Board and its Executive Director to
60 request from the appropriate governmental agency or court of competent
61 jurisdiction records relating to any conviction of a massage therapist for a crime



* S B 1 1 9 R 4 *

involving violence, prostitution or any other sexual offense and authorizes those governmental agencies and courts of competent jurisdiction to redact from those records certain information which the agencies or courts deem confidential. (NRS 640C.720) **Sections 15 and 17** of this bill require the governmental agency or court of competent jurisdiction to provide the requested records as soon as reasonably practicable. (NRS 179A.100) **Section 15** also provides that the Board and its Executive Director: (1) must maintain the confidentiality of the records; and (2) may use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. 1. *“Original license” means the actual license which is issued to the licensee by the Board and which is current and valid.*

2. *The term does not include any photocopy print, photostat or other replica of such a license.*

Sec. 3. 1. *A person shall not:*

(a) Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy; or

(b) For the purpose of aiding or abetting an unlawful act:

(1) Alter or attempt to alter a license to practice massage therapy; or

(2) Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy.

2. *A person shall not use or display a license to practice massage therapy that:*

(a) Is not the original license issued to the person;

(b) Has been counterfeited or forged;

(c) Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or

(d) Has been issued to another person.

3. *A person who violates any provision of this section is guilty of a misdemeanor.*

Sec. 4. 1. *A person shall not advertise as a massage therapist in this State unless the person is licensed to practice massage therapy pursuant to this chapter.*

2. *A person licensed to practice massage therapy pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, any false or misleading statement or representation of material fact that is intended, directly or*



1 *indirectly, to induce another person to use the services of the*
2 *massage therapist.*

3 3. *All advertising by a licensed massage therapist must*
4 *include his name and the name of his company, if applicable. All*
5 *advertising in a telephone directory or a newspaper must also*
6 *include the number of his license.*

7 4. *A person who violates any provision of subsection 1 or 2 is*
8 *guilty of a misdemeanor.*

9 5. *If, after notice and a hearing as required by law, the Board*
10 *determines that a person has willfully engaged in advertising in a*
11 *manner that violates the provisions of this section or NRS*
12 *640C.910, the Board may, in addition to any penalty, punishment*
13 *or disciplinary action authorized by the provisions of this chapter,*
14 *order the person to cease and desist the unlawful advertising. The*
15 *provisions of this subsection do not apply to any person whose*
16 *license has been expired for less than 90 days or is temporarily*
17 *suspended.*

18 6. *The Board may order any person convicted of a crime*
19 *involving violence, prostitution or any other sexual offense to*
20 *cause any telephone number included in the advertising to be*
21 *disconnected from service. If the Board orders the person to cause*
22 *any telephone number to be disconnected from service and the*
23 *person fails to comply within 5 days after the date on which he is*
24 *served with the order, the Board may:*

25 (a) *If the provider is regulated by the Public Utilities*
26 *Commission of Nevada, request the Commission to order the*
27 *provider to disconnect the telephone number from service*
28 *pursuant to NRS 703.175 and 707.355; or*

29 (b) *If the provider is not regulated by the Public Utilities*
30 *Commission of Nevada, request the provider to disconnect the*
31 *telephone number from service and inform the provider that the*
32 *request is made pursuant to this section. Upon receiving such a*
33 *request, the provider shall take such action as is necessary to*
34 *disconnect the telephone number from service.*

35 7. *A provider shall not:*

36 (a) *Forward or offer to forward the telephone calls of a*
37 *telephone number disconnected from service pursuant to this*
38 *section; or*

39 (b) *Provide or offer to provide a message that includes a new*
40 *telephone number for the person whose telephone number was*
41 *disconnected from service pursuant to this section.*

42 8. *If a provider complies in good faith with a request to*
43 *disconnect a telephone number from service pursuant to this*
44 *section, such good-faith compliance shall constitute a complete*



1 *defense to any civil or criminal action brought against the*
2 *provider arising from the disconnection or termination of service.*

3 *9. As used in this section:*

4 *(a) "Advertising" means the intentional placement or issuance*
5 *of any sign, card or device, or the permitting or allowing of any*
6 *sign or marking on a motor vehicle, in any building, structure,*
7 *newspaper, magazine or airway transmission, on the Internet or in*
8 *any directory under the listing of "massage therapist" or*
9 *"massage."*

10 *(b) "Provider" means a provider of any type of telephone,*
11 *messaging or paging service.*

12 *(c) "Provider of messaging or paging service" means an entity*
13 *that provides any type of messaging or paging service to any type*
14 *of communication device.*

15 *(d) "Provider of telephone service" has the meaning ascribed*
16 *to it in NRS 707.355.*

