

1-1 By: A. Johnson of Harris (Senate Sponsor - Johnson) H.B. No. 3616  
1-2 (In the Senate - Received from the House April 19, 2021;  
1-3 May 4, 2021, read first time and referred to Committee on Business  
1-4 & Commerce; May 20, 2021, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 20, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the regulation of massage therapy.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 455.152, Occupations Code, is amended to  
1-22 read as follows:

1-23 Sec. 455.152. INELIGIBILITY FOR LICENSE. A person is not  
1-24 eligible for a license as a massage establishment, massage school,  
1-25 massage therapist, or massage therapy instructor if the person is  
1-26 an individual and has been convicted of, entered a plea of nolo  
1-27 contendere or guilty to, or received deferred adjudication for:

1-28 (1) an offense under Chapter 20A, Penal Code, or  
1-29 Section 43.03, 43.031, 43.04, 43.041, or 43.05 [~~Subchapter A,~~  
1-30 ~~Chapter 43~~], Penal Code; ~~[7]~~ or

1-31 (2) an offense under federal law or the laws of another  
1-32 state containing elements that are substantially similar to the  
1-33 elements of an offense described by Subdivision (1) [~~another sexual~~  
1-34 ~~offense~~].

1-35 SECTION 2. Section 455.251, Occupations Code, is amended to  
1-36 read as follows:

1-37 Sec. 455.251. GROUNDS FOR LICENSE DENIAL, ~~[OR]~~ DISCIPLINARY  
1-38 ACTION, OR ADMINISTRATIVE PENALTY. (a) The commission or  
1-39 executive director may refuse to issue a license to a person, ~~[and~~  
1-40 ~~shall]~~ suspend, revoke, or refuse to renew the license of a person,  
1-41 or impose an administrative penalty under Subchapter F, Chapter 51,  
1-42 on ~~[shall reprimand]~~ a person licensed under this chapter if the  
1-43 person:

1-44 (1) obtains or attempts to obtain a license by fraud,  
1-45 misrepresentation, or concealment of material facts;

1-46 (2) sells, barter, or offers to sell or barter a  
1-47 license;

1-48 (3) violates a rule adopted by the commission under  
1-49 this chapter;

1-50 (4) engages in unprofessional conduct as defined by  
1-51 commission rule that endangers or is likely to endanger the health,  
1-52 welfare, or safety of the public;

1-53 (5) violates an order or ordinance adopted by a  
1-54 political subdivision under Chapter 243, Local Government Code; or

1-55 (6) violates this chapter.

1-56 (b) The commission or executive director shall revoke the  
1-57 license of a person licensed as a massage therapist or massage  
1-58 therapy instructor if:

1-59 (1) the person is convicted of, enters a plea of nolo  
1-60 contendere or guilty to, or receives deferred adjudication for:

1-61 (A) an offense under Chapter 20A, Penal Code, or

2-1 Section 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code  
2-2 ~~[involving prostitution or another sexual offense]~~; or  
2-3 (B) an offense under federal law or the laws of  
2-4 another state containing elements that are substantially similar to  
2-5 the elements of an offense described by Paragraph (A); or  
2-6 (2) the commission or executive director determines  
2-7 the person has practiced or administered massage therapy at or for a  
2-8 sexually oriented business.  
2-9 (c) The commission or executive director:  
2-10 (1) shall revoke the license of a person licensed as a  
2-11 massage school or massage establishment if the commission or  
2-12 executive director determines that~~+~~  
2-13 ~~[(1)]~~ the school or establishment is a sexually  
2-14 oriented business; and ~~[or]~~  
2-15 (2) may revoke the license of a person licensed as a  
2-16 massage school or massage establishment if the commission or  
2-17 executive director determines that any of the following offenses  
2-18 occurred on the premises of the school or establishment and ~~[an~~  
2-19 ~~offense involving prostitution or another sexual offense that]~~  
2-20 resulted in a conviction for the offense, a plea of nolo contendere  
2-21 or guilty to the offense, or a grant of deferred adjudication for  
2-22 the offense:  
2-23 (A) an offense under Chapter 20A, Penal Code;  
2-24 (B) an offense under Subchapter A, Chapter 43,  
2-25 Penal Code;  
2-26 (C) an offense under federal law containing  
2-27 elements that are substantially similar to the elements of an  
2-28 offense described by Paragraph (A) or (B); or  
2-29 (D) another sexual offense under the laws of this  
2-30 state ~~[occurred on the premises of the school or establishment].~~  
2-31 SECTION 3. As soon as practicable after the effective date  
2-32 of this Act, the Texas Commission of Licensing and Regulation shall  
2-33 adopt rules necessary to implement Sections 455.152 and 455.251,  
2-34 Occupations Code, as amended by this Act.  
2-35 SECTION 4. This Act takes effect September 1, 2021.

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