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AN ACT providing for the licensing of massage and bodywork therapists and the registration of certain employers, amending the title and body of P.L.1999, c.19, amending various parts of the statutory law, supplementing P.L.1999, c.19, and repealing sections 4, 5, 6, 13, and 14 of P.L.1999, c.19.

Provides for licensure of massage and bodywork therapists and registration of their employers.

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Suggested allocation: ss. 13-25: 45:11-68 et seq.

s. 25: Repealer

s. 26: Eff. date

AN ACT providing for the licensing of massage and bodywork therapists and the registration of certain employers, amending the title and body of P.L.1999, c.19, amending various parts of the statutory law, supplementing P.L.1999, c.19, and repealing sections 4, 5, 6, 13, and 14 of P.L.1999, c.19.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The title of P.L.1999, c.19 is amended to read as follows:

AN ACT providing for the [certification] licensing of massage [.] and bodywork [and somatic] therapists and supplementing P.L.1947, c.262 (C.45:11-23 et seq.).

(cf: P.L.1999, c.19)

2. Section 1 of P.L.1999, c.19 (C.45:11-53) is amended to read as follows:

1. This act shall be known and may be cited as the "Massage [.] and Bodywork [and Somatic] Therapist [Certification] Licensing Act."

(cf: P.L.1999, c.19, s.1)

3. Section 2 of P.L.1999, c.19 (C.45:11-54) is amended to read as follows:

2. The Legislature finds and declares that:

a. the public interest requires the regulation of the practice of massage and bodywork therapies and the establishment of clear [certification] licensure standards for massage [.] and bodywork [and somatic] therapists;

b. the health and welfare of the citizens of this State will be protected by identifying to the public those individuals who are qualified to [call themselves] practice massage [.] and bodywork [and somatic therapists] therapies; and

c. the regulation of massage [.] and bodywork [and somatic] therapists will benefit the public by encouraging it to take advantage of massage [.] and bodywork [and somatic] therapies as a viable complement to traditional medicine.

(cf: P.L.1999, c.19, s.2)

4. Section 3 of P.L.1999, c.19 (C.45:11-55) is amended to read as follows:

3. As used in this act and P.L. , c. (C.) (pending before the Legislature as this bill):

"Board" means the New Jersey Board of [Nursing] Massage and Bodywork Therapy established in section 14 of this act and P.L. , c. (C.) (pending before the Legislature as this bill).

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

["Committee" means the Massage, Bodywork and Somatic Therapy Examining Committee established pursuant to section 4 of this act.] (Deleted by amendment, P.L. , c.)

"Licensee" means any person who holds a [certification] license to practice massage and bodywork therapies pursuant to the provisions of this act and P.L. , c. (C.) (pending before the Legislature as this bill).

"Massage [.] and bodywork [and somatic] therapist" means a person [certified] licensed to practice massage and bodywork therapies for compensation pursuant to the provisions of this act and P.L. , c. (C.) (pending before the Legislature as this bill).

"Massage [.] and bodywork [and somatic] therapies" or "massage [.] and bodywork [and somatic]" means systems of activity of structured touch which include, but are not limited to, holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage [.] and bodywork [or somatic] principles. Such application may include, but is not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, explaining and describing myofascial movement, self-care and stress management as it relates to massage [.] and bodywork [and somatic] therapies. Massage [.] and bodywork [and somatic] therapy practices are designed to affect the [energetic system] soft tissue of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage [.] and bodywork [and somatic] therapies do not include the diagnosis [or treatment] of illness, disease, impairment or disability.

