



## TABLE of CONTENTS

<u>Document</u>	<u>Page</u>
Notice and Agenda	2
Community College Chancellor's Office – Document 1	4
Conflict of Interest Policy – Agenda Item 4	5
Board Member's Duty of Loyalty – Agenda Item 5	6
Legislation – Agenda Item 6	10
Chief Executive Officer's Report – Agenda Item 7	15
Treasurer's Report – Agenda Item 8	18
Director of Governmental Affairs and Special Projects Report – Agenda Item 9	25
Discussion and Adaptation of 2015 Strategic Objectives – Agenda Item 11	29
Legislator of the Year Award – Agenda Item 12	34
Board of Directors – Standard Operating Procedures – Agenda Item 18	37
PSD – Summary of Standard Operating Procedures Report – Agenda Item 19	42



**CALIFORNIA**  
MASSAGE THERAPY COUNCIL

One Capitol Mall, Suite 320 | Sacramento, CA 95814  
tel 916.669.5336 fax 916.444.7462 www.camtc.org

**Sent and Posted: Friday September 19, 2014**

NOTICE OF PUBLIC MEETING

Tuesday, September 30, 2014 --10:00 a.m.  
Wednesday, October 1, 2014 -- 8:30 a.m.  
The Portofino Hotel and Marina  
260 Portofino Way  
Redondo Beach, CA 90277  
Pacific 1 Room

AGENDA

1. Call to order and establish quorum
2. Chair's Comments
3. Approval of Minutes from June 5, 2014 and June 25, 2014 meetings
4. Conflict of interest policy
5. Board members' duty of loyalty
6. Legislation
7. Chief Executive Officer's Report
8. Treasurer's Report
9. Director of Governmental Affairs and Special Projects' Report
10. Director of PSD's Report
11. Discussion and adaptation of 2015 strategic objectives
12. Legislator of the Year Award

13. Massage school presentations
14. Closed Session with CAMTC Legal Counsel Pursuant to California Government Code Section 11126(e)
15. Closed Session regarding the appointment, employment, evaluation of performance, or dismissal of an employee pursuant to California Government Code Section 11126(a)
16. Return to open session and announce action taken in closed session, if any, under item 15
17. Review and recommendations regarding CEO compensation
18. Board of Directors - Standard operating procedures
19. PSD – summary of standard operating procedures report
20. Future agenda items and scheduling of next meeting
21. Adjourn

*All agenda items are subject to discussion and possible action.* To make a request for more information, to submit comments to the Board, or to make a request regarding a disability-related modification or accommodations for the meeting, please contact Sheryl LaFlamme at (916) 669-5336 or One Capitol Mall, Suite 320 Sacramento CA 95814 or via email at [camtc@amgroup.us](mailto:camtc@amgroup.us). Requests for disability-related modification or accommodation for the meeting should be made at least 48 hours prior to the meeting time. This notice and agenda is available on the Internet at <http://www.camtc.org>

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**From:** "White, Maureen" <[mwhite@cccco.edu](mailto:mwhite@cccco.edu)>  
**Subject:** FW: CA Community Colleges Chancellor's Office Recommendation: CA  
Massage Therapy Council  
**Date:** August 5, 2014 1:32:32 PM PDT  
**To:** "[anetanel@camtc.org](mailto:anetanel@camtc.org)" <[anetanel@camtc.org](mailto:anetanel@camtc.org)>  
**Cc:** "Jones, Debra" <[djones@CCCCO.edu](mailto:djones@CCCCO.edu)>

**From:** White, Maureen  
**Sent:** Tuesday, August 05, 2014 11:17 AM  
**To:** '[anetanel@camtc.org](mailto:anetanel@camtc.org)'  
**Subject:** CA Community Colleges Recommendation: CA Massage Therapy Council

TO: Mr. Ahmos Netanel  
Chief Executive Officer  
CA Massage Therapy Council  
RE: **Dr. Jeffrey Forman**  
**Founder and Professor Emeritus**  
**Massage Therapy Program**  
**DeAnza Community College**

Dear Mr. Netanel:

Our California Community Colleges Chancellor's Office of Workforce and Economic Development Division, which oversees all California community college CTE programs, is pleased to appoint Dr. Jeffrey Forman as our representative to your California Massage Therapy Council. Dr. Forman founded and managed the massage therapy program at De Anza College since 1991. One of his many accomplishments was to get massage therapy as a top code and to be considered a legitimate vocational training program in the state. Dr. Forman also developed the first AA degree in Massage Therapy in the California Community College system. Now that he is retired, Dr. Forman can contribute his expertise on a statewide level.

If you have questions about our recommendation for your Massage Therapy Council, please contact me:

Best regards,

*Maureen*

Maureen E. White, M.A., Ed.D., SPHR

*Doing What Matters for*

*Jobs & the Economy*

Career [Technical] Education Practices

Workforce & Economic Development Division

CA Community Colleges Chancellor's Office

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Sacramento, CA 95811

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**CONFLICT OF INTEREST POLICY**  
**Approved 9/14/10**

Board members and committee members must actively seek to avoid situations and activities that create an actual or potential conflict between the individual's personal interests and the interests of the corporation. If a Board member or committee member believes that a conflict exists relative to a particular issue being considered by the Board or any committee, he or she shall disclose the conflict to the Board or committee, as appropriate, and abstain from discussion or voting on the issue.

For purposes of this section and these bylaws, a "conflict of interest" means a situation in which a board or committee member is part of a discussion or decision by the board or a committee which has the potential to financially benefit that board or committee member or a member of that board or committee member's immediate family.

"Immediate family" means, spouse or same-sex/domestic partner, children, parents, siblings, parents-in-law, or siblings-in-law.

Both the fact and the appearance of a conflict of interest should be avoided. Board members or committee members who are unsure as to whether a certain transaction, activity, or relationship constitutes a conflict of interest should discuss it with the Chairperson, who will determine whether disclosure to the Board or the assistance of legal counsel is required.

Date: \_\_\_\_\_

\_\_\_\_\_  
 Signature of Board member

\_\_\_\_\_  
 Print name of Board member

## CALIFORNIA MASSAGE THERAPY COUNCIL

### Policy on Board Member Conduct and Duties

- **Duty of Care**

When performing their duties on the Board or any committee, directors must act in good faith, in a manner reasonably believed to be in the corporation's best interest, and with such care, including reasonable inquiry, as an ordinarily prudent person in like position would use under similar circumstances.

Directors/officers should:

1. Be informed: Become and remain informed about the activities and goals of the organization – not the minutia, but at least as to its major activities, financial condition, and the procedures under which it operates.
2. Participate: attend meetings; volunteer for committee assignments; participate in discussions, etc. Even if a director isn't there, he or she can still be held responsible for actions taken – so better to show up and participate.
3. Act in good faith: decisions made with the best interests of the corporation in mind, in a deliberate fashion, without undue haste or pressure from other sources; ask for independent evaluations on complex issues (legal counsel, accountants) – reasonable inquiry; appropriate paper trail (ensure good minutes are maintained, etc.).

- **Duty of Loyalty**

1. Avoid Conflicts of interest (a decision before the Board in which a director or officer or his or her family may benefit financially).
  - a. Disclose – If you think you have a conflict of interest on a particular agenda item before the Board, disclose your concern to the Chairman (preferably before the meeting) to determine whether a conflict actually exists (seek advice of legal counsel if necessary).
  - b. Abstain – If you do have a conflict, abstain from both discussion and voting on the matter.
  - c. Real, perceived, creating problems – Even if it's determined that an actual, legal conflict of interest does not exist, consider abstaining from the discussion and vote anyway if the perception of a conflict will cause problems for the organization.
2. Avoid Corporate opportunity/self-dealing: Avoid looking for ways, or taking advantages of opportunities, to make money from the corporation (leasing it office space or equipment, decisions affecting other organizations on which you serve; using corporate resources for personal gain, selling product for use by the corporation, etc.)

3. Confidentiality. Every director and officer has a duty to maintain in confidence the proprietary and confidential information of the corporation (unless otherwise required by law), and not to utilize confidential and proprietary information of the corporation for his or her own personal gain or to the detriment of the corporation. Discussions in closed session must be maintained in absolute confidence.
4. Duty to support the Board publicly. When speaking or communicating publicly, directors and officers should support the positions taken by the Board and should avoid stating opinions adverse to CAMTC. Directors and officers can, of course, voice opinions when speaking or writing on issues not related to positions taken by CAMTC.

- **Limiting Personal Liability**

Volunteer directors and officers can limit their personal liability to third parties for monetary damages caused by the director's or officer's negligent act or omission in the performance of his or her duties as a director or officer, if all of the following conditions are met:

- (1) The act or omission was within the scope of the director's or officer's duties.
- (2) The act or omission was performed in good faith.
- (3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive officer.

