



**CALIFORNIA**  
MASSAGE THERAPY COUNCIL

One Capitol Mall, Suite 320 | Sacramento, CA 95814

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Sent and Posted: March 9, 2012

### **Notice and Agenda**

**Board of Directors Meeting**  
**Tuesday, March 20, 2012**  
**Teleconference Number:**  
**1-877-366-0711, Pass code: 77085177#**  
**9:00 a.m.**

1. Call to order/Roll call
2. Implementation of Board February 15, 2012 decision re: MBLEx /NESL and proposed policy that gives due consideration to individuals who already initiated steps to get qualified through the MBLEx or NESL portals (CEO).
3. Elimination of Portals F, G and H as entry vehicles to CAMTC certification ... for the purpose of forestalling any risk of certifying a non-massage therapist or of certifying someone who later is arrested and charged for an alleged "violation of subdivision (b) of Section 647 of the Penal Code or any other offense described in subdivision (h) of Section 4603" (Benson)
4. Cleanup legislation update, stakeholder concerns, current proposed language (Director of Governmental Affairs and Special Projects)
5. In house counsel- search and hiring update, budgetary impact (CEO)
6. Revaluation of management contract with AMG for 2012- update (CEO)
7. Implementation of CEO annual review and compensation, pursuant to Board policy (Schroeder)
8. Closed session with CAMTC legal counsel pursuant to CA Government Code Section 11126(e)

9. Re-examine the tenure of the position of “Director of Governmental Affairs and Special Projects” in the context of the originally requested 6-12 months duration starting May 1, 2011 (Benson)
10. Adjourn

**Public comments may be submitted to: [SLaFlamme@amgroup.us](mailto:SLaFlamme@amgroup.us)**

*All agenda items are subject to discussion and possible action.*

*Requests for more information, or to make a request regarding a disability-related modification or accommodations for the meeting, please contact Sheryl LaFlamme at (916) 669-5336 or One Capitol Mall, Suite 320 Sacramento CA 95814 or via email at [camtc@amgroup.us](mailto:camtc@amgroup.us).*

*Requests for disability-related modification or accommodation for the meeting should be made at least 48 hours prior to the meeting time. This notice and agenda is available on the Internet at <http://www.camtc.org>.*

