

House Bill 636

In The House

February 4, 1981	Introduced and referred to Committee on State Administration.
February 14, 1981	Committee recommend bill do pass.
February 16, 1981	Bill printed and placed on members' desks.
February 18, 1981	Second reading do pass.
February 19, 1981	Considered correctly engrossed.
February 20, 1981	Third reading passed.

In The Senate

February 21, 1981	Introduced and referred to Committee on State Administration.
March 11, 1981	Committee recommend bill concurred.
March 12, 1981	Second reading indefinitely postponed.

In The House

March 13, 1981	Returned from Senate indefinitely postponed.
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In The Senate

March 13, 1981	On motion reconsidered to place on second reading. On motion requested return from House.
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In The Senate

March 18, 1981	Motion pass consideration.
March 19, 1981	Second reading concurred as amended.

March 21, 1981 Third reading concurred
as amended.

In The House

March 23, 1981 Returned from Senate
concurred as amended.

April 8, 1981 Second reading amendment
not concurred.

On motion Free Conference
Committee requested and
appointed.

April 16, 1981 Free Conference Committee
reported and dissolved.

In The Senate

April 17, 1981 Second reading concurred.

Third reading concurred.

In The House

April 20, 1981 Removed from second reading
and pass consideration to
the 91st legislative day.

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HOUSE FILE NO. 636

INTRODUCED BY *Paula Williams Ernst* *Parlvich*
DOZ BY REQUEST OF *Briggs Hamet*
THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
BOARD OF MASSAGE THERAPISTS UNDER EXISTING STATUTORY
AUTHORITY AND RULES; TO PROVIDE THAT ONE MEMBER SHALL BE
FROM THE PUBLIC; TO REMOVE THE LIMITATION ON NUMBER OF
MEETINGS; TO REMOVE THE BOND REQUIREMENT OF THE TREASURER;
AMENDING SECTIONS 2-8-103, 2-15-1627, 37-33-201, AND
37-33-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Reestablishment. The board of massage
therapists is reestablished for 6 years pursuant to 2-8-122
with its existing statutory authority and rules.
Section 2. Section 2-8-103, MCA, is amended to read:
"2-8-103. Agencies to terminate. (1) The following
agencies shall terminate on July 1, 1979:
(a) board of abstracters, department of professional
and occupational licensing, created by 2-15-1643;
(b) board of real estate, department of professional
and occupational licensing, created by 2-15-1642;
(c) state board of warm air heating, ventilation, and

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air conditioning, department of professional and
occupational licensing, created by 2-15-1656;
(d) board of institutions, department of institutions,
created by 2-15-2303.
(2) The following agencies shall terminate on July 1,
1931:
(a) commission for human rights, department of labor
and industry, created by 2-15-1706;
(b) board of athletics, department of professional and
occupational licensing, created by 2-15-1661;
(c) board of barbers, department of professional and
occupational licensing, created by 2-15-1625;
(d) board of chiropractors, department of professional
and occupational licensing, created by 2-15-1613;
(e) board of cosmetologists, department of
professional and occupational licensing, created by
2-15-1626;
(f) board of dentists, department of professional and
occupational licensing, created by 2-15-1606;
(g) board of hearing aid dispensers, department of
professional and occupational licensing, created by
2-15-1616;
(h) ~~board of massage therapists, department of
professional and occupational licensing, created by
2-15-1627~~

1 (b) Montana state board of medical examiners,
2 department of professional and occupational licensing,
3 created by 2-15-1605;

4 (c) board of morticians, department of professional
5 and occupational licensing, created by 2-15-1619;

6 (d) board of nursing, department of professional
7 and occupational licensing, created by 2-15-1610;

8 (e) board of nursing home administrators,
9 department of professional and occupational licensing,
10 created by 2-15-1611;

11 (f) board of optometrists, department of
12 professional and occupational licensing, created by
13 2-15-1612;

14 (g) board of osteopathic physicians, department of
15 professional and occupational licensing, created by
16 2-15-1607;

17 (h) board of pharmacists, department of
18 professional and occupational licensing, created by
19 2-15-1609;

20 (i) board of podiatry examiners, department of
21 professional and occupational licensing, created by
22 2-15-1608;

23 (j) board of psychologists, department of
24 professional and occupational licensing, created by
25 2-15-1617;

1 (k) board of radiologic technologists, department
2 of professional and occupational licensing, created by
3 2-15-1614;

4 (l) board of speech pathologists and audiologists,
5 department of professional and occupational licensing,
6 created by 2-15-1615;

7 (m) board of veterinarians, department of
8 professional and occupational licensing, created by
9 2-15-1618;

10 (n) board of veterans' affairs, department of
11 social and rehabilitation services, created by 2-15-2202;

12 (o) board of sanitarians, department of
13 professional and occupational licensing, created by
14 2-15-1631.

