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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1275

02/18/2021 Authored by Pinto, Elkins, Howard, Fischer, Hollins and others
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health occupations; establishing licensure for massage therapy and
1.3 Asian bodywork therapy; establishing fees; providing criminal penalties; amending
1.4 Minnesota Statutes 2020, sections 146A.01, subdivision 4; 146A.06, subdivision
1.5 3; 146A.09, by adding a subdivision; proposing coding for new law in Minnesota
1.6 Statutes, chapter 148.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 ARTICLE 1
1.9 MASSAGE THERAPY AND ASIAN BODYWORK THERAPY

1.10 Section 1. [148.635] CITATION.

1.11 Sections 148.635 to 148.6363 may be cited as the "Minnesota Massage Therapy and
1.12 Asian Bodywork Therapy Act."

1.13 Sec. 2. [148.6351] DEFINITIONS.

1.14 Subdivision 1. Applicability. For purposes of sections 148.635 to 148.6363, the terms
1.15 defined in this section have the meanings given them.

1.16 Subd. 2. Advisory council. "Advisory council" means the Massage Therapy Advisory
1.17 Council established under section 148.6362.

1.18 Subd. 3. Applicant. "Applicant" means an individual who has submitted an application
1.19 to the board according to sections 148.635 to 148.6363.

1.20 Subd. 4. Asian bodywork therapy. (a) "Asian bodywork therapy" means therapy based
1.21 upon Chinese medical principles with the intent of promoting, maintaining, and restoring
1.22 health and well-being by affecting the body and emotions.

2.1 (b) Asian bodywork therapy may use any of the following techniques:

2.2 (1) pressing;

2.3 (2) soothing;

2.4 (3) kneading;

2.5 (4) vibration;

2.6 (5) friction;

2.7 (6) passive stretching within the client's physiological range of motion;

2.8 (7) active assistive and resistive movement;

2.9 (8) stretching; and

2.10 (9) tapping, movement, exercising, or manipulation of the soft tissues.

2.11 (c) Methods of assessment and evaluation for Asian bodywork therapy may include a
 2.12 health history and intake interview; observation; listening; questioning; palpation; and with
 2.13 the client's permission or if the client is a minor, the permission of the client's legal guardian
 2.14 or parent, consultation with the client's other health care providers.

2.15 Subd. 5. **Board.** "Board" means the Board of Nursing established under section 148.181.

2.16 Subd. 6. **Client.** "Client" means a recipient of massage therapy services or Asian
 2.17 bodywork therapy services.

2.18 Subd. 7. **Credentialing examination.** "Credentialing examination" means an examination
 2.19 approved by the board that meets recognized psychometric principles and standards and is
 2.20 administered by a national testing organization.

2.21 Subd. 8. **Licensed Asian bodywork therapist.** "Licensed Asian bodywork therapist"
 2.22 or "Asian bodywork therapist" means an individual who meets the qualifications in sections
 2.23 148.635 to 148.6363 for the practice of Asian bodywork therapy and is licensed by the
 2.24 board.

2.25 Subd. 9. **Licensed massage therapist.** "Licensed massage therapist" or "massage
 2.26 therapist" means an individual who meets the qualifications in sections 148.635 to 148.6363
 2.27 for the practice of massage therapy and is licensed by the board.

2.28 Subd. 10. **Massage therapy.** (a) "Massage therapy" means the manual manipulation of
 2.29 the soft tissues of the body to promote, maintain, and restore health and well-being.

2.30 (b) Massage therapy may use any of the following techniques:

- 3.1 (1) stroking;
- 3.2 (2) gliding;
- 3.3 (3) lifting;
- 3.4 (4) kneading;
- 3.5 (5) jostling;
- 3.6 (6) vibration;
- 3.7 (7) percussion;
- 3.8 (8) compression;
- 3.9 (9) friction;
- 3.10 (10) holding;
- 3.11 (11) passive stretching within the client's physiological range of motion;
- 3.12 (12) movement or manipulation of the soft tissues;
- 3.13 (13) active assistive and resistive movement; and
- 3.14 (14) stretching.
- 3.15 (c) Methods of assessment for massage therapy may include a health history and intake
- 3.16 interview; observation of posture and movement; palpation; range of motion assessment;
- 3.17 and with the client's permission or if the client is a minor, the permission of the client's legal
- 3.18 guardian or parent, consultation with the client's other health care providers.
- 3.19 Subd. 11. **Municipality.** "Municipality" means a county, town, or home rule charter or
- 3.20 statutory city.
- 3.21 **Sec. 3. [148.6352] DUTIES OF THE BOARD.**
- 3.22 The board, in consultation with the advisory council, shall:
- 3.23 (1) issue licenses to qualified applicants according to sections 148.635 and 148.6363;
- 3.24 (2) adopt rules, including standards of practice and a professional code of ethics, necessary
- 3.25 to implement the provisions of sections 148.635 to 148.6363;
- 3.26 (3) assign duties to the advisory council that are necessary to implement the provisions
- 3.27 of sections 148.635 to 148.6363;
- 3.28 (4) approve a credentialing examination;

4.1 (5) establish educational requirements, approve massage therapy and Asian bodywork
4.2 therapy schools or programs, and conduct or provide for surveys of schools, programs, and
4.3 courses;

4.4 (6) enforce sections 148.635 to 148.6363 and investigate violations of section 148.636
4.5 by a licensee or applicant;

4.6 (7) impose discipline as described in section 148.636;

4.7 (8) maintain a record of names and addresses of licensees; and

4.8 (9) distribute information regarding massage therapy and Asian bodywork therapy
4.9 standards, including applications and forms necessary to carry out the provisions of sections
4.10 148.635 to 148.6363.

