

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2365

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Deanna Ballarino  
Operator's Signature

10/22/03

Date

2003 SENATE HUMAN SERVICES

SB 2365

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Operator's Signature

10/22/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2365

Senate Human Services Committee

Conference Committee

Hearing Date February 4, 2003

Tape Number	Side A	Side B	Meter #
3	X		363 - 1392
Committee Clerk Signature <i>Donna Kramer</i>			

Minutes:

SENATOR JUDY LEE opened the public hearing for SB 2365 relating to massage therapy continuing education.

SENATOR ERBELE introduced the bill. Attendance at postgraduate work of at least eighteen continuing education units a year as prescribed by the board is a further requirement for renewal of the license. (Attachment of e-mail correspondence to the senator from Edward Erickson, Assistant Attorney General, General Counsel for the North Dakota Board of Massage) Senator Erbele stated that Mr. Erickson had met with the Board of Massage and suggested the changes. Discussion on difference in hours. (Meter #389 - 930)

EDWARD ERICKSON, Assistant Attorney General, testified in favor of the bill. Referred to Line 9 regarding "at least 18 continuing education units." ... implies greater than 18 hours. This bill is affecting continuing education. (Meter # 940 - 1368)

SENATOR LEE closed the public hearing on SB 2365. (Meter #1392)

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*Donna Kramer*  
Operator's Signature

10/22/03

Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2365

Senate Human Services Committee

Conference Committee

Hearing Date February 5, 2003

Tape Number	Side A	Side B	Meter #
1		X	0 - 565
Committee Clerk Signature <i>Donna Kramer</i>			

Minutes:

SENATOR JUDY LEE reopened the discussion on SB 2365 relating to massage therapist continuing education. She questioned as to whether it was important to amend by increasing the number of education hours.

SENATOR FISCHER stated that to raise the hours would have to be done through rule.

Continued committee discussion as to whether it would be worth amending to raise the hours.

(Meter #214 - 500)

SENATOR BROWN made a motion to DO PASS.

SENATOR FAIRFIELD seconded the motion.

Roll call was read. 6 yeas 0 nays.

SENATOR FAIRFIELD will be the carrier. (Meter #565)

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*Deanna Waller*  
Operator's Signature

*10/22/03*  
Date

Date: 02-05-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2365

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken "Do Pass"

Motion Made By Sen. Brown Seconded By Sen. Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield	✓				
Senator Michael Polovitz	✓				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment Sen. Fairfield

If the vote is on an amendment, briefly indicate intent:

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Deanna Hall Operator's Signature 10/22/03 Date

**REPORT OF STANDING COMMITTEE (410)**  
February 5, 2003 1:11 p.m.

**Module No: SR-22-1717**  
**Carrier: Fairfield**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2365: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2365 was placed on the**  
**Eleventh order on the calendar.**

(2) DESK, (3) COMM

Page No. 1

SR-22-1717

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*10/22/03*  
Date

2003 HOUSE EDUCATION

SB 2365

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Deanna Halliwell  
Operator's Signature

10/22/03

Date

2003 HOUSE STANDING COMMITTEE MINUTES  
BILL/RESOLUTION NO. SB 2365  
House Education Committee

Conference Committee

Hearing Date March 19, 2003

Tape Number	Side A	Side B	Meter #
1	x		100-1115
Committee Clerk Signature <i>Linda Fickner</i>			

Opened the hearing on SB 2365

**Sen. Robert Rebel, District 28**

This bill is for the option to do some the continuing education courses be done by remote for the message therapist. The board will willing to accept a third of the credits in course offerings be accepted for the licenser of the therapist. They are required 18 hours of CEU and so they can have 6 hours by remote. **Rep. Herbel** what constitutes a unit **Erbele:** a hour a unit

**Rep. Mueller** Is it in the language any necessity that the board has on which 6 units are allowed.

**Erbele:** The board will determine what is acceptable and outline that.

**Edward Erickson: Assistant Attorney General, general counsel for the Board of Message**

We support the bill in its present form. It does allow individuals to obtain the continuing education credits to obtain their one third of the present requirements by remote means, which is video tapes, IVAN, etc. This is appropriate for some education, but obviously not all education involving message therapy which is a hands on profession. We think that going with one third of the credits rather than 6 credits, because the statue allows the board to expand the number of requirements beyond 18. The board has not intention of expanding it at this time. So staying with

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*Deanna Helms*  
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*10/22/03*  
Date



Page 2

House Education Committee  
Bill/Resolution Number SB 2365  
Hearing Date March 19, 2003

6 would be okay. Where we think this will be handy is for people who live in the more rural areas and it is difficult to get to the larger cities just to pick up an hour or two in credit.