17 *(e) "Telephone number" means any sequence of numbers or*
18 *characters, or both, used by a provider to provide any type of*
19 *telephone, messaging or paging service.*

20 **Sec. 5. 1.** *In addition to any other actions authorized by*
21 *NRS 640C.710, if, after notice and a hearing as required by law,*
22 *the Board determines that a licensee has engaged in or solicited*
23 *sexual activity during the course of practicing massage on a*
24 *person, as set forth in subsection 4 of NRS 640C.700, or has been*
25 *convicted of prostitution or any other sexual offense that occurred*
26 *during the course of practicing massage on a person, the Board*
27 *shall:*

28 *(a) For a first violation, impose an administrative fine of not*
29 *less than \$100 and not more than \$1,000;*

30 *(b) For a second violation, impose an administrative fine of*
31 *not less than \$250 and not more than \$5,000; and*

32 *(c) For a third violation and for each additional violation,*
33 *impose an administrative fine of not less than \$500 and not more*
34 *than \$10,000.*

35 **2.** *The Board shall, by regulation, establish standards for use*
36 *by the Board in determining the amount of an administrative fine*
37 *imposed pursuant to this section. The standards must include,*
38 *without limitation, provisions requiring the Board to consider:*

39 *(a) The gravity of the violation;*

40 *(b) The good faith of the licensee; and*

41 *(c) Any history of previous violations of the provisions of this*
42 *chapter committed by the licensee.*

43 **Sec. 6.** *The expiration of a license by operation of law or by*
44 *order or decision of the Board or a court, or the voluntary*
45 *surrender of a license by a licensee, does not deprive the Board of*



1 *jurisdiction to proceed with any investigation of, or action or*
2 *disciplinary proceeding against, the licensee or to render a*
3 *decision suspending or revoking the license.*

4 **Sec. 6.3. 1.** *If the Board or its designee, based upon a*
5 *preponderance of the evidence, has reason to believe that a person*
6 *has committed an act which constitutes a violation of this chapter*
7 *or the regulations of the Board, the Board or its designee, as*
8 *appropriate, may issue or authorize the issuance of a written*
9 *administrative citation to the person. A citation issued pursuant to*
10 *this section may include, without limitation:*

11 (a) *An order to take action to correct a condition resulting*
12 *from an act that constitutes a violation of this chapter or the*
13 *regulations of the Board, at the person's cost;*

14 (b) *An order to pay an administrative fine for each violation;*
15 *and*

16 (c) *An order to reimburse the Board for the amount of the*
17 *expenses incurred to investigate each violation, not to exceed*
18 *\$150.*

19 2. *If the citation includes an order to take action to correct a*
20 *condition resulting from an act that constitutes a violation of this*
21 *chapter or the regulations of the Board, the citation must:*

22 (a) *State the time permitted for compliance, which must not be*
23 *less than 15 business days after the date on which the citation is*
24 *received by the person; and*

25 (b) *Describe, in specific detail, the action required to be taken.*

26 3. *If the citation is issued to a licensee and includes an order*
27 *to pay an administrative fine for one or more violations, the*
28 *amount of the administrative fine must not exceed the maximum*
29 *amount authorized by NRS 640C.710 or section 5 of this act, as*
30 *appropriate for each violation.*

31 4. *If the citation is issued to an unlicensed person and*
32 *includes an order to pay an administrative fine for one or more*
33 *violations, the amount of the administrative fine:*

34 (a) *For a first violation, must not be less than \$100 and must*
35 *not be more than \$1,000;*

36 (b) *For a second violation, must not be less than \$250 and*
37 *must not be more than \$5,000; and*

38 (c) *For a third violation and for each additional violation,*
39 *must not be less than \$500 and must not be more than \$10,000.*

40 5. *The sanctions authorized by this section are separate from,*
41 *and in addition to, any other remedy, civil or criminal, authorized*
42 *by this chapter.*

43 6. *The failure of an unlicensed person to comply with a*
44 *citation or order after it is final is a misdemeanor. If an*
45 *unlicensed person does not pay an administrative fine imposed*



1 *pursuant to this section or make satisfactory payment*
2 *arrangements, as approved by the Board, within 60 days after the*
3 *order of the Board becomes final, the order may be executed upon*
4 *in the same manner as a judgment issued by a court.*

5 **Sec. 6.5.** 1. *If a person is issued a written administrative*
6 *citation pursuant to section 6.3 of this act, the person may request*
7 *a hearing before the Board to contest the citation by filing a*
8 *written request with the Board:*

9 (a) *Not later than 15 business days after the date on which the*
10 *citation is received by the person; or*