(cf: P.L.1999, c.19, s.3)

5. Section 7 of P.L.1999, c.19 (C.45:11-59) is amended to read as follows:

7. The [committee] board shall:

a. Review the qualifications of applicants for [certification] licensure;

b. Insure the proper conduct and standards of examinations;

c. Issue and renew [certificates of certification] licenses to massage [.] and bodywork [and somatic] therapists pursuant to this act;

d. Suspend, revoke or fail to renew the [certificate of certification] license of a massage [.] and bodywork [and somatic] therapist pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

e. Establish any standards for the continuing education of licensees as it deems necessary;

f. Prescribe or change the charges for examinations, [certifications] licenses, renewals and other services performed pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.); and

g. Maintain a record of every massage [.] and bodywork [and somatic] therapist [certified] licensed in this State, and the date and number of his [certificate of certification] license, and publish a list of the names and addresses of all licensees annually.

(cf: P.L.1999, c.19, s.7)

6. Section 8 of P.L.1999, c.19 (C.45:11-60) is amended to read as follows:

8. To be eligible for [certification] license as a massage [.] and bodywork [and somatic] therapist, an applicant shall be of good moral character and submit to the [committee] board satisfactory evidence of:

a. Successful completion of a minimum of 500 hours in class study in the field of massage [.] and bodywork [and somatic] therapies approved by the [committee] board; or

b. Successful completion of the written examination offered by [The] the National Certification Board for Therapeutic Massage and Bodywork or the written examination offered by the National Certification Commission for Acupuncture and Asian Medicine, or a substantially equivalent examination approved by the [committee] board to determine the applicant's competence to [call himself a] practice massage [.] and bodywork [and somatic therapist] therapies. The successful completion of any such examination may have been accomplished before the effective date of this act.

(cf: P.L.1999, c.19, s.8)

7. Section 10 of P.L.1999, c.19 (C.45:11-62) is amended to read as follows:

10. A fee to be determined by the [committee] board shall accompany each application for [certification] license. [Certificates of certification] Licenses shall expire biennially and may be renewed upon submission of a renewal application provided by the board and payment of a fee. If the renewal fee is not paid by that date, the [certificate of certification] license shall automatically expire, but may be renewed within two years of its expiration date on payment to the board of a sum determined by the [committee] board for each year or part thereof during which the [certificate of certification] license was expired and an additional restoration fee. After a two-year period, a [certificate of certification] license may only be renewed by complying with the provisions of this act and P.L. . . . , c. . . . (C. . . .) (pending before the Legislature as this bill) regarding initial [certification] license.

(cf: P.L.1999, c.19, s.10)

8. Section 11 of P.L.1999, c.19 (C.45:11-63) is amended to read as follows:

11. The **[committee] board** shall issue a **[certificate of certification] license** to each applicant for **[certification] licensure** as a massage **[,] and** bodywork **[and somatic] therapist** who qualifies pursuant to this act and P.L. , c. (C.) (pending before the Legislature as this bill) and any rules and regulations promulgated by the board and who is not disqualified for **[certification] licensure** pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.).
(cf: P.L.1999, c.19, s.11)

9. Section 12 of P.L.1999, c.19 (C.45:11-64) is amended to read as follows:

12. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the **[committee] board** shall issue without examination a **[certificate of certification] license** to a massage **[,] and** bodywork **[and somatic] therapist** who holds a valid license or certification issued by another state or possession of the United States or the District of Columbia which has education and experience requirements substantially equivalent to the requirements of this act and P.L. , c. (C.) (pending before the Legislature as this bill); provided, however, that the applicant has not previously failed any examination referred to in section 8 of **[this act] P.L.1999, c.19 (C.45:11-60)** that is approved by the **[committee] board**, in which case the granting of **[certification] licensure** shall be at the discretion of the **[committee] board**.
(cf: P.L.1999, c.19, s.12)

10. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of

Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, and the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the New Jersey Cemetery Board, the State Board of Polysomnography, the New Jersey Board of Massage and Bodywork Therapy and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

(cf: P.L.2005, c.308, s.8)

11. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners and the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Orthotics and Prosthetics Board of Examiners, the New Jersey Board of Massage and Bodywork Therapy and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

(cf: P.L.2005, c.308, s.10)

12. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State

Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Landscape Architect Examination and Evaluation Committee, [the Massage, Bodywork and Somatic Therapy Examining Committee,] the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, and the Audiology and Speech-Language Pathology Advisory Committee, the New Jersey Board of Massage and Bodywork Therapy and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

(cf: P.L.2005, c.308, s.11)

13. (New section) a. Nothing in this amendatory and supplementary act shall be construed to prohibit any person licensed to practice in this State under any other law from engaging in the practice for which he is licensed or to prohibit any student enrolled in a program of massage and bodywork therapies recognized by the board from performing massage and bodywork therapies which is necessary to his course of study.

b. Nothing in this amendatory and supplementary act shall be construed to prohibit any person performing massage and bodywork therapies in this State, if those therapies are performed for no more than 45 days in a calendar year and for no more than 30 days in any 60-consecutive day period and provided that the person is duly licensed, certified or registered to practice massage and bodywork therapy in another state or the District of Columbia.

c. Nothing in this amendatory and supplementary act shall be construed to prohibit any person from engaging in the manipulation of soft tissue of the human body contained on hands, feet or ears, provided that the client does not remove any clothing.

14. (New section) There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the New Jersey Board of Massage and Bodywork Therapy. The board shall consist of nine members who are residents of the State, two of whom shall be public members appointed pursuant to the provisions of subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2) and one of whom shall be a member of the executive branch appointed in fulfillment of the requirement of subsection c. of that section. The six remaining members shall have been actively engaged in the practice of massage and bodywork therapies for at least five years immediately preceding their appointment and all of whom, except for the members first appointed, shall be licensed as massage and bodywork therapists pursuant to this amendatory and supplementary act. No more than one member of the board shall be an owner of, or be affiliated with, a school teaching massage and bodywork therapy.

The Governor shall appoint each member, other than the State executive department member, for terms of three years, except that of the massage and bodywork therapists first appointed, two shall serve for a term of three years, two shall serve for terms of two years and two shall serve for terms of one year. Any vacancy in the membership shall be filled for the unexpired term in the manner provided by the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove any member of the board, other than the State executive department member, for cause.

15. (New section) Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

16. (New section) The board shall annually elect from among its members a chairman and a vice-chairman and may appoint a secretary, who need not be a member of the board. The board shall meet at least once every two months and may hold additional meetings as necessary to discharge its duties.

17. (New section) Upon payment to the board of a prescribed fee and the submission of a written application on forms prescribed by the board, the board shall issue a temporary permit to an applicant who within not more than 90 days from the date of application has completed a program of massage and bodywork therapies recognized by the board, which permit shall allow the applicant to engage in the practice of massage and bodywork therapies. The permit shall remain valid for a period of no more than 120 days or upon receipt of a newly issued license as a massage and bodywork therapist, whichever occurs first. Only one temporary permit shall be issued to an applicant.

18. (New section) a. The board shall require each person licensed as a massage and bodywork therapist, as a condition for biennial license renewal pursuant to section 1 of P.L.1972, c.108 (C.45:1-7), to complete any continuing education requirements imposed by the board pursuant to this section.

b. The board shall:

(1) Establish standards for continuing massage and bodywork therapist education, including: the number of credits, which shall not exceed 24 credit hours biennially; the subject matter and content of courses of study; competency assessments; and the type of continuing education credits required of a licensed massage and bodywork therapist as a condition of license renewal;

(2) Approve educational programs offering credit towards continuing massage and bodywork therapist education requirements; and

(3) Approve other equivalent educational programs and establish procedures for the issuance of credit upon satisfactory proof of the completion of those programs. In the case of continuing education courses and programs, each hour of instruction shall be equivalent to one credit.

c. The board shall only approve programs that are provided on a nondiscriminatory basis.

d. (1) The board may, in its discretion, waive requirements for continuing education on an individual basis for reasons of hardship, such as disability, retirement of the license, military service or deployment, or any other good cause.