- **Be aware of and informed about:**

1. Insurance coverage (reviewing policies at least once per year to determine if type and limits are still appropriate)
2. Articles and bylaws (should be reviewed by legal counsel at least every 5 years to determine if still consistent with California law, still consistent with activities engaged in by the organization, and still consistent with how the corporation actually operates procedurally)
3. Preserving tax exempt status (ensuring that corporate activities are within "exempt purposes", making all required state and federal filings in a timely manner, not exceeding the limits on "lobbying", etc)
4. Employee issues (Board's role as employer, ensuring the organization has good personnel policies, ensuring that "independent contractors" utilized by the organization are properly characterized as such)
5. Understanding the limits that a public benefit corporation with 501c3 exempt status has with respect to lobbying (what the limits are) and understanding the difference between "lobbying" (some allowed) and "political activity" (none allowed)

## California Corporations Code Section 5239

5239. (a) There shall be no personal liability to a third party for monetary damages on the part of a volunteer director or volunteer executive officer of a nonprofit corporation subject to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive officer.

In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive officer shall not be personally liable for the damages if the Board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive officer" means the president, vice president, secretary, or treasurer of a corporation, or such other individual who serves in like capacity, who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 5233 or 5237.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of



liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

(h) As used in this section as applied to nonprofit public benefit corporations which have an annual budget of less than twenty-five thousand dollars (\$25,000) and that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, the condition of making "all reasonable efforts in good faith to obtain available liability insurance" shall be satisfied by the corporation if it makes at least one inquiry per year to purchase a general liability insurance policy and that insurance was not available at a cost of less than 5 percent of the previous year's annual budget of the corporation. If the corporation is in its first year of operation, this subdivision shall apply for as long as the budget of the corporation does not exceed twenty-five thousand dollars (\$25,000) in its first year of operation.

An inquiry pursuant to this subdivision shall obtain premium costs for a general liability policy with an amount of coverage of at least five hundred thousand dollars (\$500,000).

## **Summary of changes to state laws made by AB 1147**

### **I. Sections of state law amended by AB 1147:**

- A. Business and Professions Code Section 460 (pertaining to all professions)
- B. Business and Professions Code Section 4600 - 4621 (The Massage Therapy Act)
- C. Government Code Section 51034

### **II. Business and Professions Code Section 460**

- A. Clarifies that a city or county cannot prevent a person or group of persons certified by an agency established in the B&P Code from engaging in their business or profession or providing services that fall within the recognized scope of practice
- B. Clarifies that cities and counties can adopt and apply zoning, business licensing and reasonable health & safety requirements for these businesses

### **III. Business and Professions Code Section 4600 – 4621**

#### **A. Intent**

- a. Consistent standards for certified professionals
- b. Oversight of schools
- c. Land use vested in local governments
- d. Local governments impose and enforce only reasonable and necessary fees and regulation
- e. Local governments be mindful to protect the legitimate businesses and professionals, particularly sole providers
- f. Local governments, law enforcement, non-profit stakeholders, the massage industry and professionals improve communication, share information and further increase the value of certification
- g. Develop a Model ordinance reflecting Best Practices that respect local control, patient privacy and the dignity of the profession of massage therapy

#### **B. Definitions**

- a. Adds “and that has not been otherwise unapproved by the council” to the definition of an approved massage school
- b. Adds a definition of “Massage”
- c. Adds a definition of “Massage Establishment”
- d. Adds a definition of “sole provider”

#### **C. Board of Directors**

- a. Continues the existing Board until September 15, 2015
- b. On September 15, 2015, establishes a new Board of Directors
  - i. 13 members
  - ii. Four year terms
- c. New Seats
  - i. CA Police Chiefs Association
  - ii. Anti-human trafficking organization (determined by the Board)
  - iii. A city, county, or state public health official (chosen by the Board)
  - iv. A California licensed Attorney practicing at least 3 years who represents a city (chosen by the Board)
  - v. A person representing a massage business entity operating in California for at least three years (chosen by the board)
  - vi. An additional member with knowledge of the industry or can bring needed expertise (chosen by the board)
- d. Remaining Seats
  - i. League of CA Cities
  - ii. CA State Association of Counties
  - iii. Office of the Chancellor of the CA Community Colleges
  - iv. Department of Consumer Affairs
  - v. CA Association of Private Postsecondary Schools (CAPPS) (by name)
  - vi. Certified professional member of the American Massage Therapy Association – California chapter, California resident practicing at least 3 years (by name)
  - vii. Certified professional member of one other professional association or entity, California resident practicing at least 3 years (rotates between the qualifying groups)

#### **D. Fees and Notices**

- a. Initial and renewal fees for certificates capped at \$300, assessed biannually
- b. 90 days notice posted on website of a Board meeting to consider proposal to raise certification fees
- c. Notify certificate holders and applicants by email within 14 days of vote to raise certification fees and post notice on website

#### **E. Protection of the public**

- a. Protection of the public shall be the highest priority for the council in exercising its certification and disciplinary authority, and any other functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

#### **F. Qualifications to certify**

- a. 500 hours of education at an approved school
- b. 100 hours must include specified core curriculum

- c. All education at approved schools – no CE accepted
- d. All applicants must pass an approved exam
- e. No new CMP's issued for applications received on or after January 1, 2015

**G. Certificate holder responsibilities (not new)**

- a. Must display original certificate at each work location
- b. Must carry photo ID card while at work
- c. Must provide full name and certificate number upon request when at work
- d. Use name certified under and certificate # in all advertising
- e. Notify CAMTC of home or work address change within 30 days

**H. Grounds for denial or discipline**

- a. Unprofessional conduct
  - i. Sexually suggestive advertising related to massage services (must be paid)
  - ii. Sexual activity on premises of massage establishment (excludes residence)
  - iii. Sexual activity during massage service
  - iv. Practicing on suspended or restricted certificate
  - v. Massaging the genitals or anal region
  - vi. Massaging female breasts without written consent of client and referral from a licensed California health care provider
- b. **Attempting** to procure a certificate by fraud, misrepresentation, or mistake
- c. Failure to fully disclose all information requested on the application
- d. Registered sex offender (Section 290 Penal Code) in CA or another state, CAMTC MUST suspend or revoke (previously was not mandated)
- e. Dressing while engaged in the practice of massage or visible to clients in a massage establishment:
  - i. Transparent, see through, or substantially exposes undergarments
  - ii. Swimsuit unless water based modality approved by CAMTC
  - iii. Exposes breasts, buttocks, or genitals
  - iv. In a manner that violates Penal Code Section 314 (indecent exposure)
  - v. In a manner determined by CAMTC to be unprofessional based on custom and practice of the profession in CA.
- f. Grounds continued from existing law
  - i. Procuring a certificate by fraud, misrepresentation or mistake
  - ii. Impersonating applicant or certificate holder or letting another use a certificate
  - iii. Violating the Massage Therapy Act or a rule or bylaw
  - iv. Fraudulent, dishonest or corrupt act substantially related to qualifications or duties

- v. Relevant denial or discipline by another government agency or another CA health care licensing board
- vi. Substantially related felony, misdemeanor, infraction, municipal code violation, or administrative or civil liability
- g. Disciplinary actions against certificate holders now based on preponderance of the evidence (previously was clear and convincing evidence)
- h. Unfair business practices
  - i. Adds engaging in any of the prohibited behaviors described in subdivision (a) constitutes unfair competition under Section 17200

**I. BPC 4612**

- a. City or county shall not enact or enforce an ordinance that conflicts with this chapter or Gove Code section 51034
- b. Full authority to local government over non-certified individuals

**J. BPC 4615 Education Review**

- a. Investigate when an applicants education is in question (CAMTC already has this authority)
- b. CAMTC already has policy for un-approval of schools
- c. Policies, procedures and rules for approval of schools, including curriculum, facility requirements, clinical practice, acceptance of accreditation
- d. School inspections
- e. Reasonable fees for approval and inspections (CAMTC already has this authority)

**K. Authority retained by cities and counties**

- a. Non-certified individuals
- b. Businesses
- c. Business license fees
- d. Land use
- e. Reasonable health and safety regulations
- f. Cost recovery

**L. BPC 4620 Study Required**

- a. June 1, 2016 CAMTC shall provide a report to legislature for period beginning Jan 1, 2015:
  - i. Feasibility of licensure
  - ii. Proposed scope of practice
  - iii. "Legitimate" techniques
  - iv. Statutory recommendations
  - v. Compensation guidelines and current salaries
  - vi. School approval status
  - vii. Performance Metrics

1. Number of denied applications and description of grounds for decisions
2. Number of suspended, revoked or disciplined and grounds for decisions
3. Number of suspensions lifted and grounds for decisions
4. Number schools inspected and unapproved and grounds for each decision
5. Number of complaints against certificate holders, # from LEA, actions taken

**M. Next Sunset**

- a. January 1, 2017

**IV. Government Code Section 51034**

- A. Can impose Business license fees for revenue or regulation**
- B. Cities and counties can require a massage business to obtain a license, certificate or other authority to operate**
- C. Shall not impose or enforce an ordinance that conflicts with this section or BPC 4600 et seq**
- D. Cities or counties not authorized to impose these requirements on ALL massage businesses:**
  - a. Prohibit massage of opposite sex
  - b. Define or regulate massage as adult entertainment
  - c. Prevent client privacy through structural requirements
  - d. Impose excessive draping requirements (beyond covering of genitalia or female breasts) or require clients to wear special clothing
  - e. Prohibit locked external doors if sole provider
  - f. Post notices with specified explicit language or contraception mentioned
- E. Cities or counties not authorized to imposed these requirements on CAMTC certificate holders:**
  - a. Impose an exam, medical test, background check or additional education requirements
  - b. Require any other license, permit, certificate or other authorization to provide massage for compensation
  - c. Impose a dress code beyond BPC 4609 (a)(10)
  - d. Prohibit performing techniques and massage of specific regions of the body (gluteal muscles) that are recognized by CAMTC as legitimate



## **CEO Report**

**September 30, 2014**

### **Legislation**

On September 12, 2012, CAMTC's Board voted to "Move forward with the Sunset process and continue CAMTC, post-sunset, as a voluntary certification body". The Board made it clear that Sunset was the number one strategic priority for 2013-14. On September 19, 2013, the Board instructed staff to "embrace Sunset as the dominating priority" and insure that all projects in 2014 support this objective. The objective was achieved when AB 1147 (the Massage Therapy Act) which CAMTC supported, was signed into law by Governor Brown on September 18, 2014.