4.11 **Sec. 4. [148.6353] LIMITATIONS ON PRACTICE; DATA PRACTICES.**

4.12 Subdivision 1. **Limitations.** The practice of massage therapy and Asian bodywork
4.13 therapy does not include:

4.14 (1) performing examinations for the purpose of diagnosis;

4.15 (2) providing treatments that are outside the scope of massage therapy or Asian bodywork
4.16 therapy practice;

4.17 (3) attempts to adjust, manipulate, or mobilize any articulation of the body or spine by
4.18 the use of high-velocity, low-amplitude thrusting force;

4.19 (4) attempts to stimulate various points of the body or interruption of the cutaneous
4.20 integrity by needle insertion to secure therapeutic relief of symptoms;

4.21 (5) prescriptive exercise;

4.22 (6) manual or mechanical traction when applied to the spine or extremities for the
4.23 purposes of joint mobilization or manipulation;

4.24 (7) injection therapy;

4.25 (8) laser therapy;

4.26 (9) microwave diathermy;

4.27 (10) electrical stimulation;

4.28 (11) ultrasound;

4.29 (12) iontophoresis; or

5.1 (13) phonophoresis.

5.2 Subd. 2. Referrals to other health care providers. If a reasonably prudent massage
5.3 therapist or Asian bodywork therapist finds a client's medical condition is beyond the scope
5.4 of practice established by sections 148.635 to 148.6363 or by rules of the board for a licensed
5.5 massage therapist or Asian bodywork therapist, the therapist must refer the client to a
5.6 licensed health care provider. Nothing in this subdivision prohibits the massage therapist
5.7 or Asian bodywork therapist from continuing to comanage a client's care.

5.8 Subd. 3. Data practices. All client records maintained by a licensed massage therapist
5.9 or Asian bodywork therapist are subject to sections 144.291 to 144.298.

5.10 Sec. 5. [148.6354] UNLICENSED PRACTICE PROHIBITED; PROTECTED TITLES
5.11 AND RESTRICTIONS ON USE.

5.12 Subdivision 1. Unlicensed practice prohibited; protected titles. Effective January 1,
5.13 2022, no person shall practice or attempt to practice massage therapy or Asian bodywork
5.14 therapy or use any of the terms or titles "massage therapist," "MT," "Asian bodywork
5.15 therapist," "ABT," or any other term or title that may lead the public to believe that the
5.16 person is engaged in the practice of massage therapy or Asian bodywork therapy unless the
5.17 person is licensed under sections 148.635 to 148.6363 as a massage therapist or Asian
5.18 bodywork therapist.

5.19 Subd. 2. Penalty. Any person found to be in violation of subdivision 1 is guilty of a
5.20 gross misdemeanor.

5.21 Sec. 6. [148.6355] EXEMPTIONS; OTHER HEALTH CARE PROVIDERS.

5.22 Subdivision 1. Other professions. Nothing in sections 148.635 to 148.6363 shall be
5.23 construed to prohibit, restrict, or regulate the practice of any profession or occupation
5.24 licensed or registered in the state by an individual licensed or registered to practice the
5.25 profession or occupation or to perform any act that falls within the scope of practice of the
5.26 profession or occupation.

5.27 Subd. 2. Complementary and alternative health care practitioner. (a) Nothing in
5.28 sections 148.635 to 148.6363 shall be construed to prohibit, restrict, or regulate the practice
5.29 of any individual who is engaged in providing complementary and alternative health care
5.30 practices as defined in section 146A.01, subdivision 4, provided that the practitioner does
5.31 not advertise or imply that the practitioner is licensed according to sections 148.635 to

6.1 148.6363 and the practices are not designated or implied to be massage therapy or Asian
6.2 bodywork therapy.

6.3 (b) This subdivision includes any complementary and alternative health care practitioner
6.4 who is recognized by or meets the established standards of either a professional organization
6.5 or credentialing body that represents or certifies the respective practice based on a minimum
6.6 level of training, demonstration of competency, and adherence to ethical standards, and:

6.7 (1) uses touch, words, and directed movement to deepen awareness of existing patterns
6.8 of movement as well as to suggest new possibilities of movement;

6.9 (2) uses energy or superficial touch to affect the energy systems of the human body;

6.10 (3) uses touch to effect change in the structure of the body while engaged in the practice
6.11 of structural integration; or

6.12 (4) practices reflexology.

6.13 Subd. 3. **Other exemptions.** Nothing in sections 148.635 to 148.6363 shall be construed
6.14 to prohibit, restrict, or regulate individuals providing:

6.15 (1) massage emergency response team services working in conjunction with disaster
6.16 relief officials;

6.17 (2) massage therapy services or Asian bodywork therapy services provided by out-of-state
6.18 massage therapists or Asian bodywork therapists that are incidental to a specific event, such
6.19 as an amateur sports competition, dance performance or event, or other similar athletic
6.20 events;

6.21 (3) instruction of education courses in massage therapy or Asian bodywork therapy if
6.22 the instruction does not involve the direct delivery of massage therapy services or Asian
6.23 bodywork therapy services;

6.24 (4) massage therapy services or Asian bodywork therapy services provided as an
6.25 employee of the United States government or any federal government entity while acting
6.26 in the course and scope of such employment;

6.27 (5) massage therapy services or Asian bodywork therapy services provided by massage
6.28 therapy students or Asian bodywork therapy students practicing under supervision as part
6.29 of a school-sanctioned activity; or

6.30 (6) massage therapy services or Asian bodywork therapy services provided without
6.31 remuneration to family members.

