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Sent and Posted: Friday April 4, 2014

NOTICE OF PUBLIC MEETING

Tuesday April 15, 2014, 9:30 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. Elections of officers
4. Approval of Minutes
5. Legislation
6. Sunset review issues
7. Chief Executive Officer's Report
8. Treasurer's Report
9. Audit of 2013 financial statements
10. Director of Governmental Affairs and Special Projects' Report
11. Director of PSD's Report
12. Approval of updated 2014 budget
13. Massage school presentations

14. Closed Session with CAMTC Legal Counsel Pursuant to California Government Code Section 11126(e).
15. Policy on citations and arrests for practicing without a permit or certification
16. Board of Directors - Standard operating procedures:
 - a. Minimum background information to be provided to the Board prior to consideration of a policy change.
 - b. Information to be provided to certificate holders and when.
 - c. Protocol for posting approved minutes.
17. Closed Session regarding the appointment, employment, evaluation of performance, or dismissal of an employee pursuant to California Government Code Section 11126(a)
18. Return to open session and announce action taken in closed session, if any, under item 17
19. Future agenda items and scheduling next meeting
20. 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>.



2014 Legislation Affecting Business and Professions Code 4600 et seq.
The California Legislature is in the second year of a two year session.

AB 1147 (Gomez) – CAMTC’s position - Support.

This bill was introduced in 2013. As currently amended it will require all applicants for certified massage practitioner to pass a recognized national examination.

AB 1747 (Holden) – CAMTC’s position - Oppose Unless Amended. This bill was introduced in February 2014. As amended March 28, 2014 it will:

- Subject CAMTC records to the Public Records Act
- Require massage schools to notify students if CAMTC has unapproved the school
- Require that CAMTC notify the city or county that a certificate holder works in if it revokes the persons’ certification.
- Change the section that allows cities and counties to charge a business license fee that is no higher than the lowest fee applied to other professional services, to “average” fee
- Changes the requirement that allows land use restrictions that are “uniformly” applied to all other individuals and businesses providing professional services, as defined in Section 13401 of the Corporations Code by deleting “uniformly”
- Deletes the prohibition on requiring locked doors when there is no staff available to protect the privacy and safety of the public and therapist.
- Amends Government Code Section 51030 to allow cities and counties to require “massage business licenses”. Adds various operating provisions.

AB 1904 (Bonilla) –CAMTC has no position at this time

- Requires certificate holders to inform CAMTC of their primary email including any change to it.

AB 2739 (Bonilla) CAMTC has no position at this time.

This is the Sunset bill. As currently drafted, this bill extends the Sunset of Business and Professions Code Section 4600 et seq to January 1, 2019. This bill is expected to be heard in committee on April 29th. The language will be published the week prior to the hearing.

To subscribe for updates on these bills go to:

- www.leginfo.ca.gov Click on Bill Information.
- Search by either keyword of massage or bill number.
- From the next screen you can Subscribe to receive email updates



April 9, 2014

From: CAMTC Staff

To: CAMTC Board

Re: Joint Senate and Assembly Business and Professions Committee Background Paper for the California Massage Therapy Council

In response to CAMTC's Sunset Report, the Committee issued a "Background Paper for the California Massage Therapy Council," which identified 20 issues that they would like CAMTC to address. Following this report, please find the Committee's Background Paper. Some of the 20 issues raised in the Background Paper require Board consideration.

Issue 1: Should CAMTC be required by statute to maintain a specific monetary reserve, such as 3 to 6 months?

Staff Recommendation: CAMTC should not be required by statute to maintain a minimum monetary reserve.

Staff Analysis: CAMTC needs to have the financial flexibility to roll out new programs without having to raise fees. CAMTC receives funds in a cyclical manner due to the cycle of re-applications and payment of fees. CAMTC would not want to be in the position where it would have to raise fees in order to address a dip in its funding and satisfy a statutory requirement, when that dip is based merely on the cycle of fee payments. The

Board has demonstrated a high level of fiscal acumen and it is important to give CAMTC the ability to have appropriate reserves at different times for different purposes.

Issue 2: Should the fees for certification and recertification be capped in statute?

Staff Recommendation: The fees should not be capped in statute.

Staff Analysis: Fees have not been raised in five years and it is also not anticipated that they will be raised any time in the near future. CAMTC's statute currently requires that fees be reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties. CAMTC also faces market pressures in that applicants will choose to go elsewhere if the fee becomes unreasonable. The average fee charged by cities for a local permit is \$482 for two years, versus the CAMTC certification fee of \$150 for two years. CAMTC currently does not have unfettered discretion in relation to its fees and does not believe that a fee cap in statute is necessary. Such a cap would take away CAMTC's flexibility to potentially increase fees when needed, requiring it to go through a lengthy process.

Issue 3: Should CAMTC continue the practice of granting fee waivers for oral hearings and consideration of written statements? Is it appropriate to charge a fee for hearings?

Staff Recommendation: Continue this practice.

Staff Analysis: CAMTC fees for hearings are analogous to court filing fees. They are meant to cover a portion of the administrative costs for oral hearings and consideration of written statements. It is a matter of fairness to impose these fees only on those individuals that require these services. CAMTC currently grants fee waivers to indigent individuals just like courts do. This is also a matter of fairness. CAMTC would not want an indigent individual to be unable to have an oral hearing or consideration of a written statement due to an inability to pay.

Issue 4: The Committee raised a number of issues here, each of which will be addressed in turn.

Issue 4 - Part 1: Should the CMP tier be phased out?

Staff Recommendation: No action needs to be taken on this issue as the Board has already voted to phase out the CMP tier.

Issue 4 - Part 2: Should a 100-hour core curriculum requirement such as is currently applied to CMPs also be imposed on CMTs?

Staff Recommendation: Yes.

Staff Analysis: Not requiring the same core curriculum for both tiers (100 hours in specified core requirements which include instruction in anatomy and physiology, contraindications, health and hygiene, and business and ethics) was an oversight in the original language. All certified massage professionals should have basic education in these specified subjects.

