

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

345W0327

## HOUSE HEALTH AND HUMAN SERVICES ENGROSSED NO. **HB 1102** - 02/03/2015

Introduced by: Representative Sly and Senator Soholt

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the regulation of  
2 licensing massage therapists.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-35-12 be amended to read as follows:

5 36-35-12. The board shall issue a license to engage in the practice of massage to any person  
6 who submits an application form and the nonrefundable application fee as approved in § 36-35-  
7 17 and who demonstrates the following qualifications:

8 (1) Eighteen years of age or older;

9 (2) ~~High school diploma or equivalent;~~

10 ~~—(3)—~~Completion of no less than five hundred hours of training or study in the practice of  
11 massage with a facility or instructor recognized by the board;

12 ~~(4)~~(3) Absence of unprofessional conduct;

13 ~~(5)~~(4) Professional liability insurance coverage pursuant to § 36-35-21; and

14 ~~(6)~~(5) Passing score on a nationally recognized competency examination approved by the  
15 board in rules promulgated pursuant to chapter 1-26.



1 The board may refuse to grant a license to any person based on failure to demonstrate the  
2 requirements of this section. The board may grant a license, subdivision 36-35-13(1)  
3 notwithstanding, if the applicant has been convicted of, or pled guilty to a felony, any crime  
4 involving or relating to the practice of massage, or any crime involving dishonesty or moral  
5 turpitude and the board determines that the plea or conviction is of a nature or is sufficiently  
6 remote in time that the applicant does not constitute a risk to public safety. An applicant may  
7 appeal the denial of a license in compliance with chapter 1-26.

8 Section 2. That § 36-35-12.1 be amended to read as follows:

9 36-35-12.1. Upon application and payment of a fee not to exceed seventy-five dollars, the  
10 board may issue a temporary permit to practice as a licensed massage therapist to an applicant  
11 who has met the requirements of subdivision 36-35-12(1) to ~~(5)~~(4), inclusive, pending  
12 completion and results of the examination required pursuant to subdivision ~~36-35-12(6)~~ 36-35-  
13 12(5). A temporary license may be issued no more than twice and is effective for a term of not  
14 more than one hundred eighty days. A temporary license expires on the occurrence of the  
15 following:

- 16 (1) Issuance of a regular license;
- 17 (2) Failure to pass the licensing examination; or
- 18 (3) Expiration of the term for which the temporary license was issued.

19 Section 3. That § 36-35-13 be amended to read as follows:

20 36-35-13. For the purposes of this chapter, any of the following acts constitute  
21 unprofessional conduct:

- 22 (1) Conviction of or a plea of guilty to any felony, any crime involving or relating to the  
23 practice of massage, or any crime involving dishonesty or moral turpitude;
- 24 (2) Providing the board false or misleading information on any application for a license

- 1 or renewal of a license;
- 2 (3) Willful misconduct or negligence in the practice of massage;
- 3 (4) Exceeding the scope of practice of massage as defined in § 36-35-1;
- 4 (5) Engaging in any lewd or immoral conduct;
- 5 (6) Making fraudulent charges for services;
- 6 (7) Engaging in conduct which endangers the health or welfare of clients or other
- 7 persons; or
- 8 (8) Failure to comply with any provision of this chapter.