



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 April 26, 2013

NOTICE OF PUBLIC MEETING

Thursday, May 9, 2013 -- 10:00 a.m.
Radisson Hotel at Los Angeles Airport
Laguna Room
6225 W. Century Blvd., Los Angeles, CA 90045

AGENDA

1. OPEN SESSION - Call to order and establish quorum
2. Chair's Comments
3. Special CAMTC Award Presentation
4. Seating of new Board appointees
5. Re-appointment of expiring board-appointed Director position
6. Approval of Minutes- February 13, 2013 and April 5, 2013
7. Chief Executive Officer's Report
8. Treasurer's Report
9. Audit Report
10. Director of Governmental Affairs and Special Projects' Report
11. Director of PSD's Report
12. Update and approval of CAMTC-recommended 2013 legislation
13. Adoption of schedule of authority
14. Schools procedures (including but not limited to rehabilitation protocol)
15. Proposed policy regarding distance learning
16. Closed Session with CAMTC Legal Counsel Pursuant to California Government Code Section 11126(e).

17. Communications regarding career opportunities for certificate holders
18. Protocol for communication in foreign languages
19. Approve change in IT Liaison
20. Special request for a certification refund because of a disabling injury
21. Evaluation of new dimensions of certificates to enable display by large operators
22. Update - Staff compensation
23. Closed Session regarding the appointment, employment, evaluation of performance, or dismissal of an employee pursuant to California Government Code Section 11126(a)
24. Return to open session and announce action taken in closed session, if any, under item 23
25. Presentation of CAMTC Legislator of the Year Award to State Senator Price
26. Future agenda items and scheduling next meeting
27. 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. 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>.

Parliamentary Procedures-At-A Glance

To Do This (1)	You Say This	May You Interrupt Speaker?	Must You Be Seconded?	Is the Motion Debatable?	Is the Motion Amendable?	What Vote is Required?
Adjourn the meeting (before all business is complete)	"I move that we adjourn."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority vote
Recess the meeting	"I move that we recess until..."	May not interrupt speaker	Must be seconded	Not debatable	Amendable	Majority vote
Complain about noise, room temperature, etc.	"Point of privilege"	May interrupt speaker	No second needed	Not debatable (2)	Not amendable	None (3)
End debate	"I move the previous question"	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority vote
Amend a motion	"I move that this motion be amended by.."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote
Object to a procedure or to a personal affront	"Point of Order"	May interrupt the speaker	No second needed	Not debatable	Not amendable	None (3)
Request information	"Point of information"	If urgent, may interrupt speaker	No second needed	Not debatable	Not amendable	None

Notes:

1. These motions or points are listed in established order of precedence. When any one of them is pending, you may not introduce another that's listed below it. But you may introduce another that's listed above it.
2. In this case, any resulting motion is debatable.
3. Moderator decides.



Associated Bodywork & Massage Professionals

25188 Genesee Trail Rd, Ste 200
Golden, CO 80401
800-458-2267
fax 800-667-8260
www.abmp.com

February 13, 2013

Ahmos Netanel
CAMTC
One Capitol Mall, Suite 120
Sacramento, CA 95814

Re: Appointment of Marcy Schaubek

Dear Ahmos:

ABMP is pleased to appoint Marcy Schaubek to fulfill the remaining 2 years of Bob Benson's 3-year term effective February 14, 2013. Enclosed is her resume.

We believe Marcy will be an excellent asset to the CAMTC board. As the co-owner of four Massage Envy clinics in Orange County (with plans to expand), Marcy has relevant experience and knowledge in dealing with city officials, navigating cumbersome city regulations, zoning issues, conditional use permits. She also possesses experience with the California Board of Barbering and Cosmetology.

Marcy's Massage Envy clinics employ more than 100 therapists, all of whom are required to be CAMTC-certified, and nearly all of whom are ABMP members. We feel this makes her an excellent voice for our membership as well as the profession as a whole.

Marcy shares ABMP's regulatory philosophy toward supporting the least intrusive form of regulation for the profession as is practical to ensure public safety. We are confident she will continue our approach of thoughtfully helping to stem the desire for over-regulation.

Most of all, Marcy recognizes and values the importance of CAMTC and is committed to its survival and success.

Please be in touch should you require anything further from me.

Sincerely,

Les Sweeney, NCTM
President



American Massage Council®

February 6, 2013

Ahmos Netanel, CEO
California Massage Therapy Council
One Capitol Mall, Suite 320
Sacramento, CA 95814

Dear Mr. Netanel:

AMC hereby appoints Dixie Wall and Caroline Tseng to serve on the CAMTC Board of Directors for the new term beginning in 2013. AMC is qualified for two seats under CAMTC's statute to appoint board members. To qualify as an appointing entity, AMC is a professional association comprised of massage therapists. Additionally, AMC has had at least 1,000 dues-paying members in California for the last three years, and has bylaws that require its members to comply with a code of ethics. AMC is willing to allow CAMTC to audit AMC's books for verification in the same manner as CAMTC has done in the past.

I hereby attest, under penalty of perjury, to the foregoing qualifications and certify that the foregoing declarations are true and correct.

Sincerely,

Philip Stump
President

From: **Everhart, Reichel@DCA** <Reichel.Everhart@dca.ca.gov>

Date: Tue, Apr 30, 2013 at 12:01 PM

Subject: Dr. Sinel

Good Morning,

We interviewed Dr. Sinel this morning and the Director would appreciate he being placed on the Council as our representative. Please let me know what more you need from our office and I will get that for you.

Thank you,

Reichel Everhart

Deputy Director, Board Relations

California Department of Consumer Affairs

(916) 574-8200

(916) 574-8613

<http://www.dca.ca.gov>

Michael S. Sinel, M.D.

*Board Certified Physical Medicine and Rehabilitation
Pain Management
Assistant Clinical Professor – UCLA Department of Medicine*

- **TIN** **95-4555081**

- **Author**

- “Win the Battle Against Back Pain – An Integrated Mind Body Approach,” Dell Trade Paperback, division of Dell Publishing, 1996
- “Back Pain Remedies for Dummies”, IDG Books 1999

- **Education**

Undergraduate:

State University New York at Stony Brook, Stony Brook, New York, 1977 – 1981

- **Degree: B.A. Psychology with honors**

Graduate:

State University New York at Downstate Medical Center, Brooklyn, New York, 1981 – 1985

- **Degree: M.D.**

Post-Graduate:

- Internship: General Medicine, Staten Island Hospital, 7/85 – 6/86
- Residency: Physical Medicine & Rehabilitation, New York Hospital/Cornell Medical Center, Memorial Sloan Kettering Cancer Center, NY, NY, 7/86 – 6/89

- **Professional Experience**

Academic Appointment

- Assistant Clinical Professor, UCLA Department of Medicine

Santa Monica Private Practice

- Pain Management, Physical Medicine & Rehabilitation Specialist

VA Greater Los Angeles

- Physician Consultant

London Pacific Healthcare

- Medical Advisor
- **Non-Profit Organizations**
 - Community Education Foundation, Board of Directors
 - Free Arts for Abused Children Organization, Volunteer
 - Overcoming Obstacles
 - Cystic Fibrosis Foundation, Volunteer
- **Professional Societies**
 - North American Spine Society (previous)
 - Int'l Assoc. for the Study of Pain (previous)
 - Downstate Alumni Society
 - American Medical Assoc. (previous)
 - American Congress of PM&R (previous)
 - California Society of PM&R (previous)
 - Young Physician Assoc., Los Angeles (previous)
 - American Pain Society (previous)
 - American Back Society (previous)
 - American Academy of PM&R (previous)
 - American Academy of Pain Management (previous)
 - California Medical Association (previous)
 - Los Angeles County Medical Assoc. (previous)
 - Physiatrix Assoc. Spine Sports and Occup. Rehab. (previous)
- **Awards**
 - International Who's Who in Medicine
 - Blue Ribbon Award-Poster Presentation-Academy PM&R: "Cervical Myelopathy as a Complication of Athetoid Cerebral Palsy"
- **Publications**

- “Massive Lumbar Disc Herniations: An MRI Study of Non-Surgically Managed Cases”, submitted for publication
- “Spinal Imaging and Intervention: 1198”, Physical Medicine and Rehabilitation Clinics of North America; V.9, No. 2, May 1998
- “Overuse Syndrome: A Common Explanation For Failed Carpal Tunnel Surgery,” August 1996, Worker’s Comp Enquirer
- “Biomechanical Analysis of Cervical and Lumbar Injuries Due to Low Speed Motor Vehicle Accidents”, Biomechanics, V.2 No.4 November 1995
- “The use of Explanatory Models to Enhance Surgical Outcome,” Contemporary Orthopedics, V.30 No.5 May 1995
- “Thalamic Infarction Secondary to Cervical Manipulation, May 1993, Archives of PM&R
- Cervical Myelopathy as a Complication of Athetoid Cerebral Palsy,” Abstract: American Academy of Physical Medicine & Rehabilitation, Newsletter 1987
- “Two Unusual Gait Disturbances: Astasia Abasia and Camptocormia,” December 1990, Archives of PM&R

- **Presentations**
 - “Massive Lumbar Disc Herniations: An MRI Study of Non-Surgically Managed Cases”, presented at American Academy of Orthopedic Surgery meeting, February 1999
 - “Evaluation and Treatment of Low Back Pain”
Medical Grand Rounds, Cedars-Sinai Medical Center
 - “Conservative Management of Low Back Pain”
Medical Grand Rounds, Department of Family Medicine, UCLA Medical Center
 - “Thalamic Infarction Secondary to Cervical Manipulation”
American Academy PM&R
 - “Cervical Myelopathy as a Complication of Athetoid Cerebral Palsy”
American Academy of PM&R
 - “Approach to Stress Related Back Pain”
American Back Society, San Francisco, California
 - “Non-operative Treatment of Degenerative Diseases of the Lumbar Spine”

Internal Medicine Symposium, Los Angeles, CA

- “Psychological Factors in Chronic Pain”
- “Psychosocial Issues in Low Back Pain”
- “Pain Management: Conservative Approaches”
- “Whiplash Associated Disorders”
- “Pain Management Options in Low Back Pain”

UCLA Department of Orthopedics

- “Spinal Disease Management in Workers’ Compensation”

Multiple other presentations to professional and lay public, available on request.

- **State Licensure**

- California: G065692
- New York: 167706
- Florida: 54808

- **Board Certification**

- Diplomate, American Board of Physical Medicine & Rehabilitation

**** Multiple interviews and media appearances including “Readers Digest”, N.Y. Times, Los Angeles Times, “Men’s Fitness Magazine”, NBC News, National radio and television appearances; all available upon request***



CEO Report

May 2, 2013

State of CAMTC - CAMTC has achieved unprecedented internal stability. As a relatively young entity, we continue to face multiple, serious challenges, mostly external.

Sunset review - Staff is prepared and eager to tackle CAMTC's sunset review. Our objective is to continue CAMTC, post sunset as a voluntary certification body. At this point we were supposed to receive the initial sunset review questionnaire. This is an extremely busy time for legislative staff so the delay is completely understandable. We were informed that we should receive it "any day". In the meantime, all of our daily activities are continuously prioritized with sunset in mind.

AMG - Our outside management company is continuing to deliver performance improvements to the satisfaction of the CEO. We have initiated releasing AMG from the responsibility to upload cases to our secure website for the purpose of PSD reviews and investigations. That will be achieved by putting in place a remote access system with which PSD and legal staff will be able to access all files directly. We are currently testing the new system.

Certificate holders in illicit establishments - In an effort to ensure the legitimacy of certificate holders, staff was gearing to enforce the Board's policy regarding unprofessional conduct by utilizing a review of adult Internet sites. Since it has become clear that the vast majority of massage establishments listed on those sites are not actually using advertising placed by the owners but rather by the website users that plan had to be abandoned. Instead, a new protocol is being implemented which focuses on actual paid advertising. A CAMTC legislative initiative in 2013 is also geared to mitigate this problem.

Relationship with law enforcement - We are planning to contact every law enforcement agency in California in order to set up a cooperative relationship with them. The plan would ask law enforcement to report to CAMTC, the massage professionals which have been arrested or prosecuted for prostitution, and to work together in a cooperative manner with regard to massage establishments. We are also pursuing an opportunity to address the California Police Chiefs Association annual convention.

Denial and revocations backlog – We are currently implementing a plan to reduce the backlog of disciplinary hearings, revocations and denials. A complete progress report will be provided to the Board prior to the September 2013 meeting. We instituted a monthly audit protocol to assure that no pending cases will get lost or “fall through the cracks” as well as to provide a proactive outreach communication to applicants waiting for notification of the outcome of their review.

Operation- Overall, management systems are currently operating properly. Our customer service is highly responsive (calls are answered by representatives within four rings or less and emails receive a response within one business day). The majority of applicants with no criminal background or education issues are receiving certificates in less than two weeks. The majority of applicants with either an education or background issue are receiving certificates in less than 72 days.

We are reassessing several options regarding a new IT and database system in order to assess the pro and cons of using a custom-built versus an off-the-shelf programs. We expect to report more on this in September.

Finance - The number of initial applications year-to-date exceeds the budgeted expectation by 10% (this is being achieved organically without the deployment of any promotional programs). Recertification is at 65%, exactly as projected. As we already reported to the Board, as of April 30, 2013 actual excess revenue over expenses was \$ 139,891 (budgeted was \$40,437). Cash on hand was \$1,672,318 (budgeted was \$1,482,495). CAMTC's available cash is greater than 6 months of expenses.

In order to gain perspective on CAMTC's relative fiscal viability, we examined the results of a national survey of nearly 6,000 nonprofits organizations. The study which was conducted by Nonprofit Finance Fund, supported by Bank of America and was published in March 2013 shows that only 22% of the organizations match CAMTC's 6 months of cash available for operating expenses. It should be noted that unlike CAMTC, many of these organizations receive governmental funding.