Issue 4 - Part 3: Should the statute be changed to require that all 500 hours of education for a CMT take place at only CAMTC approved schools, or should the current practice of allowing 250 hours at one or more approved schools and 250 hours in continuing education be preserved?

Staff Recommendation: Staff recommends that the Board take another look at this issue.

Staff Analysis: On September 19, 2013, the Board approved a motion to maintain the portal for qualification as a CMT with 250 hours of education at CAMTC approved schools and up to 250 hours of continuing education.

This issue warrants reconsideration by the Board. Committee staff has recommended that all 500 hours of entry level education be provided by approved schools.

The ability to qualify for CMT with 250 hours in approved schools and another 250 hours of continuing education is scheduled to sunset in December 31, 2015. When the Sunset date was changed from December 2015 to December 2014, the Sunset date for this provision was not also moved up a year. By the end of 2015, schools will have had almost six years to make any adjustments to their curriculum.

The ability of CMT applicants to apply with up to 250 hours of approved continuing education has been a challenge to staff. Current statute states:

BPC 4601 (c)(2) (A): He or she 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 hours shall be from approved schools. The remaining 250 hours required may be secured either from approved or registered schools, or from continuing education providers approved by, or registered with, the council or the Department of Consumer Affairs. After December 31, 2015, applicants may only satisfy the curricula in massage and related subjects from approved schools.

There is no longer a category of registered schools. CAMTC's Board has only approved CE's by NCBTMB approved providers. The major issue with this is that NCBTMB does not keep records of attendance at workshops by approved providers. Typically, a certificate of attendance is the only proof that the attendee has. For a workshop taken years ago, especially by someone who is no longer a provider, there is generally no way to confirm that the person presenting the certificate of attendance actually attended such a workshop. In contrast, when an applicant presents a certificate of attendance from a school that has closed, CAMTC staff can generally compare it to the certificates and/or transcripts of other applicants. It is not uncommon for an applicant to allege that they have obtained more hours at a closed school than the school ever taught. Usually CAMTC staff can verify the facts of the matter via information from multiple sources. No such system exists for old CE providers.

Furthermore, CAMTC staff is often put in a position of determining which subjects should be considered appropriate entry level massage education. For instance, the NCBTMB currently approves such subjects as: "Meditations for Soul Realization," "Spirit Guides: Shapeshifting," "The Emotional Tune-up and self love cure," "A Yogic Model for personal development and leadership in Challenging times," "Law of Attraction," "Esogetic Colorpuncture Crystal Therapies," "Soul Collage," "Seasonal Detox," "Angelic Connections," and "Angelic Guides with You" - all of which may be interesting classes

but of questionable relevance to prepare a student for basic entry level massage skills and knowledge.

Additionally, CAMTC staff has had to evaluate CE's approved by other DCA Boards. In one case, the applicant presented CE's in advanced use of electronic diagnostic protocols for licensed occupational therapists. The individual, who was trying to apply the class to a CCMP, expected that the class, approved by the Occupational Therapy Board under the DCA, would be approved for massage CE's.

One of the arguments made for retaining this portal is that many older massage professionals who have less formal education than is common today, but significant hours in CE's, will still be able to certify. However, it is the experience of staff that the vast majority of these older professionals do not have the 250 hours required to qualify under this portal anyway.

Issue 4 - Part 4: Should education grandfathering provisions be reinstated?

Staff Recommendation: No.

Staff Analysis: CAMTC staff does not believe that there is a need to reinstate a "grandfathering" provision. By 2015 there will have been six years to apply for certification. A few cities that have passed their first ever massage ordinances that require certification, such as Visalia and Petaluma, have provided their own grandfathering provisions for long time massage professionals in their cities who missed the previous grandfathering periods. Most of the recent requests for recognition of old credentials have been from individuals who attended minimal training programs decades ago and have not practiced in years, but are considering re-entry into the profession. Many of them eventually choose to increase their education.

Issue 5: Should CAMTC be required to query applicants on the National Practitioner Data Bank as part of the certification process?

Staff Recommendation: No.

Staff Analysis: Only licensed health care providers are required to report to the National Practitioner Database (NPDB). There is a high cost associated with sending a query to the NPDB, therefore States that require it generally require the applicants to pay these fees themselves. Because only licensed health care providers are required to

report to the NPDB, it contains very little information on massage professionals. The need for an accessible and relevant database for massage professionals is the reason that the Federation of State Massage Therapy Boards (FSMTB) developed the Massage Licensing Database (MLDB). The Federation's database design came about from this issue of expense versus accessibility.

Florida does not require massage therapists to send a self-query to the NPDB. However, they do require a number of other professions to submit a request for a self-query to the NPDB then send the self-query to the licensing board (FL DOH). Applicants bear the cost of the self-query. Florida DOH does not bear any of the NPDB query cost. Due to the cost of querying NPDB, Missouri does not use the NPDB when reviewing applications for licensure. Missouri is a mandated reporter to NPDB because the licensure law defines a massage therapist as a health care practitioner.

Issues 6 and 7: Should CAMTC provide for the voluntary registration of establishments and non-certified owners?

Staff Recommendation: The Board has already voted on this issue, so it does not need to be addressed.

Issue 8: Should current penalties for forgery or fraud of certificates and ID cards be increased?

Staff Recommendation: We are not seeing issues with forgery or fraudulent certificates or ID cards and therefore don't believe such a change is necessary, but staff would not oppose an increase in penalties, if the Committee chooses to propose such an amendment.

Staff Analysis: CAMTC staff has seen very few instances of fraudulent certificates or ID cards. For the ones we have seen, the fact that the certificates or ID cards were fake was readily apparent. The fact that status as a certificate holder can be verified online helps to curtail this potential problem. While staff doesn't believe that this is an issue, it would not oppose an increase in penalties for fraud or forgery.

Issue 9: Clarification to the Committee on policies and procedures for reviewing criminal and background issues and criteria for denial or discipline.

Staff Recommendation: This is an informational request only, and no Board vote is required.