15 (3) The following units of state government shall
16 terminate on July 1, 1983:

17 (a) board of aeronautics, department of community
18 affairs, created by 2-15-1103;

19 (b) state board of hail insurance, department of
20 agriculture, created by 2-15-3003;

21 (c) board of horse racing, department of professional
22 and occupational licensing, created by 2-15-1662;

23 (d) board of livestock, department of livestock,
24 created by 2-15-3102;

25 (e) board of milk control, department of business

1 regulation, created by 2-15-1902;
 2 (f) board of oil and gas conservation, department of
 3 natural resources and conservation, created by 2-15-3303;
 4 (g) Montana outfitters council, department of fish,
 5 wildlife, and parks, created by 2-15-3403;
 6 (h) public service commission, department of public
 7 service regulation, created by 69-1-102;
 8 (i) board of water and wastewater operators,
 9 department of health and environmental sciences, created by
 10 2-15-2105;
 11 (j) board of water well contractors, department of
 12 professional and occupational licensing, created by
 13 2-15-1632.
 14 (4) The following agencies terminate on July 1, 1985:
 15 (a) the board of public accountants, created by
 16 2-15-1641;
 17 (b) the board of architects, created by 2-15-1651;
 18 (c) state banking board, department of business
 19 regulation, created by 2-15-1903;
 20 (d) the state electrical board, created by 2-15-1654;
 21 (e) the board of professional engineers and land
 22 surveyors, created by 2-15-1653;
 23 (f) office of commissioner of insurance and the
 24 insurance department, state auditor's office, created by
 25 2-15-1902 and 2-15-1903;

1 (g) office of the securities commissioner, state
 2 auditor's office, created by 2-15-1901;
 3 (h) the board of landscape architects, created by
 4 2-15-1652;
 5 (i) the board of county printing, created by
 6 2-15-1102;
 7 (j) the board of plumbers, created by 2-15-1655;
 8 (k) board of physical therapy examiners, created by
 9 2-15-1628.
 10 (5) The following agency terminates on July 1, 1987:
 11 the board of massage therapists, department of professional
 12 and occupational licensing, created by 2-15-1627.*
 13 Section 3. Section 2-15-1627, MCA, is amended to read:
 14 "2-15-1627. Board of massage therapists. (1) There is
 15 a board of massage therapists.
 16 (2) The board consists of three members appointed by
 17 the governor with the consent of the senate. Each member
 18 shall must be a resident of this state, and shall have been
 19 a--messeur two of the members must be massage therapists who
 20 have been licensed continuously in this state for at least 1
 21 year. One member must be from the public and not a massage
 22 therapist who shall represent the interests of the public at
 23 large. Each nonpublic member shall have integrity and
 24 ability as a messeur licensed massage therapist.
 25 (3) Each member shall serve for a term of 3 years.

1 (4) The board is allocated to the department for
2 administrative purposes only as prescribed in 2-15-121."

3 Section 4. Section 37-33-201, MCA, is amended to read:

4 "37-33-201. Organization -- meetings -- quorum. (1)
5 The board shall annually elect a president, vice-president,
6 and secretary-treasurer from its membership.

7 (2) The board shall hold one regular meeting each year
8 at the city of Helena, Montana, and shall hold special
9 meetings at times and places a majority of the board
10 designates. ~~However, not more than four meetings may be held~~
11 ~~in any one year.~~

12 (3) A majority of the board constitutes a quorum."

13 Section 5. Section 37-33-203, MCA, is amended to read:

14 "37-33-203. ~~Bond--of--treasurer----dismissal~~ Dismissal
15 of member for cause. ~~{1}-The-treasurer-of-said-board--shall~~
16 ~~give--bond--in--such-sum-and-with-such-sureties-as-the-board~~
17 ~~may-deem-proper.~~

18 {2} Upon sufficient proof to the governor of the
19 inability or misconduct of a member of the board, said
20 member shall be dismissed and the governor shall appoint as
21 his successor some either a licensed massage therapist of
22 this state or a public member, whichever is appropriate."