**Rep. Meier** How many therapists does this apply to? **Erickson:** No one is doing a remote yet.

**Rep. Hunsakor** What mechanism is in place that if the individual doing this kind of work does not have these credits done when the license comes for renewal. Is there a mechanism that within a month or two before they are not licensed. **Erickson:** We give them notices, giving them a time frame to get their credits in and generally we have a lead way of a couple of months. Since my work with the board has not been an issue. **Rep. Jon Nelson** How many licensed message therapists are there in the state **Erickson:** 150-200

**Rep. Jon Nelson** If you use a remote means of continuing Ed for the 6 hours, what safeguard do you have that they have completed the task, is there a test to show their understanding.

**Erickson:** No means at this time, we are going on their honor, plus their signature on a government document to the effect that they have done the task. It would be falsify information on a government document is a criminal misdemeanor. this is very common in a number of licenser, including law, where we just certified to our licensing board that we have attended the class. there has been some discussion nationally on licensing boards, that some states have contemplated that this might become a concern. There has not been much support to move to some other certification. Some certifies do at least check attendance and will issue a certificate. Some boards are thinking of requiring a certificate be submitted.

**Opposition-** None closed hearing on 2365

**Rep. Mueller** moved a DO PASS, **Rep. Solberg** second the motion, Roll vote passed 14-0-0

**Rep. Hunsakor** will carry the bill to the floor.

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*Deanna Hall*  
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10/22/03  
Date

Date: 3/19/03  
Roll Call Vote #: /

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2365

House HOUSE EDUCATION Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Mueller Seconded By Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓				
Rep. Johnson	✓				
Rep. Nelson	✓				
Rep. Haas	✓				
Rep. Hawken	✓				
Rep. Herbel	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Hanson	✓				
Rep. Hunsakor	✓				
Rep. Mueller	✓				
Rep. Solberg	✓				
Rep. Williams	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Hunsakor

If the vote is on an amendment, briefly indicate intent:

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Deanna Hall Operator's Signature Date 10/22/03

**REPORT OF STANDING COMMITTEE (410)**  
March 19, 2003 9:41 a.m.

Module No: HR-49-5161  
Carrier: Hunekor  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
SB 2365: Education Committee (Rep. R. Kelech, Chairman) recommends **DO PASS**  
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2365 was placed on the  
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-49-5161

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*Deanna O'Connell*  
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10/22/03  
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2003 TESTIMONY

SB 2365

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10/22/03  
Date



"Erickson, Edward E."  
 <eerickso@state.nd.us  
 >  
 01/25/2003 12:45 PM

To: "Erbele, Robert S." <rerbele@state.nd.us>  
 cc: "Bluestarmassage@aol.com" <Bluestarmassage@aol.com>,  
 "dihellman@uswest.net" <dihellman@uswest.net>,  
 "k\_wojahn@yahoo.com" <k\_wojahn@yahoo.com>,  
 "philj@pop.ctctel.com" <philj@pop.ctctel.com>,  
 "gmcintee@msn.com" <gmcintee@msn.com>  
 Subject: Massage Therapist Continuing Education

Sen. Erbele--

Thank you for allowing the Board of Massage to have an opportunity to comment on your proposed bill allowing continuing education for massage therapists to be obtained remotely. The Board met yesterday to review your bill draft, and has the following comments.

First, by requiring the Board to accept c.e. units from named entities, the bill draft would be assigning a governmental function to a private, non-governmental entity. The North Dakota Supreme Court has held that it is unconstitutional for governmental functions to be delegated or assigned to a non-governmental entity. See Montana-Dakota Utilities Co. v. Johanneson, 153 N.W.2d 414, 421 (N.D.1967). Further, this would have an anticompetitive effect on other providers of continuing education. And last, not all types of necessary continuing education in the massage profession are suitable to remote training. Certain courses, such as ethics, are suitable for remote training, but courses in technique need to be taught and demonstrated in person so that the instructor can determine that the student is practicing correctly. There is also a positive effect on the profession itself caused by massage therapists having an opportunity to meet and discuss common issues and learn from each other which would be lost if all of a person's c.e. was obtained remotely.

The Board proposes the following language to address these concerns, and believes that your concerns will still be met:

The board may accept continuing education by remote means for up to one-third of the licensee's continuing education requirements each year, if the remote education is sponsored by a nationally recognized provider and has been approved by the board for content and suitability for remote training.

I have provided an attachment in bill draft form for your convenience.

By adding discretion and removing the requirement that the Board must accept c.e. units from specifically-named providers, the issue of improper delegation of governmental functions is avoided. By limiting the c.e. units accepted by remote means, the licensee is accommodated in getting some c.e. remotely but still will have to attend hands-on training for most of the important techniques that are taught. The limitation is stated as a fraction of the whole because the Board is allowed by present law to expand the c.e. requirement beyond the present 18 units, and this way the amount of remote training allowed would expand if the total hours of c.e. were to be expanded. And by allowing the Board to determine the suitability of the training for remote training, the Board will be able to protect the public from harm that may be caused by improperly trained massage therapists.

Edward Erickson  
 Assistant Attorney General  
 General Counsel for the North Dakota Board of Massage  
 (701) 328-3536

<<Bill draft 43-25-09.doc>> Bill draft 43-25-09.doc

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*Edward Erickson*  
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