Issue 10: Should CAMTC's statute be amended to improve information sharing by local government agencies with CAMTC?

Staff Recommendation: Committee staff has recommended that CAMTC's statute be amended to require local agencies to share information with CAMTC. Staff would not oppose statutory changes that would result in additional sharing of information by local government agencies with CAMTC.

Staff Analysis: Business and Professions Code section 4602.5(b) currently provides that local law enforcement agencies are authorized to share information with CAMTC upon CAMTC's request. If Committee staff recommends statutory changes that would result in the additional sharing of information by local government agencies, CAMTC would support that. Additional information sharing may increase CAMTC's ability to deny applicants or impose discipline on certificate holders.

Issue 11: The Committee raised a number of issues here, each of which will be addressed in turn.

Issue 11 - Part 1: Should enforcement timelines be added to CAMTC's statute?

Staff Recommendation: No.

Staff Analysis: CAMTC would not want to see statutory enforcement timelines imposed as this has the potential to take away CAMTC's ability to investigate and prosecute complex cases. The imposition of an enforcement timeline may negatively impact public protection if this were to happen. If deadlines are imposed, complex cases that couldn't be completed by the deadlines might be forfeited. In real terms, applicants and certificate holders who have committed criminal acts, including sexual assaults, might

obtain or maintain their certificate simply because the denial or revocation process couldn't be completed fast enough (often due to delays by cities and law enforcement).

Issue 11 - Part 2: Should the statutory definition of unprofessional conduct be changed to include gender discrimination?

Staff Recommendation: No.

Staff Analysis: CAMTC does not believe that gender discrimination needs to be added to the statute as a basis of unprofessional conduct. Staff supports the right of massage businesses to market their businesses in whatever way they see fit, including women only spas.

Issue 11 - Part 3: Should CAMTC be added to the DOJ Authorized Agency list?

Staff Recommendation: Yes, if possible, since this is a defunct list.

Staff Analysis: Some cities are refusing to provide information to CAMTC since it is not on the DOJ "Authorized Agency" list. According to the DOJ, this list is not maintained and has not been maintained since 2008, which is prior to when CAMTC began certifying individuals. CAMTC meets the qualifications of a DOJ authorized agency and has since it began accepting applications in 2009, but it has not been added to the "Authorized Agency List" since the DOJ stopped maintaining this list in 2008. If it is possible to get CAMTC added to this defunct list, it would address this argument by cities.

Issue 11 - Part 4: Should the definition of unprofessional conduct be expanded to include engaging in sexual activity on the premises of a massage establishment (residences excluded), engaging in sexual activity while providing massage for compensation, engaging in sexually suggestive advertising related to massage, or advertising in any adult form of media for massage services?

Staff Recommendation: Yes.

Staff Analysis: The current statutory definition of unprofessional conduct does not explicitly include engaging in sexual activity on the premises of a massage establishment (residences excluded), engaging in sexual activity while providing massage for compensation, engaging in sexually suggestive advertising related to massage, or advertising in any adult form of media for massage services. Staff believes that the addition of the previously noted bases to the definition of unprofessional conduct would help to clarify the reasons for proposed denial, help to keep illegitimate practitioners from entering the profession, and provide an additional way for certificate holders that engage in these practices to be disciplined. This would be a strong step towards addressing the issue of illicit practitioners.

Issue 12: Should additional operational procedures and bios for Board members be added to the website?

Staff Recommendation: Yes.

Staff Analysis: Adding Board member bios to the website helps to inform the public of the qualifications of Board members. Staff is open to providing additional operation procedures on the website.

Issue 13: Should CAMTC webcast or record its Board meetings?

Staff Recommendation: The cost to webcast meetings is prohibitive, so staff does not recommend it.

Staff Analysis: CAMTC already operates with a significant amount of transparency. Its meetings are open to the public; agendas, dates and location of meetings are posted on the website; there is always an opportunity for public comment at meetings; and meeting minutes and votes on issues are posted on its website. Staff has looked into the cost to webcast its meetings and it is prohibitive. For example, Northwestern University provides webcasting rates from \$5,500 - \$6,640 per day, not including travel time or expenses. CAMTC does not want to increase fees to cover these additional costs. The Board may decide to webcast meetings in the future, but should have the flexibility to make that decision instead of having it set in statute.

Issue 14: Customer surveys.

Staff Recommendation: This is an informational request only, and no Board vote is required.

Issue 15: Salary standards.

Staff Recommendation: This is an informational request only, and no Board vote is required.

Issue 16: Should CAMTC actively approve massage schools?

Staff Recommendation: Staff recommends that CAMTC create a program to actively approve massage schools. Staff further recommends that should the Board agree with this suggestion, that it direct staff to look into the issue and report back to the Board at the June meeting with a detailed suggestion on how to implement this new program.

Staff Analysis: In 2012 CAMTC gained the clear statutory authority to actively approve and unapprove massage schools. CAMTC therefore focused on addressing the schools that were the most egregious bad actors first. Now that it has unapproved a significant amount of schools, staff agrees that focus should be shifted towards creating and implementing a program to actively approve schools. This is a significant task and therefore staff recommends that it report back to the Board in June with a more concrete plan regarding how to implement the approval of California massage schools.

Issue 17: The Committee raised a number of issues related to Board composition, each of which will be addressed in turn.

Issue 17 - Part 1: Board Composition Issues - Should the total number of Board members be reduced? Should the appointment powers for the Board be placed with the Governor, Speaker of the Assembly, the Speaker Pro Tempore or the

Senate Rules Committee? Should the Board be required to be comprised of a substantial number or even majority of public members?

Staff Recommendation: Staff does not recommend that any changes to Board structure or appointments be made in statute.

Staff Analysis: While CAMTC's Board is large, it operates very effectively. There is no reason to reduce the size of the Board, unless Board size is standing in the way of efficient operations. That is not the case here. CAMTC's Board is not hampered by its size. Instead it is enhanced by the varied opinions the Board members bring to the table. CAMTC's power is derived from its very active and engaged Board members, who are passionate about the issues that the industry faces. Staff does not believe that appointment powers should be placed with political entities but believes that the reason it has such an engaged and active Board is because Board members all have an interest in the industry. Staff believes that the Board itself should retain the flexibility to appoint additional Board members as needed to address current issues.