7.1 Sec. 7. [148.6356] REQUIREMENTS FOR LICENSURE.

7.2 Subdivision 1. General licensure requirements. (a) To be eligible for licensure as a
7.3 massage therapist or Asian bodywork therapist according to sections 148.635 to 148.6363,
7.4 an applicant must submit to the board:

7.5 (1) a completed application on a form provided by the board that includes:

7.6 (i) the applicant's name, Social Security number, home address and telephone number,
7.7 and business address and telephone number;

7.8 (ii) a list of credentials held by the applicant in this state or in any other jurisdiction;

7.9 (iii) a description of any jurisdiction's refusal to license or credential the applicant;

7.10 (iv) a description of all professional disciplinary actions initiated against the applicant
7.11 in this state or any other jurisdiction;

7.12 (v) any history of drug or alcohol abuse;

7.13 (vi) any misdemeanor, gross misdemeanor, or felony convictions; and

7.14 (vii) any other additional information requested by the board;

7.15 (2) proof, as required by the board, that the applicant has satisfactorily completed a
7.16 postsecondary massage therapy program or Asian bodywork therapy program through a
7.17 school or program that:

7.18 (i) is licensed by or registered with the Minnesota Office of Higher Education or has
7.19 conditional approval for a registered school and provisional license from the Minnesota
7.20 Office of Higher Education;

7.21 (ii) has institutional accreditation from an agency recognized by the United States
7.22 Department of Education; and

7.23 (iii) meets the education and training requirements described under subdivision 2 or 3;

7.24 (3) proof of successful passage of a credentialing examination approved by the board;

7.25 (4) proof, as required by the board, of current professional liability insurance coverage
7.26 or school liability insurance coverage as applicable with at least \$2,000,000 of coverage
7.27 per occurrence and \$6,000,000 annual aggregate; and

7.28 (5) any applicable fees as specified in section 148.6363.

8.1 (b) The applicant must submit to a criminal background check conducted in accordance
8.2 with section 214.075 and pay any fees associated with conducting the criminal background
8.3 check.

8.4 (c) The applicant must sign the application certifying that the information in the
8.5 application is true and correct to the best of the applicant's knowledge and authorizing the
8.6 board to obtain access to the applicant's records in this state or any other jurisdiction in
8.7 which the applicant has engaged in the practice of massage therapy or Asian bodywork
8.8 therapy.

8.9 **Subd. 2. Education and training requirements for massage therapy licensure. (a)**
8.10 An applicant for licensure as a massage therapist under subdivision 1 whose application is
8.11 received by the board before January 1, 2027, must submit to the board proof of satisfactorily
8.12 completing a postsecondary program that meets the requirements in subdivision 1, paragraph
8.13 (a), clause (2), and includes education and training in:

8.14 (1) anatomy;

8.15 (2) physiology;

8.16 (3) pathology;

8.17 (4) massage therapy;

8.18 (5) massage therapy history, theory, and research;

8.19 (6) professional ethics;

8.20 (7) therapeutic interpersonal communications and standards of practice;

8.21 (8) business and legal practices related to massage therapy; and

8.22 (9) supervised practice demonstrating safe use of equipment and supplies.

8.23 (b) An applicant for licensure as a massage therapist under subdivision 1 whose
8.24 application is received by the board on or after January 1, 2027, must submit to the board
8.25 proof of satisfactorily completing a postsecondary massage therapy program that meets the
8.26 requirements in subdivision 1, paragraph (a), clause (2), and either:

8.27 (1) has programmatic accreditation for massage therapy training programs from an
8.28 agency recognized by the United States Department of Education; or

8.29 (2) includes at least 625 contact hours of education and training composed of 500 contact
8.30 hours of synchronous or asynchronous classroom instruction in the areas listed in paragraph
8.31 (a) and 125 contact hours of supervised student clinical practice.

9.1 (c) A massage therapy school or program may require more than 625 total contact hours
 9.2 of education and training, and may require more than 125 hours of supervised clinical
 9.3 practice, if at least 500 contact hours are devoted to synchronous or asynchronous classroom
 9.4 instruction in the subjects listed in paragraph (a).

9.5 (d) No student shall begin a supervised clinical practice of massage therapy without
 9.6 providing proof to the massage therapy school or program of professional liability insurance
 9.7 coverage of up to \$2,000,000 per occurrence and \$6,000,000 annual aggregate. The
 9.8 professional liability insurance coverage required under this paragraph may be offered to
 9.9 the student by the school or program.

9.10 **Subd. 3. Education and training requirements for Asian bodywork therapy**
 9.11 **licensure.** (a) An applicant for licensure as an Asian bodywork therapist under subdivision
 9.12 1 whose application is received by the board before January 1, 2027, must submit to the
 9.13 board proof of satisfactorily completing a postsecondary program that meets the requirements
 9.14 in subdivision 1, paragraph (a), clause (2), and includes education and training in:

9.15 (1) anatomy;

9.16 (2) physiology;

9.17 (3) pathology;

9.18 (4) Asian bodywork therapy;

9.19 (5) traditional Chinese medicine theory;

9.20 (6) Asian bodywork history, theory, and research;

9.21 (7) professional ethics;

9.22 (8) therapeutic interpersonal communications and standards of practice;

9.23 (9) business and legal practices related to Asian bodywork therapy; and

9.24 (10) supervised practice demonstrating safe use of equipment and supplies.

9.25 (b) An applicant for licensure as an Asian bodywork therapist under subdivision 1 whose
 9.26 application is received by the board on or after January 1, 2027, must submit to the board
 9.27 proof of satisfactorily completing a postsecondary program that meets the requirements in
 9.28 subdivision 1, paragraph (a), clause (2), and either:

9.29 (1) has programmatic accreditation for Asian bodywork therapy training programs from
 9.30 an agency recognized by the United States Department of Education; or

10.1 (2) includes at least 625 contact hours of education and training composed of 500 contact
10.2 hours of synchronous or asynchronous classroom instruction in the areas listed in paragraph
10.3 (a) and 125 contact hours of supervised student clinical practice.