CAMTC's current approved budget anticipates a reduction of cash position to 4 months of operating expenses by the end of 2013. However, if the state law will require a written exam from all new applicants starting 2014, we may see a rush of new applications in 2012 last quarter, which may create a better than budgeted surplus.

Outreach - Since CAMTC is financially viable and we are focusing on eliminating the backlog of denials and revocations, there is no need to stimulate demand for certification and therefore all short-term marketing initiatives are on hold. We have been actively managing general media coverage of CAMTC, initiating proactive communication and when strategically logical, responding to articles. CAMTC will be actively accessible at the September 13-15 American Massage Conference in San Diego with two complementary advertising exposures, two booth spaces and three different presentations which will focus on students, professionals and business owners. Since the last group is highly fragmented, special effort will be needed to compile a comprehensive list to communicate with these important stakeholders.



Financial Statements and
Independent Auditor's Report

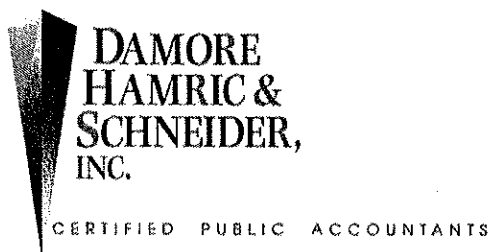
For the Year Ended December 31, 2012

California Massage Therapy Council

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INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
California Massage Therapy Council
Sacramento, California

We have audited the accompanying financial statements of the California Massage Therapy Council, which comprise the statement of financial position as of December 31, 2012, and the related statements of activities and changes in net assets, functional expenses and cash flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Council's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of California Massage Therapy Council as of December 31, 2012, and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

A handwritten signature in cursive script that reads "Damore, Hamric & Schneider Inc".

DAMORE, HAMRIC & SCHNEIDER, INC.
Certified Public Accountants

February 15, 2013

California Massage Therapy Council

STATEMENT OF FINANCIAL POSITION

December 31, 2012

ASSETS

Current Assets:

Cash and Cash Equivalents	\$ 1,143,576	
Certificates of Deposit	500,125	
Prepaid Expenses	<u>40,139</u>	
Total Current Assets		\$ 1,683,840

Fixed Assets:

Software	\$ 18,319	
Equipment	7,646	
Accumulated Amortization	<u>(16,016)</u>	
Fixed Assets, Net of Accumulated Amortization		<u>9,949</u>
Total Assets		<u>\$ 1,693,789</u>

LIABILITIES AND NET ASSETS

Current Liabilities:

Accounts Payable	\$ 44,419	
Accrued Vacation	15,539	
Accrued PTO	9,868	
Deferred Certification Fees - Current Portion	<u>851,174</u>	
Total Current Liabilities		\$ 921,000

Noncurrent Liabilities:

Deferred Certification Fees - Noncurrent Portion	<u>511,354</u>	
Total Liabilities		\$ 1,432,354

Net Assets:

Unrestricted	<u>\$ 261,435</u>	
Total Net Assets		<u>\$ 261,435</u>
Total Liabilities and Net Assets		<u>\$ 1,693,789</u>

The accompanying notes are an integral part of the financial statements.

California Massage Therapy Council

STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS

For the Year Ended December 31, 2012

Support and Revenue:

Applications Received	\$ 505,116
Certificates Issued	672,201
Renewals - Applied	443,961
Renewals - Approved	610,584
Current Year Deferrals Recognized in 2012	295,236
Prior Year Deferrals Recognized in 2012	559,483
Denied Applications	124,064
Hearing Fees, Late Fees, Purged/Revoked Applications	151,637
Miscellaneous Fees	45,453
Interest Income	517

Total Support and Revenue	\$ 3,408,252
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Expenses:

Outreach and Marketing	\$ 31,901
Board of Directors and Committees	28,598
Professional Standards Division	1,032,328
Professional Services	916,018
General and Administrative	356,398
Executive Staff	428,943

Total Expenses	\$ 2,794,186
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Change in Net Assets	\$ 614,066
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Net Assets, Beginning of Year (Deficit)	(352,631)
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Net Assets, End of Year	\$ 261,435
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The accompanying notes are an integral part of the financial statements.

California Massage Therapy Council

STATEMENT OF FUNCTIONAL EXPENSES

For the Year Ended December 31, 2012

	Outreach and Marketing	Board of Directors and Committees	Professional Standards Division	Professional Services	General and Administrative	Executive Staff	Total
Communications and Promotions	\$ 27,777	\$	\$	\$	\$	\$	\$ 27,777
Public Relations	4,124						4,124
Facility and Banquet		14,283					14,283
Travel Expenses		12,710	11,058			30,485	54,253
Conference Calls		763	7,035				7,798
Printing and Reproduction		466			13,737		14,203
Records Scanning					37,024		37,024
Office Supplies			1,156		10,224	748	12,128
Office Furniture/Equipment			5,608		9,213	1,250	16,071
Office Rental					50,230	16,000	66,230
Telephone and Fax					867	2,589	3,456
Telephone Up-Grade					2,962		2,962
Postage/Mailing					8,455		8,455
Insurance					16,872		16,872
Banking/Credit Card Fees					45,804		45,804
Filing Fees and Penalties					170		170
Staff Travel/Meetings					3,351		3,351
Software					1,395		1,395
Certification Materials and Shipping					100,844		100,844
Dues/Subscriptions/Licenses					10,970		10,970
Accounting/Tax/Audit				8,240			8,240
Database Development					30,828		30,828
Database Maintenance					9,352		9,352
Salaries			386,112			266,308	652,420
Vacation Expense						14,372	14,372
PTO Expense			9,868				9,868
Benefit Allowance			23,150			66,000	89,150
Payroll Services/Taxes/Workers Comp			39,462			27,423	66,885
Cellular Phones			3,813			3,746	7,559
Staff Meetings			303				303
Court Record Fees			1,217				1,217
Denial Mailings/Supplies			6,565				6,565
Application Processing				830,238			830,238
Legal Service - Denials			479,043				479,043
Legal In-House - Insurance			2,167				2,167
Legal Defense - Contingency			900				900
Legal In-House			34,199				34,199
Legal In-House Benefit Allowance			1,700				1,700
Legal Fees - General				77,041			77,041
Consulting - IT				499			499
Investigations (SSA)			17,725				17,725
Miscellaneous		376	1,247		1,431	22	3,076
Total Expense Before Amortization	\$ 31,901	\$ 28,598	\$ 1,032,328	\$ 916,018	\$ 353,729	\$ 428,943	\$ 2,791,517
Amortization					2,669		2,669
Total Expenses	<u>\$ 31,901</u>	<u>\$ 28,598</u>	<u>\$ 1,032,328</u>	<u>\$ 916,018</u>	<u>\$ 356,398</u>	<u>\$ 428,943</u>	<u>\$ 2,794,186</u>

The accompanying notes are an integral part of the financial statements.

California Massage Therapy Council

STATEMENT OF CASH FLOWS

For the Year Ended December 31, 2012

Cash Flows from Operating Activities:

Change in Net Assets	\$ 614,066
Adjustments to Reconcile Net Cash Provided by Operating Activities:	
Amortization	2,669
(Increase) Decrease in:	
Prepaid Expenses	(29,896)
Increase (Decrease) in:	
Accounts Payable	(4,174)
Accrued Vacation	10,680
Accrued PTO	9,868
Deferred Certification Fees	<u>278,614</u>
Cash Provided by Operating Activities	<u>\$ 881,827</u>

Cash Flows from Investing Activities:

Purchase of Software	(\$ 2,303)
Purchase of Equipment	(7,646)
Purchase of Certificates of Deposit	<u>(500,125)</u>
Cash Used by Investing Activities	<u>(\$ 510,074)</u>
Net Increase in Cash and Cash Equivalents	\$ 371,753
Cash, Beginning of Year	<u>771,823</u>
Cash, End of Year	<u><u>\$ 1,143,576</u></u>

Supplemental Information for Cash Flows:

Interest Paid in Cash	<u>\$ 0</u>
Franchise Tax Fees Paid in Cash	<u>\$ 170</u>

The accompanying notes are an integral part of the financial statements.

California Massage Therapy Council

NOTES TO FINANCIAL STATEMENTS

December 31, 2012

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

California Massage Therapy Council's mission is to protect the public by certifying qualified massage professionals in California.

The California Massage Therapy Council (CAMTC) was created by the California Legislature through the enactment of California Business and Professions Code Section 4600 et seq. CAMTC is required to:

1. Create and implement voluntary certification for the massage therapy profession that will enable consumers to easily identify credible Certified Massage Therapists (CMTs) and Certified Massage Practitioners (CMPs);
2. Ensure that CMTs and CMPs have completed sufficient training at approved schools; and
3. Increase education and training standards consistent with other states.

The Council utilized the following significant accounting policies in preparing the accompanying financial statements:

- A. Use of Estimates - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.
- B. Financial Statement Presentation - Net assets, revenues, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of the Council and changes therein are classified and reported as follows:
 1. Unrestricted Net Assets - Net assets that are not subjected to donor-imposed stipulations.

California Massage Therapy Council

NOTES TO FINANCIAL STATEMENTS

December 31, 2012

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued):

B. Financial Statement Presentation (Continued):

2. Temporarily Restricted Net Assets - Net assets subject to donor-imposed stipulations that may or will be met, either by actions of the Council and/or the passage of time. When a restriction expires, temporarily restricted net assets are reclassified to unrestricted net assets and reported in the statement of activities as net assets released from restrictions. There were no temporarily restricted net assets at December 31, 2012.
3. Permanently Restricted Net Assets - This component of net assets consists of stipulations that certain assets are to be maintained permanently by the recipient. Generally, the donors of these assets permit the recipient to use all or part of the income earned on any related investments for general or specific purposes. The Council did not have permanently restricted net assets at December 31, 2012.

- C. Income Taxes - CAMTC is exempt from federal and state income taxes under Section 501(c)(3) of the Internal Revenue Code and Section 23701d(c)(1) under California Revenue and Taxation Code. Accordingly, no provision for income taxes is included in these statements.
- D. Cash and Cash Equivalents - For purposes of the statement of cash flows, the Council considers all temporary cash investments with a maturity of three months or less to be cash equivalents.
- E. Concentration of Credit Risk - CAMTC maintains cash accounts with one financial institution. The total balance of the cash accounts are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000. The FDIC also fully insured bank accounts that were non-interest bearing through December 31, 2012. While CAMTC may maintain cash balances which at times exceed the federally insured limits, CAMTC has not experienced any losses in such accounts and believes they are not exposed to any significant credit risk regarding cash. At December 31, 2012 CAMTC's cash balance was fully insured; however, beginning January 1, 2013, the FDIC insured balance limit reverted to \$250,000 for all accounts held at one institution.

California Massage Therapy Council

NOTES TO FINANCIAL STATEMENTS

December 31, 2012

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued):

- F. Software and Equipment - Software and equipment are stated at cost. The cost of the software and equipment purchased in excess of \$1,000 is capitalized. Depreciation and amortization are provided in amounts sufficient to amortize or depreciate the cost of the software and equipment over the estimated useful lives of the assets (ranging from two to five years) on a straight-line basis. Routine repairs and maintenance are expensed as incurred.
- G. Deferred Certification Fees - Deferred revenue consists of the portion of certification fees to be earned over the two-year certification period as the costs of maintaining the certificates are realized.
- H. Subsequent Events Review - Management has evaluated subsequent events through the date of the audit report, which is the date the financial statements were available to be issued.

NOTE 2 FAIR VALUE MEASUREMENTS:

CAMTC adopted the provisions of Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 820-10 upon its inception. The ASC defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles (GAAP), and expands disclosures about fair value measurements.

Fair values of assets measured on a recurring basis at December 31, 2012 are as follows:

	Fair Value	Level 1	Level 2	Level 3
Cash	\$ 894,719	\$ 894,719	\$	\$
Certificates of Deposit	500,125	500,125		
Money Market Account	248,857	248,857		
	<u>\$ 1,643,701</u>	<u>\$ 1,643,701</u>	<u>\$</u>	<u>\$</u>

Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date.

California Massage Therapy Council

NOTES TO FINANCIAL STATEMENTS

December 31, 2012

NOTE 2 FAIR VALUE MEASUREMENTS (Continued):

Level 2 inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. Level 3 inputs are unobservable inputs for the asset or liability. CAMTC held no financial assets valued using level 2 or level 3 inputs as of December 31, 2012.

All assets have been valued using a market approach. There have been no changes in valuation techniques and related inputs.

NOTE 3 PROPERTY AND EQUIPMENT:

The following is a summary of software and equipment, less accumulated amortization, at December 31, 2012:

Software	\$ 18,319
Equipment	<u>7,646</u>
	25,965
Accumulated Amortization	(<u>16,016</u>)
	<u>\$ 9,949</u>

The Council developed software for use in its certification application process. The software was amortized over the estimated useful life. The software became fully amortized at December 31, 2012. The Council purchased fixed assets at the end of 2012. No depreciation was recognized in 2012. Depreciation will begin in 2013.

NOTE 4 ACCRUED BENEFITS:

Management of the Council receives vacation benefits. Accumulated unpaid employee vacation benefits are recognized as liabilities of the Council. The amount of accumulated vacation benefits at December 31, 2012 was \$15,539.

Beginning in April 2012 the Board approved that all other full-time employees of the Council will receive twelve days of paid time off (PTO) a year. Accumulated unpaid PTO benefits are recognized as liabilities of the Council. The amount of accumulated PTO at December 31, 2012 was \$9,868.

