



February 3, 2014

Assemblymember Susan Bonilla
Chair, Sunset Review Committee
Assembly Business, Professions and Consumer Protection Committee
Legislative Office Building, Room 383
Sacramento, CA 95814

Dear Ms. Bonilla:

I am pleased to provide comments on behalf of Associated Bodywork & Massage Professionals (ABMP) on the "Sunset Review Report 2013" filed on November 1, 2013 by the California Massage Therapy Council (CAMTC). ABMP is the largest professional membership association serving massage therapists both nationally (82,200 members) and in California (13,207 members).

I personally had the privilege of serving as a member of the board of directors of CAMTC for four years and as its initial Vice-President. As the Sunset Report details, I participated in 51 of the 52 board meetings during my 2009-2013 tenure.

Focus Points

By any fair, broad measure the legislative creation of a new private, non-profit organization to provide and administer voluntary certification to qualifying massage therapists must be labeled a success. Consumers are served by being able to distinguish therapists who have been vetted against meaningful education and behavioral standards. Educated, law abiding massage therapists gain appropriate recognition. Profession standards are clearly being raised as required under the founding law.

CAMTC has submitted to the committee a voluminous report describing its five-year history. The board's task proved to be a complex, challenging activity. By overcoming many obstacles, CAMTC has contributed to public education and protection while also offering a meaningful credential to 45,000+ massage therapists in California.

ABMP's perspectives regarding continuance or sunset of CAMTC are organized as follows:

- Additional information the Committee should seek from CAMTC;
- Massage / prostitution / law enforcement / local control: appropriate roles;
- CAMTC recommended law changes that ABMP supports;
- CAMTC recommended law changes that ABMP opposes;
- Concerning weaknesses in CAMTC organization and internal controls; and
- ABMP sunset conclusions and recommendations.

Additional Committee Information Requests

As voluminous as the CAMTC report is already, because sunshine is the best disinfectant we believe the public would be served by the committee asking CAMTC to supplement its original report and subsequent amended submission by answering the following additional questions:

A) The report references having its financial results examined annually by an independent audit firm. The report also includes end of year fund balance information. The public would be well-served by being able to see a copy of the most recent complete audit report. It is unlikely that the audited report on the 2013 fiscal year will be available by the Committee hearing date; however, the audited report on activities for the year ending December 31, 2012 has been completed and a management prepared report for 2013 should be available as well.

"Provide a copy of the "Financial Statements and Independent Auditor's Report for the Year Ended December 31, 2012" for the California Massage Therapy Council as well as the December 31, 2013 year-to-date financial statements prepared by management.

B) While an elliptical reference is made on pages 2-3 to "incentives to attract and retain qualified staff," the report contains no information on CAMTC staff compensation. Neither does CAMTC's annual audit report. CAMTC senior executive salaries in fact are substantially higher than those for senior executives of California state boards serving related health care professions.

"Provide salary and total compensation expense for 2013 as well as the current annualized value of salary and benefits for CAMTC's five most highly compensated individuals."

C) Sensibly during its initial months of operation in 2009-2010, CAMTC relied extensively on contract services provided by a management firm and outside attorneys. Inertia has taken hold; such reliance makes little sense for a mature organization with over 45,000 constituents and a five-year operating history, yet beginning arrangements linger on. Payments to such outside individuals and entities are a substantial fraction of overall CAMTC operating expenditures.

"Provide amounts expensed to Advocacy & Management Group (AMG) and to outside attorneys during 2012 and 2013."

Massage / Prostitution / Law Enforcement / Local Control

Out of ignorance, numerous myths flourish around these subjects. Local law enforcement agencies for years, perhaps in all eternity, have sought to eradicate prostitution. As a generalization, such a desire is sincere, yet law enforcement agencies (including district attorneys) rarely devote significant dollars and personnel to achieve this result. If they did, more individuals would have criminal records for prostitution and related crimes that would show up in offender databases.