(2) If a massage and bodywork therapist completes a number of continuing education credit hours in excess of the number required for a biennial period, the board may allow, by rule or regulation, credits to be carried over to satisfy the person's continuing education requirement for the next biennial renewal period, but shall not be applicable thereafter.

19. (New section) a. No person shall engage in the practice of massage and bodywork therapies for compensation as a licensed massage and bodywork therapist or present, call or represent himself as a licensed massage and bodywork therapist unless licensed pursuant to this amendatory and supplementary act.

b. No person shall assume, represent himself as, or use the title or designation "massage or bodywork therapist," "licensed massage and bodywork therapist" or any title or designation which includes the words "massage," "bodywork," "masseur," "shiatsu," "acupressure," "accupressure," "accu-pressure," "nuad bo'rarn," "amma," "anma," "chei nei tsang," "medical qigong," "tuina," "polarity educator," "polarity therapist," "polarity therapy," "polarity practitioner" or any of the abbreviations "MT," "BT," "MBT," "MBST," "CMBT," "COBT," "CMT," "LBT," "LMBST," "LMBT," "LABT," "LOBT," "AB," "ABT," "OB," "RPP," or

“LMT” or similar abbreviations, unless licensed under this amendatory and supplementary act.

20. (New section) Any person who is a certified massage, bodywork and somatic therapist pursuant to sections 8 or 9 of P.L.1999, c.19 (C.45:11-60 or 45:11-61) on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall be a licensed massage and bodywork therapist under and subject to the provisions of P.L.1999, c.19 (C.45:11-53 et seq.) and P.L. , c. (C.) (pending before the Legislature as this bill).

21. (New section) For 360 days after the date procedures are established by the board for applying for licensure under the provisions of P.L. , c. (C.) (pending before the Legislature as this bill), any person who engaged in the full-time practice, as determined by the board, of massage and bodywork therapies for two years preceding the enactment date of P.L. , c. (C.) (pending before the Legislature as this bill), or in the part-time practice, as determined by the board, of massage and bodywork therapies for five years preceding the enactment date of P.L. , c. (C.) (pending before the Legislature as this bill), and has successfully completed a minimum of 200 hours of education or training in massage or bodywork therapies as determined by the board, may acquire a license to practice massage and bodywork therapies without satisfying either the education or examination requirement of section 8 of P.L.1999, c.19 (C.45:11-60).

22. (New section) a. No employer shall engage in or advertise or hold itself out as offering massage and bodywork therapies unless the employer is registered with the board.

b. A written application for registration shall be made to the board on the form prescribed by the board and shall contain the following information:

(1) The name and residence of the owner or operator of the entity providing massage and bodywork therapies;

(2) The municipality and location of the owner or operator’s primary place of business and the locations of all other branches of business; and

(3) Any other biographical information of the applicant as required by the board.

23. (New section) The board may suspend or revoke the registration of an employer offering massage and bodywork therapies upon proof showing by a preponderance of the evidence that the employer:

a. Had made false or misleading statements of a material nature in the application for registration; or

b. Failed to demonstrate that each employee of the employer who is engaged in the performance of massage and bodywork

therapies is in possession of a license to practice massage and bodywork therapies.

24. (New section) This act shall supersede any municipal ordinance or regulation that provides for the licensing, certification or registration of massage and bodywork therapists.

25. The following sections are repealed:
 Section 4 of P.L.1999, c.19 (C.45:11-56)
 Section 5 of P.L.1999, c.19 (C.45:11-57)
 Section 6 of P.L.1999, c.19 (C.45:11-58)
 Section 13 of P.L.1999, c.19 (C.45:11-65)
 Section 14 of P.L.1999, c.19 (C.45:11-66)

26. This act shall take effect on the 90th day following enactment.

STATEMENT

This bill amends and supplements the “Massage, Bodywork and Somatic Therapist Certification Act,” P.L.1999, c.19 (C.45:11-53 et seq.), to become the “Massage and Bodywork Therapist Licensing Act.” The bill provides for the use of the title “licensed massage and bodywork therapist” instead of the title “certified massage, bodywork and somatic therapist,” as currently established by law.