California Massage Therapy Council

NOTES TO FINANCIAL STATEMENTS

December 31, 2012

NOTE 4 ACCRUED BENEFITS (Continued):

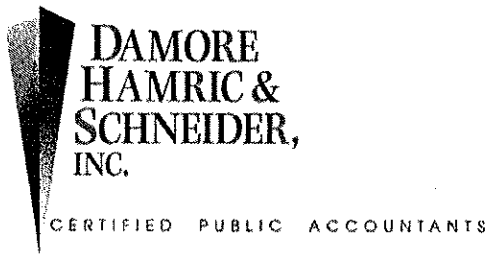
The employees do not have a vested right to accumulated sick leave. For this reason, the Council does not accrue a liability for accumulated sick leave benefits. Sick leave benefits are recorded as expenditures in the period sick leave is taken.

NOTE 5 CONTINGENCIES:

As discussed in Note 1, CAMTC was created pursuant to California Senate Bill 731. This legislation remains in effect until January 1, 2015. Unless new legislation is enacted before January 1, 2015 to extend this date, this statute will be repealed.

NOTE 6 FUNCTIONAL ALLOCATION OF EXPENSES:

The costs of providing the various programs and activities have been summarized on a functional basis in the statement of activities. Accordingly, certain costs have been allocated among the programs and supporting services benefited.



February 15, 2013

Board of Directors
California Massage Therapy Council
Sacramento, California

We have audited the financial statements of California Massage Therapy Council for the year ended December 31, 2012, and have issued our report thereon dated February 15, 2013. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated January 25, 2013. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by California Massage Therapy Council are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during 2012. We noted no transactions entered into by the Council during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected.

The most sensitive estimate affecting the financial statements was the determination of the amount of application fees to recognize in the year of receipt and the amount of application fees to defer over the remainder of the certification period.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. The journal entries proposed during our audit to the following accounts are considered to be material individually and to the financial statements taken as a whole:

- Deferred Fees
- Accrued Paid Vacation

Disagreements with Management

For purposes of this letter, a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated February 15, 2013.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Council's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Organization's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

This information is intended solely for the use of the Board of Directors and management of California Massage Therapy Council and is not intended to be and should not be used by anyone other than these specified parties.



DAMORE, HAMRIC & SCHNEIDER, INC.

Certified Public Accountants

February 15, 2013

Management Letter

Page 1 of 1

No Documentation Supporting Approved Pay Rates in Personnel Files: During our payroll walkthrough test, we noted that two of the three employees we selected for testing had no documentation supporting a current approved pay rate in their personnel files. We also noted that when the two employees were originally hired they were not approved for vacation and sick pay. As of April 2012 those two employees started receiving vacation and sick benefits, but nothing was documented in their personnel file to indicate that they were going to receive those benefits.

We recommend that approved pay rates and benefit pay for all employees be documented in their personnel files.

Management's Response:

Management agrees with the recommendation and already implemented as standing protocol.



Governmental Relations and Special Projects Report May 2, 2013

Beverly May

Local Implementation of and Compliance with the law

There are currently 73 cities or counties that require certification- four in policy only, and three that are expected to be introduced to council shortly. While the trend continues for cities and counties to require certification a few cities have chosen to retain a dual system. I continue to be actively involved in most revisions of local ordinances pertaining to massage, including speaking at many of the hearings.

Notable is that Los Angeles County no longer issues their county licenses, but requires in policy that everyone be certified. Like most counties, they do not issue business licenses. Since this policy change the county does not verify that new massage businesses employ only certificate holders to provide massage. So far we have not had complaints from the county of a proliferation of illicit businesses, although it is likely occurring since they have given up preventative oversight. This has become a big concern in the city of Los Angeles, as I will cover later in this report.

Inertia and other priorities, particularly in larger cities or counties, mean that some jurisdictions may not amend their ordinances to reflect the state law for some time. This is not necessarily a problem – some cities and counties have been able to comply with the state law through appropriate exemptions. However, in my experience this approach can result in the jurisdiction losing valuable tools that would be available with an ordinance drafted to maximize the joint resources of the city/county and CAMTC.

The number and types of new reports of non-compliance with state law is slowing. In many cases, a new city staff member has not been properly oriented or the certified massage therapist misunderstands what is required. However, complaints about cities imposing zoning restrictions not in compliance with our law, including costly conditional use permits, are the most stubborn to handle. For now, we are trying alternative means of nudging the cities into compliance, including engaging the local massage community and their clients. Land use is an issue that I will address below.

Huntington Beach is the first city to include in a new ordinance a provision, authorized by SB 1238, allowing cities and counties to close the revolving door of illicit businesses by prohibiting one to open in the same location where another was closed for criminal activity. This is an attractive provision and we will most likely see it enacted in San Bruno next and other cities as they amend ordinances.

CAMTC and Local Government Roles

Although there is no perfect protocol to prevent those who abuse this profession from being certified, CAMTC is very good at reviewing backgrounds on applicants – in many cases much better than cities and counties. By reaching out to the jurisdictions where they have lived or worked in the past ten years, we often obtain information that did not rise to the level of an arrest and thus would not have been on the live scan results. Our school investigations and ability to deny applicants from fraudulent schools is well recognized by law enforcement. In fact, our Professional Standards Division is now orienting BPPE investigators before their own operations. With our Declaration process and disciplinary authority that is conduct based, CAMTC can act on evidence of unprofessional behavior and sexual or other misconduct without needing criminal conviction. The skilled team in CAMTCs Professional Standards Division (PSD) works to make it more difficult for the “wrong people” to certify, and more easy to revoke when they do.

Using the revocable registrations that we are seeking in legislation this session, CAMTCs Declaration process, and the ability to close the “rotating door” of illicit parlors, cities and counties can help us take back this profession. The big challenge will be how well they can do their part of investigations with already strained budgets and limited law enforcement resources.

2013 Legislation

Over the past 3 ½ years since CAMTC began to issue certificates, many cities have seen an escalation in new illicit businesses. In fact, the same is true in most other states, whether they have state massage licensing laws or not.

Staff recommended in February that the Board approve introduction of a bill to help deal with some problems that we felt cannot wait until the Sunset law. The Board approved three proposals – an exam to be required of all new applicants; authority for cities and counties to issue revocable registrations, and requiring applicants to prove the right to work in this country. The requirement to prove the right to work in this country was pulled at the request of our Business & Professions Committee consultant, Bill Gage.

As I reported at the last Board meeting, we have been meeting since December with Kirsten Kolpitzke, the Public Safety and Land Use consultant for the League of California Cities.

Most of the discussion has revolved around land use issues and Kirsten offered in December to propose language as a starting point, although it was not prepared until a

week ago. In 2011, AB 619 allowed cities and counties to issue land use and other requirements as long as they are the same as are applied to other professions, as defined in the CA Corporation Code. The definition in this code applies to anyone who is licensed, certified or registered under various state codes. Briefly, the result is that a city may allow hairdressers in one zoning district, but not medical services, yet a business in which everyone is certified can be in either.

A League survey asked cities what they like about the state law, and whether any problems have resulted from the law. Responses showed strong support for the certification of individuals and school investigations conducted by CAMTC. As expected, the ability to easily close illicit businesses and land use is the biggest concerns expressed.

From my conversations with dozens of city attorneys, statutory authority for revocable registrations is the top priority in legislation. Although a number of cities and San Mateo County have already enacted such provisions, the consensus is that the authority needs to be in state law. These jurisdictions are already using revocable registrations very cost effectively to close establishments that have been nuisances for years.

In regards to land use, the tendency is to ask to go back to the historical “solutions” – zoning massage as adult entertainment, prohibiting massage businesses that are not ancillary to a medical office or spa, spreading them out (which often effectively zoned massage out of the city altogether) and requiring conditional use permits. These solutions have not worked well in the past, driving the legitimate therapists underground and limiting the public's access to professional massage.

We know of no city that has reported a problem with a high density of legitimate massage businesses, so it doesn't make much sense to hurt the legitimate profession and public by spreading them out or limiting them to ancillary use or undesirable “adult entertainment” districts. In Los Angeles and many other cities and counties, massage zoning meant an expensive and lengthy Conditional Use permit process and distance limitations that left massage businesses unable to open within as much as 1,000 feet of a school, church, residence or other massage business. Some cities still hold that they can impose such restrictions, including prohibitions on businesses where massage is more than an “ancillary” use of as little as one third of floor space or revenue.

Two communities that have been very out-spoken in their desire to change our law are the Eagle Rock district of Los Angeles and S. Pasadena. Both have seen the numbers of illicit businesses on their main boulevard increase. The easy explanation is that it is due to CAMTC's law. Yet May 1st when I spoke at the S. Pasadena City council meeting, the city confirmed that it does not have the resources to send in police to make arrests or issue citations or declarations, nor does it have the budget to hold the hearings necessary to close an illicit business by revoking a business license. Yet they expect that by reverting to the old laws, they will be able to do so without committing resources. Costs can be covered with fines and penalties against the violators. S. Pasadena instead passed a motion that said, in part to “support the League in bringing back more

local control". Working in partnership with CAMTC is already being proven to be easier and less expensive. Clearly we need more education to demonstrate this to local officials.

As a result of political pressure, freshman Assembly member Jimmy Gomez, who represents the Eagle Rock district, introduced AB 1147. You may have seen its early "placeholder" language, which raised educational standards by 5 hours for each tier.

After Ahmos, Rick and I met with Assemblyman Gomez, his Chief of Staff, the AMTA-CA lobbyist and the former Governmental Relations Chair Gomez asked us to propose the language for the provisions that this Board has approved.

Much of the problem in the Eagle Rock neighborhood of Los Angeles can be solved by the city itself. Currently the city of Los Angeles does not verify that a business owner is certified and therefore doesn't conduct background checks if they are not certified. They don't require evidence that everyone providing massage is certified and therefore have allowed many businesses to open, or remain open, without the zoning limitations, establishment permit and other restrictions that are permitted for businesses where not everyone providing massage is certified, or the owner has not passed a background check. This is the same situation occurring in LA County. Furthermore, until SB 1238 specifically authorized sharing of information with CAMTC, Los Angeles did not send us police reports or Officer Declarations, preventing CAMTC from denying and revoking a significant number of people who should not be certified. Although the law changed in 2013, and we have met with city attorneys and the Police Commission, they have yet to implement protocols for sharing information with CAMTC.

The result is a frustrating situation with a few very vocal communities and too much blame and responsibility being placed on CAMTC, including for roles that are not within our authority. Los Angeles can change their policies now, even before changing their municipal code, to make sure that all businesses deserve the exemptions reserved for those businesses in which everyone providing massage is certified.

When the increase in illicit parlors becomes a political issue in a city, police have to investigate them on top of other crimes. Spreading out or limiting the numbers of these businesses seems like an easy way to put them out of sight, out of mind. With police and vice department cuts there is less time for enforcement of the laws against prostitution.

One result of these dilemma occurred in Upland recently. We received a Declaration from the finance officer who has no authority to cite. It was too weak to act on - had they cited the business owner, we could have revoked her certification and allowed the city to close that business, prevent her from opening another in the city, and make it easier for a neighboring city to also keep her from setting up shop. With no citations, a clean criminal record and no paid unprofessional advertising, CAMTC has no authority to act against her certification, despite strong indications of illicit activity at her business.

A real problem is the limited financial and personnel resources of local governments to investigate and take action against the problem businesses. As noted above, with existing tools plus the new authority given to CAMTC by SB 1238, a good ordinance and combined, sustained resources of both CAMTC and the local authorities, the problem can be greatly diminished.

Status and Possible Amendments to AB 1147

As of this writing, AB 1147 is waiting to be heard in the first policy committee, Assembly Business and Professions, on May 7th. CAMTC will speak in support of the bill.

Discussions will continue with the League of Cities regarding land use and possibly some language will be added later in the session or at Sunset.

At least one other amendment is likely, adding the same 100 hours in specified curriculum, such as anatomy and physiology to the requirements for certification as a therapist as is required of the practitioner. It was an oversight in the original bill, SB731, not to require core curriculum of the CMT. The Assembly Business and Professions Committee consultant has asked to correct this now.

Other activities

In addition to contacts with city staff, I maintain strong relationships and communication at the upper levels of the Department of Consumer Affairs (DCA), Bureau of Private Postsecondary (BPPE) and state Department of Public Health (DPH). I believe that all will be powerful allies when we go for Sunset. Mike Gomez, Deputy Director of Enforcement for DCA, invited Rick and I to meet with him to offer the resources of his department. While some of what he can offer is premature, understanding each others resources is beneficial to all of us.

May 15th Elaine from PSD and I will be attending the third meeting of the Stanislaus County Taskforce on illicit massage establishments. The county is working with state agencies to address both prostitution and the underground economy. Such operations are happening statewide and we have been involved by receiving Officer Declarations and police reports that we can act on. This may prove to be an effective model for how CAMTC, city and county law enforcement and district attorneys, state agencies and possibly Immigration and Customs Enforcement (ICE) can work together on the common problem of illicit massage.

Human Trafficking - I was contacted by ICE a year or so ago when they discovered that they had been issuing student visas to attend massage schools that CAMTC does not accept transcripts from. Many of these "students" later disappeared into trafficking situations. In a recent policy change, ICE no longer gives any student visas unless a school is nationally accredited or degree granting - that closes the door to trafficking through our "bad schools".

The State Public Health Dept. now requires all massage therapists working in medical, physical or occupational therapy, or rehabilitation clinics to be certified.

To save paper when printing this report I have not included the spreadsheets that have been in my previous reports but they are available upon request. (Jurisdictions that require certification; Status and type of Claims of City or County Non-Compliance; and City and County Ordinance Status)

AMENDED IN ASSEMBLY MAY 1, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1147

Introduced by Assembly Member Gomez

February 22, 2013

An act to amend Sections 4601 and 4612 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as amended, Gomez. Massage therapy.