Professional "massage therapy" services get conflated with prostitution enforcement because one of the pseudonyms used by providers of sexual services is "massage," sometimes in such terminology as "erotic

massage” or “sensuous massage.” This practice needs to be called what it is: hijacking of the name of an honorable therapeutic health care service. Legitimate professional massage therapy has nothing to do with sex; in fact, massage school instruction includes a clear focus on ethical behavior, therapist-client boundaries, and how to handle inappropriate advances that might arise during a massage session. Medical doctors, nurses, and other health care providers receive similar instruction.

Insufficient enforcement of prostitution crimes existed before CAMTC was created, has continued during the five years of CAMTC operation, and likely will extend well into the future unless and until particular municipalities decide to make a major commitment to its eradication, meaning additional police enforcement coupled with District Attorney willingness to provide necessary resources to prosecute this crime. Until such changes in prioritization and resource allocation occur, prostitution will continue to flourish.

The creation of CAMTC as a result of SB 731 becoming law did eventually enhance the tools available to local law enforcement. CAMTC helps in three ways:

1) CAMTC operates a rigorous screening process for applicants seeking certification. Every applicant provides fingerprints which are sent both to the California Department of Justice and the FBI. The existence of a criminal record of offenses inconsistent with working safely as a massage therapist results in a denial of certification. In addition, CAMTC examines applicant massage education transcripts for legitimacy and satisfaction of criteria set forth in law. CAMTC has fully utilized the following legislative clause:

“The organization 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.”

Through the discharge of this responsibility, CAMTC has determined that more than 40 schools in fact were selling transcripts, were granting credit to applicants for class hours not actually attended, or were simply inventing transcripts in conspiracy with human traffickers and other criminals. As a result of this education screening plus the criminal background check process, 4,759 applications for CAMTC certification were denied from inception through September 30, 2013. **More than one-third of these denied applicants had previously received local government permits to provide massage services.**

2) In addition to analyzing applications for certification and holding hearings for individuals who feel their application was improperly denied, CAMTC’s Professional Standards Division (PSD) operates a disciplinary process to address allegations that a CAMTC Certified provider of massage therapy services has operated in a manner outside boundaries and requirements set forth in law. Recognizing the realities about how certain offenses tend to be handled, PSD has established a procedure allowing them to suspend an individual upon receipt of an arrest notification, per Section 4601.3 (d) of the statute. The standard for taking action is “clear and convincing evidence” that a certificate holder has committed an act punishable as

a sexually related crime substantially related to the qualifications, functions, or duties of a certificate holder (per Section 4602.(3)(d)).

Every profession – medical doctors, lawyers, engineers, chiropractors, teachers, nurses and others – every year has some licensed or certified members who engage in a behavior that is outside legal or ethical canons. Massage therapy is no exception. PSD is a place law enforcement officials can go anytime a CAMTC certified individual crosses the line. PSD accords high priority to responding to disciplinary matters; suspensions are instituted, hearings are held and, when merited, sanctions levied promptly.

3) CAMTC has established a database of all certified individuals and has facilitated direct access for all law enforcement organizations registering with CAMTC. Being able to ascertain in real time whether presented credentials are legal takes the guesswork out of local law enforcement activities.

While each of these activities aid local law enforcement, **CAMTC, a private, non-profit corporation, is not a law enforcement agency and appropriately does not have the ability to arrest or charge individuals. Neither does CAMTC have any power to bring charges against an establishment purportedly providing massage services – nor should it as a private corporation.** In essence CAMTC offers a scorecard to help local law enforcement separate out those individuals who sought out and qualify for CAMTC certification.

What remains are two groups, A) some unknown number of individuals (likely measured in thousands) who have developed massage therapy skills and practice in competition with voluntarily certified therapists, but who themselves have chosen not to seek certification (or who applied unsuccessfully for such certification); and B) other individuals, intent on prostitution, trying to disguise their services by claiming to offer massage.

CAMTC has no authority or power to regulate individuals in either Group A or Group B. Though some law enforcement agencies have erroneously over-read CAMTC powers and have therefore shied away from initiating actions on their own, local governments and law enforcement officials in fact retain full power to develop and apply ordinances regulating Group A and Group B members. Local government also can require all massage therapists, including those certified by CAMTC, to abide by zoning, business permit, and health and sanitation standards so long as such standards are applied to massage therapy businesses in a manner consistent with their application to other professional service businesses.