23 Section 6. Effective date. This act is effective on
24 passage and approval.

-End-

Approved by Committee on State Administration

HOUSE FILE NO. 636

1 INTRODUCED BY *Paul Wilson* *Emmet* *Parovich*
 2 *Doyle* *Walters*
 3 BY REQUEST OF *Bryce Hemphill* *Winters*
 4 THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
 5 *Ryan Kitchum* *Boyd* *O'Hara* *Underdal* *Maxwell*
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE *Kendall*
 7 BOARD OF MASSAGE THERAPISTS UNDER EXISTING STATUTORY
 8 AUTHORITY AND RULES; TO PROVIDE THAT ONE MEMBER SHALL BE
 9 FROM THE PUBLIC; TO REMOVE THE LIMITATION ON NUMBER OF
 10 MEETINGS; TO REMOVE THE BOND REQUIREMENT OF THE TREASURER;
 11 AMENDING SECTIONS 2-8-103, 2-15-1627, 37-33-201, AND
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24 and occupational licensing, created by 2-15-1642;
- 25 (c) state board of warm air heating, ventilation, and

- 1 air conditioning, department of professional and
2 occupational licensing, created by 2-15-1656;
- 3 (d) board of institutions, department of institutions,
4 created by 2-15-2303.
- 5 (2) The following agencies shall terminate on July 1,
6 1981:
- 7 (a) commission for human rights, department of labor
8 and industry, created by 2-15-1706;
- 9 (b) board of athletics, department of professional and
10 occupational licensing, created by 2-15-1661;
- 11 (c) board of barbers, department of professional and
12 occupational licensing, created by 2-15-1625;
- 13 (d) board of chiropractors, department of professional
14 and occupational licensing, created by 2-15-1613;
- 15 (e) board of cosmetologists, department of
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17 2-15-1626;
- 18 (f) board of dentists, department of professional and
19 occupational licensing, created by 2-15-1606;
- 20 (g) board of hearing aid dispensers, department of
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22 2-15-1616;
- 23 (h) ~~board of massage therapists, department of~~
24 ~~professional and occupational licensing, created by~~
25 ~~2-15-1627~~

1 (i)(h) Montana state board of medical examiners,
2 department of professional and occupational licensing,
3 created by 2-15-1605;

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5 and occupational licensing, created by 2-15-1619;

6 (k)(i) board of nursing, department of professional
7 and occupational licensing, created by 2-15-1610;

8 (l)(k) board of nursing home administrators,
9 department of professional and occupational licensing,
10 created by 2-15-1611;

11 (m)(i) board of optometrists, department of
12 professional and occupational licensing, created by
13 2-15-1612;

14 (n)(m) board of osteopathic physicians, department of
15 professional and occupational licensing, created by
16 2-15-1607;

17 (o)(n) board of pharmacists, department of
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19 2-15-1609;

20 (p)(o) board of podiatry examiners, department of
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22 2-15-1608;

23 (q)(o) board of psychologists, department of
24 professional and occupational licensing, created by
25 2-15-1617;

1 (r)(q) board of radiologic technologists, department
2 of professional and occupational licensing, created by
3 2-15-1614;

4 (s)(r) board of speech pathologists and audiologists,
5 department of professional and occupational licensing,
6 created by 2-15-1615;

7 (t)(s) board of veterinarians, department of
8 professional and occupational licensing, created by
9 2-15-1618;

10 (u)(t) board of veterans' affairs, department of
11 social and rehabilitation services, created by 2-15-2202;

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21 (c) board of horse racing, department of professional
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23 (d) board of livestock, department of livestock,
24 created by 2-15-3102;

25 (e) board of milk control, department of business

1 regulation, created by 2-15-1802;

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3 natural resources and conservation, created by 2-15-3303;

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24 insurance department, state auditor's office, created by
25 2-15-1902 and 2-15-1903;

1 (g) office of the securities commissioner, state
2 auditor's office, created by 2-15-1901;

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HB 636

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24 passage and approval.

-End-

1 HOUSE BILL NO. 636
 2 INTRODUCED BY *Edna Wilson Ernst*
 3 BY REQUEST OF *Byrd Hamet*
 4 THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
 5 *Bryan Kitseman, Logan D. O'Neil, Luderda Manuel*
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
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-End-