Existing law, until January 1, 2015, provides for the voluntary certification of massage practitioners and massage therapists by the California Massage Therapy Council.

Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage practitioner, including, but not limited to, successfully completing curricula in massage and related subjects totaling a minimum of 250 hours or the credit unit equivalent, as specified.

This bill would additionally require an applicant for a certificate as a massage practitioner to pass a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards, and that is approved by the council.

Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage therapist, including, but not limited to, (1) successfully completing curricula in massage and related subjects totaling a minimum of 500 hours or the credit unit equivalent, as specified, or (2) successfully completing curricula in massage and

related subjects totaling a minimum of 250 hours, as specified, and passing a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards, and that is approved by the council.

This bill would instead require an applicant for a certificate as a massage therapist to successfully complete curricula in massage and related subjects totaling a minimum of 500 hours or the credit unit equivalent, as specified, and to pass the massage and bodywork competency assessment examination as described above.

Existing law authorizes a city, county, or city and county to impose certain requirements on massage establishments or businesses that are the sole proprietorship of an individual certified pursuant to existing state law or that employ or use only persons who are so certified. Existing law authorizes a city, county, or city and county to, among other things, adopt reasonable health and safety requirements, as specified, pertaining to those massage establishments or businesses, and to require an applicant for a business license to operate a massage business or establishment to fill out an application that requests relevant information, as specified.

This bill would authorize a city, county, or city and county to require a massage establishment or business described above to apply for and receive a revocable certificate of registration. The bill would authorize a city, county, or city and county to require from an applicant, among other things, copies of specified identification and a statement that the ~~applicant~~ *business* will only employ or use certified persons to provide massage services and that failure to comply with this provision may result in ~~revocation of~~ *suspension or revocation of, imposition of conditions upon, or action against* the certificate of registration. The bill would authorize a city, county, or city and county to require a massage establishment or business to comply with specified local ordinances, regulations, rules, requirements, or restrictions as a condition *of* granting or maintaining a revocable certificate of registration and would authorize a city, county, or city and county ~~to revoke to, at its sole discretion, suspend, revoke, or impose conditions upon~~ a certificate of registration for cause.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4601 of the Business and Professions Code is amended to read:

4601. (a) The council shall issue a certificate under this chapter to an applicant who satisfies the requirements of this chapter.

(b) (1) In order to obtain certification as a massage practitioner, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(A) The applicant is 18 years of age or older.

(B) The applicant has successfully completed, at an approved school, curricula in massage and related subjects, totaling a minimum of 250 hours or the credit unit equivalent, that incorporates appropriate school assessment of student knowledge and skills. Included in the hours shall be instruction addressing anatomy and physiology, contraindications, health and hygiene, and business and ethics, with at least 100 hours of the required minimum 250 hours devoted to these curriculum areas.

(C) The applicant has passed a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards, and that is approved by the council. The successful completion of this examination may have been accomplished before the date the council is authorized by this chapter to begin issuing certificates.

(D) All fees required by the council have been paid.

(2) New certificates shall not be issued pursuant to this subdivision after December 31, 2015. Certificates issued pursuant to this section or subdivision (a) or (c) of Section 4604 on or before December 31, 2015, shall, after December 31, 2015, be renewed without any additional educational requirements, provided that the certificate holder continues to be qualified pursuant to this chapter.

(c) In order to obtain certification as a massage therapist, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(1) The applicant is 18 years of age or older.

(2) The applicant has successfully completed the curricula in massage and related subjects totaling a minimum of 500 hours or the credit unit equivalent. Of this 500 hours, a minimum of 250

1 hours shall be from approved schools. The remaining 250 hours
2 required may be secured either from approved or registered schools,
3 or from continuing education providers approved by, or registered
4 with, the council or the Department of Consumer Affairs. After
5 December 31, 2015, applicants may only satisfy the curricula in
6 massage and related subjects from approved schools.

7 (3) The applicant has passed a massage and bodywork
8 competency assessment examination that meets generally
9 recognized psychometric principles and standards, and that is
10 approved by the council. The successful completion of this
11 examination may have been accomplished before the date the
12 council is authorized by this chapter to begin issuing certificates.

13 (4) All fees required by the council have been paid.

14 (d) The council shall issue a certificate to an applicant who
15 meets the other qualifications of this chapter and holds a current
16 and valid registration, certification, or license from any other state
17 whose licensure requirements meet or exceed those defined within
18 this chapter. The council shall have discretion to give credit for
19 comparable academic work completed by an applicant in a program
20 outside of California.

21 (e) An applicant applying for a massage therapist certificate
22 shall file with the council a written application provided by the
23 council, showing to the satisfaction of the council that he or she
24 meets all of the requirements of this chapter.

25 (f) Any certification issued under this chapter shall be subject
26 to renewal every two years in a manner prescribed by the council,
27 and shall expire unless renewed in that manner. The council may
28 provide for the late renewal of a certificate.

29 (g) (1) The council shall have the responsibility to determine
30 that the school or schools from which an applicant has obtained
31 the education required by this chapter meet the requirements of
32 this chapter. If the council has any reason to question whether or
33 not the applicant received the education that is required by this
34 chapter from the school or schools that the applicant is claiming,
35 the council shall investigate the facts to determine that the applicant
36 received the required education prior to issuing a certificate.

37 (2) For purposes of paragraph (1) and any other provision of
38 this chapter for which the council is authorized to receive factual
39 information as a condition of taking any action, the council shall
40 have the authority to conduct oral interviews of the applicant and

1 others or to make any investigation deemed necessary to establish
2 that the information received is accurate and satisfies any criteria
3 established by this chapter.

4 (h) The certificate issued pursuant to this chapter, as well as
5 any identification card issued by the council, shall be surrendered
6 to the council by any certificate holder whose certificate has been
7 suspended or revoked.

8 SEC. 2. Section 4612 of the Business and Professions Code is
9 amended to read:

10 4612. (a) (1) The holder of a certificate issued pursuant to
11 this chapter shall have the right to practice massage, consistent
12 with this chapter and the qualifications established by his or her
13 certification, in any city, county, or city and county in this state
14 and shall not be required to obtain any other license, permit, or
15 other authorization, except as provided in this section, to engage
16 in that practice.

17 (2) Notwithstanding any other provision of law, a city, county,
18 or city and county shall not enact an ordinance that requires a
19 license, permit, or other authorization to provide massage for
20 compensation by an individual who is certified pursuant to this
21 chapter and who is practicing consistent with the qualifications
22 established by his or her certification, or by a massage business
23 or massage establishment that employs or uses only persons who
24 are certified pursuant to this chapter to provide massage for
25 compensation. No provision of any ordinance enacted by a city,
26 county, or city and county that is in effect before the effective date
27 of this chapter, and that requires a license, permit, or other
28 authorization to provide massage for compensation, may be
29 enforced against an individual who is certified pursuant to this
30 chapter or against a massage business or massage establishment
31 that employs or uses only persons who are certified pursuant to
32 this chapter to provide massage for compensation.

33 (3) Except as provided in subdivision (b), nothing in this section
34 shall be interpreted to prevent a city, county, or city and county
35 from adopting or enforcing any local ordinance that provides for
36 reasonable health and safety requirements for massage
37 establishments or businesses. Subdivision (b) shall not apply to
38 any massage establishment or business that employs or uses
39 persons to provide massage services who are not certified pursuant
40 to this chapter.

(b) (1) This subdivision shall apply only to massage establishments or businesses that are sole proprietorships, where the sole proprietor is certified pursuant to this chapter, and to massage establishments or businesses that employ or use only persons certified pursuant to this chapter to provide massage services. For purposes of this subdivision, a sole proprietorship is a business where the owner is the only person employed by that business to provide massage services.

(2) (A) Any massage establishment or business described in paragraph (1) shall maintain on its premises evidence for review by local authorities that demonstrates that all persons providing massage services are certified.

(B) Nothing in this section shall preclude a city, county, or city and county from including in a local ordinance a provision that requires a business described in paragraph (1) to file copies or provide other evidence of the certificates held by the persons who are providing massage services at the business.

(3) A city, county, or city and county may charge a massage business or establishment a business licensing fee, provided that the fee shall be no higher than the lowest fee that is applied to other individuals and businesses providing professional services, as defined in subdivision (a) of Section 13401 of the Corporations Code.

(4) Nothing in this section shall prohibit a city, county, or city and county from enacting ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, or zoning requirements applicable to an individual certified pursuant to this chapter or to a massage establishment or business that uses only individuals who are certified pursuant to this chapter to provide massage for compensation, provided that, unless otherwise exempted by this chapter, these ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, and zoning requirements shall be no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services, as defined in subdivision (a) of Section 13401 of the Corporations Code. No provision of any ordinance, regulation, rule, requirement, restriction, land use regulation, moratoria, conditional use permit, or zoning requirement enacted by a city, county, or city and county

1 that is in effect before the effective date of this chapter, and that
2 is inconsistent with this paragraph, may be enforced against an
3 individual who is certified pursuant to this chapter or against a
4 massage business or massage establishment that uses only
5 individuals who are certified pursuant to this chapter to provide
6 massage for compensation.

7 (5) Local building code or physical facility requirements
8 applicable to massage establishments or businesses shall not require
9 additional restroom, shower, or other facilities that are not
10 uniformly applicable to other professional or personal service
11 businesses, nor shall building or facility requirements be adopted
12 that (A) require unlocked doors when there is no staff available to
13 ensure security for clients and massage staff who are behind closed
14 doors, or (B) require windows that provide a view into massage
15 rooms that interfere with the privacy of clients of the massage
16 business.

17 (6) A city, county, or city and county may adopt reasonable
18 health and safety requirements with respect to massage
19 establishments or businesses, including, but not limited to,
20 requirements for cleanliness of massage rooms, towels and linens,
21 and reasonable attire and personal hygiene requirements for persons
22 providing massage services, provided that nothing in this paragraph
23 shall be interpreted to authorize adoption of local ordinances that
24 impose additional qualifications, such as medical examinations,
25 background checks, or other criteria, upon any person certified
26 pursuant to this chapter.

27 (7) Nothing in this section shall preclude a city, county, or city
28 and county from doing any of the following:

29 (A) Requiring an applicant for a business license to operate a
30 massage business or establishment to fill out an application that
31 requests the applicant to provide relevant information, as long as
32 the information requested is the same as that required of other
33 individuals and professionals providing professional services as
34 defined in subdivision (a) of Section 13401 of the Corporations
35 Code.

36 (B) Making reasonable investigations into the information so
37 provided.

38 (C) Denying or restricting a business license if the applicant
39 has provided materially false information.

(c) 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 Section 4603. Nothing in this section shall preclude a local ordinance from authorizing suspension, revocation, or other restriction of a license or permit issued to a massage establishment or business if violations of this chapter, or of the local ordinance, occur on the business premises.

(d) Nothing in this section shall preclude a city, county, or city and county from adopting a local ordinance that is applicable to massage businesses or establishments described in paragraph (1) of subdivision (b) and that does either of the following:

(1) Provides that duly authorized officials of the city, county, or city and county have the right to conduct reasonable inspections, during regular business hours, to ensure compliance with this chapter, the local ordinance, or other applicable fire and health and safety requirements.

(2) Requires an owner or operator to notify the city, county, or city and county of any intention to rename, change management, or convey the business to another person.

(e) Nothing in this chapter shall be construed to preclude a city, county, or city and county from requiring a background check of an owner or operator of a massage establishment who owns 5 percent or more of a massage business or massage establishment and who is not certified pursuant to this chapter. The background check may include, but is not limited to, a criminal background check, including requiring submission of fingerprints for a state and federal criminal background check, submission of an application that requires the applicant to state information, including, but not limited to, the applicant's business, occupation, and employment history for the 10 years preceding the date of application, the inclusive dates of same, and the name and address of any massage business or other like establishment owned or operated by any person who is subject to the background check requirement of this subdivision. If a noncertified owner's or operator's background check results in a finding that the city, county, or city and county determines is relevant to owning or operating a massage establishment, then the provisions of

1 subdivisions (a) and (b) shall not apply to that establishment and
2 the city, county, or city and county may regulate that establishment
3 in any manner it deems proper that is in accordance with the law.

4 (f) (1) Nothing in this chapter shall preclude a city, county, or
5 city and county from including a provision in a local ordinance
6 ~~that requires~~ *requiring* the owner or owners of a massage
7 establishment or business described in paragraph (1) of subdivision
8 (b) to apply for and receive a revocable certificate of registration.

9 (2) As part of the application for a certificate of registration, a
10 city, county, or city and county may require the following from
11 an applicant:

12 (A) The full true name under which the massage establishment
13 or business will be conducted.

14 (B) The present or proposed address where the massage
15 establishment or business will be conducted.

16 (C) The full true legal name and mailing address of the owner
17 or owners of the massage establishment or business.

18 (D) A copy of a certificate, or any other evidence of certification,
19 issued to each person pursuant to this chapter who will be providing
20 massage services at the massage establishment or business.

21 (E) A copy of a photographic government-issued identification
22 card of the owner or owners of the massage establishment or
23 business.

24 (F) A statement that the ~~applicant~~ *business* will only employ or
25 use persons certified pursuant to this chapter to provide massage
26 services and that failure to comply with this provision may result
27 ~~in revocation of~~ *suspension or revocation of, imposition of*
28 *conditions upon, or action against* the certificate of registration.

29 (G) A statement that the applicant will provide written
30 notification of any changes to the original application within 10
31 days of that change occurring.

32 (H) Authorization for the city, county, or city and county to
33 investigate the truth of the information contained in the application.

34 (I) The payment of a fee to conduct a background check pursuant
35 to subdivision (e) if the owner or owners of the massage
36 establishment or business applying for the certificate of registration
37 are not certified pursuant to this chapter and own 5 percent or more
38 of the massage establishment or business.