Issue 17 – Part 2: Should rigorous Board member training be required?

Staff Recommendation: This issue is for information purposes only.

Staff Analysis: Staff is open to providing additional Board training, but does not believe that this issue needs to be addressed in statute.

Issue 17 – Part 3: Should a representative of local government and a representative of law enforcement be required on the Board?

Staff Recommendation: Staff does not believe that additional Board member appointments need to be added to the statute. Staff does recommend that the Board vote to create a local government and law enforcement agency advisory committee to improve communication with representatives of local government and law enforcement.

Staff Analysis: CAMTC's law already provides for local government representatives [League of California Cities (Bus. & Prof. Code section 4600.5(b)(1)(B)) and California State Association of Counties (Bus. & Prof. Code section 4600.5(b)(1)(C)).] CAMTC

currently counts the Chief of Police for South Pasadena as a Board member, and in the past his Board seat was occupied by the Deputy Chief of Police for San Mateo. Staff does not believe that a statutory requirement for additional appointments of board members, one from local government and one from law enforcement, is necessary. Staff believes that the Board needs to maintain the flexibility to appoint additional Board members as needed to address current issues. The current structure is working.

Staff does recommend that the Board create a local government and local law enforcement advisory committee to provide input to the Board on issues that concern local government and local law enforcement.

Issue 17 – Part 4: Should a California residency requirement be imposed?

Staff Recommendation: Staff has no recommendation on this issue, and leaves this matter up to the Board.

Issue 18: Data collection and reporting.

Staff Recommendation: This is an informational request only, and no Board vote is required.

Issue 19: Should the pre-emption of local control contained in Bus. & Prof Code section 4612 for businesses that use only CAMTC certified professionals be modified to provide a better balance between fairness for certified massage professionals and control by local government?

Staff Recommendation: Yes.

Staff Analysis: The statutory pre-emption in 4612 needs to be re-evaluated and modified, so long as any proposed legislative change doesn't create a public safety issue or discriminate against certificate holders.

Issue 20: There are a number of issues related to the continuance of CAMTC, each of which will be addressed in turn.

Issue 20 – Part 1: Should CAMTC be dissolved and reformed as a state licensing board, should the industry be completely de-regulated, or should CAMTC continue to operate in its current form?

Staff Recommendation: The Board has already voted to maintain its current structure, so no vote is required on this issue.

Issue 20 – Part 2: Should the continuation of CAMTC be done with a two-year Sunset date?

Staff Recommendation: CAMTC is always happy to come in front of the Committee whenever they want to discuss its current status, but believes the Committee should consider the limitations inherent in such a short time frame.

Staff Analysis: Staff believes that a two-year Sunset date would not be a sufficient amount of time for the Committee to see any progress. Sunset is an 18 month process, and if CAMTC is granted an extension of only two years, it will be required to begin drafting and file a Sunset report at approximately the end of October or beginning of November in 2015, which is only approximately 10 months after any statutory changes have become effective. Staff does not believe that this is sufficient time to get an adequate sense of how newly implemented programs are working. Staff recommends an at least 5 year time period. If the Sunset period is made less than five years, staff recommends that the Sunset review be done on a non-election year, so that it may be more productive.

Instances of certificate holder discipline take priority, with issues related to recertification of expired certificate holders taking second priority, and denials of applicants taking third priority. The reason for this prioritization is that certificate holders are practicing pursuant to a CAMTC certificate and determining whether they are a threat to public safety, and removing certification if they are determined to be a threat, is top priority. Complaints received alleging rape, sexual assault, or sexual battery by certificate holders are given highest priority and expedited through the disciplinary system.

Expired certificate holders who are requesting recertification are the second priority since they have practiced their profession pursuant to a CAMTC certificate and are waiting to continue practicing pursuant to a new certificate.

New applicants are the third priority since they have not yet attained certification and therefore are less of a direct threat to public safety. Currently, CAMTC is not subject to any mandatory reporting requirements. CAMTC does not operate within a statute of limitations, and there is no Board policy on statute of limitations. CAMTC reports that no cases have been lost due to statute of limitations issues.

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

This is CAMTC's first sunset review; therefore there are no prior issues to address.

CURRENT SUNSET REVIEW ISSUES FOR THE CALIFORNIA MASSAGE THERAPY COUNCIL

The following are issues pertaining to CAMTC and other areas of concern for these Committees to consider, along with background information concerning the particular issues. There are also recommendations made by the Assembly Business, Professions and Consumer Protection Committee and the Senate Business, Professions and Economic Development Committee staff regarding specific issues or problems which the Committees may wish to address. CAMTC and other interested parties, including representatives of the profession itself, have been provided with advance copies of this Background Paper and may respond to the issues and staff recommendations made herein.

BUDGET ISSUES

ISSUE #1: (RESERVES: LONG TERM FUND CONDITION.) Should CAMTC be statutorily required to maintain a specific reserve?

Background: CAMTC reports that it ended 2012 with a cash reserve balance of \$1,643,701, or approximately 6.8 months of operating cash. Estimates provided by CAMTC anticipate \$1,940,000 or 6.2 months of operating cash at the end of 2013. Because CAMTC is a voluntary nonprofit rather than a board, there is no mandated reserve level for CAMTC. However, the DCA Budget Office has historically recommended that smaller programs maintain a contingency fund of approximately three months. Maintaining an adequate reserve provides CAMTC with a reasonable contingency fund so that it has the fiscal resources in the future to absorb any unforeseen costs, such as major enforcement actions or other unexpected client services costs.

Staff Recommendation: *While there is no current indication of financial difficulty, the Committees may wish to discuss whether or not CAMTC should be required by statute to maintain a minimum*

operating fund reserve, such as 3 or 6 months, similar to other Boards, Bureaus and Committees under the jurisdiction of the DCA.

