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AB-775 Massage therapy. (2019-2020)

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Assembly Bill No. 775

CHAPTER 290

An act to amend Section 4615 of, and to add Section 4615.5 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 12, 2019. Filed with Secretary of State September 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 775, Chau. Massage therapy.

Existing law, the Massage Therapy Act, until January 1, 2021, provides for the certification and regulation of massage therapists and massage practitioners by the California Massage Therapy Council. Existing law requires an applicant for certification as a massage therapist to complete 500 hours of education from an approved school, and requires the council to develop policies, procedures, rules, or bylaws governing the requirements and process for the approval and unapproval of massage schools.

This bill would instead require the council to develop policies, procedures, rules, or bylaws governing the requirements and process for approving, denying approval of, imposing corrective action on, or unapproving schools. The bill would establish specified timelines for the approval of schools, including requiring the council to approve a school, propose to deny approval of a school, or notify the school that corrective action is required on or before one year from the date the council receives an initial application. The bill would authorize a school to appeal the council's final decision to deny approval of the school and would require the council to hear the appeal within a specified time period. The bill would require the council to note on its internet website the date that a letter proposing to deny a school's application for approval or reapproval or requesting corrective action has been sent to the school and the final outcome of the proposed action, as specified. The bill would also require a school offering a professional massage therapy program that has not been approved by the council to notify, and obtain a signed confirmation from, each student that the student has been notified that the school is not approved by the council and that education completed at the school cannot be used to satisfy any of the requirements for certification as a massage therapist or massage practitioner in California.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4615 of the Business and Professions Code is amended to read:

4615. (a) The council shall have the responsibility to determine whether the school from which an applicant has obtained the education required by this chapter meets the requirements of this chapter.

(1) If the council has any reason to question whether or not the applicant received the education that is required by this chapter from the school or schools that the applicant is claiming, the council shall investigate the facts to determine that the applicant received the required education before issuing a certificate.

(2) For purposes of this section and any other provision of this chapter that authorizes the council to receive factual information as a condition of taking any action, the council may conduct oral interviews of the applicant and others or conduct any investigation deemed necessary to establish that the information received is accurate and satisfies the criteria established by this chapter.

(b) (1) The council shall develop policies, procedures, rules, or bylaws governing the requirements and process for approving, denying approval of, imposing corrective action on, or unapproving schools consistent with Section 4601. These policies, procedures, rules, or bylaws shall address topics including, but not limited to, what constitutes an acceptable curriculum, facility requirements, student-teacher ratios, clinical practice requirements, and provisions for the acceptance of accreditation from a recognized accreditation body or other form of acceptance.

(2) The approval process for a school shall be consistent with the following timelines:

(A) (i) On or before 30 days from the date the council receives an initial application for school approval, the council shall notify the school whether or not, for the purpose of preliminary review, the application is complete.

(ii) A notice that an initial application is not complete for the purpose of preliminary review shall specify what additional documents or payment of fees the school is required to submit to the council to make the application complete for the purpose of preliminary review.

(B) Within 60 days from the date the council notifies the school that the initial application is not complete for purposes of preliminary review, the school shall provide the missing information and pay the required fees. If a school fails to do so, the council shall purge the application. The council may, in its sole discretion, provide a school with an additional 30 days to make its application complete for purposes of preliminary review. A school with a purged application may submit a new application for school approval, including the required fees, without prejudice, after 180 days have passed from the effective date of purging. The council shall post on its internet website the effective date of purging.

(C) (i) On or before one year from the date the council receives an initial application for approval as a school, the council shall approve the school, propose to deny approval of the school, or notify the school that corrective action is required. The council reserves the right to issue a one-time notice of corrective action on an initial application. If the school fails to adequately rectify the deficiencies, the council may deny the application.

(ii) Within one year from the date that the council notifies a school of its proposed decision to deny approval of an initial application for school approval, the council shall notify the school of its final decision pursuant to any oral telephonic hearing or consideration of a written statement provided in opposition to the proposed decision to deny approval of the initial application for school approval.

(D) A school may appeal the council's final decision to deny approval of the school. An appeal of the council's final decision to deny approval of a school shall be heard at the next board of directors meeting with a date, as posted on the council's internet website, that is at least 120 days from the last date for the school to timely request an appeal, unless a timely request for a continuance of the hearing date is granted. The council may, in its discretion, for good cause, continue the date an appeal may be heard, in which case the appeal shall be heard at a later board of directors meeting.

(3) The council shall exercise its authority to approve, deny approval of, and unapprove schools and specify corrective action in keeping with the purposes set forth in Section 4603.

(c) The council may charge a reasonable fee for the inspection or approval of schools, provided the fees do not exceed the reasonable cost of the inspection or approval process.

(d) The council shall note on its internet website the date that a letter proposing to deny a school's application for approval or reapproval or requesting corrective action has been sent to the school and the final outcome and date of that proposed action.

(e) For purposes of this section, the following terms have the following meanings:

(1) "Initial application" means a new application submitted by a school for school approval.

(2) "Complete application," for purposes of preliminary review, means an application that the council, after preliminary review, has determined contains all the necessary documents for the council to begin a more thorough review process that allows the council to make a decision to approve or propose to deny the application for school approval or request corrective action. A

complete application is not an approved application and a determination by the council upon preliminary review that an application is complete shall not prejudice the council's ability to later determine that the application is not complete.

(3) "Preliminary review" means an initial review conducted by the council to determine if all fees have been paid and if all application and supporting documents have been submitted, so that the council can move forward and begin a more thorough review process. The preliminary review process does not include completion of a site visit or completion of background checks for noncertified individuals.

SEC. 2. Section 4615.5 is added to the Business and Professions Code, to read:

4615.5. A school offering a professional massage therapy program that has not been approved by the council pursuant to this chapter, before enrolling a student in the school, shall notify the student in writing and obtain a signed confirmation from the student that the student has received written notification of the following:

(a) That the school is not approved by the council.

(b) That the education completed at the school cannot be used to satisfy any of the requirements for certification as a massage therapist or massage practitioner in California.