Board of Directors Teleconference  
March 20, 2012  
Supporting Documents

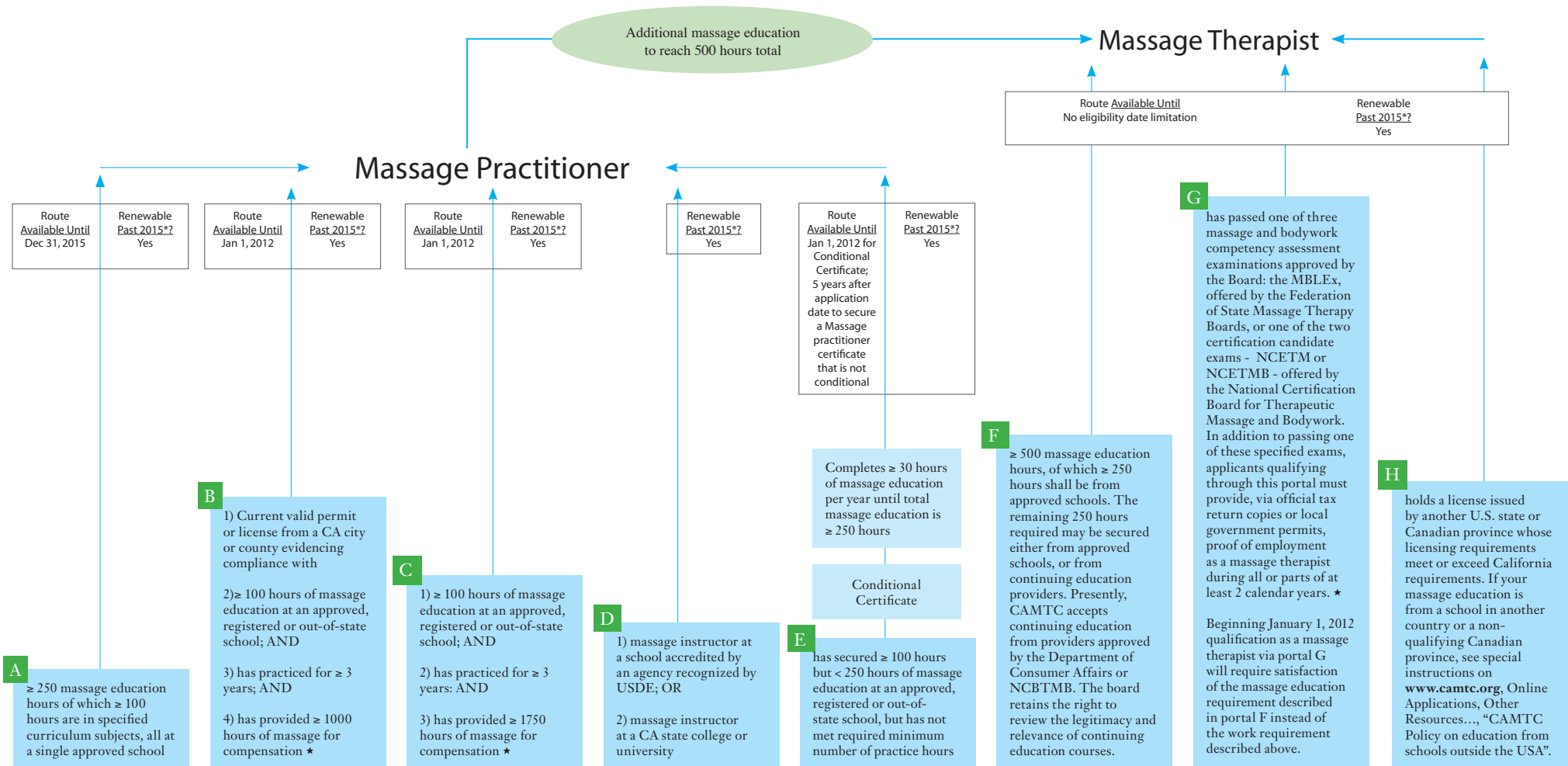
1. Item # 3. Benson's proposed resolution:  
RESOLVED, out of concern that "even the slightest potential of certifying a non-massage therapist as a Certified Massage Therapist is a risk too great for the CAMTC to take," Portals F, G, and H be closed as entry vehicles to CAMTC certification after 90 days-notice, because 100% of California revocations of CMT certifications to date have been individuals admitted through one of these portals.

Old pathways to certification (attached)

A response the CEO sent to a question posed by Les Sweeney (attached)

2. Item 4. AMTA- CA letter to legislator and recent email exchange between the CEO and AMTA-CA's President (Attached)
3. Item 7. (4 attachments)
4. Item 9. (Benson)Tenure of the position of "Director of Governmental Affairs and Special Projects"  
Background: This position was created roughly a year ago in response to the CEO's observation that he was overwhelmed by the amount of time required to deal with cities and counties – either resisting CAMTC certification or seeking information about it. He estimated the need for the position would be 6-12 months; 12 months will be over April 30, 2012. For perspective, it does not appear that any of the 42 state boards of massage have a position at all comparable to this one, even though some of those states still face residual issues with municipalities trying to impose local massage regulations. In addition, massage boards in other states also are subject to periodic sunset review, but manage to engage successfully in that process without taking on additional staff for that purpose.

# Overview of Pathways to CAMTC Certification



\* Assumes CAMTC, during sunset review, secures ability to continue operating past December 31, 2015.

★ Individuals evidencing massage therapy employment by tax returns must **both** include photocopies of their complete filed tax returns for the two years **and** file Form 4506-T with the IRS requesting that copies of summary IRS return data for those two years be sent to CAMTC.

This chart reflects CAMTC Board decisions as of September 22, 2010.

The information in this schematic representation provides general information about routes to CAMTC certification through eight different portals. Final decisions as to qualification are made based on detailed information in each application.

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**From:** Ahmos Netanel [netanel@lucrative wellness.com]  
**Sent:** Wednesday, February 29, 2012 9:22 AM  
**To:** Les Sweeney  
**Cc:** dwall@camtc.org  
**Subject:** Re: questions regarding exams in California

Hi Les,

My apology for the long time it took me to get back to you.