ISSUE #2: (LIMITS ON FEES.) Should the application and recertification fees be capped in statute?

Background: According to current CAMTC projections, it will remain financially solvent for the foreseeable future. Both the \$150 certification and recertification fee have not been increased since CAMTC's inception, and it has no immediate plans to increase or reduce fees.

According to BPC 4600.5(c) and its own bylaws, the Board is permitted to establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties. Initial and renewal fees are determined by the Board annually. It is unclear what the current process is for the Board or the designated committees to review and set the fees for initial certification and renewal.

Many of the regulated entities under the jurisdiction of DCA are subject to a statutory fee cap which can only be raised by an action of the Legislature. For example, BPC 2688 pertaining to the practice of acupuncture specifies that the fees for initial application, licensure and renewal for a licensed acupuncturist are capped by statute at \$75 and \$325, respectively.

Staff Recommendation: *The Committees may wish to discuss whether or not a statutory cap on certification and recertification fees would help provide greater fee certainty for the profession in the future. In addition, CAMTC should update the Committees as to its standards, processes, and its calculation of the reasonable costs of certification and recertification in order to ensure that fees are as low as is reasonably possible.*

ISSUE #3: (FEE WAIVERS FOR ORAL HEARINGS.) Should CAMTC continue the practice of granting indigent fee waivers for oral hearings?

Background: According to BPC 4600.5 (c), the Board is permitted to establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties. Under its own interpretation of this provision, the Board established a fee for oral hearings and for consideration of written statements for applicants who have been denied or certificate holders who have been disciplined. The initial fee for an oral hearing was set at \$95 and the fee for consideration of a written statement was \$65. Those fees were raised on September 13, 2013, to \$135 and \$90 respectively.

CAMTC states that it provides a fee waiver for "indigent" individuals who have been able to prove his or her inability to pay the fee. Those individuals seeking a fee waiver are required to submit the "Waiver of a Filing Fee" form found on CAMTC's Web site. Since fee waivers were initially offered in January 2012, 57 individuals have been granted a fee waiver.

Staff Recommendation: *The Committees may wish to discuss whether or not charging a fee for due process procedures is appropriate, and if so, how the fee amounts compare with other Boards and Bureaus under DCA.*

CERTIFICATION ISSUES

ISSUE #4: (CERTIFICATION TIERS.) Should CAMTC phase out the Massage Practitioner Certification Tier? Should all applicants for certification be required to obtain 500 hours of education at one or more approved schools in addition to the passage of an examination? Is there a need to reinstate a 'grandfathering' provision for those already in practice?

Background: Massage professionals in California can obtain one of two certification levels: Certified Massage Practitioners are required to complete at least 250 hours of education and training, while Certified Massage Therapists are required to complete at least 500 hours of education and training, or complete 250 hours of education and training and pass an examination.

BPC 4601 specifies that of the 250 hours of educational requirements for a Certified Massage Practitioner, 100 hours must be in the instruction of anatomy and physiology, contraindications, health and hygiene, and business ethics. The current law permitting the certification of a Certified Massage Practitioner is scheduled to repeal on December 31, 2015. Those individuals who hold Certified Massage Practitioner certifications will continue to be eligible to apply for recertification without meeting any additional educational requirements or needing the passage of an examination.

Currently, recognition as a Certified Massage Therapist requires 500 hours of education, while only 250 of those hours need to be obtained from a CAMTC approved school. The remaining 250 hours of education needed for certification may be obtained from any approved school or from a continuing education provider approved by DCA. This certification pathway was implemented as a grandfathering provision to provide schools with the opportunity to revise and update their massage therapy programs to meet a 500-hour program (the minimum level required by many states). After December 31, 2015, applicants seeking certification as a massage therapist will be required to obtain all educational hours from CAMTC-approved schools. The opportunity to obtain 250 hours of education needed for certification from continuing education providers will no longer be permitted. According to CAMTC, the rationale for closing this pathway to certification is to help assure that applicants receive a well-rounded educational foundation before entry into the massage profession. Because CAMTC does not regulate or approve continuing education providers or courses as it approves massage therapy programs, this transition ensures that all applicants are meeting the necessary educational requirements needed for certification.

Additionally, the educational requirements for Certified Massage Therapists do not require instruction in specified core competency areas such as physiology and anatomy, or contraindications as is required of Certified Massage Practitioners. As stated by CAMTC, this may have been an oversight and should be addressed.

AB 1147 (Gomez) of 2013 would require an applicant to become a Certified Massage Practitioner to pass a massage and bodywork competency examination approved CAMTC. The effect of this measure would require applicants seeking certification to fulfill the same educational and examination standards that are currently required for certification as a Certified Massage Therapist. This bill passed the Assembly Business, Professions and Consumer Protection Committee on January 21, 2014, (11-0) and passed out of the Assembly on January 27, 2014 (68-1). This measure is currently pending in the Senate Business, Professions and Economic Development Committee.

It is unclear at this time if local governments differentiate in their regulations between the two levels of certification (practitioner or therapist). Because massage practitioners and massage therapists are permitted to provide the same services, it is unclear if the different practice titles provide any meaningful information to consumers.

Staff Recommendation: *The Committees may wish to discuss the possibility of requiring a Certified Massage Therapist to obtain 100 hours of instruction in anatomy and physiology, contraindications, health and hygiene, and business ethics within the currently required 500 hours, as is currently required for Certified Massage Practitioners.*

The Committees may also wish to consider removing the second-tier pathway for certification as a Certified Massage Practitioner beginning January 1, 2015, and instead require all applicants for certification to complete 500 hours of Board-approved education and training, in addition to the completion of a Board-approved national examination.

Additionally, CAMTC should update the Committees on any need to continue or reinstate a grandfathering provision for those massage therapists who have already been in practice but did not obtain certification prior to 2013.

ISSUE #5: (NATIONAL PRACTITIONER DATA BANK.) Should CAMTC be required to seek out additional background information on certification applicants?