11 (b) *If the Board, for good cause shown, extends the time*
12 *allowed to file a written request for a hearing to contest the*
13 *citation, on or before the later date specified by the Board.*

14 2. *If the person files a written request for a hearing to contest*
15 *the citation within the time allowed pursuant to this section:*

16 (a) *The Board shall provide notice of and conduct the hearing*
17 *in the same manner as other disciplinary proceedings; and*

18 (b) *At the hearing, the person may contest, without limitation:*

19 (1) *The facts forming the basis for the determination that*
20 *the person has committed an act which constitutes a violation of*
21 *this chapter or the regulations of the Board;*

22 (2) *The time allowed to take any corrective action ordered;*

23 (3) *The amount of any administrative fine ordered;*

24 (4) *The amount of any order to reimburse the Board for the*
25 *expenses incurred to investigate the violation; and*

26 (5) *Whether any corrective action described in the citation*
27 *is reasonable.*

28 3. *If the person does not file a written request for a hearing to*
29 *contest the citation within the time allowed pursuant to this*
30 *section, the citation shall be deemed a final order of the Board.*

31 4. *For the purposes of this section, a citation shall be deemed*
32 *to have been received by a person:*

33 (a) *On the date on which the citation is personally delivered to*
34 *the person; or*

35 (b) *If the citation is mailed, 3 days after the date on which the*
36 *citation is mailed by certified mail to the last known business or*
37 *residential address of the person.*

38 **Sec. 7.** (Deleted by amendment.)

39 **Sec. 8.** (Deleted by amendment.)

40 **Sec. 9.** NRS 640C.020 is hereby amended to read as follows:

41 640C.020 As used in this chapter, unless the context otherwise
42 requires, the words and terms defined in NRS 640C.030 to
43 640C.060, inclusive, *and section 2 of this act* have the meanings
44 ascribed to them in those sections.

45 **Sec. 10.** (Deleted by amendment.)



* S B 1 1 9 R 4 *

Sec. 10.3. NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; ~~and~~

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant ~~to~~; *and*

7. Prescribe the form of a written administrative citation issued pursuant to section 6.3 of this act.

Sec. 10.5. NRS 640C.400 is hereby amended to read as follows:

640C.400 1. The Board may issue a license to practice massage therapy.

2. An applicant for a license must:

(a) Be at least 18 years of age;

(b) Submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to NRS 640C.520;

(3) Proof that he has successfully completed a program of massage therapy recognized by the Board;

(4) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(II) Disciplinary proceedings relating to his license to practice massage therapy are not pending;



* S B 1 1 9 R 4 *

(5) Except as otherwise provided in NRS 640C.440, a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(6) The names and addresses of five natural persons not related to the applicant and not business associates of the applicant who are willing to serve as character references;

(7) A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

(8) If required by the Board, a financial questionnaire; and

(c) In addition to any examination required pursuant to NRS 640C.320 ~~and except~~ :

(1) Except as otherwise provided in subsection 3, pass a written examination administered by any board that is accredited by the National Commission for Certifying Agencies, or its successor organization, to examine massage therapists ~~and~~; or

(2) At the applicant's discretion and in lieu of a written examination, pass an oral examination prescribed by the Board.

3. If the Board determines that the examinations being administered pursuant to *subparagraph (1) of* paragraph (c) of subsection 2 are inadequately testing the knowledge and competency of applicants, the Board shall prepare or cause to be prepared its own written examination to test the knowledge and competency of applicants. Such an examination must be offered not less than four times each year. The location of the examination must alternate between Clark County and Washoe County. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.

4. The Board shall recognize a program of massage therapy that is:

(a) Approved by the Commission on Postsecondary Education; or

(b) Offered by a public college in this State or any other state.

→ The Board may recognize other programs of massage therapy.

5. The Board or its designee shall:

(a) Conduct an investigation to determine:

(1) The reputation and character of the applicant;

(2) The existence and contents of any record of arrests or convictions of the applicant;



* S B 1 1 9 R 4 *

(3) The existence and nature of any pending litigation involving the applicant that would affect his suitability for licensure; and

(4) The accuracy and completeness of any information submitted to the Board by the applicant;

(b) If the Board determines that it is unable to conduct a complete investigation, require the applicant to submit a financial questionnaire and investigate the financial background and each source of funding of the applicant;

(c) Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to NRS 640C.320; and

(d) Except as otherwise provided in NRS 239.0115, maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 11. NRS 640C.450 is hereby amended to read as follows:

640C.450 1. Each licensee shall display his *original* license in a conspicuous manner at each location where he practices massage therapy. *If a licensee practices massage therapy in more than one place, he must carry his original license with him and display it wherever he is actually working.*