39 (3) A city, county, or city and county may require a massage
40 establishment or business to comply with any applicable local

1 ordinance, regulation, rule, requirement, or restriction—passed
2 pursuant to subdivision (b) *that complies with subdivision (b) or*
3 *(d)* as a condition of granting or maintaining a revocable certificate
4 of registration, including, but not limited to, those provisions
5 pertaining to health and safety ~~or zoning~~.

6 (4) A city, county, or city and county may exempt certain classes
7 of persons or businesses from compliance with the requirements
8 for a certificate of registration.

9 (5) A city, county, or city and county may make the certificate
10 of registration nontransferable.

11 (6) A city, county, or city and county ~~may revoke~~ *may, at its*
12 *sole discretion, suspend, revoke, impose conditions upon, or*
13 *otherwise act against* a certificate of registration for cause.



CALIFORNIA
MASSAGE THERAPY COUNCIL

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

May 2, 2013

The Honorable Jimmy Gomez
California State Assembly
State Capitol Building, Room 2176
Sacramento, CA 95814

RE: AB 1147 (Gomez). Massage therapy.
(as Amended on May 1, 2013)

Support

Dear Assembly Member Gomez:

The California Massage Therapy Council (CAMTC) appreciates the opportunity to work with you and your staff on this important legislation. Like you, we want strong, healthy communities and a business environment that is free from illegal activity.

We are committed to protecting the right of California consumers to have safe access to the benefits of therapeutic massage when performed by certified massage professionals who meet the standards specified in State law.

Your bill also proves that is possible to recognize the viable massage therapy profession and at the same time go after the bad actors.

We believe this legislation is going in the right direction and we look forward to working with you as it goes through the process.

Respectfully,

Ahmos Netanel
Chief Executive Officer

cc: Chair and Members, Assembly Business and Professions Committee;
Elissa Silva, Consultant, Assembly Business, Professions and Consumer Protection Committee;
Ted Blanchard, Consultant, Assembly Republican Caucus



American Massage Therapy Association – California Chapter

May 6, 2013

The Honorable Jimmy Gomez
Assemblymember, 51st District
State Capitol, Room 2176
Sacramento, CA 95814

**AB 1147 (Gomez)
SUPPORT**

Assemblymember Gomez,

The American Massage Therapy Association – California Chapter is pleased to support your AB 1147. This bill amends the massage therapy statute to address concerns raised by cities pertaining to massage establishments.

In 2008 the Legislature passed SB 731, which created a voluntary statewide certification for massage therapists. Prior to statewide certification, massage therapists were limited to local regulation by individual cities. Some cities, in an effort to abate prostitution, applied very onerous zoning and operating requirements on massage therapists.

In addition to obtaining a business license, paying fees and meeting general health and safety requirements, massage therapists were required to jump through various arbitrary hoops for each city in which they operated. Requirements such as in person interviews with law enforcement and windows into massage rooms were often imposed on legitimate massage professionals just in order to operate their small business in a city.

Statewide certification requires DOJ and FBI background checks, hours of training and education and passage of a national exam. Massage therapy is now the 3rd most utilized healthcare modality in the nation. It is important that anyone certified to work statewide is held to high standards. In return, massage therapists who have gone through the backgrounds, hours of training, education and exams would not be treated arbitrarily by cities.

Statewide certification is still in its infancy. We recognize cities must have the tools necessary to regulate massage establishments effectively to reach our mutual goals of eradicating human trafficking and having a healthy massage industry in each city. To meet this end we support the changes in AB 1147 which will allow cities to provide a revocable certificate of registration to massage therapists and practitioners. This will go a long way in providing cities another tool to keep bad actors from the massage industry and ensure consumer protection.

We applaud your effort to strive for balance between the cities' need to effectively regulate massage establishments and the need of massage professionals to be treated fairly as other small businesses.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Roberson" with a stylized flourish at the end.

MICHAEL ROBERSON
President

Talin:

You may or may not be aware that a proposed bill - AB 1147, would tighten up the State Business and Professional Code with regards to professional massage. We fully support the language of this bill as of May 1, 2013

AB 1147 is under tremendous pressure from the California League of Cities to insert changes. These changes by-and-large would be devastating to the professional therapeutic massage industry. As a result, they would deny the public access to professional therapeutic massage services.

Can you please let Carol know that Helen and I, and the greater California the Massage Envy community support AB 1147 as of May 1, 2013, and are opposed to the changes that the League of Cities are asking for.

Thank you:

andrew

--

Andrew Garsten □ Massage Envy Regional Developer □ Los Angeles West and North East Regions □ Cell: 323.702.1647 □ Email: agarsten@massageenvy.com



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April 29, 2013

The Honorable Jimmy Gomez
California State Assembly
State Capitol Building, Room 2176
Sacramento, CA 95814

RE: AB 1147 (Gomez). Massage therapy.
(as Amended on April 15, 2013)
Notice of Oppose, Unless Amended

Dear Assembly Member Gomez:

The League of California Cities has taken a position of oppose, unless amended on AB 1147, which seeks to address issues surrounding legislation passed in 2008 (SB 731) relating to massage establishments. The League has been meeting with the California Massage Therapy Council (CAMTC) since December but thus far, we have been unable to get our concerns addressed.

While cities have seen some benefits as a result of the 2008 legislation, there have been unintended consequences and issues that need to be addressed. Illegitimate businesses have found ways to work within the confines of SB 731 by requiring one or two persons in their establishment to have a certification (as a cost of doing business) because they know they cannot be regulated if they are CAMTC certified. If law enforcement enters an establishment that is CAMTC certified, only the massage therapists are required to have a certification. Upon entering a business, suddenly employees report that they only work at the front desk, wash towels, manage a tanning bed, or clean the business. If law enforcement is capable of reporting a massage therapist working without a certification, then that employee risks losing their certification, while the business continues to operate.

The League is seeking to strike a reasonable balance in AB 1147 and ideally would not like to see SB 731 sunset. However, cities and counties are looking to regain some of their authority to regulate massage establishments based upon a few conditions such as spacing and concentration. Our amendments are along the same lines as AB 1616 (Gatto), from 2012, which requires local jurisdictions to allow people to bake and sell homemade goods out of their residential home, but also provides for reasonable regulations relating to spacing and concentration, traffic control, parking, and noise control.

Therefore, we would like to request the following changes be made to AB 1147:

- Add one member to CAMTC appointed by the California Police Chief's Association so that the public safety expertise is constant.
- Delete language that prohibits jurisdictions from enacting ordinances no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services. Currently, jurisdictions can regulate a medical office as a medical facility, a hair salon as a business that provides hair services, but only massage parlors have a preferred status and can only be regulated as every other professional business.
- Limit jurisdictions' authority to enact ordinances that require compliance with reasonable land use standards relating to matters such as spacing and concentration, traffic control, parking, hours of operation, noise and a revocable permit.
- Clarify that reasonable health and safety requirements for massage establishments includes that the certificate holder wear his or her ID badge issued by the CAMTC, the certificate holder

register with the jurisdiction in which he or she will be providing services, the establishment provide a sink with hot and cold running water for employees to wash their hands, and a restroom facility for the use of patrons in the facility. While we already have the ability to require reasonable health and safety requirements for a massage establishment, clarifying what this includes reduces gray areas for ordinances and the ability to challenge arrests.

- Clarify that an operator includes a manager of a massage establishment and that a background check can be performed by the local jurisdiction if they are not CAMTC certified.
- Require an operator (or at least a manager) of a massage establishment to be CAMTC certified.

For these reasons, the League has an oppose, unless amended position on AB 1147. If you have any questions regarding the League's position on this bill, please do not hesitate to contact me at (916) 658-8250.

Sincerely,



Kirstin Kolpitke
Legislative Representative

cc: Chair and Members, Assembly Business and Professions Committee
Elissa Silva, Consultant, Assembly Business, Professions and Consumer Protection Committee
Ted Blanchard, Consultant, Assembly Republican Caucus

From: "Lane, Andrea" <Andrea.Lane@sen.ca.gov>
Subject: Check in, SB 1147
Date: May 1, 2013 11:28:57 AM PDT
To: <bevmay8@gmail.com>, <ahmos@verizon.net>

Hi, Beverly and Ahmos.

Thank you very much for your diligence with the Pasadena School. We are very glad the process has been changed so the reviews can be done in a more expedited manner for other schools. The senator is very aware of your efforts.

Is there an update on SB 1147? We know the Cities have suggested the following changes:

- Add one member to CAMTC appointed by the California Police Chief's Association so that the public safety expertise is constant.
- Delete language that prohibits jurisdictions from enacting ordinances no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services. Currently, jurisdictions can regulate a medical office as a medical facility, a hair salon as a business that provides hair services, but only massage parlors have a preferred status and can only be regulated as every other professional business.
- Limit jurisdictions' authority to enact ordinances that require compliance with reasonable land use standards relating to matters such as spacing and concentration, traffic control, parking, hours of operation, noise and a revocable permit.
- Clarify that reasonable health and safety requirements for massage establishments includes that the certificate holder wear his or her ID badge issued by the CAMTC, the certificate holder register with the jurisdiction in which he or she will be providing services, the establishment provide a sink with hot and cold running water for employees to wash their hands, and a restroom facility for the use of

patrons in the facility. While we already have the ability to require reasonable health and safety requirements for a massage establishment, clarifying what this includes reduces gray areas for ordinances and the ability to challenge arrests.

- Clarify that an operator includes a manager of a massage establishment and that a background check can be performed by the local jurisdiction if they are not CAMTC certified.
 - Require an operator (or at least a manager) of a massage establishment to be CAMTC certified.

These seem to address the concerns our cities raised and your feedback is appreciated.

Best,

Andi

Andi Lane, Legislative Aide
Pathways Program Manager
Senator Carol Liu, 25th District
501 N. Central Ave.
Glendale, CA 91203
(818) 409-0400
www.senate.ca.gov/Liu



Save trees--print this e-mail only if absolutely necessary

“Massage Parlors Language”

Proposed by the League of California Cities (4/29/13)

Business and Professions Code section

4612. (a) (1) The holder of a certificate issued pursuant to this chapter shall have the right to practice massage, consistent with this chapter and the qualifications established by his or her certification, in any city, county, or city and county in this state and shall not be required to obtain any other license, permit, or other authorization, except as provided in this section, to engage in that practice.

(2) Notwithstanding any other provision of law, a city, county, or city and county shall not enact an ordinance that requires a license, permit, or other authorization to practice massage by an individual who is certified pursuant to this chapter and who is practicing consistent with the qualifications established by his or her certification. No provision of any ordinance enacted by a city, county, or city and county that is in effect before the effective date of this chapter, and that requires a license, permit, or other authorization to practice massage, may be enforced against an individual who is certified pursuant to this chapter.

(3) Except as provided in subdivision (b), nothing in this section shall be interpreted to prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, ~~and~~ reasonable health and safety requirements for massage establishments or businesses, *and local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and hours of operation.* Subdivision (b) shall not apply to any massage establishment or business that employs or uses persons to provide massage services who are not certified pursuant to this chapter.

(b) (1) This subdivision shall apply only to massage establishments or businesses that are sole proprietorships, where the sole proprietor is certified pursuant to this chapter, and to massage establishments or businesses that employ or use only persons certified pursuant to this chapter to provide massage services. For purposes of this subdivision, a sole proprietorship is a business where the owner is the only person employed by that business to provide massage services.

(2) (A) Any massage establishment or business described in paragraph (1) shall maintain on its premises evidence for review by local authorities that demonstrates that all persons providing massage services are certified.

(B) Nothing in this section shall preclude a city, county, or city and county from including in a local ordinance a provision that requires a business described in paragraph (1) to file copies or provide other evidence of the certificates held by the persons who are providing massage services at the business.

(3) A city, county, or city and county may charge a massage business or establishment a business licensing fee sufficient to cover the costs of the business licensing activities established by a local ordinance described in this section.

(4) Nothing in this section shall prohibit a city, county, or city and county from adopting land use and zoning requirements applicable to massage establishments or businesses, provided that these requirements shall be no different than the requirements that are uniformly applied to other professional or personal services businesses.

(5) Local building code or physical facility requirements applicable to massage establishments or businesses shall not require additional restroom, shower, or other facilities that are not uniformly

applicable to other professional or personal service businesses, nor shall building or facility requirements be adopted that (A) require unlocked doors when there is no staff available to assure security for clients and massage staff who are behind closed doors, or (B) require windows that provide a view into massage rooms that interfere with the privacy of clients of the massage business.

(6) A city, county, or city and county may adopt reasonable health and safety requirements with respect to massage establishments or businesses, including, but not limited to, requirements for cleanliness of massage rooms, towels and linens, and reasonable attire and personal hygiene requirements for persons providing massage services, provided that nothing in this paragraph shall be interpreted to authorize adoption of local ordinances that impose additional qualifications, such as medical examinations, background checks, or other criteria, upon any person certified pursuant to this chapter.

(7) Nothing in this section shall preclude a city, county, or city and county from doing any of the following:

(A) Requiring an applicant for a business license to operate a massage business or establishment to fill out an application that requests the applicant to provide relevant information.

(B) Making reasonable investigations into the information so provided.

(C) Denying or restricting a business license if the applicant has provided materially false information.

(c) An owner or operator of a massage business or establishment subject to subdivision (b) shall be responsible for the conduct of all employees or independent contractors working on the premises of the business. Nothing in this section shall preclude a local ordinance from authorizing suspension, revocation, or other restriction of a license or permit issued to a massage establishment or business if violations of this chapter, or of the local ordinance, occur on the business premises.