Background: An issue raised in CAMTC's Sunset Review Report 2013 is that CAMTC does not report to or query the National Practitioner Data Bank (NPDB) to verify past disciplinary actions reported in other states.

Many of the healing arts boards under the jurisdiction of DCA currently utilize the NPDB to report disciplinary actions against licensees. In addition, many of those boards query the system before issuing a license to determine if an applicant has had any disciplinary action taken against them in another state. The NPDB "is primarily an alert or flagging system intended to facilitate a comprehensive review of the professional credentials of health care practitioners, health care entities, providers, and suppliers; the information from the Data Bank should be used in conjunction with, not in replacement of, information from other sources." Because numerous other states have licensure requirements and state regulations for the massage therapy profession, there is a high probability that massage regulators in other states report disciplinary actions to the NPDB. Currently, CAMTC does not utilize NPDB to seek out or report disciplinary actions.

CAMTC states that a separate national massage practitioner database is currently in beta testing and is scheduled to be operational by early 2014. The proposed database is a project of the Federation of State Massage Therapy Boards (FSMTB). According to CAMTC, this new database will be available only to state certification and licensing boards with jurisdiction over massage professions. Although it is separate from the NPDB, once available, the massage practitioner database should be able to help determine if there are unreported criminal records or administrative disciplinary actions in other states, and may also help identify problems with schools if their graduates produce a disproportionate number of disciplinary cases.

According to the FSMTB, "In 2012, FSMTB began initial development of a Massage Therapy

Licensing Database (MTLD). The purpose of the database is to provide licensee information in a uniform system to assist member boards and agencies in their role of public protection. The MTL D was conceptualized to assist FSMTB member boards with their regulatory mission and will include current and accurate licensing information on licensed massage therapists. The database is designed to provide license information specific to each participating FSMTB member board and their licensees and will potentially be a central repository of massage therapy licensees, establishments and schools. MTL D will also have the ability to provide primary source verifications to another state or jurisdiction to validate training and credentials of massage therapy practitioners, as well as confirm details of any public disciplinary actions that have been initiated and/or taken. The following types of licensee identifying and examination information are being considered for the massage therapy licensing database: Licensee Identifying Information; Examination Information; License Information; Licensure Verifications; and, Disciplinary Action Record."

Staff Recommendation: *The Committees may wish to discuss requiring CAMTC to query the NPDB as part of its vetting of applicants for certification. In addition, when the national MTL D is operational, the Committees may wish to consider requiring CAMTC to query the MTL D for applicants for certification as well.*

ISSUE #6: (BUSINESS REGISTRATION.) Should CAMTC certify or regulate massage businesses or establishments?

Background: Currently, CAMTC does not certify or regulate massage businesses. According to statute, businesses claiming to use only certified massage professionals are exempt from certain local regulation, but are not otherwise regulated by CAMTC because CAMTC only certifies the individual and not the business. In practice, this means that local jurisdictions and CAMTC have less oversight of or information regarding massage businesses than the individual practitioner.

Many local governments have expressed concern over what they perceive as the growing number of massage businesses within their local jurisdictions, in part because they feel they are restricted in their ability to regulate certain massage businesses that utilize only CAMTC certified individuals. In addition, local governments have also expressed concern that, in conjunction with the growth of massage businesses, some of those businesses may be fronts for illicit activity, including prostitution and human trafficking.

According to information from the League of California Cities, "[a]nother problematic issue for cities is that certification only follows the individual employee and not the owner of the business itself. If law enforcement executes a raid on a business that is using a certified massage therapist that participates in an illicit activity, then CAMTC has the authority to revoke the certification of the individual. Unfortunately, the business itself can continue to operate. The League contends that certification requirements should include the business itself. Establishment owners share the responsibility to ensure that all aspects of the business are legitimate. Several jurisdictions require massage establishments to register the business in order to obtain a business license. After that, cities spend an inordinate amount of time, money and resources to establish a track record of compliance associated with massage establishments. By the time these jurisdictions move to revoke the business license, the owner of the less than legitimate business changes ownership of the massage establishment, requiring the jurisdiction to start over from square one."

As city regulations vary greatly by jurisdiction there is limited statewide data available to identify the number of massage businesses in each local jurisdiction that are providing massage services. Because there is no comprehensive statewide data, it is difficult to determine what types of massage businesses are increasing, i.e, sole proprietors, family-owned, massage schools, cosmetologist or esthetician offices, physical therapy or chiropractor's office (all of these businesses are permitted to perform some form of massage therapy as part of their scope of practice). Because CAMTC only regulates the certificate holder and not the businesses, no one entity can provide an accurate estimate of massage businesses in California.

CAMTC claims that many jurisdictions that initially resisted the new law now recognize that CAMTC does a better job at evaluating applicants at a cost savings to the city or county. They also contend that there are increasing requests from city attorneys, police, and code enforcement officers for CAMTC to regulate establishments in addition to the individual practitioners. As with the certification of individuals, CAMTC might identify indications of illegal activity that an individual jurisdiction might miss, such as when an owner has had action taken against a business in another city or county. It also has more latitude in denying applications and imposing discipline than would a local government.

If CAMTC were permitted to certify or register a business, it would offer local jurisdictions and local law enforcement professionals the opportunity to more easily identify businesses or establishments that have undergone some type of formal review process by CAMTC, particularly those eligible for statutory preemption from certain land use authorities because they employ only CAMTC certified professionals. Additionally, a business or establishment registration or certification would be eligible for denial, suspension or revocation for specified unprofessional conduct and other reasons as to be determined by CAMTC and other stakeholders, making it more difficult for improperly managed businesses to remain in operation.

Staff Recommendation: *The Committees may wish to discuss the merits of registering massage businesses themselves, and may wish to inquire of CAMTC how it might implement a business registry, and what additional level of resources it might require, including fees for registrants.*

ISSUE #7: (BUSINESS OWNER AND OPERATOR REGISTRATION.) Should CAMTC certify or regulate massage business owners and/or operators?

