

By: A. Johnson of Harris

H.B. No. 3616

Substitute the following for H.B. No. 3616:

By: Thompson of Harris

C.S.H.B. No. 3616

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of massage therapy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 455.152, Occupations Code, is amended to read as follows:

Sec. 455.152. INELIGIBILITY FOR LICENSE. A person is not eligible for a license as a massage establishment, massage school, massage therapist, or massage therapy instructor if the person is an individual and has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for:

(1) an offense under Chapter 20A, Penal Code, or Section 43.03, 43.031, 43.04, 43.041, or 43.05 [~~Subchapter A, Chapter 43~~], Penal Code; ~~[7]~~ or

(2) an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense described by Subdivision (1) [~~another sexual offense~~].

SECTION 2. Section 455.251, Occupations Code, is amended to read as follows:

Sec. 455.251. GROUND FOR LICENSE DENIAL, [OR] DISCIPLINARY ACTION, OR ADMINISTRATIVE PENALTY. (a) The commission or executive director may refuse to issue a license to a person, ~~[and shall]~~ suspend, revoke, or refuse to renew the license of a person, or impose an administrative penalty under Subchapter F, Chapter 51,

1 on [~~shall reprimand~~] a person licensed under this chapter if the
2 person:

3 (1) obtains or attempts to obtain a license by fraud,
4 misrepresentation, or concealment of material facts;

5 (2) sells, barter, or offers to sell or barter a
6 license;

7 (3) violates a rule adopted by the commission under
8 this chapter;

9 (4) engages in unprofessional conduct as defined by
10 commission rule that endangers or is likely to endanger the health,
11 welfare, or safety of the public;

12 (5) violates an order or ordinance adopted by a
13 political subdivision under Chapter 243, Local Government Code; or

14 (6) violates this chapter.

15 (b) The commission or executive director shall revoke the
16 license of a person licensed as a massage therapist or massage
17 therapy instructor if:

18 (1) the person is convicted of, enters a plea of nolo
19 contendere or guilty to, or receives deferred adjudication for:

20 (A) an offense under Chapter 20A, Penal Code, or
21 Section 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code
22 ~~[involving prostitution or another sexual offense]~~; or

23 (B) an offense under federal law or the laws of
24 another state containing elements that are substantially similar to
25 the elements of an offense described by Paragraph (A); or

26 (2) the commission or executive director determines
27 the person has practiced or administered massage therapy at or for a

1 sexually oriented business.

2 (c) The commission or executive director:

3 (1) shall revoke the license of a person licensed as a
4 massage school or massage establishment if the commission or
5 executive director determines that~~+~~

6 ~~[(1)]~~ the school or establishment is a sexually
7 oriented business; and ~~[or]~~

8 (2) may revoke the license of a person licensed as a
9 massage school or massage establishment if the commission or
10 executive director determines that any of the following offenses
11 occurred on the premises of the school or establishment and ~~[an~~
12 ~~offense involving prostitution or another sexual offense that]~~
13 resulted in a conviction for the offense, a plea of nolo contendere
14 or guilty to the offense, or a grant of deferred adjudication for
15 the offense:

16 (A) an offense under Chapter 20A, Penal Code;

17 (B) an offense under Subchapter A, Chapter 43,
18 Penal Code;

19 (C) an offense under federal law containing
20 elements that are substantially similar to the elements of an
21 offense described by Paragraph (A) or (B); or

22 (D) another sexual offense under the laws of this
23 state ~~[occurred on the premises of the school or establishment].~~

24 SECTION 3. As soon as practicable after the effective date
25 of this Act, the Texas Commission of Licensing and Regulation shall
26 adopt rules necessary to implement Sections 455.152 and 455.251,
27 Occupations Code, as amended by this Act.

1 SECTION 4. This Act takes effect September 1, 2021.