The sunset review was a healthy and welcome exercise. It provided an opportunity to make substantive improvement to the law. Considering how controversial AB 1147 was, the fact that there were no "NO" votes from any Legislator on the question of whether to continue CAMTC is remarkable. I'm especially pleased that the Legislature and the Governor unanimously affirmed the right of CAMTC's certificate holders to practice anywhere in California without having to obtain local permits or be subject to local background checks or medical exams. The new law also explicitly states that massage can never be treated as "adult entertainment" by any city or county. The right to work anywhere in the state using a CAMTC certificate and the right to be treated with respect, are two important benefits the law provides to all CAMTC's certificate holders.

The new law takes effect January 1, 2015. In the next few weeks we will be notifying all certificate holders regarding the new provisions of the law and making sure that our operations and protocols are in compliance with the new law.

## Operations

So far in 2014 we have received and processed more than 22,600 new and recertification applications. Since this is more than 3,000 application we planed for, staff has been extremely busy and so far has been managing the additional workload well. While we were interviewing candidates for the position of a third staff attorney to assist with legal work related to denials and revocations, we parted ways with another one. The new staff attorney (which maintains our total of two) is now undergoing training. Our goal is to hire one more full time staff attorney which will bring the total in-house attorneys to three. Our search for the third staff attorney will resume as soon as it's feasible for training to begin.

Our current D&O and E&O insurance policies were both extended to 6/30/15.

## Finance

As of August 31, 2014 CAMTC exceeded expectations on the balance sheet and the statement of functional activity.

Cash in the bank:

Budgeted- \$2,237,220

Actual - \$2,829,989

Excess revenue over expenses:

Budgeted - \$487,747

Actual - \$843,232

**Banking-** The CDARS program with UMPQUA Bank, while providing the convenience of dealing with only one financial institution, yields negligible interest on the CDs. We now are in the process of moving funds from that program as CDs mature into other strong banks with CDs paying 1% interest. No bank will have more than \$250,000. While spreading CAMTC's funds among more than 10 banks will require additional bookkeeping work, it does have the potential to generate \$25,000- \$30,000 per year in interest. The first two banks are Synchrony Bank and California First National Bank. We are opening CDs – 1-year term - \$250,000 each.

## Outreach

**Governmental affairs** - CAMTC's Director of Governmental Affairs has been engaged with multiple outreach meetings and presentations that included:



- Thai Consulate and Ministry of Health, Chamber of Commerce
- CMRTA Division III attendance and Division IV presentation
- National Holistic Institute- Student outreach event
- San Francisco Department of Health hearings
- San Francisco “Commercial Sex Massage Parlors” Taskforce
- Modesto Massage parlor- three meetings

**Spas** - On September 4, 2014, CAMTC participated in The Spa Connection event in San Diego. More than 120 owners and directors of spas were in attendance. The majority of attendees were from well-known luxury resort spas from southern California. I gave a presentation about AB1147 and our Director of Operations and another staff member handled our booth. Based on our interactions at the event, the majority of spa management professionals in attendance were hardly aware of the legislative process and the direct impact the law will have on their spas. This underscored the importance of CAMTC increasing communications with these important stakeholders.

**Media** – In July I canceled our monthly retainer contract with our media consultant and replaced it with an hourly billing agreement. Since late August when AB 1147 passed the legislature we have been receiving request for interviews from the press on almost a daily basis. Our publicity consultant has proven to be invaluable in establishing effective communication relationship with most media outlets that covered the story.

## Treasurer's Report 2014 Through August 31 Board Meeting: September 30, 2014

### Applications Received and Re-Certifications Billed 2013 & 2012

#### New Applications

Through September 13, 2014 CAMTC has received 68,485 applications since the start of operations on July 27, 2009. The average number of weekly applications is 256.

For this year, through September 13, 8257 applications have been received; 223 per week. The number of new applications per week is similar to that in 2013.

As noted previously, re-certifications billed have increased substantially in 2014.

The re-certification process began in July, 2011. Re-certifications billed averaged 298 per week in 2012 and declined to 260 per week in 2013. However, through September 13, 2014, the weekly average has been 475. A major factor in explaining this jump is that it is time for those certified in 2010 and 2012 to renew again.

Year	New Applications Received Per Week	Re-Certifications Billed Per Week*
2014**	223	475
2013	219	260
2012	207	298
2011	264	54
2010	259	0
* estimated from bar chart		
** Through September 13		

New applications through August 31, 2014 exceed budget by 17%. Renewals applied was up 4% from budget.

In 2012, 76% of the re-certifications billed were paid. That fell to 73% in 2013. So far this year (through August) the figure is again, 73%. Although there is a lag between

when re-certifications are billed and when they are paid, the percentage paid appears to be leveling at around 73%.

As previously discussed, CAMTC has two markets new applicants and re-certifiers. As would be expected, revenue from re-certifications is now substantially greater. This certainly does not mean that the smaller new applications segment should be ignored. In the massage therapy category – where churn is high – the long term success of CAMTC depends on reaching new therapists. In developing marketing and communication strategies, thought needs to be given to whether those two segments need different motivations.

For both 2012 and 2013 there appears to be a seasonal pattern in renewals, with the low points in April through July. A similar pattern appears to be taking place in 2014.

Period	2012		2013		2014 Thru May	
	Renewals Billed*	Renewals Paid	Renewals Billed*	Renewals Paid	Renewals Billed*	Renewals Paid
January	1336	76%	1430	72%	1800	79%
February	1757	76%	910	69%	2350	75%
March	2202	77%	910	74%	2800	77%
April	891	79%	690	74%	1750	71%
May	693	70%	640	69%	1650	69%
June	916	73%	890	69%	1650	70%
July	990	69%	920	70%	1800	72%
August	1757	71%	1050	69%	2450	67%
September	1485	61%	1060	71%		
October	1237	66%	1790	77%		
November	990	64%	1450	78%		
December	1222	58%	1835	77%		
<b>Total</b>	<b>15475</b>	<b>76%</b>	<b>13555</b>	<b>73%</b>	<b>16250</b>	<b>73%</b>
*Renewals billed estimated from bar chart						

## Financial Statements

### Statement of Functional Activities (Income Statement)

#### Overview

The revised revenue allocation procedure recognizes 37% of the \$150 initial application and renewal fees when the application is received (up from 27%), 39% when the certificate is issued (up from 38%) and the balance, 24% (down from 35%), over 24 months.

Revenues for 2014 through August 31 exceeded the budgeted amount by 7%, while expenses were 10.0% below budget. The net effect is that revenues exceed expenses by 93% or \$455,485. There continues to be a pattern of surplus revenues and lower expenses relative to budget. While this may reflect ongoing increases in management efficiency and greater than anticipated applications or renewals, future budgets might be reviewed to determine that they are based on realistic goals.

No single source accounted for the 7% excess in revenues over the budgeted amounts; most sources were up over the planned amounts. However, three relatively minor sources of revenue, all related to problem applications, were down a combined \$25,000. Those three sources were: Denied Applications; Purged/Revoked/Suspended Applications; and Hearing Fees. Assuming that CAMTC's quality control remain unchanged, this decline suggests that "problem" therapists are less likely to apply for certification than in the past.

Through August 31, Renewals, Applied and Approved, accounted for almost half, 49% of revenues. This is substantially above the 33% for this revenue source in 2013. Applications Received and Issued accounted for 28%, down from 35% in fiscal 2013. Current and Prior Year Deferrals accounted for 18%, down from 25% in 2013. (Numbers in the table below show slightly different figures due to rounding.)

<b>Source</b>	<b>2014 Though 8/31</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>	<b>% of 2014 Revenue Through 8/31</b>
Applications Received	\$493,289	\$662,892	\$505,116	\$503,698	15%
Certificates Issued	\$401,531	\$700,325	\$672,201	\$612,351	12%
Renewals - Applied	\$831,768	\$662,538	\$443,961	\$97,322	26%
Renewals - Approved	\$759,402	\$616,896	\$610,584	\$135,261	24%
Current Year Deferrals	\$82,164	\$129,023	\$295,236	\$151,401	3%
Prior Year Deferrals	\$481,993	\$851,174	\$559,483	\$725,369	15%
Denied Applications	\$11,624	\$37,422	\$124,063	\$109,828	0%
Purged/Revoked Applications	\$5,670	\$22,018	\$25,842	\$38,982	0%
Hearing Fees	\$16,535	\$30,490	\$43,320	\$0	1%
Misc. Fees	\$62,263	\$82,176	\$45,453	\$33,806	2%
Recertification Late Fees	\$76,048	\$73,035	\$82,475	\$0	2%
Interest Income	\$790	\$839	\$517	\$1,013	0%
<b>Total</b>	<b>\$3,223,077</b>	<b>\$3,868,828</b>	<b>\$3,408,251</b>	<b>\$2,409,031</b>	<b>100%</b>

Performance Relative to Budget by Major Expense Categories.