Also, the bill specifies that massage and bodywork therapy practices are designed to affect the soft tissue of the body, rather than the energetic system as currently stated in law, for the purpose of promoting and maintaining the health and well-being of the client.

The bill also abolishes the Massage Bodywork and Somatic Therapy Examining Committee under the New Jersey Board of Nursing in the Department of Law and Public Safety. Instead, this bill establishes within the Division of Consumer Affairs in the Department of Law and Public Safety the New Jersey Board of Massage and Bodywork Therapy, which board is to be responsible for the licensure of massage and bodywork therapists.

In addition, the bill stipulates that no person shall engage in the practice of massage and bodywork therapies for compensation as a licensed massage and bodywork therapist or present, call or represent himself as a licensed massage and bodywork therapist unless licensed pursuant to the provisions of this bill.

The bill specifies that nothing shall be construed to prohibit any person licensed to practice in this State under any other law from engaging in the practice for which he is licensed; or to prohibit any student enrolled in a program of massage and bodywork therapies recognized by the board from performing massage and bodywork therapies which is necessary to his course of study; or to prohibit

any person performing massage and bodywork therapies in this State, if those therapies are performed for no more than 45 days in a calendar year and for no more than 30 days in any 60-consecutive day period and provided that the person is duly licensed, certified or registered to practice massage and bodywork therapy in another state or the District of Columbia; or to prohibit any person from engaging in the manipulation of soft tissue of the human body contained on hands, feet or ears, provided that the client does not remove any clothing. In addition, the bill permits the New Jersey Board of Massage and Bodywork Therapy to issue a temporary permit to an applicant who within not more than 90 days from the date of application has completed a program of massage and bodywork therapies recognized by the board, which permit shall allow the applicant to engage in the practice of massage and bodywork therapies. The permit shall remain valid for a period of no more than 120 days.

The bill permits massage and bodywork therapists to treat illness, disease, impairment or disability. The current statutory provision prohibits massage, bodywork and somatic therapists from treating illness, disease, impairment or disability.

Furthermore, the bill provides that the New Jersey Board of Massage and Bodywork Therapy shall establish standards for continuing massage and bodywork therapist education, including: the number of credits, which shall not exceed 24 credit hours biennially; the subject matter and content of courses of study; competency assessments; and the type of continuing education credits required of a licensed massage and bodywork therapist as a condition of license renewal; approve educational programs offering credit towards continuing massage and bodywork therapist education requirements; and approve other equivalent educational programs and establish procedures for the issuance of credit upon satisfactory proof of the completion of those programs. In the case of continuing education courses and programs, each hour of instruction shall be equivalent to one credit. Also, the board may waive requirements for continuing education on an individual basis for reasons of hardship, such as disability, retirement of the license, military service or deployment, or any other good cause. The board may also allow a number of continuing education credit hours in excess of the number required for a biennial period to be carried over to satisfy a person's continuing education requirement for the next biennial renewal period.

This bill also stipulates that no employer shall engage in or advertise or hold itself out as offering massage and bodywork therapies unless the employer is registered with the New Jersey Board of Massage and Bodywork Therapy. In addition, the board may suspend or revoke the registration of an employer offering massage and bodywork therapies upon proof showing by a preponderance of the evidence that the employer: had made false or misleading statements of a material nature in the application for

registration; or failed to demonstrate that each employee of the employer who is engaged in the performance of massage and bodywork therapies is in possession of a license to practice massage and bodywork therapies.

Furthermore, the bill states that the "Massage and Bodywork Therapist Licensing Act," shall supersede any municipal ordinance or regulation that provides for the licensing, certification or registration of massage and bodywork therapists.

Revises laws for regulation of massage and bodywork therapists and registration of their employers.