10.4 (c) An Asian bodywork therapy school or program may require more than 625 total
10.5 contact hours of education and training, and may require more than 125 hours of supervised
10.6 clinical practice, if at least 500 contact hours are devoted to synchronous or asynchronous
10.7 classroom instruction in the subjects listed in paragraph (a).

10.8 (d) No student shall begin a supervised clinical practice of Asian bodywork therapy
10.9 without providing proof to the Asian bodywork therapy school or program of professional
10.10 liability insurance coverage of up to \$2,000,000 per occurrence and \$6,000,000 annual
10.11 aggregate. The professional liability insurance coverage required under this paragraph may
10.12 be offered to the student by the school or program.

10.13 Subd. 4. **Licensure by endorsement.** (a) To be eligible for licensure by endorsement,
10.14 an applicant must:

10.15 (1) meet the requirements for licensure in subdivision 1 with the exception of subdivision
10.16 1, paragraph (a), clauses (2) and (3);

10.17 (2) provide proof as required by the board that the massage therapy training program or
10.18 Asian bodywork therapy training program at the time of the applicant's enrollment met the
10.19 postsecondary education requirements in the jurisdiction in which the program was provided;
10.20 and

10.21 (3) provide proof as required by the board of a current and unrestricted equivalent
10.22 credential in another jurisdiction that has qualifications at least equivalent to the requirements
10.23 of sections 148.635 to 148.6363.

10.24 (b) Licenses issued by endorsement expire on the same schedule and are required to be
10.25 renewed by the procedures described under section 148.6357, subdivision 2.

10.26 Subd. 5. **Licensure by prior experience.** (a) To be eligible for licensure by prior
10.27 experience, an applicant must submit to the board:

10.28 (1) the requirements for licensure in subdivision 1, with the exception of subdivision 1,
10.29 paragraph (a), clauses (2) and (3); and

10.30 (2) proof of experience, as required by the board, in the practice of massage therapy or
10.31 Asian bodywork therapy for at least two of the previous five years immediately preceding
10.32 the licensure application date.

11.1 (b) Licenses issued under this subdivision expire on the same schedule and are required
11.2 to be renewed by the procedures described under section 148.6357, subdivision 2, unless
11.3 the license is canceled due to nonrenewal under section 148.6357, subdivision 8, in which
11.4 case the individual must apply for a new license under the initial licensure requirements in
11.5 subdivision 1.

11.6 (c) The application for licensure by prior experience under this subdivision must be
11.7 received by the board before January 1, 2024.

11.8 Subd. 6. **Temporary permit.** (a) The board may issue a temporary permit to practice
11.9 massage therapy or Asian bodywork therapy to an applicant eligible for licensure under this
11.10 section if the application for licensure is complete, all applicable requirements have been
11.11 met, and applicable fees have been paid. The temporary permit remains valid until the board
11.12 takes action on the applicant's application, or 90 days from the temporary permit's issuance,
11.13 whichever is sooner.

11.14 (b) A temporary permit holder is considered a licensee for purposes of sections 148.6359
11.15 and 148.636.

11.16 (c) Practicing without a temporary permit is a violation of section 148.6359.

11.17 Sec. 8. **[148.6357] LICENSE RENEWAL.**

11.18 Subdivision 1. **Licensure expiration.** Licenses issued according to sections 148.635 to
11.19 148.6363 expire biennially.

11.20 Subd. 2. **Renewal.** To be eligible for licensure renewal, an applicant must biennially,
11.21 or as determined by the board, submit to the board:

11.22 (1) a completed renewal application on a form provided by the board;

11.23 (2) any applicable fees as specified in section 148.6363;

11.24 (3) proof of current professional liability coverage with at least \$2,000,000 of coverage
11.25 per occurrence and \$6,000,000 annual aggregate; and

11.26 (4) any additional information requested by the board to clarify information presented
11.27 in the renewal application. The information must be submitted within 30 days after the
11.28 board's request or the renewal request is canceled.

11.29 Subd. 3. **Change of address.** A licensee or applicant who changes addresses must inform
11.30 the board in writing within 30 days of the change of address. Notices or other correspondence
11.31 mailed to or served on a licensee or applicant at the licensee or applicant's current address
11.32 on file must be considered as received by the licensee or applicant.

12.1 Subd. 4. **Licensure renewal notice.** (a) At least 60 days before the licensure expiration
12.2 date, the board shall send out a renewal notice to the last known address of the licensee.

12.3 The notice must include:

12.4 (1) a renewal application;

12.5 (2) a notice of fees required for renewal; and

12.6 (3) information stating that licensure will expire without further action by the board if
12.7 an application for licensure renewal is not received before the deadline for renewal.

12.8 (b) The licensee's failure to receive the renewal notice shall not relieve the licensee of
12.9 the obligation to meet the deadline and other requirements for licensure renewal. Failure to
12.10 receive the notice is not grounds for challenging expiration of licensed status.

12.11 Subd. 5. **Renewal deadline.** The renewal application and fee must be received by the
12.12 board or must be postmarked before the license's expiration date. If the postmark is illegible,
12.13 the application must be considered timely if received by the third working day after the
12.14 deadline.

12.15 Subd. 6. **Inactive status and return to active status.** (a) A license may be placed in
12.16 inactive status upon application to the board by the licensee and upon payment of an inactive
12.17 status fee as specified in section 148.6363. Failure to pay the annual inactive status fee shall
12.18 result in a lapse of licensure.