It might be recalled that expenses were 5% below budget.

Listed below are the major expense categories, in the order shown on the Statement of Functional Activities and the variance from the budget for 2014 year-to-date. In every category, except for Board & Committee, actual is below budget. For those categories which comprise large amounts of the budget, actual is 2% to 4% below budget.

<b>Comparison of Expenses Through August 31, 2014, Actual and Budget</b>				
<b>Item</b>	<b>Actual</b>	<b>Budgeted</b>	<b>Variance (negative numbers mean actual exceeded budget)</b>	<b>Actual as a % of Budget</b>
Board & Committee	\$18,118	\$15,827	(\$2,291)	119%
Outreach marketing	\$41,154	\$75,223	34069	55%
General Administrative	\$239,745	\$259,358	19613	92%
Executive Staff	\$288,688	\$315,718	27030	91%
Professional Standards	\$906,531	\$1,004,600	98069	90%
General Staffing	\$77,685	\$97,560	19875	80%
Professional Services	\$707,922	724,666	16744	98%
Other	\$0	\$40,000	40000	0%
<b>TOTAL</b>	<b>\$2,279,843</b>	<b>\$2,532,952</b>	<b>\$253,109</b>	<b>90%</b>

## Statement of Financial Position (Balance Sheet)

### Overview

Total equity is up on August 31, 2014 from year-end 2013. On August 31, 2014, Equity was \$1,814,803, more than double the \$871,572 on December 31, 2013.

The increase in Equity is explained by the substantial increase in Assets with offset only slightly by an increase in Liabilities:

- Assets, at \$3,008,729 are up by \$1,119,639 from the \$1,889,090 at the end of 2013. While some of this gain is explained by the recognition of a larger share of Application and Renewal fees at the time they are received, the fees from both Applications and renewals are greater than budgeted. Almost all the Assets are in the form of cash or cash equivalents.
- Liabilities, at \$1,193,936 are up only moderately from the \$1,017,519 on December 31, 2013. CAMTC liabilities are, for the most part, deferred income. That liabilities are little changed despite the fact that more of the Application and Renewal fees are being recognized as income is, in fact, encouraging.

### **Conclusions**

Conclusions are little changed from the report discussing financial information at the end of May:

- Renewals clearly account for the major portion of revenue and there is no reason why that pattern will not continue. However, because of churn in the industry, the importance of Applications cannot be ignored.
- A pattern of Renewals billed to Renewals paid is becoming apparent. The rate appears to be, roughly, 73%. Some effort might be made to determine whether those who do not renew have dropped out of the category or are not renewing for some other reason.
- Given that CAMTC should have among its goals building awareness and a favorable image among both New Applicants and Renewals, the dollars spent on Outreach Marketing should be viewed as important to the long term success in staying in touch with the market. As of May 31, only 1.8% of the \$2,279,843 in expenses have been devoted to that activity and only 55% of the budgeted amount has been spent.

Respectfully submitted by Michael Marylander,  
Treasurer  
September 23, 2014



## **Board Report September 30- October 1, 2014**

### **Director of Governmental Affairs and Special Projects**

**National Update:** Alaska has just become the 45<sup>th</sup> state to regulate massage with a licensing law that will go into effect next year. It will require 500 hours of education, an approved national exam, and required CE's. This brings the number of states that have statewide regulation of massage to 45, plus Washington D.C. and Puerto Rico.

**DOJ Update:** When a live scan is submitted to DOJ and there are issues, such as certain background issues or inconsistencies, DOJ analysts must do a manual review. This used to average about a month but is taking up to 3-4 months now. DOJ will be sending a detailed report on delays specific to CAMTC. They will not rush a review for us. Unfortunately some applicants have blamed CAMTC for these delays, which occur to other professions, including those doing livescan for social services or work with children and seniors.

**City and county update** – There are approximately 100 cities and three counties that require certification. In at five least others the local code still provides for the issuance of city or county massage permits but the city or county will not issue them and refers applicants to CAMTC. Now that the uncertainty as to the sunset has been resolved a number of cities and counties are moving ahead with new ordinances.

We will work with a few of the cities that have the best ordinances, help modify them as needed to reflect the new statute, and share these “best practices” with other cities and counties.

Six cities have enacted moratoriums on new massage businesses. While these are in violation of the existing law, no affected massage therapists or businesses have taken action against a city in response. One city has gone so far as to apply these to existing businesses that wish to replace massage therapists who are leaving the business. These ordinances will be compliant in 2015. As of January 2015, with almost complete land use reverting to local control, we can expect to see more land use restrictions – some perhaps new, although in most cases the restrictive land use is already in zoning codes that have not applied (since 2012) to businesses in which everyone providing massage is certified. CAMTC will be monitoring and compiling reports of hardships on massage businesses under regulations imposed under the new law. However, it will be up to the affected massage therapists, businesses, communities and professional associations to address specific burdens placed on the profession.

**Examples of cities actively closing illicit using existing tools: “Models” for local regulation:**

In 2010 San Rafael passed what I call the “mother” ordinance that has been used as a model by other cities and counties. In fact, Redwood City and San Mateo County took the concept to the next step with ordinances that went into effect in 2012 and have been working well – with a caveat.

San Rafael shifted disciplinary action from criminal to administrative citations. The ordinance requires massage therapists be certified by CAMTC and both individuals and businesses must be registered with the city. Yet nothing changed – according to the city, enforcement was almost nonexistent from when the ordinance was adopted in 2010 to early 2013 due to budget restraints. After three years of neglect (according to the city itself), the city began entered into a one-year, \$100,000 contract with a private consulting firm for two contract code enforcement officers. After over 200 inspections and violations, nearly 80 citations were issued totaling \$74,000. 27 businesses have been cited two or more times and three massage parlors temporarily closed their doors.

In June 2014 the City Council extended this contract another one-year for an additional \$250,000. In September the city revoked its first business license of a business that has been operating for twenty years.

The decision to revoke the establishment's license for code violations was made after two hearings. The massage business owner may still file an appeal with the city.

Redwood City closed one establishment shortly after the ordinance went into effect and is now in the process of closing two others, using their revocable registrations and cooperating with CAMTC on Officer Declarations. This process has been used by San Mateo County and many other jurisdictions. San Mateo County recently amended their ordinance to close the “rotating door” of illicit massage businesses by prohibiting a new massage business where one has been closed by the county. This provision in local codes is extremely important as the jurisdictions without them continue to experience one illicit business after another in the same location.

In May of this year Alameda County conducted an operation on eighteen massage establishments. After months of investigation and preparation, five hundred police officers served search warrants in one day on the establishments, owner's cars, residences and banks, freezing the bank accounts. Included in the operations were the Employment Development Department, Department of Labor, FBI and Homeland Security. There was no evidence of human trafficking and all the women had visas.

The county charged the business owners, operators and managers with 25-30 counts each, most felonies, including pimping, pandering and conspiracy charges against owners and desk staff. Additional charges included money laundering, failure to pay taxes, workers comp, and unemployment taxes

So far, CAMTC has received twelve arrest reports and revoked or suspended ten certifications that are in the process of revocation. Two others with expired certifications have the reports in their files if they re-apply.

All of these jurisdictions have committed serious resources to closing the illicit businesses, and all have worked very cooperatively with CAMTC.

San Francisco amended their massage ordinance as of 2014 to require that businesses in which everyone providing massage is certified register proof of the certifications. These businesses are issued “certificates of exemption” from the local zoning and establishment requirements that apply to other massage businesses. Typically the health department, sometimes with the police, will inspect a massage business for health and safety violations, uncertified and/or unpermitted massage providers, unprofessional dress and sexual activity or solicitation. They do not make arrests and in the instances where the “massage providers” are cited the hearing officer, (the Director of the Department of Public Health), drops the citations. However, fines are imposed on the owners and a number of the businesses have been closed – either by having the city establishment permit or the certificate of exemption revoked.

Since the city does not arrest or file charges against the “massage” providers, CAMTC does not receive notice from the DOJ when a certificate holder in SF has been found to be engaging in a sexual act during a “massage”. We are working with SF to obtain additional identifying information and declarations of the unprofessional behavior. Without these, CAMTC cannot deny or discipline the individuals, leaving them free to work in other cities, or at other SF establishments, under their certifications.

It is clear that abating prostitution under the guise of massage is possible under the existing law, and will become easier for some cities and counties under the new law. With just a little update to reflect the new law, these jurisdictions will continue to be useful models as well as examples of “Best Practices” to share throughout the state.

### **The long and twisted road through the first Sunset Review for CAMTC**

Since receiving the Sunset Questionnaire in May 2013, the priority for much of our staff for the next six months was preparing for the November 1<sup>st</sup> deadline and the 2014 hearings.