1) MBLEx- Two applicants had to be referred to CAMTC's PSD because of background issues.

NESL- None had background issues

There were no revocations from either groups

2) We certified 65 massage professionals who were unable to provide us with transcript since their school has closed- using the compelling evidence protocol.

I hope that helps. Please contact me if you have any other questions.

Best,

Ahmos Netanel  
Chief Executive Officer  
California Massage Therapy Council  
One Capitol Mall, Suite 320  
Sacramento, CA 95814  
(310)826.4594 Voice  
(310)388.1514 Fax  
[anetanel@camtc.org](mailto:anetanel@camtc.org)

On Feb 21, 2012, at 10:42 AM, Les Sweeney wrote:

Dear Ahmos -

Whenever a state changes its regulations, ABMP sends a blast e-mail to all its members in the state and also posts a change in the government relations portion of its web site (as part of the members' section area). Jean Robinson and Bob Benson informed me of board action to eliminate the MBLEx and NESL exams in California from the approved list of examinations for one of the California entry portals.

I want to make the California posting accurate, including the presented back story about why the change was made and what position ABMP's appointed members to CAMTC took. To assure accuracy, I would appreciate your answers to a couple questions:

1) I understand that data shared publicly in the 2/15/12 board meeting included the representation that, as of February 7, 2012, 54 individuals who had passed the MBLEx and 34 who had passed the NESL had been certified through Portal G, meaning that they were granted certification solely on the basis of passing one of those exams independent of any massage education they may have secured. How many of those 54 individuals, and separately the other 34, have been referred to CAMTC's Professional Standards Division for possible

disciplinary action based upon an allegation of misconduct? (I am not seeking individual names, just the number of affected individuals in order to document the underlying problem that caused CAMTC to change policies.)

2) During that board meeting discussion, it was also represented that an avenue open to applicants (as described on the CAMTC web site) whose massage credentials do not strictly match the requirements of any of the alternative paths to certification is to submit their portfolio of education and experience to seek approval under a "compelling evidence" criterion. I'm aware that many applicants whose alleged massage education was from a school posted on the CAMTC web site have sought approval under this compelling evidence route. I'm not here concerned with this group. Rather, the compelling evidence route was put forward in the board meeting discussion as an answer to the problem of an individual applicant who has no transcript and whose massage school is no longer in operation. This is a category into which a number of ABMP's California members fall. To ascertain whether this compelling evidence route is "real" as opposed to theoretical, can you please inform me how many individuals out of the 30,000+ now certified fit the "no records/school no longer exists" category but were able to gain certification via the compelling evidence route?

ABMP strives to provide timely information on regulatory matters to our members. As the CAMTC regulation changes apparently are already in effect, I'm anxious to get our communication to our 12,000+ California members. As such, the courtesy of a prompt reply would be appreciated.

Regards,

Les Sweeney, NCTM

President

ABMP

[www.abmp.com](http://www.abmp.com)

800.458.2267 x612

303.679.7612 direct

join the conversation at [www.massageprofessionals.com](http://www.massageprofessionals.com)





# Aaron Read & Associates, LLC

LEGISLATIVE AND  
GOVERNMENTAL REPRESENTATION

January 24, 2012

MEMO TO: Bill Gage and Rosielyn Pulmano, Senate B, P & ED

FROM: Jennifer Tannehill and Terry McHale

SUBJECT: Concerns with proposed legislation

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The CAMTC is proposing legislation making several changes to the practice of massage therapy. The American Massage Therapy Association-CA Chapter (AMTA-CA) has taken an initial review of the proposed concepts. We have serious concerns with six of the fourteen proposed changes to current law ...