1 HOUSE BILL NO. 636

2 INTRODUCED BY FEDE, WALLIN, ERNST, HURWITZ,

3 WINSLOW, PAYLOVICH, DOZIER, STOBIE, ZABROCKI,

4 BRIGGS, HEMSTAD, VINGER, ABRAMS, SHONTZ, DONALDSON,

5 RYAN, KITSELMAN, COZZENS, D. O'HARA, UNDERDAL,

6 MANUEL, DAILY, HANNAH, KANDUCH

7 BY REQUEST OF

8 THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING

9
10 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
11 BOARD OF MESSAGE THERAPISTS UNDER EXISTING STATUTORY
12 AUTHORITY AND RULES; TO PROVIDE THAT ONE MEMBER SHALL BE
13 FROM THE PUBLIC; TO PROVIDE THAT ONE MEMBER SHALL BE A PEACE
14 OFFICER; REQUIRING ANNUAL LICENSURE AND INSPECTION OF
15 MESSAGE THERAPY ESTABLISHMENTS; AMENDING THE DEFINITION OF
16 MESSAGE THERAPIST; EXPANDING GROUNDS FOR REFUSAL OR
17 REVOCAION OF A LICENSE; TO REMOVE THE LIMITATION ON NUMBER
18 OF MEETINGS; TO REMOVE THE BOND REQUIREMENT OF THE
19 TREASURER; TO EXEMPT NONPROFIT CORPORATIONS; AMENDING
20 SECTIONS 2-8-103, 2-15-1627, 37-33-102, 37-33-103,
21 37-33-201, AND 37-33-203, AND 37-33-311, MCA; AND PROVIDING
22 AN IMMEDIATE EFFECTIVE DATE."

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 Section 1. Reestablishment. The board of massage

1 therapists is reestablished for 6 years pursuant to 2-8-122
2 with its existing statutory authority and rules.

3 Section 2. Section 2-8-103, MCA, is amended to read:

4 "2-8-103. Agencies to terminate. (1) The following
5 agencies shall terminate on July 1, 1979:6 (a) board of abstracters, department of professional
7 and occupational licensing, created by 2-15-1643;8 (b) board of real estate, department of professional
9 and occupational licensing, created by 2-15-1642;10 (c) state board of warm air heating, ventilation, and
11 air conditioning, department of professional and
12 occupational licensing, created by 2-15-1656;13 (d) board of institutions, department of institutions,
14 created by 2-15-2303.15 (2) The following agencies shall terminate on July 1,
16 1981:17 (a) commission for human rights, department of labor
18 and industry, created by 2-15-1706;19 (b) board of athletics, department of professional and
20 occupational licensing, created by 2-15-1661;21 (c) board of barbers, department of professional and
22 occupational licensing, created by 2-15-1625;23 (d) board of chiropractors, department of professional
24 and occupational licensing, created by 2-15-1613;

25 (e) board of cosmetologists, department of

1 professional and occupational licensing, created by
 2 2-15-1626;
 3 (f) board of dentists, department of professional and
 4 occupational licensing, created by 2-15-1606;
 5 (g) board of hearing aid dispensers, department of
 6 professional and occupational licensing, created by
 7 2-15-1616;
 8 ~~(h) board of message therapists, department of~~
 9 ~~professional and occupational licensing, created by~~
 10 ~~2-15-1627;~~
 11 ~~(i) Montana state board of medical examiners,~~
 12 ~~department of professional and occupational licensing,~~
 13 ~~created by 2-15-1605;~~
 14 ~~(j) board of morticians, department of professional~~
 15 ~~and occupational licensing, created by 2-15-1619;~~
 16 ~~(k) board of nursing, department of professional~~
 17 ~~and occupational licensing, created by 2-15-1610;~~
 18 ~~(l) board of nursing home administrators,~~
 19 ~~department of professional and occupational licensing,~~
 20 ~~created by 2-15-1611;~~
 21 ~~(m) board of optometrists, department of~~
 22 ~~professional and occupational licensing, created by~~
 23 ~~2-15-1612;~~
 24 ~~(n) board of osteopathic physicians, department of~~
 25 ~~professional and occupational licensing, created by~~

1 2-15-1607;
 2 ~~(o) board of pharmacists, department of~~
 3 ~~professional and occupational licensing, created by~~
 4 ~~2-15-1609;~~
 5 ~~(p) board of podiatry examiners, department of~~
 6 ~~professional and occupational licensing, created by~~
 7 ~~2-15-1608;~~
 8 ~~(q) board of psychologists, department of~~
 9 ~~professional and occupational licensing, created by~~
 10 ~~2-15-1617;~~
 11 ~~(r) board of radiologic technologists, department~~
 12 ~~of professional and occupational licensing, created by~~
 13 ~~2-15-1614;~~
 14 ~~(s) board of speech pathologists and audiologists,~~
 15 ~~department of professional and occupational licensing,~~
 16 ~~created by 2-15-1615;~~
 17 ~~(t) board of veterinarians, department of~~
 18 ~~professional and occupational licensing, created by~~
 19 ~~2-15-1618;~~
 20 ~~(u) board of veterans' affairs, department of~~
 21 ~~social and rehabilitation services, created by 2-15-2202;~~
 22 ~~(v) board of sanitarians, department of~~
 23 ~~professional and occupational licensing, created by~~
 24 ~~2-15-1631.~~
 25 (3) The following units of state government shall