2. *A licensee shall obtain a replacement of his original license from the Board if his:*

(a) *Original license is destroyed, misplaced or mutilated; or*

(b) *Name or address as printed on the original license has changed.*

3. *To obtain a replacement license, the licensee must:*

(a) *File an affidavit with the Board, on the form prescribed by the Board, which states that his original license was destroyed, misplaced or mutilated or that his name or address as printed on the original license has changed; and*

(b) *Pay the fee prescribed by the Board pursuant to NRS 640C.520.*

Sec. 12. NRS 640C.520 is hereby amended to read as follows:

640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:



* S B 1 1 9 R 4 *

1	An examination established by the Board pursuant to	
2	this chapter	\$600
3	An application for a license.....	300
4	An application for a license without an examination	300
5	A background check of an applicant.....	600
6	The issuance of a license.....	400
7	The renewal of a license.....	200
8	The restoration of an expired license	500
9	The reinstatement of a suspended or revoked license	500
10	The issuance of a [duplicate] <i>replacement</i> license	75
11	The restoration of an inactive license.....	300

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2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 13. NRS 640C.700 is hereby amended to read as follows:
640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude within the immediately preceding 10 years ; ~~H~~

4. Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

- (a) Made sexual advances toward the person;
- (b) Requested sexual favors from the person; or
- (c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in his practice of massage therapy;



7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy;

8. Has failed to provide information requested by the Board within 60 days after he received the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy;

10. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

11. Has solicited or received compensation for services relating to the practice of massage therapy that he did not provide;

12. If the holder of the license is on probation, has violated the terms of his probation; ~~or~~

13. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he has received training in a specialty technique of massage for which he has not received training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist ~~or~~;

14. Has failed to comply with a written administrative citation issued pursuant to section 6.3 of this act within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to section 6.5 of this act, within 15 business days after the hearing; or

15. Except as otherwise provided in subsection 14, has failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within 60 days after:

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

↳ whichever occurs later.

Sec. 14. NRS 640C.710 is hereby amended to read as follows:

640C.710 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

(a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or holder of the license a public reprimand;

(c) Refuse to issue, renew, reinstate or restore the license;

(d) Suspend or revoke the license;



(e) ~~Impose~~ *Except as otherwise provided in section 5 of this act, impose* an administrative fine of not more than ~~[\$1,000 per day for each day for which the Board determines that a violation occurred;]~~ *\$5,000 for each violation;*

(f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or

(g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 15. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds *, based upon evidence in its possession,* that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice to the massage therapist, temporarily suspend his license *without a prior hearing* for a period not to exceed ~~[30 days. For good cause,]~~ *15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 10 business days after the date on which the massage therapist receives notice of the temporary suspension. If the massage therapist:*

(a) *Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Board receives the written request. After holding such a hearing,* the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ *finds, for good cause shown, that* such action ~~[to be]~~ *is* necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) *Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The* hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension *as promptly as is practicable but* not later than 30 days after the date on which the Board ~~[notifies the massage therapist]~~ *provides notice* of the *initial* temporary suspension. *After holding such a*



1 *hearing, the Board may extend the period of the temporary*
2 *suspension if the Board finds, for good cause shown, that such*
3 *action is necessary to protect the health, safety or welfare of the*
4 *public pending proceedings for disciplinary action.*

5 2. If a massage therapist is charged with or cited for ~~{a crime~~
6 ~~involving violence,}~~ prostitution or any other sexual offense, the
7 appropriate law enforcement agency shall report the charge or
8 citation to the Executive Director ~~{}~~ *of the Board*. Upon receiving
9 such a report, the Executive Director shall immediately issue *by*
10 *certified mail to the massage therapist* a cease and desist order
11 temporarily suspending the license of the massage therapist ~~{}~~
12 *without a prior hearing*. The temporary suspension of the license is
13 effective immediately ~~{upon issuance}~~ *after the massage therapist*
14 *receives notice* of the cease and desist order and must not exceed
15 ~~{15 days. For good cause,}~~ *15 business days. The massage therapist*
16 *may file a written request for a hearing to challenge the necessity*
17 *of the temporary suspension. The written request must be filed not*
18 *later than 10 business days after the date on which the Executive*
19 *Director mails the cease and desist order. If the massage therapist:*