Had the underlying massage legislation alternatively established mandatory licensing for massage therapists, law enforcement's task would have been simplified because then every practicing massage therapist would have to possess and display a state license. Either you have one and can practice or you don't and cannot legally practice massage therapy. California instead selected voluntary certification.

In sum, municipalities upset about prostitution need to pull up their own socks to address that problem, make it a high priority and back that designation with adequate resources. CAMTC's sorting and enforcement processes offer municipalities some useful data and tools, but **CAMTC is not and never was intended to be an entity aimed at eliminating prostitution.** Further, it is a myth that non-

discrimination rules included in CAMTC's founding law mean that municipalities cannot require certified massage therapists to follow basic business rules, the same way that an architect, a medical doctor, an engineer, or a physical therapist doing business in that municipality must comply. Certified massage therapists and establishments solely employing certified individuals need to follow all those standard business rules; they just no longer have to follow additional, discriminatory requirements that many municipalities imposed in the past.

CAMTC Recommended Law Changes that ABMP Wholly or Partially Supports

Should CAMTC operating authority not be renewed, the following proposed changes will be somewhat moot. Assuming CAMTC is granted renewal, here are ABMP's reactions to their specific law change requests.

Education and Professional Competence

1. Require all new applicants to pass a CAMTC approved written exam

ABMP supports the January 1, 2015 addition of a requirement that new applicants demonstrate the sufficiency of their massage therapy knowledge by passing a psychometrically developed profession entry examination. Individuals holding valid CAMTC certification credentials (CMT, CMP, or CCMP) at January 1, 2015 should be exempt from the exam requirement so long as they maintain certification. Similarly, individuals working their way up from then current CCMP or CMP status to CMT certification by securing additional massage education should also be exempt from the exam requirement.

The CAMTC comments correctly note that their board of directors has approved three exams: MBLEx, NCETM, and NCETMB. The latter two of these are owned by an independent corporation, the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB). The substance and process underlying these exams was for the original purpose of qualifying for voluntary private certification. The MBLEx is owned by the Federation of State Massage Therapy Boards (FSMTB), a consortium of 42 massage therapy state and territory licensing boards and agencies (including CAMTC). FSMTB was created in 2005 and in 2007, after an extensive development period introduced the MBLEx. The MBLEx was developed specifically to assess readiness to enter the profession and be granted a license. In a marketplace offering exam choices during the past few years, the MBLEx has become dominant. From a regulatory standpoint, it also makes sense to employ an examination that is owned and controlled by a consortium of state licensing board and agencies.

The final sentence of CAMTC recommendation #1 in essence becomes a straw man if recommendation #2 is adopted.

2. Phase out the Certified Massage Practitioner tier

ABMP agrees with the substantive result CAMTC apparently seeks, though the language they used is insufficiently precise. Existing law has it right, "*new certificates shall not be issued pursuant to this subdivision after December 31, 2015.*" The operative word is "**new.**" What we believe CAMTC is proposing is that the effective date be accelerated by one year. ABMP supports that date change so long as the law's original intent to permit individuals already holding CAMTC CMP or CCMP status to renew those respective credentials is maintained.

3. Continue to allow applicants for Certified Massage Therapist to qualify with a minimum of 250 hours or the credit unit equivalent in massage and related subjects from approved schools and up to 250 hours of continuing education.

CAMTC's original Sunset application, prepared by staff, got this wrong. The above substitute recommendation accurately reflects a mid-2013 vote of the CAMTC board of directors. The third sentence of the revised supporting paragraph accurately reflects the reasoning of the board. The second sentence represents staff editorializing and in fact misrepresents the intent of at least some of the pivotal developers of the original legislation. ABMP agrees with the CAMTC Board that it is important to afford CCMPs and CMPs the opportunity to upgrade to CMT status through obtaining continuing education.

