



## Summary of Changes to CAMTC's Statute

On September 22, 2016, California Assembly Bill AB 2194 was signed into law by Governor Jerry Brown. The revisions to the Massage Therapy Act ("Act") and Government Code section 51034 will become operative on January 1, 2017. The bill made some technical edits, provided much needed clean up after the sweeping changes made by AB 1147, extended the Act for another four years, made some clarifying changes to CAMTC's denial and disciplinary provisions, and made some other more substantive changes.

### **Changes Applicable to Local Regulation of Massage Businesses**

- One of the more significant changes made to the Act (Business and Professions Code sections 4600 et. seq.) is the change of current section 4600.5(c) from intent language to its placement in 4603.1 as directive language. The current statute states that it is the intent of the Legislature that local governments impose and enforce only reasonable and necessary fees and regulations. The new version of the law, Business and Professions Code section 4603.1, now provides:

Local governments shall impose and enforce only reasonable and necessary fees and regulations on massage businesses and massage establishments, in keeping with the requirements of existing law and being mindful of the need to protect legitimate business owners and massage professionals, particularly sole providers.
- Changes were also made to the intent language in Business and Professions Code section 4600.5(b), where the legislature showed their strong support of revocable registrations by adding the following language:
  - Local governments should give strong consideration to establishing a registration program that grants local governments the ability to either suspend or revoke a registration of massage business for specific violations.
- Changes were also made to Government Code section 51034. This section was partially renumbered and the following provisions were added:

- Local governments can't require a massage business or establishment to have a shower or a bath; and
- While the law already provides that local governments can't require a CAMTC certificate holder to pass a background check, this provision has been clarified to state that this includes a criminal background check or submission of fingerprints for a state or federal background check.

### **Changes Applicable to Procedures for Denial and Discipline**

- The procedures related to denials and discipline have been clarified in the following ways:
  - Provision that allows a certificate holder to request a hearing on a suspension based on evidence has been clarified to state that the hearing is an "oral hearing or consideration of a written statement." This makes it clear that "hearing" doesn't mean an in person hearing;
  - Written statements and declarations signed under penalty of perjury can currently be used to "determine the basis" of the denial or discipline. This provision has been clarified to state that this includes using those statements and declarations to make a final decision on denial or discipline;
  - The procedures set forth in CAMTC's law are deemed to meet the requirements for fair procedure;
  - Final decisions to deny or impose discipline are specifically authorized to be made based solely on written statements or declarations made under penalty of perjury, and those providing the statements or declarations can't be required to appear at an oral hearing or provide additional documents; and
  - It has been clarified that certification is not a fundamental vested right, and the legal standard on review has been defined as the substantial evidence test.
- Lawsuits against CAMTC related to individual certification denials or discipline must now be brought within 90 days.

### **Technical Changes**

- The law was changed to state (as it previously did before AB 1147) that all education be from "approved schools" instead of "schools approved by the council," so that the law again requires approval by BPPE or one of the other organizations listed in Business and Professions Code section 4601.

- The provision stating that owners and operators of massage businesses and establishments are responsible for the conduct of all those providing massage for compensation on the premises has been clarified. It now states that this provision applies to owners and operators who are applicants for CAMTC certification, when it previously stated that it applied to owners or operators who were certificate holders.
- The law again requires (as it previously did before AB 1147) that when a certificate holder is suspended based on an arrest with charges filed for 647(b) or another act punishable as a sexually related crime, that their employer of record be notified of the suspension by mail (current statute only specifies notification by email).
- The deadline to submit the feasibility study has been extended until January 1 of 2017.
- The Act has been extended for a four year time period.