As committee staff prepared the Background Paper for the hearing March 10<sup>th</sup> we were contacted almost daily for information that wasn’t requested in the report itself. One of the issues that became controversial was implementation of CAMTC’s existing authority to approve schools. CAMTC has been criticized for un-approving schools before establishing standards and a program for approval. We came close to losing all authority over schools, which would have resulted in

us having to accept transcripts from all the schools we have identified as fraudulent and require that each such applicant endure a hearing to verify whether they had the claimed education. At one point, staff had to head off a serious proposal to have the law require that only nationally accredited schools be approved. While in most cases this would have assured a higher level of oversight than is provided by BPPE, it would also have left a large number of small California schools, especially the ones owned by sole massage therapists, unable to qualify due to the costs of accreditation. We have been told that this may be required in the next sunset bill.

Due to the severity of issues and need to address concerns of various stakeholders, AB 1147 was “gutted and amended” to become the sunset bill. AB 1147 began 2014 having passed through the Assembly into the Senate, providing more time to develop the language in time for the hearing in the Senate B&P committee. There have been at least fourteen versions of AB1147 since it became the vehicle for the Sunset language.

Now that cities have gotten virtually everything they asked for in terms of land use and establishment regulation, the legislature expects them to address the “proliferation” of illicit massage businesses, and to do so without negatively impacting the legitimate professionals with the types of onerous and expensive requirements that have applied in the past. Assembly woman Bonilla and committee staff recognize the concerns with the new law and made a strong statement with the Intent language in the bill to protect legitimate business owners and professionals.

SB 1247 is the Sunset bill of the Bureau for Private Post-secondary Education. It passed and also has a two year date for its’ next Sunset review, with a study required to evaluate how well it is protecting the students and graduates.



## CALIFORNIA MASSAGE THERAPY COUNCIL

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### **Memo**

Date: September 30, 2014  
To: Board of Directors  
From: Ahmos Netanel, CEO  
Subject: Recommended strategic priorities for 2015

### **Introduction**

Over the past two months, as part of formulating my recommended strategic priorities for 2015, senior staff and I worked to elicit useful feedback and perspective from Legislative staff and consultants. In my opinion, our strategic priorities for the future must reflect this important input.

I also received recommendations from two Board members, Jean Robinson and Joe Bob Smith. I made an effort to incorporate the essence of their comments and some of their concepts into this document. Attached is the full, unedited version of Robinson's and Smith's submissions.

### **Outline for CAMTC's 2015 Strategic Priorities**

- 1. Improve relationship with all stakeholders** - Stakeholders include:
  - a. Certificate holders
  - b. Cities
  - c. Counties
  - d. Law enforcement agencies
  - e. Massage schools
  - f. The Legislature, especially the Business and Professions committees
  - g. Spas and massage business owners
- 2. Local ordinances** - Work with one or two supportive cities to update their ordinances so that they are reasonable and comply with the new law. After the ordinance/s is completed, then CAMTC could share them with other cities.

3. **Massage Schools** – Initiate a substantive dialog with BPPE regarding increased collaboration and approval protocols. Explore developing an MOU with BPPE and possibly sharing information with BPPE when schools consent to such sharing.
4. **Transparency** – CAMTC has always been a transparent organization. It has been in compliance with the Bagley-Keene Open Meeting Act. The Board meetings packets and minutes are public as well as the organization financial statements, tax returns, and annual auditor's reports. Beginning in 2015, Board meetings will be taped and full recordings will be made publicly available for 30 days. Staff recommends studying the feasibility and possible implementation of new methods by which the public can more easily observe and comment on Council activities. Staff also recommends exploring new ways to increase the public's understanding of PSD's operations and the school approval process.
5. **Professional standards** - Address legitimate massage techniques and dress code.

Proposed agenda items for Sept 29 – Oct 1, 2014 strategic plan meeting – Jean Robinson

**1. Board of Directors - Standard operating procedures (The heading can be the same but I'm going to tweak the document for the board packet. I'll have that to you by Friday 9/19/14.)**

- a. Minimum background information to be provided to the Board prior to consideration of a policy change.
- b. Information to be provided to certificate holders and when.
- c. Protocol for posting approved minutes

**2. PSD – summary of standard operating procedures report.**

Creation of written PSD policy and procedures, investigation guidelines, including standardized time limits for applicants to respond and provide documentation. Goal: Inform the Board.

**3. Summary chart of all disciplinary actions imposed on schools to date.**

Goal: to ensure consistency.

**4. The numbers – are they right yet? We haven't received weekly reports for most of the year.**

**5. IT system upgrade – update.**

**6. Strategic priorities:**

Legislative staff developed the "Background Paper for the California Massage Therapy Council" prior to the Joint Oversight Hearing held on March 10, 2014. The paper brought to CAMTC's attention several areas in which to improve and many of these areas will need to be included in the June 1, 2016 report to the legislature. Since this is a "strategic planning" meeting, the Board and staff should discuss and set goals for the following issues that will improve CAMTC's performance:

- **Issue 10** discussed the need for CAMTC to collect better data on the effectiveness of communication between CAMTC and local jurisdictions. CAMTC should have excellent data to report with regards to the new law enforcement training (about CAMTC processes and procedures). How will staff expand data collection? How will staff tally and track complaints received from local jurisdictions and the results and timelines of those complaints (required for 6/1/2016 report)? There are already several members of the board who have been appointed by, or work for, local jurisdictions/counties. Are there suggestions from these board members as to how else to proceed with local outreach?
  - What steps will be taken before the end of the year to alert and prepare local jurisdictions for the new law? What issues does CAMTC want to bring to the forefront with local jurisdictions prior to January 1, 2015?
  - AB 1147 calls for increased collaboration between local jurisdictions and CAMTC in several ways, including development of a model ordinance. In what new ways will CAMTC staff attempt to work with local jurisdictions? Should the Board and staff brainstorm on ways to accomplish this? Has CAMTC staff reached out to the League, or identified a way to work with the League and local jurisdictions, on a model ordinance yet? What is the plan and how can the Board, or certain members of the Board assist?
- **Issue 12** discussed how CAMTC can provide more information, and updated information, on its website. CAMTC needs to immediately update its website and provide information about the

upcoming changes, current certification information, and comprehensive explanations of operational procedures.

- Who is responsible for this? How can the Board assist? For example, would it be helpful for a committee to be formed to analyze the website and come to the next meeting with a plan? The CAMTC Board and legislative staff also discussed adding bio and appointment data for Board members to the website among other issues. CAMTC was criticized, rightly so, for lack of transparency. How will CAMTC address this?
- **Issue 13** discussed CAMTC making its Board meetings available on the website. In April, the Board voted to audio record meetings and make them available to the public. Has staff looked into this yet? What is the status?
- **Issue 14** discussed the lack of customer surveys performed by CAMTC. CAMTC reported that they are conducting a “pilot test” for 3 different customer satisfaction surveys (general, certification, and enforcement). What is the status of these surveys? What are the results so far? Does CAMTC consider “customers” to be members of the public, certificate holders, applicants, local jurisdictions, law enforcement (separate?), those who file complaints? How is this tracked and how will the outcomes be accessed? Are they used for employee performance reviews?
- **Issue 15** discussed salary standards for all CAMTC staff and stated that aggregate compensation totals, as well as breakdowns for benefits including health care and retirement, home office, phone, etc. should be provided to the legislature and the guidelines used should also be provided. CAMTC representatives at the hearing March 10, 2014 stated there are guidelines that CAMTC uses. The Board should be aware of these guidelines.
  - I’d like staff to include all of this information in the board packet and we can discuss as a Board as needed.
- **Issue 15** also discussed why the COO position has not been filled and how that impacts the work of the CEO.
  - I would like the Board to revisit the work load of the CEO and consider whether the CAMTC staff structure is adequate.
- **Issue 16** discussed CAMTC more thoroughly investigating schools prior to granting approval and what standards it should use. Has staff developed a general list of standards yet? I realize a final determination will be collaborated on with the new ESD but is there a working list at least? What is the current relationship with BPPE? Is there a formal MOE between CAMTC and BPPE yet? What are the IT needs with this new regulatory program?
  - I would like the board to at least discuss how the policies and procedures for school approval will be developed/drafted, brought forward in a transparent way for public comment, revised to accommodate public comment, and then voted on again by the Board.
- **Issue 18** discussed the need for CAMTC to improve its performance measures for data collection and reporting. This has to be improved. What is the plan?
  - It is not normal for an organization to not have accurate numbers yet this has been a huge challenge for CAMTC. It took the better part of a year to have accurate PSD numbers and we’re still waiting on the “weekly report” numbers to be blessed. It’s not only very concerning but it’s a total time suck for staff. What is the plan to get a handle on this? Obviously a new IT system is in the works (when?) but what else. What checks and balances?



Here are my top 3 Recommended Strategic Priorities for 2015:

- Prepare for the next sunset by addressing specified areas of concern:
  - ☐ Improve timing, handling, and tracking for denied certificate applications; suspended, revoked, or otherwise disciplined certificates; certificates taken off suspension; complaints about certificate holders and the action taken.
  - ☐ Establish the process for school approvals with a goal to complete all initial approvals for those schools, which apply by end of 2015.
  - ☐ Forming a committee or workgroup and/or commissioning our own feasibility study of licensure, addressing a proposed scope of practice, legitimate techniques of massage, and related statutory recommendations.
- Logistics
  - ☐ Amend By-laws
  - ☐ Approve tests for applicants and set those up with respective testing agency (ies)
  - ☐ Prepare for smooth Board transition come Sep 2015
- Outreach
  - ☐ Educate stakeholders about changes in new law.
  - ☐ Specifically, educate applicants about how to sign up for a test, where to take test (?), and how results are handled.