12.19 (b) A licensee seeking licensure restoration to active status from inactive status must:

12.20 (1) apply to the board for licensure renewal according to subdivision 2; and

12.21 (2) submit the applicable reactivation fee as specified in section 148.6363.

12.22 (c) If the license has been in inactive status for more than five years, the applicant must
12.23 also receive a passing score on a credentialing examination before the restoration of the
12.24 license to active status.

12.25 Subd. 7. **Licensure following lapse for two years or less.** To regain active licensure
12.26 status for a license that has lapsed for two years or less, the applicant must:

12.27 (1) apply to the board for licensure renewal according to subdivision 2; and

12.28 (2) submit all applicable renewal fees for the period not licensed, including the fee for
12.29 late renewal.

12.30 Subd. 8. **Cancellation due to nonrenewal.** The board shall not renew, reissue, reinstate,
12.31 or restore a license that has lapsed and has not been renewed within two years. An individual

13.1 whose license is canceled for nonrenewal must obtain a new license by applying for licensure
13.2 and fulfilling all requirements under section 148.6356, subdivision 1, for initial licensure
13.3 as a massage therapist or Asian bodywork therapist.

13.4 **Sec. 9. [148.6358] BOARD ACTION ON APPLICATIONS.**

13.5 Subdivision 1. **General.** (a) The board must act on each application for licensure or
13.6 renewal according to this section.

13.7 (b) The board shall determine if the applicant meets the requirements for licensure or
13.8 renewal under section 148.6356 or 148.6357. The board may investigate information provided
13.9 by an applicant to determine whether the information is accurate and complete and may
13.10 request additional information or documentation.

13.11 (c) The board shall notify each applicant in writing of action taken on the application,
13.12 the grounds for denying licensure if licensure is denied, and the applicant's right to review
13.13 under paragraph (d).

13.14 (d) An applicant denied licensure may make a written request to the board within 30
13.15 days of the board's notice to appear before the advisory council and for the advisory council
13.16 to review the board's decision to deny licensure. After reviewing the denial, the advisory
13.17 council shall make a recommendation to the board as to whether the denial must be affirmed.
13.18 Each applicant is allowed only one request for review per licensure period.

13.19 Subd. 2. **Licensure prohibited.** (a) Except as provided in paragraph (b), the board shall
13.20 deny an application for licensure if an applicant:

13.21 (1) has been convicted in this state of any of the following crimes or of equivalent crimes
13.22 in another state:

13.23 (i) labor or sex trafficking under section 609.281, 609.282, 609.283, or 609.322;

13.24 (ii) criminal sexual conduct under sections 609.342 to 609.3451 or 609.3453; or

13.25 (iii) a violent crime as defined under section 611A.08, subdivision 6;

13.26 (2) is a registered sex offender under section 243.166;

13.27 (3) has been subject to disciplinary action under section 146A.09, if the board determines
13.28 that such denial is necessary to protect the public; or

13.29 (4) is charged with or under investigation for a complaint in this state or any other
13.30 jurisdiction that would constitute a violation of statutes or rules established for the practice

14.1 of massage therapy or Asian bodywork therapy in this state and the charge or complaint
 14.2 has not been resolved in favor of the applicant.

14.3 (b) The board may establish criteria whereby an individual convicted of an offense listed
 14.4 in paragraph (a) may become licensed if the criteria:

14.5 (1) utilize a rebuttable presumption that the applicant is not suitable for licensing or
 14.6 credentialing;

14.7 (2) provide a standard for overcoming the presumption; and

14.8 (3) require that a minimum of ten years has elapsed since the applicant was released
 14.9 from incarceration or supervisory jurisdiction related to the offense.

14.10 (c) The board shall not consider an application under paragraph (b) if the board determines
 14.11 that the victim involved in the offense was a client of the applicant at the time of the offense.

14.12 **Sec. 10. [148.6359] GROUNDS FOR DISCIPLINARY ACTION.**

14.13 Subdivision 1. **Grounds listed.** (a) The board may deny, revoke, suspend, limit, or
 14.14 condition the licensure of a licensed massage therapist or licensed Asian bodywork therapist
 14.15 or may otherwise discipline a licensee. The fact that massage therapy or Asian bodywork
 14.16 therapy may be considered a less customary approach to health care shall not by itself
 14.17 constitute the basis for disciplinary action.

14.18 (b) The following are grounds for disciplinary action regardless of whether injury to a
 14.19 client is established:

14.20 (1) failing to demonstrate the qualifications or to satisfy the requirements for licensure
 14.21 under sections 148.635 to 148.6363 or rules of the board. In the case of an applicant, the
 14.22 burden of proof is on the applicant to demonstrate the qualifications or satisfy the
 14.23 requirements;

14.24 (2) advertising in a false, fraudulent, deceptive, or misleading manner, including but not
 14.25 limited to:

14.26 (i) advertising or holding oneself out as a "massage therapist," "MT," "Asian bodywork
 14.27 therapist," "ABT," or any abbreviation or derivative thereof to indicate such a title, when
 14.28 such licensure is not valid or current for any reason;

14.29 (ii) advertising or holding oneself out as a "licensed massage therapist," "licensed Asian
 14.30 bodywork therapist," or any abbreviation or derivative thereof to indicate such a title, except
 14.31 if the individual holds a license in another state or jurisdiction and does not provide services
 14.32 in Minnesota;