(d) Nothing in this section shall preclude a city, county, or city and county from adopting a local ordinance that is applicable to massage businesses or establishments described in paragraph (1) of subdivision (b) and that does either of the following:

(1) Provides that duly authorized officials of the city, county, or city and county have the right to conduct reasonable inspections, during regular business hours, to ensure compliance with this chapter, the local ordinance, or other applicable fire and health and safety requirements.

(2) Requires an owner or operator to notify the city, county, or city and county of any intention to rename, change management, or convey the business to another person.

Business and Professions Code section

4612. (a)- (1)- The holder of a certificate issued pursuant to this chapter shall have the right to practice massage, consistent with this chapter and the qualifications established by his or her certification, in any city, county, or city and county in this state and shall not be required to obtain any other license, permit, or other authorization, except as provided in this section, to engage in that practice.

(2)- Notwithstanding any other provision of law, a city, county, or city and county shall not enact an ordinance that requires a license, permit, or other authorization to ~~provide~~*practice* massage ~~for compensation~~ by an individual who is certified pursuant to this chapter and who is practicing consistent with the qualifications established by his or her certification, ~~or by a massage business or massage establishment that employs or uses only persons who are certified pursuant to this chapter to provide massage for compensation.~~ No provision of any ordinance enacted by a city, county, or city and county that is in effect before the effective date of this chapter, and that requires a license, permit, or other authorization to ~~provide~~*practice* massage ~~for compensation,~~ may be enforced against an individual who is certified pursuant to this chapter ~~or against a massage business or massage establishment that employs or uses only persons who are certified pursuant to this chapter to provide massage for compensation.~~

(3)- Except as provided in subdivision (b), nothing in this section shall be interpreted to prevent a city, county, or city and county from adopting or enforcing any local ordinance ~~that provides for governing zoning, business licensing, and~~ reasonable health and safety requirements for massage establishments or businesses, *and local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and hours of operation.* Subdivision (b) shall not apply to any massage establishment or business that employs or uses persons to provide massage services who are not certified pursuant to this chapter.

(b)- (1)- This subdivision shall apply only to massage establishments or businesses that are sole proprietorships, where the sole proprietor is certified pursuant to this chapter, and to massage establishments or businesses that employ or use only persons certified pursuant to this chapter to provide massage services. For purposes of this subdivision, a sole proprietorship is a business where the owner is the only person employed by that business to provide massage services.

(2)- (A)- Any massage establishment or business described in paragraph (1) shall maintain on its premises evidence for review by local authorities that demonstrates that all persons providing massage services are certified.

(B)- Nothing in this section shall preclude a city, county, or city and county from including in a local ordinance a provision that requires a business described in paragraph (1) to file copies or provide other evidence of the certificates held by the persons who are providing massage services at the business.

(3)- A city, county, or city and county may charge a massage business or establishment a business licensing fee, ~~provided that the fee shall be no higher than the lowest fee that is applied to other individuals and businesses providing professional services, as defined in subdivision (a) of Section 13401 of the Corporations Code~~ *sufficient to cover the costs of the business licensing activities established by a local ordinance described in this section.*

(4)- Nothing in this section shall prohibit a city, county, or city and county from ~~enacting ordinances, regulations, rules, requirements, restrictions,~~*adopting* land use ~~regulations,~~

~~moratoria, conditional use permits, or~~*and* zoning requirements applicable to an individual certified pursuant to this chapter or to a massage establishment or business that uses only individuals who are certified pursuant to this chapter to provide massage for compensation~~establishments or businesses~~, provided that, unless otherwise exempted by this chapter, these ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, and zoning requirements ~~these requirements~~ shall be no different than the requirements that are uniformly applied to all other individuals and businesses providing~~other~~ professional *or personal* services, as defined in subdivision (a) of Section 13401 of the Corporations Code. No provision of any ordinance, regulation, rule, requirement, restriction, land use regulation, moratoria, conditional use permit, or zoning requirement enacted by a city, county, or city and county that is in effect before the effective date of this chapter, and that is inconsistent with this paragraph, may be enforced against an individual who is certified pursuant to this chapter or against a massage business or massage establishment that uses only individuals who are certified pursuant to this chapter to provide massage for compensation *businesses*.

(5)- Local building code or physical facility requirements applicable to massage establishments or businesses shall not require additional restroom, shower, or other facilities that are not uniformly applicable to other professional or personal service businesses, nor shall building or facility requirements be adopted that (A) require unlocked doors when there is no staff available to ~~ensure~~*assure* security for clients and massage staff who are behind closed doors, or (B) require windows that provide a view into massage rooms that interfere with the privacy of clients of the massage business.

(6)- A city, county, or city and county may adopt reasonable health and safety requirements with respect to massage establishments or businesses, including, but not limited to, requirements for cleanliness of massage rooms, towels and linens, and reasonable attire and personal hygiene requirements for persons providing massage services, provided that nothing in this paragraph shall be interpreted to authorize adoption of local ordinances that impose additional qualifications, such as medical examinations, background checks, or other criteria, upon any person certified pursuant to this chapter.

(7)- Nothing in this section shall preclude a city, county, or city and county from doing any of the following:

(A)- Requiring an applicant for a business license to operate a massage business or establishment to fill out an application that requests the applicant to provide relevant information, ~~as long as the information requested is the same as that required of other individuals and professionals providing professional services as defined in subdivision (a) of Section 13401 of the Corporations Code.~~

(B)- Making reasonable investigations into the information so provided.

(C)- Denying or restricting a business license if the applicant has provided materially false information.

(c)- An owner or operator of a massage business or establishment ~~who is certified pursuant~~*subject* to this chapter~~subdivision (b)~~ 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 Section 4603.~~ Nothing in this section shall preclude a local ordinance from authorizing suspension, revocation, or other restriction of a license or permit issued to a massage

establishment or business if violations of this chapter, or of the local ordinance, occur on the business premises.

(d)- Nothing in this section shall preclude a city, county, or city and county from adopting a local ordinance that is applicable to massage businesses or establishments described in paragraph (1) of subdivision (b) and that does either of the following:

(1)- Provides that duly authorized officials of the city, county, or city and county have the right to conduct reasonable inspections, during regular business hours, to ensure compliance with this chapter, the local ordinance, or other applicable fire and health and safety requirements.

(2)- Requires an owner or operator to notify the city, county, or city and county of any intention to rename, change management, or convey the business to another person.

~~(e) Nothing in this chapter shall be construed to preclude a city, county, or city and county from requiring a background check of an owner or operator of a massage establishment who owns 5 percent or more of a massage business or massage establishment and who is not certified pursuant to this chapter. The background check may include, but is not limited to, a criminal background check, including requiring submission of fingerprints for a state and federal criminal background check, submission of an application that requires the applicant to state information, including, but not limited to, the applicant's business, occupation, and employment history for the 10 years preceding the date of application, the inclusive dates of same, and the name and address of any massage business or other like establishment owned or operated by any person who is subject to the background check requirement of this subdivision. If a noncertified owner's or operator's background check results in a finding that the city, county, or city and county determines is relevant to owning or operating a massage establishment, then the provisions of subdivisions (a) and (b) shall not apply to that establishment and the city, county, or city and county may regulate that establishment in any manner it deems proper that is in accordance with the law.~~

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John,

We received some feedback from legislative staff and from the business community regarding the existing language.

CAMTC believes that it is a good idea to further clarify three provisions of 4612(f).

In drafting the initial language for what is now proposed Business and Profession's Code section 4612(f), it was CAMTC's intent to specifically identify only those things that a city could require in relation to a revocable registration. It was CAMTC's intent that if something was not listed in section 4612(f), then a city could not require it. It was never CAMTC's intent that a fee could be charged for the issuance of a revocable registration, which is why this was not specifically allowed in section 4612(f). It has come to CAMTC's attention that others are interpreting this draft provision differently. Others believe that under this provision as currently written, a city could charge a fee for issuance of a revocable registration. CAMTC therefore believes that it is a good idea to clarify this provision to clearly state that no fee can be charged for a revocable registration. CAMTC therefore recommends the following additional provision for clarification:

4612(f)(7) A city, county, or city and county may not charge a fee, aside from the fee specifically allowed in section (f)(2)(I) of this section, for issuance of a revocable certificate of registration.

Additionally, section 4612(f)(4) states that a city has the authority to "exempt certain classes of persons or businesses" from the requirements for a revocable registration. Upon further review, CAMTC believes that this provision is over-broad and allows cities excessive authority in that it does not limit those who can be exempted from the requirements for a revocable registration.

CAMTC is concerned that this provision will result in selective enforcement and arbitrary and capricious action by cities. CAMTC therefore is recommending that the exemption be limited to those identified in government code section 51033. This is the class of people (Doctors, nurses, etc.) who are generally exempted from local massage permitting requirements. CAMTC is therefore recommending that this provision be amended as follows:

4612(f) (4) A city, county, or city and county may exempt ~~certain classes of persons or businesses~~ cosmetologists, barbers, or persons licensed to practice any healing art pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or the Chiropractic Act, when engaging in the practice of massage within the scope of his or her license, from compliance with the requirements for a certificate of registration.

Furthermore, CAMTC is concerned that if not further clarified, cities may use the ability to issue certificates of registration as a way to deny massage businesses the ability to operate by delaying the granting of a certificate of registration. CAMTC therefore recommends that the following provision be added for clarification:

4612(f)(8) A city, county, or city and county must issue a revocable certificate of registration within one business day of the submission of a complete application, unless one or more owners of the business are subject to a background check as required in subdivision (e) of

this section, in which case the city, county, or city and county must issue a revocable certificate of registration within forty-five business days of the submission of a complete application. If the city, county, or city and county fails to issue the revocable certificate of registration within these timeframes, then the massage establishment shall be free to operate without the revocable certificate of registration.

I'm sure we will be able to work with you and Elissa tweak the language accordingly.

Respectfully,

Ahmos

Ahmos Netanel
Chief Executive Officer
California Massage Therapy Council
One Capitol Mall, Suite 320
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(310)826.4594 Voice
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AB 1147 Assembly Bill - Bill Analysis

BILL ANALYSIS

AB 1147
Page 1

Date of Hearing: May 7, 2013

ASSEMBLY COMMITTEE ON BUSINESS, PROFESSIONS AND CONSUMER PROTECTION

Richard S. Gordon, Chair

AB 1147 (Gomez) - As Amended: May 1, 2013

SUBJECT : Massage therapy.

SUMMARY : Revises the qualifications for certification as a massage practitioner and massage therapist, and allows a city, county, or city and county to require the owner of a massage business to obtain a revocable certificate of registration, as specified. Specifically, this bill :

- 1) Requires an applicant for certification as a massage practitioner to pass a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards and is approved by the California Massage Therapy Council (CAMTC).
- 2) Provides that the successful completion of the competency examination may have been accomplished prior to the date CAMTC was authorized to issue certificates.
- 3) Eliminates a specific 100 hour coursework requirement in anatomy and physiology, contraindications, health and hygiene, and business and ethics, in favor of a more general requirement to complete 500 hours of hours in massage and related subjects.
- 4) States that nothing in this chapter precludes a city, county, or city and county from including a provision in a local ordinance requiring the owner or owners of a massage establishment or business apply for and receive a revocable certificate of registration.
- 5) Permits a city, county, or city and county, to require the following as part of the application for a certificate of registration:
 - a) The full and true legal name under which the massage establishment or business will be conducted;
 - b) The present or proposed address where the massage

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establishment or business will be conducted;

- c) The full true legal name and mailing address of the owner or owners of the massage establishment or business;
 - d) A copy of a certificate, or any other evidence of certification, issued to each person who will be providing massage services at the massage establishment or business;
 - e) A copy of a photographic government-issued identification card of the owner or owners of the massage establishment or business;
 - f) A statement that the business will only employ or use certified persons to provide massage services, and that failure to comply may result in the suspension or revocation of, imposition of conditions upon, or action against the certificate of registration;
 - g) A statement that the applicant will provide written notification of any changes to the original application within 10 days of the change occurring;
 - h) Authorization for the city, county, or city and county to investigate the truth of the information contained in the application; and,
 - i) The payment of a fee to conduct a background check if the owner or owners of the massage establishment or business applying for the certificate of registration are not certified and own five percent or more of the massage establishment or business.
- 6) Authorizes a city, county, or city and county to require a massage establishment or business to comply with any applicable local ordinance, regulation, rule, requirement, or restriction as a condition of granting or maintaining a

revocable certificate of registration including, but not limited to, those provisions pertaining to health and safety.

7) Authorizes a city, county, or city and county to exempt certain classes of persons or businesses from compliance with the requirements for a certificate of registration.

8) Authorizes a city, county, or city and county to make the

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certificate or registration nontransferable.

9) Authorizes a city, county, or city and county at its sole discretion to suspend, revoke, impose conditions upon, or otherwise act against a certificate of registration for cause.

10) Makes other technical and clarifying changes.

EXISTING LAW :

1) Establishes the CAMTC and defines the responsibilities and duties of the CAMTC. (Business and Professions Code (BPC) Section 4600.5)

2) Defines massage therapist, body worker, or bodywork therapist, massage and body work therapist, massage practitioner, body work practitioner or massage and body work practitioner to mean "a person who is certified by the CAMTC as specified." (BPC 4600)

3) Requires the CAMTC to issue a "massage therapist" certificate to an applicant, who submits a written application and provides satisfactory evidence that he or she meets all of the specified education, experience or examination requirements. (BPC 4601)

4) Requires the CAMTC to issue a "massage practitioner" certificate to an applicant who submits a written application and provides with satisfactory evidence that he or she meets all of the specified education, experience or examination requirements. (BPC 4601)

5) Provides that the holder of a certificate issued by the CAMTC shall be able to practice massage in any city, county, or city and county, consistent with the law and the qualifications established by his or her certification, and shall not be required to obtain any other license, permit, or other authorization, except as provided in current law. (BPC 4612)

6) Provides that nothing in existing law shall prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, and reasonable health and safety requirements

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for massage establishments or businesses that employs or uses persons who are not certified by the CAMTC. (BPC 4612)

7) Provides that a local government may subject any massage business or establishment to reasonable inspections to verify conformance with local ordinances and fire, health, and safety requirements, and may also require the operator of a massage business to notify it of any change in business name, management, or transfer of ownership to another person. (BPC 4612)

FISCAL EFFECT : None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS :

1) Purpose of this bill . This bill would impose stronger regulations on massage therapy businesses by authorizing local governments to require revocable certificates of registration for massage businesses. These revocable certificates would give local governments more information about massage therapy businesses, and more power to discipline or shut down unscrupulous massage businesses. Additionally, this bill requires individuals applying for certification as a certified

massage practitioner (CMP) to pass an examination and eliminates specified coursework requirements for individuals applying for certification as a Certified Massage Therapist (CMT). This bill is sponsored by the author.