*1) Authorize law enforcement or a local government agency to provide information to CAMTC regarding a certificate holder or applicant including but not limited to the status of a local permit, disciplinary actions, criminal activity or unprofessional conduct, police reports and declarations of conduct.*

**AMTA-CA is concerned this proposal allows CAMTC to use a statement from an officer (hearsay) on which to base denial or revocation of a certificate, rather than basing denial or revocation on actual violation of law. In several cities massage therapists need the CAMTC certification in order to work. This proposal could endanger their ability to work based simply on hearsay.**

*2) Adds infractions, civil citation and municipal code violations as grounds for denial or discipline.*

**Municipal codes are not uniform throughout the state, which would make applicants subject to arbitrary denials under this proposal. Moreover, most other states deny applicants based only on felony or misdemeanor convictions. Preventing massage therapists from working based only on a code violation is severe and overreaching.**

*3) Authorization for CAMTC to conduct reasonable inspections of an applicant or certificate holders' place of work or school.*

**This proposal significantly expands the CAMTC's authority to certify individual massage therapists beyond legislative intent and on to inspecting or investigating establishments. This new authority could be quite costly and could require fee increases. Currently, local governments have authority to regulate establishments. AMTA-CA supports CAMTC's focus on certifying massage**



therapists and opposes expanding that mission to inspecting or investigating establishments at this time. Sunset review is the appropriate place to consider expanding the mission of CAMTC.

*4) Add to grounds for immediate suspension of certification acts of unprofessional conduct based on substantial evidence in sworn officer declarations.*

Currently, there is no mechanism for public participation at the CAMTC when creating policies - such as the unprofessional conduct policy created by the CAMTC. That means those whose livelihoods depend on the massage therapist certificate really have no input when policies are created that effect obtaining and keeping that certificate. To then also base that certificate on officer statements (heresay), rather than violation of law, opens the door to denials based on gossip. If a massage therapist has violated the law then they should not be certified. However, if they have not broken any laws, then taking away their livelihood is not appropriate state policy.

*5) Require that the certified professional provide their full name and certification # to the public, CAMTC or law enforcement upon request.*

**This proposal is unclear. Certified Massage Therapists are currently required to post their certificate in their place of business.**

*6) Allow local governments to pass ordinances to restrict the ability of a new massage business to open for a period of one year (or more) in any location in which a massage business has been closed for criminal activity.*

**AMTA-CA opposes moratoriums applied only to massage businesses. It is more appropriate for cities to use state and federal anti-human trafficking laws and engage in asset seizure to stop illegal activities. That way we ensure that massage businesses are treated the same as other businesses under the law.**

Thank you for considering AMTA-CA's concerns with these proposed changes. Please contact us to discuss these items further.



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**From:** Ahmos Netanel [ahmos@verizon.net]  
**Sent:** Thursday, March 08, 2012 12:08 PM  
**To:** President Amtaca  
**Subject:** Re: Clarifications regarding current legislative items march 2012

Hi Melissa,

Here is the information you requested. Feel free to share this with your Board. I applaud you wanting to base your position on real data. There is no doubt in my mind that legitimate massage professionals in general, and AMTA-CA members in particular, are eager to protect the integrity of CAMTC's certification and at the same time defend their right to practice with the dignity and respect they deserve – which, in my opinion, is precisely what CAMTC proposed cleanup legislation (if adopted) will accomplish.

I'll address your questions and provide you with the data you requested one at the time and hope that these responses will alleviate your concerns:

- As I understand it, CAMTC can either revoke or suspend a certificate. Revocation is based upon a lower standard, which includes citizen declarations while suspension is based upon notification of arrest and charges for 647 or other sex crimes.

This is not technically correct. The different standards of evidence are based on whether someone is an applicant or a certificate holder. If someone is an applicant, it is a lower legal standard to deny. If someone is a certificate holder, the higher legal standard applies, as the person has attained a vested right to practice his or her profession. In terms of revocation and suspension, they are all forms of discipline against a certificate holder. CAMTC has the right to discipline a certificate holder, which can include revocation, suspension, probation, placing conditions on a certificate, and really

whatever else CAMTC deems proper. The suspension referred to above, based on an arrest with charges being filed for 647(b) or another sexually related crime, and is an interim suspension.

Interim suspensions are a separate class of certificate holder discipline, which takes them out of our normal process for imposing discipline. In the normal situation, the certificate holder is notified of the reasons for the proposed discipline and given an opportunity to be heard **before** the discipline is imposed. For interim suspensions, there is no notification or opportunity to be heard before the discipline is imposed. Instead, once CAMTC has notice that the person has been arrested and charges have been filed, the certificate holder **BY LAW MUST BE immediately** suspended, and notified **after** the suspension has been done.