20 (a) *Files a timely written request for a hearing, the Board shall*
21 *extend the temporary suspension until a hearing is held. The*
22 *Board shall hold a hearing and render a final decision regarding*
23 *the necessity of the temporary suspension as promptly as is*
24 *practicable but not later than 15 business days after the date on*
25 *which the Board receives the written request. After holding such a*
26 *hearing, the Board may extend the period of the temporary*
27 *suspension if the Board* ~~{deems}~~ *finds, for good cause shown, that*
28 *such action* ~~{to be}~~ *is necessary to protect the health, safety or*
29 *welfare of the public pending proceedings for disciplinary action.*
30 ~~{In any such case, a}~~

31 (b) *Does not file a timely written request for a hearing and the*
32 *Board wants to consider extending the period of the temporary*
33 *suspension, the Board shall schedule a hearing and notify the*
34 *massage therapist immediately by certified mail of the date of the*
35 *hearing. The hearing must be held and a final decision rendered*
36 *regarding whether to extend the period of the temporary suspension*
37 *as promptly as is practicable but not later than 15 business days*
38 *after the date on which the Executive Director* ~~{issues}~~ *mails the*
39 *cease and desist order. After holding such a hearing, the Board*
40 *may extend the period of the temporary suspension if the Board*
41 *finds, for good cause shown, that such action is necessary to*
42 *protect the health, safety or welfare of the public pending*
43 *proceedings for disciplinary action.*



3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order.

4. When conducting an investigation of a massage therapist pursuant to this chapter, the Board or the Executive Director may request from the appropriate governmental agency or court of competent jurisdiction records relating to any conviction of the massage therapist for a crime involving violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.

5. Upon receiving a request from the Board or the Executive Director pursuant to subsection 4, the governmental agency or court of competent jurisdiction shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The governmental agency or court of competent jurisdiction may redact from the records produced pursuant to this subsection any information relating to the agency or court that is deemed confidential by the agency or court. Upon receiving the records from the governmental agency or court, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist pursuant to this chapter.

6. For purposes of this section, a person is deemed to have notice of a temporary suspension of his license:

(a) On the date on which the notice is personally delivered to the person; or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 16. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; ~~for~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~for~~; or



* S B 1 1 9 R 4 *

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; ~~for~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~for~~; or

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 17. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:



- 1 (a) Reflect convictions only; or
- 2 (b) Pertain to an incident for which the prospective employee or
- 3 volunteer is currently within the system of criminal justice,
- 4 including parole or probation.

5 4. In addition to any other information to which an employer is
6 entitled or authorized to receive, the Central Repository shall
7 disseminate to a prospective or current employer, or a person or
8 entity designated to receive the information on behalf of such an
9 employer, the information contained in a record of registration
10 concerning an employee, prospective employee, volunteer or
11 prospective volunteer who is a sex offender or an offender convicted
12 of a crime against a child, regardless of whether the employee,
13 prospective employee, volunteer or prospective volunteer gives his
14 written consent to the release of that information. The Central
15 Repository shall disseminate such information in a manner that does
16 not reveal the name of an individual victim of an offense. A request
17 for information pursuant to this subsection must conform to the
18 requirements of the Central Repository and must include:

19 (a) The name and address of the employer, and the name and
20 signature of the person or entity requesting the notice on behalf of
21 the employer;

22 (b) The name and address of the employer's facility in which the
23 employee, prospective employee, volunteer or prospective volunteer
24 is employed or volunteers or is seeking to become employed or
25 volunteer; and

26 (c) The name and other identifying information of the employee,
27 prospective employee, volunteer or prospective volunteer.

28 5. In addition to any other information to which an employer is
29 entitled or authorized to receive, the Central Repository shall
30 disseminate to a prospective or current employer, or a person or
31 entity designated to receive the information on behalf of such an
32 employer, the information described in subsection 4 of NRS
33 179A.190 concerning an employee, prospective employee, volunteer
34 or prospective volunteer who gives his written consent to the release
35 of that information if the employer submits a request in the manner
36 set forth in NRS 179A.200 for obtaining a notice of information.
37 The Central Repository shall search for and disseminate such
38 information in the manner set forth in NRS 179A.210 for the
39 dissemination of a notice of information.

40 6. Except as otherwise provided in subsection 5, the provisions
41 of NRS 179A.180 to 179A.240, inclusive, do not apply to an
42 employer who requests information and to whom information is
43 disseminated pursuant to subsections 4 and 5.



* S B 1 1 9 R 4 *

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.



(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 18. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request *to disconnect a telephone number* from the State Contractors' Board ~~[to disconnect a telephone number]~~ pursuant to NRS 624.720, *the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758*, the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 19. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855; or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS ~~[624.720 and]~~ 703.175, *after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to*



* S B 1 1 9 R 4 *

NRS 624.720, the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,

↳ take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, “provider of telephone service” includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