1 terminate on July 1, 1983:

2 (a) board of aeronautics, department of community
3 affairs, created by 2-15-1103;

4 (b) state board of hail insurance, department of
5 agriculture, created by 2-15-3003;

6 (c) board of horse racing, department of professional
7 and occupational licensing, created by 2-15-1662;

8 (d) board of livestock, department of livestock,
9 created by 2-15-3102;

10 (e) board of milk control, department of business
11 regulation, created by 2-15-1802;

12 (f) board of oil and gas conservation, department of
13 natural resources and conservation, created by 2-15-3303;

14 (g) Montana outfitters council, department of fish,
15 wildlife, and parks, created by 2-15-3403;

16 (h) public service commission, department of public
17 service regulation, created by 69-1-102;

18 (i) board of water and wastewater operators,
19 department of health and environmental sciences, created by
20 2-15-2105;

21 (j) board of water well contractors, department of
22 professional and occupational licensing, created by
23 2-15-1632;

24 (k) BOARD OF MASSAGE THERAPISTS, DEPARTMENT OF
25 PROFESSIONAL AND OCCUPATIONAL LICENSING, CREATED BY

1 2-15-1627.

2 (4) The following agencies terminate on July 1, 1985:

3 (a) the board of public accountants, created by
4 2-15-1641;

5 (b) the board of architects, created by 2-15-1651;

6 (c) state banking board, department of business
7 regulation, created by 2-15-1803;

8 (d) the state electrical board, created by 2-15-1654;

9 (e) the board of professional engineers and land
10 surveyors, created by 2-15-1653;

11 (f) office of commissioner of insurance and the
12 insurance department, state auditor's office, created by
13 2-15-1902 and 2-15-1903;

14 (g) office of the securities commissioner, state
15 auditor's office, created by 2-15-1901;

16 (h) the board of landscape architects, created by
17 2-15-1652;

18 (i) the board of county printing, created by
19 2-15-1102;

20 (j) the board of plumbers, created by 2-15-1655;

21 (k) board of physical therapy examiners, created by
22 2-15-1628.

23 ~~{5}--The--following--agency--terminates--on--July--1--1987--~~
24 ~~the--board--of--massage--therapists--department--of--professional~~
25 ~~and--occupational--licensing--created--by--2-15-1627.~~"

1 Section 3. Section 2-15-1627, MCA, is amended to read:
 2 "2-15-1627. Board of massage therapists. (1) There is
 3 a board of massage therapists.

4 (2) The board consists of ~~three~~ FOUR members appointed
 5 by the governor with the consent of the senate. Each member
 6 ~~shall~~ must be a resident of this state, and ~~shall have been~~
 7 ~~a masseur~~ two of the members must be massage therapists who
 8 have been licensed continuously in this state for at least 1
 9 year. One member must be from the public and not a massage
 10 therapist who shall represent the interests of the public at
 11 large. ONE MEMBER MUST BE A PEACE OFFICER AS DEFINED IN
 12 46-1-201. Each nonpublic member shall have integrity and
 13 ability as a ~~masseur~~ licensed massage therapist.

14 (3) Each member shall serve for a term of 3 years.

15 (4) The board is allocated to the department for
 16 administrative purposes only as prescribed in 2-15-121."

17 SECTION 4. SECTION 37-33-102, MCA, IS AMENDED TO READ:

18 "37-33-102. Definitions. Unless the context requires
 19 otherwise, in this chapter the following definitions apply:

20 (1) "Board" means the board of massage therapists
 21 provided for in 2-15-1627.

22 (2) "Department" means the department of professional
 23 and occupational licensing, provided for in Title 2, chapter
 24 15, part 16.

25 (3) "Massage therapist" includes persons engaged in

1 the occupation of massage therapy and includes the feminine
 2 "masseuse".

3 (4) "Massage therapy" means the trained ability of
 4 body massage therapy by hands for the purpose of body
 5 massage therapy; the use of oil rubs, salt glows, hot and
 6 cold packs, tub, shower, or cabinet baths; and the
 7 application to the patron by the operator's hands by
 8 variations of touch, stroking, friction, kneading,
 9 vibration, percussion, and gymnastics, except that a massage
 10 therapist may not engage in sexual contact as defined in
 11 45-2-101.