◦ Suspension becomes permanent revocation upon conviction. If not convicted the certificate holder can be subject to regular revocation. Revocation is for a one year period ("can re-apply after one year") a) How many letters of revocation have been issued? b) How many letters of suspension have been issued? c) How many certificates revoked in 2010 re-applied in 2011?

This is correct, but keep in mind that the suspension only becomes a permanent revocation upon conviction of 647(b) or another sexually related crime (i.e. it doesn't apply when they are convicted of something like 415 - disturbing the peace).

a) How many letters of revocation have been issued? 22 (out of approximately 31,000 certificates)

b) How many letters of suspension have been issued? 100 (out of which 20 got reinstated after concluding investigations)

c) How many certificates revoked in 2010 re-applied in 2011? 2

- The CAMTC Treasurer's report 02-10-2012 included "Although revenue this year exceeded budget estimates and expenses were below estimates, the fact is that there was a loss for the year [2011]. This decline in assets should not be overlooked because of the favorable performance to budget." The cost of investigating an applicant referred to Professional Standard Division is \$495.13. a) What is the projection of the cost of an onsite inspection of a massage business? b) What enforcement powers does CAMTC have post inspection?

I recommend that we put the inspections issue on the shelf for now. If you get comfortable with the other issues, we may not even need to include this in the bill. Lets see what we can workout first.

- How many massage professionals serve on the Hearings panel?

Three of the six are practicing massage professionals. Although, the other panelists have become very adept at massage questions and the trade even though they are not massage therapists.

- There have been approximately 5,900 certificate denials. How many of those denied applicants have sued CAMTC seeking to have their denial overturned? Have any been successful?

I'm not sure where you got this number. As of March 3, 2012, there have been 3,003 denials (out of approximately 40,000 applications). We have faced 4 lawsuits by applicants. One settled, two are in process, one had the denial overturned and was remanded back to CAMTC for further proceedings which are currently taking place.

Looking forward to setting up time to talk. I truly believe that we can show our respective Boards that looking out for the interests of AMTA-



CA members and protecting the public at the same time are mutually inclusive concepts.

It is a pleasure working with you,

Ahmos

On Mar 6, 2012, at 10:05 PM, President Amtaca wrote:

Hey Ahmos, thanks for being patient with me on getting this to you,

I had a convo with my gang and I think I have my head wrapped around what we need to know to move forward. In the conversations with you, Bernadette, and Terry/Jennifer, I was asking questions and that made me realize that I need some information to take back to the Chapter board. I feel it's important to get this data to be able to move forward. We need to be able to justify our support if/when we are questioned by the membership and also make decisions that we feel best serve the AMTA-CA members.

Below are the questions/pieces of data I'd like to have before our conversation. I think this will help us work through these issues and get to a place that AMTA-CA and CAMTC can mutually support the legislation.

- o As I understand it, CAMTC can either revoke or suspend a certificate. Revocation is based upon a lower standard, which includes citizen declarations while suspension is based upon notification of arrest and charges for 647 or other sex crimes.

Suspension becomes permanent revocation upon conviction.  
If not convicted the certificate holder can be subject to regular revocation.  
Revocation is for a one year period ("can re-apply after one year")

- a) How many letters of revocation have been issued?
- b) How many letters of suspension have been issued?
- c) How many certificates revoked in 2010 re-applied in 2011?

- The CAMTC Treasurer's report 02-10-2012 included  
"Although revenue this year exceeded budget estimates and expenses were below estimates, the fact is that there was a loss for the year [2011]. This decline in assets should not be overlooked because of the favorable performance to budget."

The cost of investigating an applicant referred to Professional Standard Division is \$495.13.

- a) What is the projection of the cost of an onsite inspection of a massage business?
- b) What enforcement powers does CAMTC have post inspection?
- How many massage professionals serve on the Hearings panel?
- There have been approximately 5,900 certificate denials. How many of those denied applicants have sued CAMTC seeking to have their denial overturned? Have any been successful?