- 15.1 (iii) advertising a service, the provision of which would constitute a violation of this
15.2 chapter or rules established by the board; and
- 15.3 (iv) using fraud, deceit, or misrepresentation when communicating with the general
15.4 public, health care providers, or other business professionals;
- 15.5 (3) falsifying information in a massage therapy or Asian bodywork therapy licensure or
15.6 renewal application or attempting to obtain licensure, renewal, or reinstatement by fraud,
15.7 deception, or misrepresentation, or aiding and abetting any of these acts;
- 15.8 (4) engaging in conduct with a client that is sexual or may reasonably be interpreted by
15.9 the client as sexual, or engaging in any verbal behavior that is seductive or sexually
15.10 demeaning to a client, or engaging in sexual exploitation of a client, without regard to who
15.11 initiates such behaviors;
- 15.12 (5) committing an act of gross malpractice, negligence, or incompetency, or failing to
15.13 practice massage therapy or Asian bodywork therapy with the level of care, skill, and
15.14 treatment that is recognized by a reasonably prudent massage therapist or Asian bodywork
15.15 therapist as being acceptable under similar conditions and circumstances;
- 15.16 (6) having an actual or potential inability to practice massage therapy or Asian bodywork
15.17 therapy with reasonable skill and safety to clients by reason of illness, as a result of any
15.18 mental or physical condition, or use of alcohol, drugs, chemicals, or any other material.
15.19 Being adjudicated as mentally incompetent, mentally ill, a chemically dependent person,
15.20 or a person dangerous to the public by a court of competent jurisdiction, inside or outside
15.21 of this state, may be considered evidence of an inability to practice massage therapy or
15.22 Asian bodywork therapy;
- 15.23 (7) being the subject of disciplinary action as a massage therapist or Asian bodywork
15.24 therapist in another state or jurisdiction if the board or advisory council determines that the
15.25 cause of the disciplinary action would be a violation under this state's statutes or rules of
15.26 the board had the violation occurred in this state;
- 15.27 (8) failing to notify the board of revocation or suspension of a credential, or any other
15.28 disciplinary action taken by this or any other state, territory, or country, including any
15.29 restrictions on the right to practice; or the surrender or voluntary termination of a credential
15.30 during a board investigation of a complaint, as part of a disciplinary order, or while under
15.31 a disciplinary order;
- 15.32 (9) conviction of a crime, including a finding or verdict of guilt, an admission of guilt,
15.33 or a no-contest plea, in any court in Minnesota or any other jurisdiction in the United States,

- 16.1 reasonably related to engaging in massage therapy practices or Asian bodywork therapy
16.2 practices. Conviction, as used in this clause, includes a conviction for an offense that, if
16.3 committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor
16.4 regardless of its designation elsewhere, or a criminal proceeding where a finding or verdict
16.5 of guilty is made or returned but the adjudication of guilt is either withheld or not entered;
16.6 (10) if a licensee is on probation, failing to abide by terms of probation;
16.7 (11) practicing or offering to practice beyond the scope of the practice of massage therapy
16.8 or Asian bodywork therapy;
16.9 (12) managing client records and information improperly, including but not limited to
16.10 failing to maintain adequate client records, comply with a client's request made according
16.11 to sections 144.291 to 144.298, or furnish a client record or report required by law;
16.12 (13) revealing a privileged communication from or relating to a client except when
16.13 otherwise required or permitted by law;
16.14 (14) providing massage therapy services or Asian bodywork therapy services that are
16.15 linked to the financial gain of a referral source;
16.16 (15) obtaining money, property, or services from a client, other than reasonable fees for
16.17 services provided to the client, through the use of undue influence, harassment, duress,
16.18 deception, or fraud;
16.19 (16) engaging in abusive or fraudulent billing practices, including violations of federal
16.20 Medicare and Medicaid laws or state medical assistance laws;
16.21 (17) failing to consult with a client's health care provider who prescribed a course of
16.22 massage therapy treatment or Asian bodywork therapy treatment if the treatment needs to
16.23 be altered from the original written order to conform with standards in the massage therapy
16.24 or Asian bodywork therapy field or the licensee's level of training or experience;
16.25 (18) failing to cooperate with an investigation of the board or its representatives, including
16.26 failing to: respond fully and promptly to any question raised by or on behalf of the board
16.27 relating to the subject of the investigation; execute all releases requested by the board;
16.28 provide copies of client records as reasonably requested by the board to assist in its
16.29 investigation; and appear at conferences or hearings scheduled by the board or its staff;
16.30 (19) interfering with an investigation or disciplinary proceeding, including by willful
16.31 misrepresentation of facts or by the use of threats or harassment to prevent a person from
16.32 providing evidence in a disciplinary proceeding or any legal action;

17.1 (20) violating a statute, rule, order, or agreement for corrective action that the board
17.2 issued or is otherwise authorized or empowered to enforce;

17.3 (21) aiding or abetting a person in violating sections 148.635 to 148.6363;

17.4 (22) failing to report to the board other massage therapists or Asian bodywork therapists
17.5 who commit violations of sections 148.635 to 148.6363; and

17.6 (23) failing to notify the board in writing of the entry of a final judgment by a court of
17.7 competent jurisdiction against the licensee for malpractice of massage therapy or Asian
17.8 bodywork therapy, or any settlement by the licensee in response to charges or allegations
17.9 of malpractice of massage therapy or Asian bodywork therapy. The notice must be provided
17.10 to the board within 60 days after the entry of a judgment or date of settlement, and must
17.11 contain the name of the court, case number, and the names of all parties to the action.

17.12 Subd. 2. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, a copy
17.13 of the judgment or proceeding under the seal of the court administrator or of the
17.14 administrative agency must be admissible into evidence without further authentication and
17.15 must constitute prima facie evidence of the violation.