4. Require that applicants for CMT obtain the same core curriculum education as CMPs

ABMP agrees with the recommendation. We do not agree with the further example of staff editorializing: the application of the special core curriculum requirement only to applicants seeking CMP status was intentional, not an oversight. I speak with some authority here as I drafted the language in question.

5. Authorize CAMTC to require continuing education hours in order to promote core competencies

ABMP supports this recommendation so long as the substance remains confined to the FSMTB focus on maintenance of core "competencies for safe and professional practice and on areas identified as requiring regulatory intervention and guidance." That FSMTB recommendation was based upon a thorough analysis of the current profession, education, and regulatory environments, including patterns and frequency of different types of offenses observed by regulatory boards.

CAMTC Recommended Law Changes that ABMP Does Not Support

Because ABMP is a national membership organization, we have had an opportunity to work with legislators, administrators, and state massage boards in more than 40 states. That perspective has given us an opportunity to monitor and assess different models and scopes for board responsibilities. We are not sanguine about two major CAMTC proposals to expand their operating responsibility scope.

The first such proposal is tucked away on page 90 of the CAMTC "Sunset Review Report 2013," to wit, **"CAMTC does intend to begin actively approving schools in the future."** Should CAMTC request particular statutory authority to expand its activities in this arena, ABMP believes that would be unwise. Board veterans from the nine states that give their massage board school approval authority report that such a responsibility, if discharged conscientiously, requires substantial staff resources.

Notwithstanding some California professional licensing boards within the Department of Consumer Affairs recently becoming more engaged in school approval, ABMP believes that the right answer for massage therapy is for the legislature to provide the Bureau for Private Postsecondary Education with sufficient resources and then insist that the Bureau provide timely, thorough oversight of schools, including withdrawing authority to operate where the facts warrant. Setting up a full-fledged duplicate school approval system would be wasteful of resources and unfair to schools. What involvement CAMTC has with schools now, in discharge of its responsibility to assure that educational credentials presented by an applicant in fact were earned, is appropriate. Expansion of that role is unnecessary and, we believe,

inappropriate for a private non-profit body whose board of directors includes four massage school owners. To give the CAMTC Board authority and responsibility for deciding whether another school should be allowed to operate would represent a serious conflict of interest.

The other proposed substantial expansion of CAMTC authority is in the regulation of massage therapy establishments. The core underlying problem, one we already addressed, is one of will and resource commitments by local governments. CAMTC suggests, *"Further clarify in statute what authority over certified professionals and businesses is granted to local government."* Actually the existing statute language is quite clear. That's not the problem. Local governments have normal zoning, health and sanitation, and business license powers with regard to massage therapy establishments. Local governments also can require massage establishments using solely CAMTC certified practitioners to provide to the municipality a report with attached copies of certifications for each employee per Section 4612 (b) (2), (A) and (B).

Even if the Sunset process finds these current municipality powers and current CAMTC actions insufficient, the CAMTC prescription – *"voluntary CAMTC certification of massage establishments where everyone providing massage is CAMTC certified"* – is inappropriate. The problems are local and quickly changing. A centralized CAMTC staff could issue voluntary establishment certifications at a fixed point in time, but turnover in the massage therapy profession is high and CAMTC simply doesn't have staff circulating throughout the state to monitor 500+ jurisdictions. An individual who obtains certification remains the same person; the work force complement of an establishment is a much more fluid organism.

Beyond these tangible concerns about CAMTC scope expansion proposals is a more fundamental concern: CAMTC lacks the organizational capacity to assume major additional responsibilities. It has been built to meet short-run exigencies. It lacks a solid foundation for long-term success.