Background: As noted above, CAMTC certification only applies to the individual employee of a massage business, not the business itself or its owner or manager. BPC 4612(c) states that an owner or operator of a massage business or establishment who is certified is responsible for the conduct of all employees or independent contractors working on the premises of the business. Failure to comply with those provisions may result in revocation of the owner's or operator's certificate. However, if that owner or operator does not provide massage services, then any revocation would not affect that business' preemption from certain local government land use authorities under BPC 4612(b), and the business could continue to operate with the non-certificated owner/operator and still enjoy the preemption as before.

Additionally, BPC 4612(e) specifies that a city, county, or city and county can require a background check of an owner or operator of a massage establishment who owns 5% or more of a massage business or massage establishment and who is not certified.

The background check may include a criminal background check; submission of fingerprints for a state and federal criminal background check; an application that requires the applicant to include information about the applicant's business, occupation, and employment history for the 10 years preceding the date of the application; the inclusive dates of the 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.

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, the local jurisdiction may regulate that establishment in any manner it deems proper that is in accordance with the law. While many cities may be utilizing the background check provisions for owners, they are unable to require a similar background check for operators, because most operators do not meet the 5% threshold of business ownership that appears to be required by existing law. If a certificate holder has engaged in unprofessional conduct, CAMTC can take the appropriate action against their certificate, but if a non-certified operator (i.e., a manager who does not perform massage services) has engaged in unprofessional conduct, CAMTC does not have enforcement authority to penalize that individual or the business, and the business may retain its preemption.

Expressly authorizing CAMTC to provide an owner or operator certification, and requiring owner/operator certification as a precondition to the land use authority preemption, would provide consumers and local jurisdictions with an increased layer of protection from unscrupulous owners or operators. In practice, owners and operators could be required to meet certain standards for registration, such as hours of education on specified topics and passage of a background check, or other requirements as determined by CAMTC and the appropriate authorities.

Staff Recommendation: *The Committees may wish to consider establishing a certificate program for an owner or operator of a massage business, and requiring a certificated owner/operator at the establishment as a prerequisite for preemption. The Committees may also wish to inquire of CAMTC what level of education and training might be appropriate for an owner/operator certificate. Finally, the Committees may wish to clarify the ownership requirements related to the background check so that they apply to all non-owner operators.*

ISSUE #8: (CERTIFICATE FRAUD). How does CAMTC prevent the creation of fraudulent certificates? What steps does CAMTC take to ensure the integrity of legitimate certificates and identification cards?

Background: CAMTC reports that AMG is the responsible entity for administrative services and serves as CAMTC's corporate headquarters. AMG is responsible for the processing and distribution of CAMTC certificates. According to CAMTC, in January 2013 AMG began printing certificates in-house (meaning at the AMG office location), with the certificates and identification cards being secured behind two locked doors and a locked cabinet, with a video camera that records all those who enter the office. Prior to 2013, certificates were housed and printed at an undisclosed facility with unknown security measures.

The integrity of certificates is an important element of fraud prevention for CAMTC, local law enforcement and local jurisdictions to ensure that those individuals with a certificate have met the appropriate background and educational requirements. According to information provided by CAMTC

legal counsel, CAMTC is aware of only one documented case of an altered CAMTC certificate. The altered certificate was readily apparent and the certificate was confiscated by the potential employer and turned over to CAMTC. Although the individual was not certified by CAMTC at the time of the incident, when the individual later applied for certification, CAMTC was able to deny the application based on the fraudulent conduct pursuant to BPC 4603(b), which explicitly authorizes CAMTC to deny certification to an applicant who has procured a certificate by fraud, misrepresentation or mistake.

CAMTC has been told by local law enforcement that in a few instances they have seen altered identification cards. However, according to AMG "no one has ever forged a certificate and identification cards that has come close to the quality or secure features we add to our certificate and cards and thus forged documents can be easily spotted. "

Staff Recommendation: *CAMTC should update the Committees as to how it ensures the safety and integrity of the certification process and the certification material, including identification cards. In addition, the Committees may wish to inquire of CAMTC as to whether or not current penalties for forgery or fraud are sufficient to deter wrongdoing.*

ISSUE #9: (APPLICANTS WITH BACKGROUND ISSUES.) What is the current processing time for applicants with criminal records or background check issues? How does CAMTC ensure that applicants with background issues are qualified for certification?

Background: CAMTC reports that for applicants with criminal histories or background issues, an investigation must be performed: evidence must be gathered, compiled, and reviewed before a decision to propose a certificate denial can be made. Individual are notified of certification denial by a mailed letter of proposed denial. CAMTC states that these investigations can be resource intensive and can take a significant amount of time to complete, especially when CAMTC needs to receive information and evidence from third parties such as cities and law enforcement agencies.

CAMTC reports that the processing time for applications without any background or educational discrepancies is approximately seven days. Applications with educational issues only that require additional review by the Professional Standards Division are sent on a monthly or bi-monthly basis, and applicants may be provided with additional time to submit supplemental information (approximately 90 days) with a hearing date scheduled approximately 120 days after the issuance of the letter. According to CAMTC, applicants with background issues that are not based merely on education (such as criminal convictions or potential instances of unprofessional conduct) are identified by AMG and sent to the Professional Standards Division for review and further investigation on a weekly basis. CAMTC reports that the processing times for applications requiring additional review is approximately 94 days.

Because CAMTC may ultimately issue certifications to individuals with some form of background issue (such as financial difficulties or unrelated criminal histories), it is necessary to understand the process for reviewing applicants who have been flagged by application processing staff and are sent to the Professional Standards Division for additional verification procedures.

