

ACT 146

S.B. NO. 2863

A Bill for an Act Relating to Citations for Massage Therapy Violations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 452, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§452- Citation for licensee violations; fines. (a) In addition to any other remedy available under this chapter, the department of commerce and consumer affairs may issue a citation to any person who holds a massage therapist or massage therapy establishment license issued by the board, or is designated the principal massage therapist by the massage therapy establishment, for any

of the following violations of this chapter or the rules adopted pursuant to this chapter and chapter 91:

- (1) Failure of a massage therapy establishment, during all hours of operation, to conspicuously display a current massage therapy establishment license and the current licenses and permits of all persons employed by the massage therapy establishment who engage in the practice of massage therapy;
 - (2) Failure of a principal massage therapist to ensure that every massage therapist apprentice who engages in the practice of massage therapy at the massage therapy establishment wears a conspicuously placed name tag stating the massage therapist apprentice's name and the word "apprentice" during all hours of operation;
 - (3) Operation of a massage therapy establishment without the presence of a principal massage therapist or a licensed designee during all hours of operation; or
 - (4) Failure of a massage therapist or massage therapy establishment to include the respective massage therapist's or massage therapy establishment's current license number in any advertisement pursuant to section 452-23(b).
- (b) Each citation:
- (1) Shall be in writing and describe the basis of the citation, including the specific statute or rule violated;
 - (2) May contain an order of abatement and the assessment of a fine in the amount of \$250 for each violation;
 - (3) Shall be served on the licensee by personal service; and
 - (4) Shall inform the licensee that the licensee may submit a written request to the board for a hearing to contest the citation, within twenty calendar days from the service of the citation.
- (c) If the licensee timely submits a written request to the board for a hearing, the board may designate a hearings officer to conduct the hearing in accordance with chapter 91.
- (d) If the licensee does not timely submit a written request to the board for a hearing, the citation shall be deemed a final order of the board.
- (e) Failure of a licensee to pay any assessed fine within thirty calendar days, unless the licensee contests the citation, may result in further disciplinary action by the board."

SECTION 2. Section 452-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Principal massage therapist" means a massage therapist designated by an establishment or an out-call massage service as the person in charge."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved June 29, 2016.)

Note

1. Edited pursuant to HRS §23G-16.5.