Concerning Weaknesses in CAMTC Organization and Internal Controls

CAMTC should be proud of what it has accomplished. Starting in 2009 with zero state funds, no template for massage regulation by a private organization, and challenges to its authority by municipal governments, CAMTC has:

- established appropriate applicant vetting rules and operating systems;
- determined that more than 40 schools purportedly providing massage instruction actually weren't ... so transcripts issued by those schools were not accepted;
- screened out approximately 5,000 applicants for certification, 34% of whom had previously secured local government massage therapy permits;
- established an effective disciplinary process so that members of the public can file a complaint about a certified therapist and know it will be adjudicated;
- made CAMTC certification sufficiently compelling that 45,000+ individuals are currently certified, representing a substantial portion of practicing massage therapists in California, even though CAMTC certification is voluntary, not mandated;
- through a step-up process in certification requirements built into its founding law, is raising massage education standards in California to prevailing national norms; and

- after an initial break-even year, earned a surplus each year while maintaining the two-year cost of certification at the \$150 starting figure.

Further, CAMTC has achieved these marks while being both fair and supportive in interactions with individual applicants, local government officials, and members of the public who use massage services. As one example, CAMTC's Professional Services Division, which is charged with disciplinary matters and with final decisions about whether to approve individual applications, has resisted the temptation to save time by issuing sweeping denials to broad categories of applicants. Instead PSD has created a culture that gives thoughtful, respectful consideration to the facts and circumstances posed by each case.

The model of voluntary certification by a non-profit private organization was a good one for a five-year transition – from a confusing hodge-podge of local massage regulation, often administered by individuals with little understanding of the health benefits of massage therapy and limited capability to assess whether someone seeking to provide massage was in fact well-prepared to do so – to a central organization informing consumers about consistent statewide standards.

However, weaknesses in CAMTC's underpinnings keep revealing themselves. The insular three person senior management team is composed of 20-25 year acquaintances; personal loyalty and fealty appear to be the highest values. Nepotism reigns in PSD. Information systems are inadequate for needed controls. The organization's de facto senior financial officer is a modestly qualified controller on the staff of a hired management firm.

It has taken CAMTC quite some time to recover from the initial onslaught of applications received when individual certification was instituted in August 2009. As CAMTC describes in their Sunset Review Report, there was really no way to prepare fully for the complexity of applications, especially those with educational, criminal record, or other background issues. Over time, CAMTC responded to the backlog by hiring additional staff, having its own staff conduct the majority of investigations, and, to some extent, improving application processing protocols, but a continuing backlog of hundreds of applications still awaits CAMTC attorney action to issue proposed denial or revocation letters and final letters of determination. Expanding CAMTC's authority at this time seems ill-advised given the substantial, seemingly permanent backlog. ABMP would much rather have CAMTC operations focus on the job remaining than see its attention diverted to new responsibilities that will add to complexity.

Numerous other specific examples of inefficiencies, poor communications, and misplaced priorities could be cited. We don't have to look that far. Consider simply the CAMTC "Sunset Review Report 2013" in front of the Committee.

This report is arguably the most important CAMTC planning and assessment work product in its five-year history. It summarizes the organization's performance and advances a case for its continuance. CAMTC has been aware about and focused on the sunset review process for 18-24 months. If ever CAMTC was going to make sure a document was accurate and well-reasoned, this sunset exercise represented a prime opportunity.

And CAMTC blew that opportunity. The report was delivered on November 1, 2013 attractively packaged (spiral bound, four-color, heavy shiny paper). However the key operating performance numbers presented simply didn't add up – and weren't even close. I reference numbers on matters as basic as the number of currently certified practitioners by certification category and a reconciliation of PSD application and recertification disposition of cases. When the discrepancies and inconsistencies were quickly brought to the attention of CAMTC staff, it took staff five weeks to develop and produce corrected numbers. Here's the comparison of then currently certified individuals as of September 30, 2013 (the latest date covered by the report):

Certification Category	Original Report	Corrected Report
Certified Massage Therapist	32,543	35,907
Certified Massage Practitioner	7,361	6,846
Conditionally Certified Massage Practitioner	2,986	294
Total Certified	42,890	43,047

One would think CAMTC would know better than to submit a count for their largest certified designation that was off by 10% ... or to be off by a factor of 10 in its count of conditionally certified massage practitioners.

This data is taken from Table 6 titled "Certification Population." Curiously that table also includes figures for "Inactive" individuals. There is no such category or status in underlying law. Based upon well-known information in the massage therapy profession, the idea that formerly CAMTC certified individuals are all waiting around to press a button and re-claim certified status is poppycock; the vast majority of them likely abandoned certification because they left the massage therapy profession.