Once you are able to get these pieces of info, let's set up a time to talk. Thanks for working with me on this.

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Melissa Martinie Colburn  
California Chapter President  
American Massage Therapy Association  
916-331-3510

**From Board of Directors Meeting**  
March 15, 2011  
**OPEN SESSION MINUTES**

**9. Executive Staff Reviews and Compensation Policy**

Motion (20): Schroeder/Smith – Adopt the draft March 2, 2011, Compensation Policy. Motion APPROVED, 12-0, May abstained.

Motion (21): Schroeder/Smith – Adopt the Senior Staff Annual Evaluation procedure. Motion APPROVED, 12-0, May abstained.

Motion (22): Schroeder/Grant – Appoint Dixie Wall as Chair of Review Committee and populate the Committee.

Friendly Amendment – Schroeder/Grant - Board members to return the evaluation forms within a week of receipt to allow General Counsel adequate time to compile the results.

Motion APPROVED, 12-0, May abstained.



## CALIFORNIA MASSAGE THERAPY COUNCIL Compensation Policy

In compliance with Internal Revenue Service guidelines for approval of senior management compensation, the Board of Directors of the California Massage Therapy Council (CAMTC) will adhere to the following review and approval guidelines relative to employee compensation. (Directors and officers of CAMTC are volunteers who do not receive compensation for their services and therefore are not covered by this Policy.)

Individuals Subject to this Policy (defined as “Covered Employees”) are those employees who meet all of the following criteria:

1. \$150,000 Threshold. The individual received reportable compensation from CAMTC and all related organizations in excess of \$150,000 for the calendar year ending with or within CAMTC’s tax year.
2. Responsibility Criteria. The individual:
  - a) has responsibilities, power or influence over CAMTC as a whole; or
  - b) manages a discrete segment or activity of CAMTC that represents 10% or more of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole; or
  - c) has or shares authority to control or determine 10% or more of CAMTC’s capital expenditures, operating budget, or compensation for employees.

### Procedure for Approving Compensation

In reviewing and approving the compensation of any Covered Employees, the CAMTC Board of Directors or a delegated committee of the Board (referred to as the “Approval Body” below), will utilize the following process:

1. Impartial Decision Makers. The Compensation arrangement must be approved in advance (before any payment is made) by the Approval Body of CAMTC composed entirely of individuals who do not have a conflict of interest with respect to the compensation arrangement (example: neither the executive *whose compensation is being determined nor any of his/her family members may be present during the discussion/debate or participate in the vote.*)
2. Comparability Data. When the Approval Body is considering compensation to Covered Employees, it must rely on comparability data that demonstrate the fair market value of the compensation in question. For example, when crafting compensation packages, the Approval Body must secure data that documents compensation levels for similarly qualified individuals in like positions at like organizations. This data may include, but is not necessarily limited to, the

following:

- a) expert compensation studies by independent firms;
- b) written job offers for positions at similar organizations;
- c) documented telephone calls about similar positions at both nonprofit and for-profit organizations; and
- d) information obtained from the IRS Form 990 filings of similar organizations.

3. Concurrent Documentation. The Approval Body must document how it reached its decisions, including the data on which it relied. To qualify as concurrent documentation, written or electronic records of the Approval Body (such as meeting minutes) must note:

- a) the terms of the compensation and the date it was approved;
- b) the members of the Approval Body who were present during the debate on the compensation that was approved and those who voted on it;
- c) the comparability data obtained and relied upon and how the data were obtained; and
- d) any actions taken with respect to consideration of the compensation by anyone who is otherwise a member of the Approval Body but who had a conflict of interest with respect to the decision on the compensation.

## Senior Staff Annual Evaluation Procedure

Who is evaluated? – CEO and COO. They will evaluate employees who report to them.

A. Who does the evaluations?

- a. Entire Board and other senior personnel who work closely with the CEO and COO
- b. The CEO and COO prepare their own self-evaluations, using the same forms, as well as updates to their job descriptions.

B. Instruments for review

- a. Evaluation form
- b. Existing job description
- c. Board determined goals for past 12 months
- d. CEO and COO updated reports of actual job description
- e. Focus on performance against existing and actual job descriptions and success in achieving Board determined goals for that time period.