2) Author's statement . According to the author, "Several years ago the Legislature pre-empted local control over land use issues surrounding massage parlors. As a result of the preemption numerous communities [complain] about what they regard as an explosion of these places. It is not the intent [of this bill] to disrupt legitimate owners, but a number of communities are experiencing a real concentration of these [massage] parlors."

3) The profession of massage therapy . Massage therapists treat clients by using touch to manipulate the soft-tissue muscles of the body. Massage therapy may be used to relieve pain, rehabilitate injuries, reduce stress, increase relaxation, and aid in the general wellness of clients. In 2010, massage therapists held approximately 153,700 jobs nationally and the

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massage therapy profession is continuing to grow. Massage therapists work in a variety of settings, such as private offices, spas, hospitals, fitness centers, and shopping malls.

SB 731 (Oropeza), Chapter 384, Statutes of 2008, established the voluntary statewide certification of massage therapists by the Massage Therapy Organization (MTO), which was renamed the CAMTC in 2011. The goal of the CAMTC is to standardize the process of certification throughout the state. The certification allows for massage professionals to work in multiple California locations without the need for multiple permits or fees.

Massage professionals can obtain one of two certification levels: Certified Massage Practitioners (CMPs) are required to complete at least 250 hours of education and training, while Certified Massage Therapists (CMTs) are required to complete at least 500 hours of massage education and training at an approved massage therapy school, or complete 250 hours of education and training and pass an examination. CMPs and CMTs must also undergo background checks, including fingerprinting and other identification verification procedures. The CMP and CMT licenses are renewed biannually and licensees are not required to obtain continuing education in order to renew a license. Titles commonly used in California by the massage profession may include: massage therapist, massage practitioner, certified massage therapist, massage technician, bodyworker, masseur, and masseuse. However, current law makes it an unfair business practice for anyone not certified by CAMTC to use the titles CMP or CMT.

Currently, applicants for certification as a CMT must pass an examination which is administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB). The NCBTMB is a nationally recognized entity which certifies massage therapists and bodyworkers on behalf of the profession. NCBTMB developed and administers the National Certification Examination for Therapeutic Massage and Bodywork.

This bill would require both CMT and CMP applicants to pass an examination, and CMT applicants would now need to complete 500 hours of education in order to be certified.

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4) California Massage Therapy Council . The CAMTC was created to implement a statewide certification process with clear standards of preparation and education. The provisions related to regulation of massage therapy and CAMTC will sunset on January 1, 2015.

The CAMTC is led by a volunteer Board of Directors comprised of professionals from California's massage community, including massage associations, schools, and businesses. Two representatives are selected by each professional society, association or other entity whose membership is comprised of massage therapists and that choose to participate in the CAMTC. One member is selected by each statewide association

of private postsecondary schools incorporated on or after January 1, 2010 whose member schools have had 1000 graduates in each of the previous three years. Additionally, the League of Cities, California State Association of Counties, Director of the Department Consumer Affairs, and the Chancellor of the California Community Colleges may appoint a member to the CAMTC board if they choose. Currently, the CAMTC is comprised of 20 members.

While CAMTC does not accredit or approve schools, it does have the responsibility to determine if the curriculum of schools meets the legal requirements for applicants to obtain certification. Schools must either be nationally accredited or approved by the California Bureau for Private Postsecondary Education (BPPE) or a California community college. The CAMTC regulates approximately 38,000 certified CMPs and CMTs.

If a certificate holder violates the terms of certification, CAMTC can suspend or revoke their certification, but it has no "cite and fine" authority. The CAMTC may deny, discipline or revoke the certification of a CMP or CMT for a variety of reasons, including: failure to obtain a clear fingerprint check; reports of unprofessional conduct in another state; any attempt to obtain a certificate through misrepresentation or fraud; or, committing any act punishable as a sexually-related crime. All of the relative disciplinary procedures are carried out by an employee of the CAMTC known as the Division Director of Professional Standards. Since 2010, there have been approximately 130 certificate suspensions or revocations.

5) City ordinances regulating massage therapy. As provided by SB 731, cities and counties may enact ordinances related to the

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operation of a massage business including, but not limited to, requiring evidence for review by local authorities demonstrating that persons providing massage therapy services are certified, charging specified licensing fees, and filling out an application that provides relevant information about the business. However, cities and counties may not enact ordinances related to land use regulations, permits or zoning requirements specifically for massage businesses if those same requirements are not uniformly applied to all other businesses providing professional services. Additionally, local cities and counties cannot require any other specified permit or requirement other than for reasonable health and safety requirements. The original intent behind these restrictions was to prevent discrimination against legitimate massage businesses.

Under current law, the power of cities and counties to regulate massage businesses depends on the certification status of the owner and the individuals working in the business. If a business chooses not to hire CMTs or CMPs, or if the owner is not certified, then a city or county ordinance may condition the issuance of a license upon proof that the business meets reasonable standards, such as minimum age, education and experience of personnel; passage of a practice examination of competence by massage personnel; sanitary conditions for the establishment; hours of operation; a prohibition on the sale or serving of food or beverages; and a prohibition on conducting non-massage-related business on the premises.

AB 1147 would expand the ability of cities and counties to regulate massage businesses by explicitly making their certification revocable. An application for the revocable certification could include: a request for the full name and address of the business and the legal name and mailing address of the owners, a copy or other evidence of certification for each person providing massage services, a statement that the business will only employ certified individuals, and a statement that an applicant for certification will provide notification of any changes to the original application. This bill also allows a city or county to charge an application fee for a background check if the owner of a business is not certified. Additionally, AB 1147 provides local governments with the option to revoke, suspend, impose conditions upon or otherwise act against the certification for violations.

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6)Recent issues in the news . Recent news stories have highlighted the concern in some communities about a rise in the number of massage businesses, as well as the fear that some of those businesses are operating as a front for prostitution or other illegal activities.

A news story by the independent public television station in Los Angeles KCET, reported on March 25, 2013: "In case you haven't noticed, massage parlors are springing up all over Southern California, maybe even in your neighborhood. They seem to be everywhere—from Simi Valley to Beverly Hills. Huntington Beach has seen a 600% increase in just three years. Some blame a new state law for rules that allow this to growing industry to regulate itself."

According to the Bureau of Labor Statistics, the employment of massage therapists is expected to increase by 20% nationwide between 2010 and 2020.

7)Arguments in support . The American Massage Therapy Association-California Chapter writes in support, "We recognize cities must have the tools necessary to regulate massage establishments effectively to reach our mutual goals of eradicating human trafficking and have a healthy massage industry in each city. To meet this end, we support the changes in [this bill] which will allow cities to provide a revocable certification of registration to [CMTs and CMPs]. This will go a long way in providing cities another tool to keep bad actors from the massage industry and ensure consumer protection."

8)Arguments in opposition . The League of California Cities is opposed unless amended and writes in opposition, "While cities have seen some benefits as a result of the 2008 [SB 731 Oropeza] legislation, there have been some unintended consequences and issues that need to be addressed. Illegitimate businesses have found ways to work within the confines of SB 731 by requiring one or two persons in their establishment to have a certification (as a cost of doing business) because they know they cannot be regulated if they are CAMTC certified. If law enforcement enters an establishment that is CAMTC certified, only the massage therapists are required to have certification."

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9)Questions for the Committee . The Committee may wish to inquire of the author and interested parties as to whether or not there are any available data that can evidence the extent of nuisance or illegality caused by massage businesses in California.

Furthermore, to the extent that advocates for local government contend that cities and counties should have expanded authority to specifically regulate other elements of massage businesses, such as the density or total number of businesses in a geographic area, the Committee may wish to discuss how best to balance local governments' need for greater control over potentially unscrupulous businesses against the rights of legitimate massage businesses to practice their profession without undue restriction.

10)Technical amendment . The Committee recommends a technical amendment to revise a deleted section related to coursework requirements for CMT certification.

On Page 4, line 1, after "schools." insert:

"Included in the 250 hours from approved schools shall be instruction addressing anatomy and physiology, contraindications, health and hygiene, and business and ethics, with at least 100 hours of the required minimum 250 hours from approved schools devoted to these curriculum areas."

11)Previous legislation . AB 619 (Halderman), Chapter 162, Statutes of 2011, changed the name of the MTO to the CAMTC and makes a number of clarifying, conforming and technical changes to the Massage Therapy Act.

SB 1238 (Price), Chapter 655, Statutes of 2012, made a number of substantive, clarifying, conforming and technical changes regarding the approval of school credit hours and examination and training requirements for purposes of certification; the grounds for suspension, denial or revocation of certification of the certificate holder; the sharing of information between local law enforcement and the CAMTC; the responsibility of owner/operators of massage businesses for conduct of employees or their independent contractors and background checks of owner/operators; and the ability for cities to restrict the operation of massage businesses involved in prior criminal

activity.

SB 285 (Correa) Chapter 149, Statutes of 2011, provided that any person who provides a certificate, diploma or other document, or otherwise affirms that a person has received instruction in massage therapy, knowing that the person has not received such training, is guilty of a misdemeanor, punishable by a fine of \$2,500, or imprisonment in county jail for up to one year, or both.

AB 1822 (Swanson) of 2010, would have added two additional members to the MTO's board of directors, each one selected by the California Police Chiefs Association and the California State Sheriffs' Association, respectively, unless those entities choose not to do so. AB 1822 was vetoed by the Governor.

SB 731 (Oropeza) Chapter 384, Statutes of 2008, created the MTO and provided for the voluntary certification of massage therapists and massage practitioners by the MTO.

SB 412 (Figueroa) of 2005 would have established the MTO and would have provided for the certification of massage therapist and massage practitioners by the MTO. SB 412 was held on the Assembly floor.

REGISTERED SUPPORT / OPPOSITION :

Support

American Massage Therapy-Association
California Massage Therapy Council
One private individual

Opposition

City of Huntington Beach
City of Thousand Oaks
League of California Cities

Analysis Prepared by : Elissa Silva / B.,P. & C.P. / (916)
319-3301

Proposed CAMTC Schedule of Authority- 5/2/13

DOCUMENT 13

	Board of Directors	Executive Committee	Chair	Treasurer	CEO
Organizational Issues					
Bylaw changes	A				B
Board agenda	B	B	A		B
Engagement of consultants, attorneys & vendors		B	B		A
Employment of auditing firm	A	B	B	B	B
Serious stakeholders complaints	A		E		A
Taking official positions	A		A		B
Programs, Products & Services					
New programs, products or services	A		D		B
Change in strategic alliances	A		B		E
Meetings sites	A		B		B
Budget and Fiscal Control					
Annual budget	A		F	F	F
Overspend budget line items, but not to exceed a category	A		B	F	A
Overspend (IN A CATEGORY) overall budget	A		B	F	F
Check signing authority under \$10,000					A
Check signing authority over \$10,000				G	G
Personnel Issues					
Salary ranges of staff, hiring decisions, adding staff within budget	A		E		A
Changes in staff benefits	A		B		A
Changes in personnel manual	A		B		B
Establishing new employee positions	A		B		A
CEO Compensation and Responsibilities					
Hiring CEO	A				
Evaluation of performance	C	A			C
Establishing CEO compensation	A	B		B	C
Approval of vacation schedule (FOR STAFF)					A
Governmental and Legal Issues					
Commits organization to law suit	A		E		B
Testify at public hearings	D		A		A
Legislative Policies	A		A		B
Taking urgent official positions	C		A		A
<i>A = Decision maker</i>					
<i>B = Makes recommendations to decision maker</i>					
<i>C = Must be advised</i>					
<i>D = May be consulted</i>					
<i>E = Must be consulted</i>					
F= MAKES RECOMMENDATIONS TO BOARD					
G= MUST CO-SIGN					

BOARD RESOLUTION

It is resolved that the designated representatives listed below are authorized in the name of and on behalf of California Massage Therapy Council to:

Establish any banking accounts and services.

Sign, or change in writing, any agreement regarding CAMTC's banking deposit relationship.

Specify in writing the individuals who are authorized, in the name of and on behalf of CAMTC to:

Withdraw funds from any of the CAMTC's deposit accounts require (1) signature for amounts less than \$10,000 and (2) authorized signatures for amounts over \$10,000.

Endorse and deliver to the Banks, for any purpose, and in any amount, negotiable or non-negotiable commercial paper of any kind, and owned by, or held by, or payable to CAMTC.

Send, review, and/or authorize wire and electronic transfers of funds from CAMTC's accounts. Such authority may be exercised by any two authorized individuals, regardless of any signature requirements otherwise applicable to the accounts.

Otherwise access CAMTC's deposit accounts.

This authority may be exercised at such times and on such terms, as CAMTC's designated representative(s) believe proper.