In Table 7 titled "Total Certification Data," 13 of the 24 figures in the "Received" column and 14 of the 24 figures in the "Approved" column were changed in the amended submission.

Consider also Table 9a titled "Enforcement Statistics – Initial Applicant/Recertification." Here's the comparison of actions by calendar year, original submission compared to corrected data:

	Original Report Approved	Corrected Report Approved (final outcome)	Original Report Denied	Corrected Report Denied (final outcome)
2009	0	0	5	5
2010	69	1,276	3,701	2,498
2011	355	492	1,290	1,093
2012	220	475	1,064	838
2013	108	97	298	325

As the above description suggests, CAMTC is sorely deficient on administrative controls. Everyone involved is well meaning, but there has not been and still is no senior officer making the intermediate and long-term decisions to install procedures, develop systems and reports, and create a data processing and storage infrastructure that would insure that everyone involved is tied into a common system, that decisions made about individuals get tallied in overall performance reports. The head of PSD, even while handling individual cases fairly, has never been able to explain the dynamics of that division's processing and record-keeping history and how actions taken impact performance measures. The Controller, while honest, has made several inappropriate accounting or record keeping decisions.

A central part of the problem is that initial organizational decisions that made short-term sense became perpetuated. Starting with zero funds, CAMTC secured short-term loans from professional associations, hired a government relations firm, AMG, to handle application processing, and retained the services of two loosely affiliated outside attorneys – each in separate locations in the Sacramento area. Meanwhile, the CEO and the PSD functions were established on the west side of Los Angeles, with everyone operating from their own home, and an individual residing in Belmont was retained to head government relations. AMG's information technology system was adapted to take on CAMTC data; no ground-up replacement system has been designed or built in the intervening five years. Outside legal fees are massive, even though CAMTC has continuously had a multi-month backlog delay in issuing formal case disposition letters. CAMTC's Board of Directors has 20 members, an unwieldy number.

The individuals performing these functions are intelligent, care, and work diligently. But despite best efforts, communications and data flow don't measure up. For two years, even three, the principals involved appropriately made do with such a challenging organizational structure. But now CAMTC is five years old, still is unable to report accurately on the scope of its activities ... and yet its Board and staff leaders desire to assume two major new functions – approving schools and establishments? It just doesn't add up. The idea is delusional.

Roughly two-thirds of CAMTC certified individuals reside in southern California. If CAMTC were seriously building for the future it would have a central office in the greater Los Angeles area. All senior personnel, PSD staff, application processing staff, and staff attorneys would be based in that office. A seasoned, senior level VP Controller would be hired with responsibility for accounting, information systems, and human resources.

CAMTC senior staff and its Board of Directors have chosen instead to hang on to the original organizational model, apparently intimidated by change and reluctant to step outside comfort zones. Bringing professional management on board is apparently viewed as a threat.

ABMP Sunset Conclusions and Recommendations

Given those choices made, what makes sense now is to "declare victory" and move on. Of the 44 U.S. states that now regulate massage therapy, 43 have a regulatory board or agency that is part of state government. California is the sole exception. Given the regulatory realities and education diversity existing in California in 2009, the private non-profit organization, coupled with voluntary certification, model appears to have been a good choice then.

Now it makes sense to transition during 2015 to a more traditional regulatory model. **Subject to fulfillment of one major condition, ABMP recommends that the Sunset review committee call for sunset of CAMTC and creation of a replacement organization, a Massage Therapy Board within the Department of Consumer Affairs. The condition is that all individuals possessing active CAMTC certification as of the transition date to a California Massage Therapy Board be granted a state license.** Renewal of that license should occur at the date when the individual's CAMTC certification is slated to expire.

