

SENATE BILL REPORT

ESSB 6103

As Amended by House, March 1, 2012

Title: An act relating to the practice of reflexology and massage therapy.

Brief Description: Concerning the practice of reflexology and massage therapy.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser and Fraser).

Brief History:

Committee Activity: Health & Long-Term Care: 1/25/12, 1/30/12 [DPS, w/oRec].

Passed Senate: 2/08/12, 33-16.

Passed House: 3/01/12, 88-10.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 6103 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Frockt, Kline, Pflug and Pridemore.

Minority Report: That it be referred without recommendation.

Signed by Senators Becker, Ranking Minority Member; Parlette.

Staff: Veronica Warnock (786-7490)

Background: Reflexology involves applying varying amounts of pressure at specified points on the body, most often on the hands, feet, and ears. These points correspond to distant areas throughout the body.

Legislation was enacted in 2002 exempting reflexologists from any health profession credentialing requirement. Prior to that, reflexology was included in the definition of massage under the Massage Practice Act. In order to practice reflexology practitioners had to be licensed as massage therapists under chapter 18.108 RCW.

Summary of Engrossed Substitute Bill: No one may practice reflexology or represent themselves as a reflexologist unless certified as a reflexologist by the Department of Health (DOH). The requirement that reflexologists be certified is placed in chapter 18.108 RCW, the statute which relates to the licensing of massage practitioners. The Legislature makes

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findings that reflexology and massage therapy are different and specific bodywork professions.

A person represents himself or herself as a reflexologist when that person uses any term that implies a reflexology technique or method. To qualify for certification an applicant must have successfully completed a course of study in reflexology approved by DOH and passed an exam administered or approved by DOH. DOH may certify an applicant without exam if the applicant has practiced reflexology for at least five years prior to the effective date of the act and applies for certification within one year of the effective date of the act. Licensed massage practitioners; students enrolled in an approved education, training, or apprentice program; individuals giving reflexology to members of his or her immediate family; and individuals practicing reflexology at an athletic department of any institution which is maintained with public funds or that is licensed as a nonprofit organization are exempt from certification requirements.

It is unlawful to advertise the practice of reflexology using any term that implies reflexology technique or method in any public or private publication or communication by a person not certified as a reflexologist or licensed as a massage practitioner. A person certified as a reflexologist must conspicuously put their name and certification number on all advertisements. A person certified as a reflexologist is prohibited from adopting the title of massage practitioner unless licensed as a massage practitioner.

In order to ascertain violations of chapter 18.108 RCW or the Uniform Disciplinary Act for health professions, the Secretary of Health (Secretary) may inspect the premises of any reflexology or massage business establishment during business hours. If access is denied, the Secretary may apply to any court of competent jurisdiction for a warrant authorizing entry.

In addition to any other authority provided by law, the Secretary is authorized to adopt necessary rules, set certification and renewal fees, establish forms and procedures necessary to administer the program, issue and deny applications for certification, hire clerical, administrative, and investigative staff, and maintain records. Reflexologists are placed under the Uniform Disciplinary Act for health professions and the Regulation of Health Professions Act. The Secretary of Health is provided with disciplining authority.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The sunrise review conducted in 1999 did not recommend any level of credentialing for reflexologists. In the 13 years since the review was conducted reflexology as a profession has become more developed and there are more businesses operating under the guise of reflexology which appear to be fronts for unlicensed massage or illicit activity. These activities are damaging to

both licensed massage practitioners and legitimate reflexologists. Reflexology should continue to be associated with legitimate body work. Credentialing reflexology would give DOH regulatory authority over reflexologists and the ability to investigate complaints. Some form of certification with mandatory continuing education would help to protect the legitimacy of reflexology and protect public health and safety. For cost containment purposes massage practitioners would support legislation which would bring reflexologists back into the massage statute.

CON: Because the number of reflexologists is so small in this state, they would not be able to self-support the registration fees as is required by law. Registering with DOH does not require any training. This will allow illicit businesses to apply for a registration number and then use that to legitimize their business. The law needs to protect the public and provide access to trained reflexologists. Any credentialing requirement must require education, make clear that reflexologists are on equal footing with other practitioners, students in training are exempt, and long practicing reflexologists are grandfathered with regards to educational and exam requirements. The profession has worked long and hard to be distinguished from massage therapy. Currently it is difficult to identify adequately trained reflexologists because there is no health profession credential. This lack of credential also exempts practitioners from insurance coverage and limits access to this important modality. This bill would only act to help special interest groups get rid of their competition. There was not a problem with the lack of credentialing until recent years. The recession and the increase in minority populations in this state have created the issue of illicit establishments operating as reflexology businesses. This law is not an answer to that issue. There are other loopholes in the law that could be abused even if the reflexology loophole was closed. In order to address the issue you need to address the lack of jobs for minorities, communication barriers, and cultural differences within the Asian community. This community comes from a culture with different norms and laws.

Persons Testifying: PRO: Karen Jensen, DOH; Marybeth Berney, American Massage Therapy Assn. WA Chapter.

CON: Nydia Stephens, Liz Pyle, Kandi Burke, Susan Pereira, WA Reflexology Assn.; Glen Morgan, Freedom Foundation; James Schmidt, Bellevue Massage School.

House Amendment(s):

- Deletes an intent section relating to differentiating reflexology from massage, and adds an intent section relating to protecting the public health and safety from the harms of human trafficking.
- Adds an effective date of July 1, 2013, except that the requirement to adopt rules takes effect 90 days after the legislative session.
- Removes obsolete language relating to the way in which the Board of Massage conducts examinations.
- Makes various technical and clarifying changes to the massage practitioner licensing statute such as providing for consistent use of terms.
- Clarifies that licensed massage practitioners may use reflexology as a descriptive term to describe their services and that the restrictions on the use of terms describing massage practice do not prohibit certified reflexologists from using terms describing reflexology.

- Limits the in-state persons who may be certified without an examination to those who either have five years of experience as a licensed massage practitioner or who, prior to the bill's effective date, have successfully completed reflexology training approved by the Secretary.
- Requires certified reflexologists to conspicuously display their credential in their place of business.
- Recognizes that health carriers are not required to contract with certified reflexologists.
- Adds that the Secretary's inspections of massage or reflexology businesses do not require advance notice of the inspection.