Authorized individuals:

Mark Dixon	Chair
Mike Marylander	Treasurer
Ahmos Netanel	CEO

As authorized by the Board of Directors at a meeting held on May 9, 2013

Secretary
California Massage Therapy Council

Date



PROCEDURES FOR UN-APPROVAL OF SCHOOLS

Pursuant to California Business and Professions Code Section 4600 and 4601, the California Massage Therapy Council ("CAMTC") hereby adopts the following procedures relative to the un-approval of schools and the requirement to provide additional proof of adequate education (beyond merely a transcript), pursuant to California Business and Professions Code Sections 4600 et seq. (hereinafter the "Law"):

1. Reasons for un-approval. Schools may be un-approved for any of the following reasons:
 - a. Selling or offering to sell transcripts, or providing or offering to provide transcripts, without requiring attendance, or full attendance, at the school.
 - b. Failure to require students to attend all of the classes listed on the transcript.
 - c. Failure to require students to attend all of the hours listed on the transcript.
 - d. Engaging in fraudulent practices, including but not limited to, the creation of fake documents to aid or abet students seeking CAMTC certification, aiding or abetting students to use false documents and/or to present false testimony in CAMTC hearings, aiding or abetting students in engaging in fraudulent practices with respect to CAMTC hearings, making false claims, or otherwise engaging in fraudulent practices.
 - 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 law or any rule or bylaw of CAMTC.
 - f. Denial, suspension, revocation, or otherwise being acted against by National Certification Board for Therapeutic Massage and Bodywork, including but not limited to, denial, suspension, or revocation of approved provider code.

- g. Failure to create, record, or maintain accurate records, including but not limited to student attendance records and student transcripts.
- h. Failure to identify transfer credit from other institutions (including name of other institution(s), hours transferred, and class requirements met by transfer credit) on transcripts.
- i. A finding by a local law enforcement agency, a state or local agency, or a private certifying, permitting, or accreditation agency related to massage, that a school has engaged in any of the conduct identified in these sections 1. a. - h.

2. Investigations.

Section 4601(g) of the Law provides:

(1)The organization¹ 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 organization 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 organization 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 organization is authorized to receive factual information as a condition of taking any action, the organization 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 CAMTC receives information that a school has violated a provision of section 1 of these procedures, it will make a determination (in its sole discretion based on the nature of the information received) whether to investigate that claim or not. If CAMTC decides to investigate the claim and, after investigation, has credible evidence that a violation of a provision of section 1 of these procedures has occurred, CAMTC will then make a determination whether or not to propose un-approval of a school. If CAMTC decides to propose un-approval of a school, the procedures listed in section 3 below shall be followed.

Any school about which there is a concern will be evaluated and investigated on a case-by-case basis. CAMTC will consider all of the evidence before it when making a proposed or a final decision.

¹ “Organization” as used in the Law means CAMTC.

With respect to investigations and/or actions against schools, including but not limited to final decisions about un-approval, CAMTC may delegate its authority under these procedures to a committee or to staff, in CAMTC's sole discretion.

3. Procedure for Notifying School of Concern and Chance to Respond.

Once the initial investigation is completed and CAMTC has made a decision to propose un-approval of a school, it shall notify the school of its intent to place it on the un-approved list. It shall also take all of the following steps:

- a. Send the school a letter notifying it of CAMTC's proposed decision to place the school on its un-approved list and identifying the reasons for that decision;
- b. Notify the school that it will be given 30 days from the date of the proposed un-approval letter to respond to the proposed un-approval in writing, including submission of any documents, evidence, and written statements;
- c. Further notify the school that if it does submit information in response to the proposed un-approval letter, it will be considered and a decision will be rendered by CAMTC within ~~30~~ 90 days of CAMTC receiving the school's submission. The school will be notified in writing of CAMTC's decision regarding the school.
- d. Inform the school that all applications submitted with transcripts from their school that cannot be otherwise certified will be placed on hold until a final decision as to whether to list the school is made.

4. Action Against a School.

If CAMTC makes a final determination that a school has engaged in any of the conduct identified in paragraph 1 of these procedures, it may take any of the following actions, in its sole discretion:

- a. List the school as an unapproved school. If the school is listed as un-approved, a 90-day grace period will follow. During this 90-day grace period, the school's students who apply, and all of those whose application was previously held, will be required to provide additional proof of adequate education (beyond merely a transcript from the subject school) in order to prove their education. Students who apply after the 90-day grace period has expired will be told that, unless they have also supplied evidence of completion of required hours of massage education from one or more approved schools, their applications are incomplete and that they have one year to complete their education and provide an acceptable transcript to CAMTC before their applications are purged;

- b. List the school as a school for which students will have to provide additional proof of education beyond just a transcript, rather than listing the school as “un-approved”;
- c. Place the school on probation, with the specific probationary terms and conditions identified in the final decision letter, including but not limited to further inspection of school premises and documents.

If the school submits no information in response to the proposed un-approval letter, it will be listed on CAMTC’s website as an un-approved school after the time for response to the proposed un-approval letter has expired.

5. Rehabilitation

A. Consideration of Rehabilitative Factors

Consideration of a school’s rehabilitation will be evaluated on a case-by-case basis. CAMTC will consider all available information, including the totality, weight, and reliability of the evidence when making a determination.

Factors that will be considered when determining whether a school has been rehabilitated may include, but are not necessarily limited to, the following:

- a. The seriousness of the conduct that resulted in CAMTC action against the school;
- b. The number and nature of complaints CAMTC has received about the school, both before and after CAMTC action against the school;
- c. The length of time between complaints against the school;
- d. The number and nature of disciplinary action by CAMTC or other organizations against the school;
- e. The length of time the school has been operating and approved by one of the organizations listed in 4600(a)(1)-(5);
- f. The effect CAMTC action against the school has had on the school;
- g. Safeguards instituted by the school to prevent recurrence;
- h. Actual knowledge by current school owners of the bad acts engaged in at the time the conduct that led to CAMTC action against the school occurred;
- i. Change in status with other agencies that regulate schools, such as NCBTMB (e.g. restoration of a school’s NCBTMB “school code” after suspension or revocation or change from suspension to revocation);
- j. Approval or re-approval of the school by the Bureau for Private Postsecondary Education (BPPE);
- k. Ongoing rehabilitation efforts by the school and how realistic such efforts are;
and
- l. All other relevant information related to rehabilitation.

B. Procedures

When a school requests that it be taken off the list of unapproved schools or the list of schools from which students have to provide additional proof of education beyond just a transcript (collectively “the list”), CAMTC will make the decision, in its sole discretion, based on its consideration of rehabilitative factors as described in Section A.

All such requests by schools must be:

1. in writing, and
2. sent to the CAMTC offices at One Capital Mall, Suite 320, Sacramento, CA 95814 OR via email to camtcreview@amgroup.us.

CAMTC will review the information presented by the school and has the authority to investigate the evidence, including but not limited to oral interviews with a school’s management, staff, students and graduates and any other relevant witnesses, whether affiliated with the school or with other organizations.

If CAMTC determines that a school should be removed from the list (or may be eligible to be removed from the list), CAMTC may impose conditions on the school, including but not necessarily limited to the following:

- a. Requiring a school to submit periodic written progress reports identifying steps being taken to correct the unacceptable issues;
- b. Requiring a school to submit to unannounced CAMTC staff visits to the school for inspection, including but not limited to inspection of facilities, personnel, classes, and records, and to monitor the school’s activities;

Once a final decision is made by CAMTC, the school will be notified in writing of that decision.

Any school that has been placed on the list for selling transcripts may not request removal for a period of five (5) years from the date the school was added to the list. All other schools may request removal after a period of two (2) years from the date the school was added to the list.

The burden of proof is on the school to prove that it has been sufficiently rehabilitated to allow removal from the list. Whether a school that claims rehabilitation and requests removal from the list will be removed from the list is in CAMTC’s sole discretion.



May 2, 2013

Memo: to CAMTC Board of Directors

From: Beverly May, Director of Governmental Affairs and Special Projects

Proposal for CAMTC policy on education that is not under the direct supervision of a live instructor.

Background: At this time CAMTC has not approved any schools that offer distance, internet, or take-home learning for any of the 250 or 500 hours or unit equivalent. It has come to our attention that at least several schools offer some variation of education that is not performed under the direct supervision of a live instructor.

BPPE has a policy on distance learning and is currently considering whether any distance learning is appropriate for entry level massage. At least a couple of the schools that CAMTC is aware of that are offering education that is either take-home, internet based, or some form of distance learning have either not obtained BPPE approval for the programs, or are not complying with the rigid requirements imposed by BPPE.

It is staff's recommendation that CAMTC should require that schools must provide the entire 250 hours for CMP or the entire 500 hours for CMT to be under the direct supervision of a live instructor. If an applicant for CMP later applies to upgrade to CMT, the second 250 hours must also be under the direct supervision of a live instructor.

CAMTC does recognize on-site student clinics with an instructor available at all times for consultation, on-site monitoring and oversight as the student provides the services as a form of instruction under the direct supervision of a live instructor.

Bureau for Private Postsecondary Education

Distance Education Information Overview

The California Education Code (CEC) §94834 defines “distance education” to mean the transmission of instruction to students at a location separate from the institution. The Bureau further defines distance education in California Code of Regulations, Title 5 (5 CCR), §71715(d) as not requiring the physical presence of students and faculty at the same location but providing for interaction between students and faculty by such means as telecommunication, correspondence, electronic and computer augmented educational services, postal service, and facsimile transmission. Institutions seeking to offer distance education programs should be aware of the specific statutory and regulatory requirements applicable to distance education.

Bureau approval is required. Unless otherwise exempt, a person seeking to operate an institution that includes an educational program with a distance education component must obtain specific approval from the Bureau for Private Postsecondary Education (Bureau) to offer the program through distance education (CEC §94886).

- An institution granted approval through the traditional process is approved to offer distance education programs upon Bureau approval of an application that identifies distance learning as the method of instruction for the program (5 C.C.R. §71210(c)(5)).
- An institution that is granted an approval from the Bureau by means of accreditation (BMOA Approval) must provide verification that the institution is approved by the accrediting agency to offer the educational program through distance education (5 C.C.R. §71390(b)).

An institution may participate in a consortium agreement where another institution is conducting the distance education portion of the program; however the institution must still obtain Bureau approval for the distance education portion of the educational program. Depending on the means by which approval is granted by the Bureau, the institution must either seek traditional approval of the program with the distance education component, or provide evidence of approval from the accrediting agency for a distance education component of the program, as noted above.

Minimum operating standards apply. Institutions offering distance education must meet specific minimum operating standards for instruction (5 C.C.R. §71715).

- Ensure that the educational program offered through distance education is appropriate for delivery through distance education methods;
- Assess each student, prior to admission, in order to determine whether each student has the skills and competencies to succeed in a distance education environment;
- Ensure that the materials and programs are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology;
- Provide for meaningful interaction with faculty who are qualified to teach using distance education methods;
- Maintain clear standards for satisfactory academic progress;

- Complete timely student evaluations of learning outcomes by duly qualified faculty, which are appropriate for use with the distance education methods used, and evaluated by duly qualified faculty;
- Employ a sufficient number of faculty to assure that the institution's response to, or evaluation of, each student lesson is returned to the student within 10 days after the lesson is received by the institution; and, the institution's response to, or evaluation of, each student project or dissertation is returned to the student within the time disclosed in the catalog; and
- Maintain a record of the dates on which lessons, projects, and dissertations were received and responses were returned to each student.

Institutions offering a distance education program where the instruction is not offered in real time are required to meet specific standards (5 C.C.R. §71716).

- Transmit the first lesson and any materials to any student within seven days after the institution accepts the student for admission;
- Provide the student the right to cancel the agreement and receive a full refund before the first lesson and materials are received;
- Transmit all of the lessons and other materials to the student if the student has fully paid for the educational program, and after having received the first lesson and initial materials, requests in writing that all of the material be sent.
- Ensure the enrollment agreement discloses the institution and student's rights and duties.

Disclosure to students is required. Institutions must disclose to the student in the school catalog if a program contains a distance education component. Specifically, institutions are required to disclose a description of the educational program including the instruction provided (CEC §94909(a)(5)) and the location of courses offered (CEC §94909(a)(4)). Institutions participating in a consortium agreement should also disclose the entity with which the institution is contracting for the educational program. If appropriate, an institution may disclose in the catalog that the method of delivery would be either in-class or distance depending on enrollment needs.

Approval is required for changes in method of delivery. Pursuant to CEC §94898(c), if an institution enrolls a student in a program that is conducted at a specific site, the institution may not subsequently convert the program to distance education, unless the student was notified in writing during the enrollment process that the program contained a distance education component. The institution must have Bureau approval for the distance education component of the educational program.

If a portion of the “instruction to students is occurring at a location separate from the institution” it would require distance learning (hybrid) approval.

Please refer to the California Private Postsecondary Education Act of 2009 and the California Code of Regulations, Title 5, Division 7.5 for additional information and requirements.



Memo

Date: May 2, 2012

To: Board of Directors

California Massage Therapy Council

From: Ahmos Netanel, Chief Executive Officer

Subject: Communication of career opportunities for certificate holders

Over the past three years, staff has received numerous inquiries from massage business owners who are interested in recruiting certified professionals to work at their facilities. At the same time, we hear from certificate holders about economic hardship and their need to provide economically for their families.

It is recommended that the Board authorizes the CEO to develop and implement a program that will enable certified massage professionals to be informed about career opportunities provided that:

1. The CEO consults with general counsel and the auditing firm to clear legal and taxation issues.
2. Certificate holders' information will not be shared.
3. CAMTC will charge business owners a fee that will exceed the direct cost and overhead associated with the program.
4. The program will initially be run as a pilot and will automatically sunset in 6 months from the time launched, unless the Board decides to extend it.
5. The Chairperson and outreach liaison approves the program prior to implementation and the Board ratifies it in its September meeting.