17.16 Subd. 3. **Examination; access to medical data.** The board may take the actions described
17.17 in section 148.261, subdivision 5, if the board has probable cause to believe that grounds
17.18 for disciplinary action exist under subdivision 1, paragraph (b), clause (6). The requirements
17.19 and limitations described in section 148.261, subdivision 5, must apply.

17.20 **Sec. 11. [148.636] DISCIPLINE; REPORTING.**

17.21 For purposes of sections 148.635 to 148.6363, massage therapists or Asian bodywork
17.22 therapists and applicants for licensure are subject to sections 148.262 to 148.266.

17.23 **Sec. 12. [148.6361] EFFECT ON MUNICIPAL ORDINANCES.**

17.24 Subdivision 1. **License authority.** The provisions of sections 148.635 to 148.6363
17.25 preempt the licensure and regulation of massage therapists or Asian bodywork therapists
17.26 by a municipality, including, without limitation, conducting a criminal background
17.27 investigation and examination of a massage therapist or Asian bodywork therapist, or
17.28 applicant for a municipality's credential to practice massage therapy or Asian bodywork
17.29 therapy.

17.30 Subd. 2. **Municipal regulation.** Sections 148.635 to 148.6363 must not be construed
17.31 to limit a municipality from:

- 18.1 (1) requiring a massage therapy or Asian bodywork therapy establishment to obtain a
18.2 business license or permit to conduct business in the municipality; or
18.3 (2) regulating other professions or occupations.

18.4 **Sec. 13. [148.6362] MASSAGE THERAPY ADVISORY COUNCIL.**

18.5 Subdivision 1. **Creation; membership.** (a) The Massage Therapy Advisory Council is
18.6 created and is composed of five members appointed by the board. All members must have
18.7 resided in this state for at least three years immediately preceding appointment. The advisory
18.8 council consists of:

18.9 (1) two public members, as defined in section 214.02; and

18.10 (2) three members who are licensed under sections 148.635 to 148.6363, two of whom
18.11 must be licensed as massage therapists.

18.12 (b) No more than one member of the advisory council may be an owner or administrator
18.13 of a massage therapy education provider.

18.14 Subd. 2. **Administration.** The advisory council is established and administered under
18.15 section 15.059.

18.16 Subd. 3. **Chair.** The advisory council shall elect a chair from among its members.

18.17 Subd. 4. **Staffing.** The board shall provide meeting space and administrative support
18.18 for the advisory council.

18.19 Subd. 5. **Duties.** The advisory council shall:

18.20 (1) advise the board on establishing standards of practice and a code of ethics for licensed
18.21 massage therapists or Asian bodywork therapists;

18.22 (2) advise the board on distributing information regarding massage therapy or Asian
18.23 bodywork therapy practice standards;

18.24 (3) review applications and make recommendations for granting or denying applications
18.25 for licensure or licensure renewal;

18.26 (4) advise the board on issues related to receiving and investigating complaints,
18.27 conducting hearings, and imposing disciplinary action in relation to complaints filed against
18.28 licensed massage therapists or Asian bodywork therapists; and

18.29 (5) perform other duties authorized for advisory councils under chapter 214, as directed
18.30 by the board.

19.1 Subd. 6. **Expiration.** Notwithstanding section 15.059, the advisory council does not
19.2 expire.

19.3 Sec. 14. **[148.6363] FEES.**

19.4 Subdivision 1. **Fees.** Fees are as follows:

19.5 (1) initial licensure with application fee must not exceed \$285;

19.6 (2) biennial licensure renewal fee must not exceed \$185;

19.7 (3) duplicate licensure certificate, \$15;

19.8 (4) late fee, \$50;

19.9 (5) annual inactive status, \$50;

19.10 (6) inactive to active status reactivation, \$50;

19.11 (7) temporary permit, \$50; and

19.12 (8) returned check, \$35.

19.13 Subd. 2. **Late renewal fee.** An application for licensure renewal submitted after the
19.14 deadline must be accompanied by a late fee in addition to the required fees.

19.15 Subd. 3. **Nonrefundable fees.** All of the fees in this section are nonrefundable.

19.16 Subd. 4. **Deposit.** Fees collected by the board under this section must be deposited into
19.17 the state government special revenue fund.

19.18 Sec. 15. **INITIAL MASSAGE THERAPY ADVISORY COUNCIL.**

19.19 Subdivision 1. **Initial member appointments.** The Board of Nursing shall make the
19.20 initial appointments to the Massage Therapy Advisory Council authorized under Minnesota
19.21 Statutes, section 148.6362, by October 1, 2021. The initial therapist members appointed to
19.22 the advisory council need not be licensed under Minnesota Statutes, sections 148.635 to
19.23 148.636, prior to initial appointment, but must be a practicing massage therapist or Asian
19.24 bodywork therapist with at least five years experience in the practice of massage therapy
19.25 or Asian bodywork therapy. A massage therapist or Asian bodywork therapist initially
19.26 appointed to the advisory council must obtain licensure under Minnesota Statutes, sections
19.27 148.635 to 148.6363, by January 1, 2023. If the massage therapist member does not obtain
19.28 licensure by January 1, 2023, the member shall be removed from the advisory council by
19.29 the board and a new member who is licensed under Minnesota Statutes, sections 148.635
19.30 to 148.6363, shall be appointed by the board.

20.1 Subd. 2. **First advisory council meeting; initial chair.** The Board of Nursing shall
 20.2 designate one member from the initial appointments to call the first meeting of the advisory
 20.3 council. The first meeting must be convened by November 15, 2021. The advisory council
 20.4 shall elect a chair from its members at the first advisory council meeting.

20.5 Sec. 16. **APPROPRIATION.**

20.6 \$..... in fiscal year 2022 is appropriated from the state government special revenue fund
 20.7 to the Board of Nursing to implement Minnesota Statutes, sections 148.635 to 148.6363.
 20.8 The base for this appropriation is \$.....