C. Who compiles

- a. Legal counsel assistant will compile by averaging each item and preparing in spreadsheet form with comments. All responses will be kept anonymous(i.e. neither senior staff nor other board members will know who said what)

D. Review with Senior Staff

- a. The two board members who work closest with senior staff will review the Board evaluations, including comments along with the job descriptions and staff self evaluations.
- b. These Board members will meet with senior staff to discuss results, revisions to job descriptions, managerial structure, as well as staff expectations for future compensation.
- c. Staff will sign off on their job descriptions.

E. The assigned directors will do a summary presentation to the Board in closed session, with Q&A. They will recommend salary adjustments and bonuses if appropriate.

F. Senior staff will be invited into the Board meeting as needed for Q&A.

G. Guidelines for determining compensation adjustments

- a. Staff expectation
- b. Cost of living increase based on inflation
- c. Bonus based on performance
- d. Possible small salary increase and bonus
- e. Consideration of what it takes to retain staff/morale

H. Performance evaluations do not guarantee a bonus or an adjustment in salary. Bonuses and salary adjustments are always in the sole discretion of the Board.



# Executive Evaluation Form

Name of person completing this form<sup>1</sup>:

Date this form completed:

Your comments will be shared (anonymously) with the executive.

Rating:      1 = Outstanding  
              2 = Superior  
              3 = Satisfactory  
              4 = Needs Improvement  
              5 = Unacceptable  
              N/A = Unable to answer due to lack of knowledge or experience with this issue

## 1. Job Knowledge

- Understands the role of the job.
- Understands the details of the job.
- Is familiar with the needs of constituents.

SCORE

## 2. Planning and Organization

- Sets goals and action plans.
- Is proactive, thinks ahead to avoid problems.
- Establishes priorities.
- Schedules time, activities, and work flow.

SCORE

## 3. Board and Staff Relations

- Works and cooperates with co-workers and Board.
- Is sensitive to people around him/her.
- Motivates Board members and staff to perform.
- Is effective team builder of Board members and staff.

SCORE

## 4. Analytical Ability

- Identifies problems.
- Collects and analyzes relevant data to determine appropriate course of action (quality of decisions).

SCORE

## 5. Decision Making

- Effectively demonstrates decisiveness and confidence
- Makes appropriate decisions from available data

SCORE

## 6. Personal Standards

- Seeks self-improvement.
- Has good professional image.
- Has positive attitude.
- Is committed to high level of performance.
- Sets the example.

SCORE

<sup>1</sup> Scores and comments will be shared anonymously – i.e. the identity of the evaluator will not be shared with the employee or with Board members.

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## 7. Flexibility

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- Adapts to changing environment.
- Able to change with board direction.
- Able to review programs and take a different direction when circumstances change.

SCORE

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## 8. Communications

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- Speaks clearly, concisely and confidently.
- Is comfortable in front of groups or in private with individuals.
- Says what he/she thinks tactfully and diplomatically.
- Writes clearly and concisely.
- Is flexible in style – fits into the situation.
- Reacts/responds effectively to staff, board members, and volunteers.

SCORE

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## 9. Leadership

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- Leads and delegates effectively.
- Motivates or causes to be motivated.
- Gives impetus and direction to the task.
- Is perceived as leader, is respected and trusted by peers and staff.

SCORE

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## 10. Judgment

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- Exercises sound judgment – considers the alternative.
- Is open-minded, but not easily swayed.
- Listens carefully to ideas.
- Is willing to admit and reverse a bad decision.

SCORE

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## 11. Human Relations

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SCORE

- Coaches others through learning experiences and draws out learning points / lessons to share with others.
- Maintains team focus and clarifies team roles.
- Encourages and supports the development activities of others.
- Provides detailed and clear instructions together with rationale and on-the job training as needed

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## 12. Budget

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- Accurately forecasts expenditures and income.
- Effectively alters operation to reflect budget changes.

SCORE

- Understands and works within the confines of the budget.
- Builds and maintains required reserves.

SCORE

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## 13. Overall

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Considering all categories listed above, please provide a rating based upon overall performance.

SCORE

[illegible]