12 (5) "Massage therapy establishment" means a place in
 13 which any of the above procedures and methods are
 14 administered or used.

15 (6) "Practice of massage therapy" means to perform
 16 massage therapy as above defined for remuneration or hire or
 17 to advertise by the use of the word "massage" in any of its
 18 derivations or genders or by any other means the practice of
 19 massage therapy."

20 SECTION 5. SECTION 37-33-103, MCA, IS AMENDED TO READ:

21 "37-33-103. Exemptions. The following classes of
 22 persons are exempt from this chapter:

23 (1) persons authorized by the laws of this state to
 24 practice medicine, surgery, osteopathy, chiropractic, or
 25 podiatry;

1 (2) persons who are registered or licensed under the
2 laws of this state as nurses, practical nurses, physical
3 therapists, barbers, or cosmetologists;

4 (3) educational institutions maintaining a full-time
5 faculty with a varied curriculum; and

6 (4) a nonprofit corporation, organized under the laws
7 of this state, in which message therapy is incidental to a
8 program of physical education, athletics, or exercise."

9 Section 6. Section 37-33-201, MCA, is amended to read:

10 "37-33-201. Organization -- meetings -- quorum. (1)
11 The board shall annually elect a president, vice-president,
12 and secretary-treasurer from its membership.

13 (2) The board shall hold one regular meeting each year
14 at the city of Helena, Montana, and shall hold special
15 meetings at times and places a majority of the board
16 designates. ~~However, not more than four meetings may be held~~
17 ~~in any one year.~~

18 (3) A majority of the board constitutes a quorum."

19 Section 7. Section 37-33-203, MCA, is amended to read:

20 "37-33-203. ~~Bond of treasurer ---- dismissal~~ Dismissal
21 of member for cause. ~~(1) The treasurer of said board shall~~
22 ~~give bond in such sum and with such sureties -- as -- the -- board~~
23 ~~may deem proper.~~

24 (2) Upon sufficient proof to the governor of the
25 inability or misconduct of a member of the board, said

1 member shall be dismissed and the governor shall appoint as
2 his successor ~~some either a~~ licensed message therapist, A
3 PEACE OFFICER, of this state or a public member, whichever
4 is appropriate."

5 NEW SECTION. SECTION 8. MESSAGE THERAPY
6 ESTABLISHMENT, LICENSURE, AND INSPECTION. (1) NO PERSON MAY
7 OPERATE, MANAGE, OR CONDUCT A MESSAGE THERAPY ESTABLISHMENT
8 UNLESS THE ESTABLISHMENT HAS BEEN LICENSED BY THE BOARD.
9 UPON APPLICATION AND INSPECTION BY THE BOARD, A LICENSE FOR
10 A MESSAGE THERAPY ESTABLISHMENT SHALL BE ISSUED TO AN
11 APPLICANT UPON PAYMENT OF THE LICENSE FEE AND COMPLIANCE
12 WITH BOARD RULES. THE BOARD, IN CONSULTATION WITH THE
13 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES, SHALL ADOPT
14 SANITARY RULES TO PROTECT THE PUBLIC HEALTH AND PREVENT THE
15 SPREAD OF DISEASE. THE BOARD SHALL ESTABLISH LICENSE AND
16 RENEWAL FEES FOR MESSAGE THERAPY ESTABLISHMENTS COMMENSURATE
17 WITH THE COSTS OF LICENSURE AND INSPECTION. A LICENSE SHALL
18 EXPIRE ON DECEMBER 31 OF EACH YEAR.

19 (2) THE BOARD SHALL INSPECT AT LEAST ANNUALLY EACH
20 LICENSED MESSAGE THERAPY ESTABLISHMENT. DURING EACH
21 INSPECTION THE BOARD SHALL BE ACCOMPANIED BY A PEACE OFFICE
22 FROM THE LOCAL LAW ENFORCEMENT AGENCY HAVING JURISDICTION
23 WHERE THE MESSAGE THERAPY ESTABLISHMENT IS LOCATED. UPON
24 COMPLETION OF THE INSPECTION, THE BOARD SHALL FILE A WRITTEN
25 REPORT OF THE RESULTS OF THE INSPECTION WITH THE LOCAL LAW