20.9 Sec. 17. **EFFECTIVE DATE.**

20.10 Sections 1 to 16 are effective July 1, 2021.

20.11 **ARTICLE 2**

20.12 **CONFORMING AMENDMENTS**

20.13 Section 1. Minnesota Statutes 2020, section 146A.01, subdivision 4, is amended to read:

20.14 Subd. 4. **Complementary and alternative health care practices.** (a) "Complementary
 20.15 and alternative health care practices" means the broad domain of complementary and
 20.16 alternative healing methods and treatments, including but not limited to: (1) acupuncture;
 20.17 (2) anthroposophy; (3) aroma therapy; (4) ayurveda; (5) cranial sacral therapy; (6) culturally
 20.18 traditional healing practices; (7) detoxification practices and therapies; (8) energetic healing;
 20.19 (9) polarity therapy; (10) folk practices; (11) healing practices utilizing food, food
 20.20 supplements, nutrients, and the physical forces of heat, cold, water, touch, and light; (12)
 20.21 Gerson therapy and colostrum therapy; (13) healing touch; (14) herbology or herbalism;
 20.22 (15) homeopathy; (16) nondiagnostic iridology; (17) body work, ~~massage, and massage~~
 20.23 ~~therapy~~ somatic movement therapy and movement education, structural integration practices,
 20.24 and reflexology practices; (18) meditation; (19) mind-body healing practices; (20)
 20.25 naturopathy; (21) noninvasive instrumentalities; and (22) traditional Oriental practices, such
 20.26 as Qi Gong energy healing.

20.27 (b) Complementary and alternative health care practices do not include surgery, x-ray
 20.28 radiation, administering or dispensing legend drugs and controlled substances, practices
 20.29 that invade the human body by puncture of the skin, setting fractures, the use of medical
 20.30 devices as defined in section 147A.01, any practice included in the practice of dentistry as
 20.31 defined in section 150A.05, subdivision 1, or the manipulation or adjustment of articulations
 20.32 of joints or the spine as described in section 146.23 or 148.01.

21.1 (c) Complementary and alternative health care practices do not include practices that
21.2 are permitted under section 147.09, clause (11), or 148.271, clause (5).

21.3 (d) This chapter does not apply to, control, prevent, or restrict the practice, service, or
21.4 activity of lawfully marketing or distributing food products, including dietary supplements
21.5 as defined in the federal Dietary Supplement Health and Education Act, educating customers
21.6 about such products, or explaining the uses of such products. Under Minnesota law, an
21.7 unlicensed complementary and alternative health care practitioner may not provide a medical
21.8 diagnosis or recommend discontinuance of medically prescribed treatments.

21.9 **EFFECTIVE DATE.** This section is effective January 1, 2022.

21.10 Sec. 2. Minnesota Statutes 2020, section 146A.06, subdivision 3, is amended to read:

21.11 Subd. 3. **Exchanging information.** (a) The office shall establish internal operating
21.12 procedures for:

21.13 (1) exchanging information with state boards; agencies, including the Office of
21.14 Ombudsman for Mental Health and Developmental Disabilities; health-related and law
21.15 enforcement facilities; departments responsible for licensing health-related occupations,
21.16 facilities, and programs; and law enforcement personnel in this and other states; and

21.17 (2) coordinating investigations involving matters within the jurisdiction of more than
21.18 one regulatory agency.

21.19 (b) The procedures for exchanging information must provide for the forwarding to the
21.20 entities described in paragraph (a), clause (1), of information and evidence, including the
21.21 results of investigations, that are relevant to matters within the regulatory jurisdiction of
21.22 the organizations in paragraph (a). The data have the same classification in the hands of the
21.23 agency receiving the data as they have in the hands of the agency providing the data.

21.24 (c) The office shall establish procedures for exchanging information with other states
21.25 regarding disciplinary action against unlicensed complementary and alternative health care
21.26 practitioners.

21.27 (d) The office shall forward to another governmental agency any complaints received
21.28 by the office that do not relate to the office's jurisdiction but that relate to matters within
21.29 the jurisdiction of the other governmental agency. The agency to which a complaint is
21.30 forwarded shall advise the office of the disposition of the complaint. A complaint or other
21.31 information received by another governmental agency relating to a statute or rule that the
21.32 office is empowered to enforce must be forwarded to the office to be processed in accordance
21.33 with this section.

22.1 (e) The office shall furnish to a person who made a complaint a description of the actions
22.2 of the office relating to the complaint.

22.3 (f) The office shall report to the Board of Nursing all final disciplinary actions against
22.4 individuals practicing massage therapy or Asian bodywork therapy as unlicensed
22.5 complementary and alternative health care practitioners. Upon request by the Board of
22.6 Nursing, the office may share all complaint, investigatory, and disciplinary data regarding
22.7 a named individual who has practiced or is practicing massage therapy or Asian bodywork
22.8 therapy as an unlicensed complementary and alternative health care practitioner.

22.9 **EFFECTIVE DATE.** This section is effective January 1, 2022.

22.10 Sec. 3. Minnesota Statutes 2020, section 146A.09, is amended by adding a subdivision to
22.11 read:

22.12 Subd. 8. **Licensed massage therapists.** Persons whose licensure as a massage therapist
22.13 or Asian bodywork therapist under sections 148.635 to 148.6363 has been suspended or
22.14 revoked by the Board of Nursing must not practice as unlicensed complementary and
22.15 alternative health care practitioners under this chapter during a period of suspension or
22.16 revocation.

22.17 **EFFECTIVE DATE.** This section is effective January 1, 2022.