Joe Bob

# Press Releases

## Governor Signs Assemblywoman Bonilla's Massage Therapy Reform Act of 2014

🕒 September 18, 2014



**SACRAMENTO** – Assemblywoman Susan A. Bonilla's AB 1147, the Massage Therapy Act, was signed into law today by Governor Brown. This monumental measure, which is joint-authored by Assemblymembers Jimmy Gomez (D-Los Angeles) and Chris Holden (D-Pasadena), overhauls California's existing massage therapy laws to give local governments more power to shut down illegal businesses, while reforming the oversight of certified massage professionals and enacting greater protections for consumers who utilize massage.

"Communities across the state have been plagued by illegal operations engaged in human trafficking and prostitution, and masquerading as legitimate massage establishments," said Assemblywoman Susan A. Bonilla (D-Concord). "As a result, many local governments and law enforcement agencies have been overwhelmed by the burden of trying to police and shut down these bad actors, while community members have had to endure the blight and reduced quality of life that follows. AB 1147 addresses these problems and allows local governments to take back control of their own communities."

Assembly Bill 1147 returns important land use authority to cities and counties; reconstitutes the board of the California Massage Therapy Council to make it more responsive to illicit activities and enhance its disciplinary authority; raises standards for massage professionals and protects those professionals from duplicative and unnecessary regulations; and imposes new safety and privacy protections for individuals who use professional massage services.

"I thank my colleagues for passing this critical piece of legislation. AB 1147 allows local jurisdictions to shut down the bad actors and ensure that the trained and certified therapists can continue to play a vital healing role in our communities," said Assemblywoman Bonilla. "Today marks the day that we give the cities and counties back the control they need to prevent crime in their communities, while taking steps to restore the image of the legitimate massage profession, which is an established and valuable healing art that has had its reputation unfairly tarnished by criminals."

*Assemblywoman Susan A. Bonilla (D-Concord) is Chair of the Assembly Business, Professions and Consumer Protection Committee. She was elected in November 2010 and represents California's 14th Assembly District, which includes Contra Costa County and Solano County.*

# Biography



Assemblywoman Susan A. Bonilla was first elected to the Assembly in November 2010, and represents California's 14th Assembly District, which includes Contra Costa County and Solano County. She chairs the Assembly Business, Professions, and Consumer Protection Committee, and sits on the Assembly Health Committee and the Assembly Utilities and Commerce Committee. She also chairs the Assembly Select Committee on Increasing the Integration of STEM Education in California K-14 Schools.

Last year, as Chair of the Assembly Budget Subcommittee on Education Finance, Susan worked with parents, teachers, school board members, advocates, and the Governor to craft the Local Control Funding Formula which provides a higher level of base funding for our K-12 schools – a remarkable turnaround after years of severe budget cuts to education. Susan also secured \$1.25 billion in additional funding to implement Common Core state standards by providing professional development for teachers and technology upgrades for our schools.

Furthermore, Susan authored Assembly Bill 484 – one of the most important and revolutionary changes to education policy. Signed by the Governor in 2013, this law enables our schools to move away from outdated STAR tests and prepare students and teachers for better assessments that reflect the real world knowledge needed in tomorrow's job market.

Through her steadfast leadership in protecting early childhood education programs, Susan saved transitional kindergarten, which gives our youngest learners the foundations they need to succeed. Susan has also authored historic legislation that expanded health care access for women, created the highest safety standards for California industrial sites while protecting manufacturing jobs, and provided more tools for law enforcement to keep our communities safe.

Prior to serving as a public official, Susan was a high school English teacher in the Mt. Diablo Unified School District. Susan earned her B.A. in English from Azusa Pacific University and her teaching credential from CSU Los

Angeles. Susan and her husband, John, reside in Concord. They have four daughters and three grandchildren.

### Item 18: Board of Directors - Standard operating procedures

- a. Minimum background information to be provided to the board prior to consideration of a policy change.
- b. Information to be provided to certificate holders and when.
- c. Protocol for posting approved minutes.

*a. Minimum background information to be provided to the Board prior to consideration of a policy change.*

#### The motion:

When a policy change impacting the policies and procedures of the organization, or the qualifications or requirements for certificate holders, is suggested by a staff or board member, staff is required to include comprehensive information in the board packet to ensure board members are well prepared to discuss and vote on the issue. If a board member is making the policy change request, staff may delegate the responsibility of information gathering to the board member if appropriate.

#### Information provided to the board shall include:

- ☐ The language of the current policy and when the policy was adopted.
- ☐ A short description of why the policy should be changed.
- ☐ The language of related statutes that may have an impact on the decision.
- ☐ The fiscal impact the proposed change may have on CAMTC and certificate holders and applicants.
- ☐ Potential pro's and con's if the new policy is adopted.
- ☐ The impact on current certificate holders and applicants.
- ☐ A suggested date for the change to be implemented.

#### Using this issue as an example:

- The language of the current policy and when the policy was adopted.

There is currently no policy regarding what information is included in the board packet or provided to board members prior to discussing policy changes.

- A short description of why the policy should be changed.

Comprehensive information should be provided in the board packet for several reasons:

1. One sentence listed on the agenda is not sufficient for board members, or the public, to identify what the board will be discussing. Including comprehensive information will provide better transparency.
2. The board has re-voted on several important policy issues affecting certification requirements, sometimes re-voting and changing the policy at the very next meeting. *Sometimes* new information has come to light but in many cases the backtracking occurred because there was key information missing in the presentation of the issue that, when brought to light, made it necessary to revisit an issue. Even though new

material may come up during the board discussion, an effort should be made to ensure all board members start off with the same information.

3. The board is charged with making important policy decisions that can impact a person's right to practice (if their local jurisdiction requires CAMTC certification). We all want to make well-considered, thoughtful decisions. By not including relevant information in writing prior to the discussion, board members rely on vague references verbally expressed during discussions that may or may not be true or current. Having written information allows people to reference it during discussions.
  4. Written information provided in the board packet will also serve as a historical ledger of issues and information for the board and public.
- **The language of related statutes that may have an impact on the decision.**

Providing information in the board packet is not addressed in statute, however, the board is subject to the Bagley-Keene Open Meeting Act (certain sections), which encourages transparency.

- **The fiscal impact the proposed change may have on the organization and certificate holders.**

Adopting this proposed policy change would impact the amount of time it takes staff to prepare the board packet. There would be a cost associated with staff time that would depend on the complexity of each issue to be discussed. It would not have a fiscal impact on certificate holders.

- **Potential pro's and con's if the new policy is adopted.**

The pro's to including comprehensive information in the board packet include:

1. All board members would start the conversation with the same core information. This would lead to a more structured and fruitful discussion or debate.
2. The Board's actions and intent would be more transparent. A single line item on the agenda would be further explained.
3. The public would have the ability to provide comment if they knew the subject matter prior to the board meeting.
4. Written summaries will also serve demonstrate a board doing its due diligence to make informed decisions. There can be no question as to whether the board acted in good faith.

The con's include:

1. Increased staff time preparing the board packet.
2. Some people may view public access and transparency as a con.

- **The impact on current certificate holders and applicants.**

Providing more comprehensive information in the board packet would not have a direct impact current certificate holders or applicants unless they chose to become more engaged in board meetings.

- **Date of implementation.**

I recommend the board adopt this policy effective immediately (which really means the board packet will contain the required information at the next board meeting.)

**Summary:** Adopting a new policy and format for providing certain information in the board packet will be far more important for issues related to certification requirements but is also relevant for board policies and procedures. Providing information about the potential impact on certificate holders and applicants will allow the board to compile more complete motions and direct staff more clearly. The staff will benefit as well since most decisions should result in changes they have implement (updating the website, changing applications or application instructions or checklists, providing direction for AMG staff).

*For example,* During the December 2013 meeting the Board voted to change the distance education policy it had previously adopted at the May 2013 meeting. We then had to call a January board meeting to delay the implementation because the board and staff did not consider how many applicants would be affected by the change. Application processing staff at AMG were put in a difficult position because of this and CAMTC's efforts to provide better customer service and clear direction to applicants suffered. I urge the board to adopt this new policy.

*b. Information to be provided to certificate holders and applicants and when.*

**The motion:**

**When the board changes certification requirements or any policy directly impacting certificate holders or applicants, staff will update all relevant areas of the CAMTC website and email all certificate holders and/or applicants within 14 days of the board's decision. Any changes to certification requirements shall include a 90-day notification period prior to implementation unless there is a concern for public safety or a date is otherwise specified in the motion.**

☐ **The language of the current policy and when the policy was adopted.**

I am not aware of any current policy regarding contacting certificate holders.

☐ **A short description of why the policy should be changed.**

CAMTC has not been efficient in updating the website or contacting certificate holders about new policies, procedures, or changes.

