By:  Johnson S.B. No. 483

(In the Senate - Filed January 18, 2023; February 17, 2023, read first time and referred to Committee on Business & Commerce; March 31, 2023, reported favorably by the following vote: Yeas 11, Nays 0; March 31, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Schwertner           X

King                 X

Birdwell             X

Campbell             X

Creighton            X

Johnson              X

Kolkhorst            X

Menéndez             X

Middleton            X

Nichols              X

Zaffirini            X

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 51.355, Occupations Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1)  Subsection (a) does not apply to a person whose license was revoked under Section 455.251(b)(1).

(a-2)  This subsection and Subsection (a-1) expire September 1, 2025.

SECTION 2.  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; [~~,~~] 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 3.  The heading to Section 455.251, Occupations Code, is amended to read as follows:

Sec. 455.251.  GROUNDS FOR LICENSE DENIAL, [~~OR~~] DISCIPLINARY ACTION, OR ADMINISTRATIVE PENALTY.

SECTION 4.  Sections 455.251(a) and (b), Occupations Code, are amended to read as follows:

(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, on [~~shall reprimand~~] a person licensed under this chapter if the person:

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

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

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

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

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

(6)  violates this chapter.

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

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

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

(B)  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 Paragraph (A); or

(2)  the commission or executive director determines the person has practiced or administered massage therapy at or for a sexually oriented business.

SECTION 5.  As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement Sections 455.152 and 455.251, Occupations Code, as amended by this Act.

SECTION 6.  Section 51.355(a-1), Occupations Code, as added by this Act, applies only with respect to a license revoked under Section 455.251(b)(1), Occupations Code, as that section existed immediately before the effective date of this Act.

SECTION 7.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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