Granting state licenses to all individuals certified by CAMTC means that numerous individuals who will transition into licensed status will possess less massage education than new license applicants will have to present. This has been the case in virtually every state that has newly adopted mandatory licensure. Experience in those states suggests that worries are overblown. To begin, 83% of the individuals currently certified by CAMTC have qualified for the highest certification category, Certified Massage Therapist. Their massage education effectively matches what likely will be required of new applicants for licensure (a minimum of 500 hours of massage education). Secondly, turnover remains high in the massage therapy profession. CAMTC re-certification rates are only about 65%. Broad profession statistics show that 40% - 50% of individuals completing massage school will no longer be in the profession 24 months later. In other words, in only a few years just a modest number of licensed California therapists will possess less than 500 hours of massage education.

Transference of CAMTC certification to a state license with each individual retaining her or his expiration date also makes pragmatic administrative sense. That approach will ensure that license processing will remain spread out over a 24-month period. The alternative, having 45,000 individuals apply immediately once applications are accepted and then all coming up for renewal 24 months thereafter, would pose a staff resource nightmare.

Partly because CAMTC functions are so geographically scattered, transitioning from a private organization to a government entity will require transition time. Assuming fall 2014 governor approval of legislation implementing Sunset committee recommendations, time need be allowed for the Governor to appoint Board members and the new Board to hire and orient staff. ABMP anticipates that a new state massage board could begin functioning in 1Q of 2015, obviating the need for the CAMTC Board to continue its work, but it would take longer to transfer smoothly staff functions, the applicant and certified individual database, and other records.

Establishing licensure for massage therapists in 2015 offers numerous advantages. For the public, a requirement that all massage therapists be licensed and the use of a single designation, Licensed Massage Therapist, creates clarity. For law officials, enforcement becomes much simpler even if key protections are retained to insure that additional discriminatory practices historically levied against regulated massage therapists in some jurisdictions do not re-emerge. Law enforcement likely also will prefer working with a state agency rather than an unusual model private non-profit organization. For massage therapists, the expectations will be clarified: you will need to obtain an education meeting established parameters and

conduct yourself within expected professional boundaries if you desire to practice massage therapy within California.

Much of the language crafted in SB 731, the founding massage therapy legislation, and in subsequent amendments, will retain resonance and relevance in a replacement law creating a California Massage Therapy Board. Here is not the place for a complete listing of parts of the law worth retaining, but the following bullet points illustrate constructive law enforcement approaches worth preserving – approaches that are somewhat unique to enforcement of crimes committed under a banner of claimed “massage therapy” services:

- Fingerprinting and background checks through *both* the California Department of Justice and the Federal Bureau of Investigation, combined with *subsequent arrest notifications* as outlined in Section 4601.3 should still be required;
- The disciplinary guidelines set forth in Section 4602 thoroughly describe Board authority. Any disciplinary action taken by the regulatory body should include notification both to the business employing the certificate holder and to the local government jurisdiction;
- The regulatory board should continue to consider both *clear and convincing evidence* and *credible mitigating evidence* in their disciplinary processes;
- Cooperation between the regulatory body and local jurisdictions, including law enforcement, as outlined in Section 4602.5, is essential to retain. Police reports and declarations of misconduct should continue to be considered.
- Prohibition against municipalities requiring duplicate individual certification or licensing must continue.

Having a regulating board housed within the Department of Consumer Affairs offers additional benefits. Instead of CAMTC having to spend quite possibly hundreds of thousands dollars designing and implementing a proper database system, DCA likely will readily be able to adapt similar systems already in use to regulate other professions. DCA has experience hiring and retaining professional managers. State accounting rules are clear-cut. Voices from the massage therapy profession still can be heard; typical state board composition includes representation from the profession being regulated.

The private, non-profit voluntary certification approach to improving regulation of the massage therapy profession served an important transitional purpose. Now it is time to move on.

However, should the Sunset process result in the CAMTC model being sustained, we urge the Committee to craft new legislation that aggressively addresses the serious infrastructure and administrative control weaknesses observed. At a minimum, meaningful reform must include new professional leadership and a unified office for CAMTC.

Sincerely,

A handwritten signature in black ink that reads "Bob Benson". The signature is written in a cursive, slightly stylized font.

Robert Benson, Chairman