For example, it seems that the website was never updated with regards to the January 27, 2014 motion (DRAFT):

Move that CAMTC give a 90-day notification period in which they will continue to accept online education or distant learning hours for the first 500-hours of education for CCMP's and those upgrading from CMP to CMT in order to allow for fair notification. As of April 7, 2014, CAMTC will not accept online or distant learning hours for the first 500-

hours of education. All online or distance learning classes must be completed by April 7, 2014

<https://www.camtc.org/MassageProfessionals.aspx>

### **NOTICE TO APPLICANTS AND SCHOOLS:**

As of December 5, 2013, CAMTC will not accept online or distance learning hours for the first 500 hours of education.

This was still not changed as of 9/15/14 when I reviewed this document! CAMTC needs to provide correct and consistent information to all certificate holders, applicants, and the public. I do not believe certificate holders and applicants were notified of the change by email even though the need to do so was discussed on the January 2014 conference call. This needs to be a bigger priority.

☐ **The language of related statutes that may have an impact on the decision.**

Providing notification to certificate holders regarding changes to requirements, policies, and procedures is not addressed in statute. CAMTC is not a regulatory board or state agency so it is not required to complete a formal process to adopt rules and regulations and solicit public comment. In my opinion, this makes it even more important to provide correct and consistent information on the website, pursue better notification standards, and engage in better communication with the public, certificate holders, and applicants.

☐ **The fiscal impact the proposed change may have on the CAMTC organization and certificate holders and applicants.**

Adopting this policy would require more staff time and resources. There would be a cost associated with the amount of time staff and IT personnel would spend on the website updates, drafting the email updates, and responding to resulting questions from certificate holders and applicants.

☐ **Potential pro's and con's if the new policy is adopted.**

Pro's:

Less confusion

Clear standards and expectations.

A more professional CAMTC organization.

Cons:

Staff time and resources.

☐ **The impact on current certificate holders and applicants.**

The impact on certificate holders and applicants would be positive. They would be better informed of policies, expectations, and requirements.

☐ **A suggested date for the change to be implemented.**



I recommend the board adopt a standardized 90-day notification policy when any changes to certification qualifications or requirements are made. Changes impacting the certificate holders and applicants should have a specific date of implementation to ensure that people are treated fairly and consistently and notification should be given to allow people time to adjust and plan for new requirements.

I recommend the board adopt this new policy effective immediately.

*c. Protocol for posting approved minutes on the website.*

**The motion:**

**The staff will post approved meeting minutes on the website within 14 days of the board meeting in which they are approved.**

☐ **The language of the current policy and when the policy was adopted.**

There is no current policy for posting minutes on the website.

☐ **A short description of why the policy should be changed.**

By not having a policy the board has left it up to staff to post meeting minutes when the timing works for them. Unfortunately this leads to it actually getting accomplished later and later because it (justifiably) gets bumped from their list of priorities. The minutes approved by the board at the December 2013 meeting were just posted in early March 2014. How are certificate holders, the public, or interested parties supposed to keep up with board business when even the minutes are not available? Staff has other priorities but posting minutes should not take a lot of time and should be crossed of the priority list within 14 days of a meeting.

☐ **The language of related statutes that may have an impact on the decision.**

Posting minutes is not referred to in statute.

☐ **The fiscal impact the proposed change may have on the CAMTC organization and certificate holders and applicants.**

There will not be a fiscal impact to the organization or certificate holders or applicants. The minutes are currently posted, eventually.

☐ **Potential pro's and con's if the new policy is adopted.**

Pro's: a more timely informed public.

Con's: staff responsible will have to make the time to accomplish the task sooner than they do now.

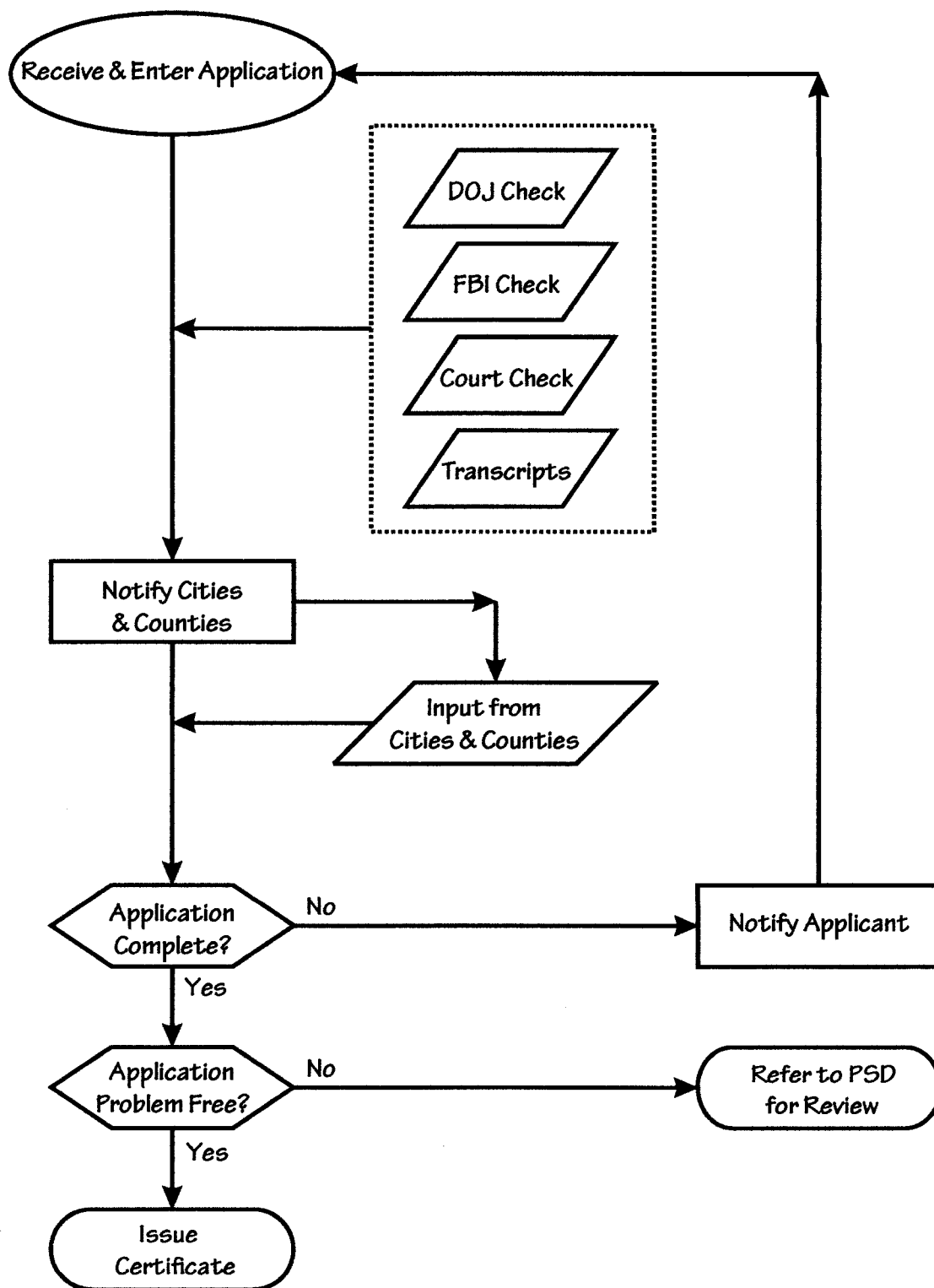
☐ **The impact on current certificate holders and applicants.**

None.

☐ **A suggested date for the change to be implemented.**

I recommend the board adopt this policy effective immediately.

# CAMTC Application Processing



## PSD Review of Applicants/Certificate Holders

### I. PSD Standards for Review

1. All decisions must be made by a minimum of two PSD members, though the vast majority of decisions are made by three or more PSD members.
2. The current legal standard is clear and convincing evidence for discipline of certificate holders, and preponderance of the evidence for denial of applicants. This will change in 2015.
3. Applicants have the burden to prove that they are entitled to certification.

### II. PSD Review of Applicants/Certificate Holders

#### 1. Why was this person referred to PSD?

DOJ or FBI hit

City or County provided information

Complaint

Self reported information on application

Information received from another source

#### 2. Does it appear that there MAY be a violation of one or more of the Denial Provisions?

If NO (for example if there is a criminal conviction for DUI), then the person is cleared and sent back to AMG for approval.

If YES, PSD then determines:

Does it currently have sufficient evidence to make a decision to approve/ deny/ discipline this person?

If YES (for example, DOJ record of three prostitution convictions in 2014), then it either approves the person or makes a proposed decision to deny or discipline.

If NO, then it determines whether further investigation is warranted. If it decides that further investigation is warranted, then it goes out and conducts that investigation.

Declarations from police officers

Declarations from complaintants

Administrative citations, civil actions by cities or counties

Local permit denials or other disciplinary action against the person related to local permits, business licenses, or establishment permits

Evidence of ownership or operation of a massage business

Other evidence

Once the initial investigation is completed, PSD again reviews the person to make a determination whether to continue investigating, approve, or propose denial or discipline.

IF it is determined that there is insufficient evidence to deny or discipline, AND it is determined that sufficient evidence cannot be obtained, then that person will be approved and sent back to AMG for certification.

IF it is determined that currently there isn't sufficient evidence to make a decision, but it may be possible to get additional evidence, then the person will be sent back out for further investigation.