1 ENFORCEMENT AGENCY AND WITH THE DEPARTMENT OF PROFESSIONAL
 2 AND OCCUPATIONAL LICENSING.

3 SECTION 9. SECTION 37-33-311, MCA, IS AMENDED TO READ:

4 *37-33-311. Denial, suspension, or revocation of
 5 license. (1) The board may, after hearing, deny, suspend,
 6 revoke, or refuse to renew a license under this chapter to a
 7 person, otherwise qualified:

8 (a) who obtained the license by fraudulent
 9 representation;

10 (b) for incompetency in practice;

11 (c) for use of untruthful or improbable statements to
 12 patrons or in his advertisements;

13 (d) for habitual intoxication;

14 (e) for failure to renew; or

15 (f) for unprofessional and immoral conduct; or

16 (g) for engaging in sexual contact, as defined in
 17 45-2-101, with a patron.

18 (2) The board may authorize the department to reissue
 19 a license after a lapse of not less than 6 months if in the
 20 board's judgment the act or conditions of disqualification
 21 have been remedied."

22 SECTION 10. CODIFICATION INSTRUCTION. SECTION 6 IS
 23 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 37,
 24 CHAPTER 33, AND THE PROVISIONS OF TITLE 37, CHAPTER 33,
 25 APPLY TO SECTION 8.

1 Section 11. Effective date. This act is effective on
 2 passage and approval.

-End-

FREE CONFERENCE COMMITTEE REPORT NO. 1
ON HOUSE BILL NO. 636

MR. PRESIDENT AND SPEAKER OF THE HOUSE:

We, your Free Conference Committee on House Bill 636, met April 11, 1981, and considered:

1. Senate Committee of the Whole amendments to the third reading copy, dated March 19, 1981.

We recommend that:

1. the Senate recede from Committee of the Whole amendment number 7 and the House accede to amendment numbers 2 through 6 and 8 through 10;

2. the Senate recede from amendment numbers 1 and 11 in their current form and amend these amendments as indicated in CLERICAL INSTRUCTIONS numbers 2 and 7;

3. the reference copy of House Bill No. 636 read as specified in the CLERICAL INSTRUCTIONS; and

4. the Free Conference Committee Report to House Bill No. 636 be adopted.

CLERICAL INSTRUCTIONS:

1. Title, lines 12 and 13.
Following: "RULES;" on page 12
Strike: "TO" through "PUBLIC;" on line 13

2. Title, line 14.
Following: "AND"
Insert: "BIANNUAL"

3. Page 7, line 4.
Following: "three"
Strike: "FOUR"
Insert: "three"

4. Page 7, lines 9 through 11.
Following: "year." on line 9
Strike: "One" through "large." on line 11

(Continued)

5. Page 10, line 2.
Following: "therapist"
Strike: ", "
Insert: "or"

6. Page 10, line 3.
Following: "state"
Strike: "or a public member,"

7. Page 10, line 19.
Following: "LEAST"
Strike: "ANNUALLY"
Insert: "biannually"


8. Page 11, line 22.
Following: "SECTION"
Strike: "6"
Insert: "8"


9. Page 10, line 5.
Following: "SECTION 8."
Strike: "MESSAGE"
Insert: "massage"


10. Page 10, line 21.
Following: "PEACE"
Strike: "OFFICE"
Insert: "officer"

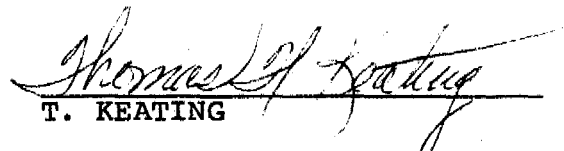
FOR THE HOUSE:

FOR THE SENATE:

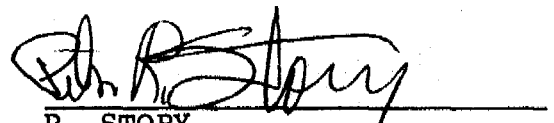

G. C. FEDA (Chairman)


S. BROWN


R. PAVLOVICH


T. KEATING


C. WINSLOW


P. STORY

March 19, 1981

SENATE COMMITTEE OF THE WHOLE

Proposed amendments to House Bill 636, third reading copy, as follows:

1. Title, line 9.
Following: "PUBLIC;"
Insert: "TO PROVIDE THAT ONE MEMBER SHALL BE A PEACE OFFICER; REQUIRING ANNUAL LICENSURE AND INSPECTION OF MASSAGE THERAPY ESTABLISHMENTS; AMENDING THE DEFINITION OF MASSAGE THERAPIST; EXPANDING GROUNDS FOR REFUSAL OR REVOCATION OF A LICENSE;"
2. Title, line 11.
Following: line 10.
Insert: "TO EXEMPT NONPROFIT CORPORATIONS;"
3. Title, line 11.
Following: "2-15-1627,"
Insert: "37-33-102, 37-33-103,"
Following: "37-33-201,"
Strike: "AND"
4. Title, line 12.
Following: "37-33-203,"
Insert: "AND 37-33-311,"
5. Page 5, line 13.
Following: "2-15-1632"
Insert: ";
(k) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627"
6. Page 6, lines 10 through 12.
Strike: subsection (5) in its entirety.
7. Page 6, line 16.
Following: "of"
Strike: "three"
Insert: "four"
8. Page 6, line 23.
Following: "large."
Insert: "One member must be a peace officer as defined in 46-1-201."

9. Page 7.

Following: line 2.

Insert: "Section 4. Section 37-33-102, MCA, is amended to read:

"37-33-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the board of massage therapists provided for in 2-15-1627.

(2) "Department" means the department of professional and occupational licensing, provided for in Title 2, chapter 15, part 16.

(3) "Massage therapist" includes persons engaged in the occupation of massage therapy and includes the feminine "masseur".

(4) "Massage therapy" means the trained ability of body massage therapy by hands for the purpose of body massage therapy; the use of oil rubs, salt glows, hot and cold packs, tub, shower, or cabinet baths; and the application to the patron by the operator's hands by variations of touch, stroking, friction, kneading, vibration, percussion, and gymnastics, except that a massage therapist may not engage in sexual contact as defined in 45-2-101.

(5) "Massage therapy establishment" means a place in which any of the above procedures and methods are administered or used.

(6) "Practice of massage therapy" means to perform massage therapy as above defined for remuneration or hire or to advertise by the use of the word "massage" in any of its derivations or genders or by any other means the practice of massage therapy."

Section 5. Section 37-33-103, MCA, is amended to

read:

"37-33-103. Exemptions. The following classes of persons are exempt from this chapter:

(1) persons authorized by the laws of this state to practice medicine, surgery, osteopathy, chiropractic, or podiatry;

(2) persons who are registered or licensed under the laws of this state as nurses, practical nurses, physical therapists, barbers, or cosmetologists;

(3) educational institutions maintaining a full-time faculty with a varied curriculum; and

(4) a nonprofit corporation, organized under the laws of this state, in which massage therapy is incidental to a program of physical education, athletics, or exercise."

Renumber: subsequent sections.

10. Page 7, line 21.

Following: "therapist"

Insert: ", a peace officer,"

11. Page 7.

Following: line 22.

Insert: "NEW SECTION. Section 8. Massage therapy establishment, licensure, and inspection. (1) No person may operate, manage, or conduct a massage therapy establishment unless the establishment has been licensed by the board. Upon application and inspection by the board, a license for a massage therapy establishment shall be issued to an applicant upon payment of the license fee and compliance with board rules. The board, in consultation with the department of health and environmental sciences, shall adopt sanitary rules to protect the public health and prevent the spread of disease. The board shall establish license and renewal fees for massage therapy establishments commensurate with the costs of licensure and inspection. A license shall expire on December 31 of each year.

(2) The board shall inspect at least annually each licensed massage therapy establishment. During each inspection the board shall be accompanied by a peace officer from the local law enforcement agency having jurisdiction where the massage therapy establishment is located. Upon completion of the inspection, the board shall file a written report of the results of the inspection with the local law enforcement agency and with the department of professional and occupational licensing.

Section 9. Section 37-33-311, MCA, is amended to read:

"37-33-311. Denial, suspension, or revocation of license.

(1) The board may, after hearing, deny, suspend, revoke, or refuse to renew a license under this chapter to a person, otherwise qualified:

- (a) who obtained the license by fraudulent representation;
- (b) for incompetency in practice;
- (c) for use of untruthful or improbable statements to patrons or in his advertisements;
- (d) for habitual intoxication;
- (e) for failure to renew; ~~or~~
- (f) for unprofessional and immoral conduct; or
- (g) for engaging in sexual contact, as defined in 45-2-101, with a patron.

(2) The board may authorize the department to reissue a license after a lapse of not less than 6 months if in the board's judgement the act or conditions of disqualifications have been remedied."

Section 10. Codification instruction. Section 8 is intended to be codified as an integral part of Title 37, chapter 33, and the provisions of Title 37, chapter 33 apply to section 8."

Renumber: the subsequent section.