IF it is determined that there is sufficient evidence to deny or discipline, the PSD will make a proposed decision to deny or discipline and the person will be sent to Legal so that a proposed denial or proposed disciplinary letter can be sent.



**Approved by the CAMTC Board 3/15/11**  
**Amended 11/5/12**  
**Amended 2/13/13**

## **PROCEDURES FOR DENIAL OF CERTIFICATION OR DISCIPLINE/REVOCATION**

Pursuant to California Business and Professions Code Section 4603.1, the California Massage Therapy Council (the "Council") hereby adopts the following procedures relative to the denial of certification or the discipline/revocation of a certificate issued pursuant to California Business and Professions Code Sections 4600 et seq. (hereinafter the "Law"):

1. Reasons for denial or discipline/revocation. Certification may be denied or revoked, or an existing certificate holder may be disciplined, for reasons reasonably related to protecting the public safety, including the following:
  - a. Failure to meet and/or maintain the criteria for certification listed in Section 4601 or 4604.
  - b. Failure to obtain a positive fitness determination after fingerprinting pursuant to Section 4601.3.
  - c. Unprofessional conduct, including, but not limited to, denial of licensure, revocation, suspension, restriction, or any other disciplinary action against an applicant or certificate holder by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence of these actions.
  - d. Procuring or attempting to procure a certificate by fraud misrepresentation, or mistake.
  - e. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of the Law or any rule or bylaw adopted by the Council.
  - f. Conviction of any felony, misdemeanor, infraction, or municipal code violation, or liability in an administrative or civil action, that is substantially related to the qualifications, functions, or duties of a certificate holder, in which event the record of the conviction or other judgment shall be conclusive evidence of the crime or liability.
  - g. Impersonating an applicant or acting as a proxy for an applicant in any examination referred to under the Law for the issuance of a certificate.

- h. Impersonating a certified practitioner or therapist, or permitting or allowing an uncertified person to use a certificate.
- i. Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder.
- j. Committing any act punishable as a sexually related crime.

2. Investigations. Section 4601(g) of the Law provides:

(1) The council shall have the responsibility to determine that the school or schools from which an applicant has obtained the education required by this chapter meet the requirements of this chapter. 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 prior to issuing a certificate.

(2) For purposes of paragraph (1) and any other provision of this chapter for which the council is authorized to receive factual information as a condition of taking any action, the council shall have the authority to conduct oral interviews of the applicant and others or to make any investigation deemed necessary to establish that the information received is accurate and satisfies any criteria established by this chapter.

If an applicant has been convicted of a felony or misdemeanor, whether expunged or not, CAMTC will conduct an investigation and review all prior convictions substantially related to the qualifications, functions or duties of a massage professional. Each application will be evaluated on a case by case basis. CAMTC will consider the nature, severity, and timing (how recent) of the offense(s), as well as rehabilitation and other factors when making a certification determination. CAMTC will make the determination for approval or denial of certification by evaluating the entire application and all supporting documentation.

3. Actions relative to applicants for certification. The Council may:

- a. Deny an application for certification based on the reasons listed in paragraph 1 above or on any other grounds which are deemed reasonably necessary to protect the public safety.
- b. Issue an initial certificate on probation, with specific terms and conditions.

4. Actions relative to existing certificate holders. The Council may discipline a certificate holder by any, or a combination, of the following methods:
- a. Placing the certificate holder on probation.
  - b. Suspending the certificate and the rights conferred by the Law on a certificate holder for a period not to exceed one year.
  - c. Revoking the certificate.
  - d. Suspending or staying the disciplinary order, or portions of it, with or without conditions.
  - e. Taking other action as the Council, or a person appointed by the Council, deems proper.
  - f. Notwithstanding any other provision of law, if the Council receives notice that a certificate holder has been arrested and charges have been filed by the appropriate prosecuting agency against the certificate holder alleging a violation of subdivision (b) of Section 647 of the Penal Code or any offense described in paragraph 1.j. above, the Council shall take all of the following actions:
    - (1) Immediately suspend, on an interim basis, the certificate of that certificate holder.
    - (2) Notify the certificate holder within 10 days at the address last filed with the Council that the certificate has been suspended, and the reason for the suspension.
    - (3) Notify any business within 10 days that the Council has in its records as employing or contracting with the certificate holder that the certificate has been suspended.

Upon notice to the Council that the charges described above in this subparagraph f. have resulted in a conviction, the suspended certificate shall become subject to permanent revocation. The Council shall provide notice to the certificate holder within 10 days that it has evidence of a valid record of conviction and that the certificate will be revoked unless the certificate holder provides evidence within 15 days that the conviction is either invalid or that the information is otherwise erroneous. If a certificate is permanently revoked pursuant to this provision, the certificate holder shall not be allowed to re-apply for certification.

Upon notice that the charges have resulted in an acquittal, or have otherwise been dismissed prior to conviction, the certificate shall be immediately reinstated and the certificate holder and any business that received notice pursuant to these procedures shall be notified of the reinstatement within 10 days.

- g. Notwithstanding any other provision of law, if the Council receives clear and convincing evidence that a certificate holder has committed an act punishable as a sexually related crime or a felony that is substantially related to the qualifications, functions, or duties of a certificate holder, the Council may immediately suspend the certificate of that certificate holder. A decision to immediately suspend a certificate pursuant to this subdivision shall be based on

clear and convincing evidence and the Council shall also consider any available credible mitigating evidence before making a decision to suspend a certificate. Written statements by any person shall not be considered by the Council when determining whether to immediately suspend a certificate unless made under penalty of perjury. If the Council suspends the certificate of a certificate holder in accordance with this subdivision, the Council shall take all of the following additional actions:

(1) Notify the certificate holder, at the address last filed with the Council, within 10 business days by a method providing delivery confirmation, that the certificate has been suspended, the reason for the suspension, and that the certificate holder has the right to request a hearing pursuant to paragraph (3).

(2) Notify by electronic mail or any other means consistent with the notice requirements of this chapter, within 10 business days, any business that the Council has in its records as employing or contracting with the certificate holder for massage services, and the California city or county permitting authority that has jurisdiction over any business that the Council has in its records as employing or contracting with the certificate holder, that the certificate has been suspended.

(3) A certificate holder whose certificate is suspended pursuant to this provision shall have the right to request, in writing, a hearing to challenge the factual basis for the suspension. If the holder of the suspended certificate requests a hearing on the suspension, the hearing shall be held within 30 days after receipt of the request. A certificate holder whose certificate is suspended based on this provision shall be subject to revocation or other discipline in accordance with paragraph 1 of these Denial Procedures.

5. An owner or operator of a massage business or establishment who is certified pursuant to this chapter shall be responsible for the conduct of all employees or independent contractors working on the premises of the business. Failure to comply with this chapter may result in revocation of the owner's or operator's certificate in accordance with paragraph 1 of these Denial Procedures.
6. A certificate holder shall include the name under which he or she is certified and his or her certificate number in any and all advertising and shall display his or her original certificate at his or her place of business. A certificate holder shall have his or her CAMTC identification card in his or her possession while providing massage services.
7. Procedure for denial, suspension, or revocation of a certificate. All denials, suspensions, revocations, and other discipline required or allowed by the Law and these Procedures shall be carried out by an employee of the Council known as the Division Director of Professional Standards (hereinafter the "Division Director"). The Division Director shall be assisted by Council staff and such other employees as shall be determined necessary by the Division Director. The Division Director, along with any staff/employees under his/her supervision, shall be collectively known as the Professional Standards Division (the "PSD").

If Council staff determines that grounds appear to exist for denial of an application for certification or discipline of an existing certificate holder, staff shall forward the matter to the Division Director, or a PSD employee designated by the Division Director to receive such



information, and the procedures set forth below shall be followed (except in cases where the specific procedures in paragraph 4.f. apply):

- a. The PSD shall be responsible for reviewing and making determinations regarding denials and discipline. The PSD shall ensure that the PSD employees making denial and discipline decisions do not have a conflict of interest relative to the affected applicant or certificate holder subject to denial or discipline.
- b. If after reviewing the matter, the PSD determines that action should be taken, the applicant or certificate holder shall be provided at least 15 days prior notice of the proposed denial or discipline and the reasons for the proposed denial or discipline. Notice shall be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or certified mail sent to the last known address of the applicant or certificate holder shown on the Council's records.
- c. The applicant or certificate holder shall be given an opportunity to be heard, either orally or in writing, at least five (5) days before the effective date of the proposed denial or discipline. The hearing shall be held, or the written statement considered, by the Division Director (or his or her designee) and at least one other PSD employee, who together are authorized to determine whether the denial of certification or proposed discipline should occur. The decision of the Division Director/PSD shall be final.  
  
Notice of the PSD's final decision shall be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or certified mail sent to the last known address of the applicant or certificate holder shown on the Council's records.
- d. Any action in superior court challenging a denial of certification or discipline of an existing certificate holder, including a claim alleging defective notice, shall be commenced within one year after the date of the certificate denial or certificate holder discipline. If the action is successful, the court may order any relief, including reinstatement, that it finds equitable under the circumstances.
- e. An applicant or certificate holder who is denied certification or whose certificate is revoked pursuant to section 4 of these procedures shall not be allowed to re-apply for certification until two years after the effective date of the certificate denial or certificate revocation pursuant to section 4.