In its Sunset Review Report 2013, CAMTC states that it has implemented new procedures and protocols, brought investigations in-house and added additional staff to shorten investigation and waiting times. According to CAMTC's written procedures for denial of certification or

discipline/revocation, if an applicant has been convicted of a felony or misdemeanor, whether expunged or not, CAMTC will conduct an investigation and review all prior convictions substantially related to the qualifications, functions, or duties of a massage professional. Each case will be evaluated on a case by case basis. While CAMTC clearly states the reasons for denial, it is unclear what the internal operational protocols and procedures are for the Professional Standards Division's evaluation process. CAMTC reports that of these 17 staff members, one is the Division Director, one is the Senior Investigator, one is the Chief Investigator/Hearing Officer, four are Investigators, four are Hearing Officers, one is both an Investigator and a Hearing Officer, four are Paralegals, and two are Staff Attorneys. The Division Director, the Senior Investigator, the Chief Investigator, and the five Investigators members meet by telephone conference call (approximately six times a month) to review applicants and certificate holders, report on ongoing investigations, and propose denial or discipline.

Staff Recommendation: *CAMTC should clarify for the Committees its policies and procedures for reviewing criminal and background cases and clearly identify the criteria for granting, denying or revoking certification for individuals with background and criminal issues. In addition, CAMTC should update the Committees as to where the Professional Standards Division is physically located and how it conducts its operations.*

ISSUE #10: (APPLICATION PROCESSING AND LOCAL GOVERNMENT PARTICIPATION.) CAMTC relies on background reports and notifications from local law enforcement and local government agencies as part of the application process. Is CAMTC receiving the necessary information in a timely manner? Is there an undue delay in application processing times? How can information sharing be improved?

Background: California law authorizes certain government and private organizations to conduct criminal background checks to help determine the suitability of an individual applying for different types of licensure, employment, or in CAMTC's case, certification. CAMTC requires all applicants to be fingerprinted as part of the background check process. The California Department of Justice (DOJ) provides an automated service for criminal history background checks. Applicant fingerprint submissions are transmitted electronically; most commonly through "Live Scan" technology. CAMTC is unaware of any certificate holder who has not been fingerprinted. Fingerprint reports are sent directly to CAMTC by DOJ and subsequent arrest notifications are received and reviewed.

In addition to the fingerprint background checks, once an application is received by CAMTC processing staff, an email notice is sent to each government entity in charge of massage regulation in the cities and counties where the applicant has reported that they have lived or worked within the past ten years. A minimum of two weeks is provided for local law enforcement and local government staff to submit information related to each applicant.

CAMTC believes that the receipt of this information from the local agencies is critical to their operations. However, CAMTC reports that it does not track the response rate or communications between itself and local governments, and there is some evidence to believe that the response rate to CAMTC's inquiries is low, and that not all responses are useful. For example, depending on the jurisdiction, a city or a police department may simply not respond, or they may respond with information that is not relevant to the application process, or they may state that they do not have a person responsible or available to provide such information. The California DOJ and Federal Bureau of Investigation reports primarily include criminal convictions, arrests, detentions, and do not always

include administrative citations or civil actions. Additionally, local municipal code violations are not always available from DOJ reports, because many of these violations don't require fingerprinting which may result in no report. As a result, the information relevant to a proper background check is often fragmentary.

CAMTC stated in its Sunset Review Report 2013 that it relies on local jurisdictions for assistance in processing certifications. CAMTC states that it works closely with local jurisdictions and that in some cases an application may trigger contacts with multiple jurisdictions. However, CAMTC states that the lack of uniformity and consistent standards and protocols from one jurisdiction to another further complicates and, at times, impedes the review process.

Because there is no statutory requirement that local governments or local law enforcement entities provide any background information to CAMTC, cooperation can be incomplete. It may be that two weeks is simply not enough time for local governments and law enforcement to respond to the applicant information query, and even then, the response may be different in format or content than that provided by other localities.

BPC 4602.5(b) specifies that any request made by CAMTC of law enforcement or any other representative of local government with the responsibility of regulating or administering a local ordinance relating to massage or massage business is authorized to provide information to CAMTC regarding an applicant or certificate holder including information about the current status of any application or local permit, any history of disciplinary actions, criminal activity or unprofessional conduct allegedly engaged in an applicant or certificate holder including police reports and declarations of conduct and any other information in their possession that is relevant to the certification and standards of the massage therapy law.

According to CAMTC, while a growing number of jurisdictions are highly cooperative with CAMTC, others are still struggling to fully adopt integrated protocols and ordinances that recognize CAMTC's existence. CAMTC contends that it makes substantial efforts at outreach, providing information and assisting local officials and law enforcement when called upon.

Staff Recommendation: *The Committees may wish to inquire of CAMTC as to what efforts it has made to improve its information collection from local governments. CAMTC should update the Committees about its procedures for tracking its effectiveness in communications with local government, and explain its plans, if any, to collect better data on the effectiveness of those communications. It should also address which local entities with large numbers of applicants have been the most, and the least, responsive to its inquiries. The Committees may also wish to inquire of representatives from local government and law enforcement as to the effect of CAMTC's outreach efforts, and what kinds of information local jurisdictions need most from CAMTC. Finally, the Committees may wish to inquire of all parties how information sharing between CAMTC and local agencies can be improved.*

ENFORCEMENT ISSUES

ISSUE #11: (CERTIFICATE REOVCATION, SUSPENSION OR DENIAL.) CAMTC has broad authority to deny an applicant and revoke or suspend a certificate. What is CAMTC's process for denying, suspending or revoking an application or certification of someone who has received serious administrative or civil violations? Why are the Board's enforcement timeframes increasing? Should CAMTC have a goal to complete the enforcement process? Does CAMTC have reason to believe there are substantial numbers of certificate holders with unknown or unidentified background issues?

Background: According to data from CAMTC, as of September 30, 2013, it has denied more than 4,700 applicants for certification and has revoked 100 certificates, disciplined 11 certificate holders, and suspended 169 certificate holders.

In its Sunset Review Report 2013, CAMTC states that it is a voluntary non-profit certifying entity, and is therefore not required to adhere to strict enforcement data and reporting guidelines as are other entities under the jurisdiction of DCA. Because of this, CAMTC does not have a specific timeline for completion of enforcement actions.

According to CAMTC's procedures for discipline, revocation or denial, a certification may be denied or revoked for reasons reasonably related to protecting the public safety, including the following:

- a. Failure to meet and/or maintain the criteria for certification;
- b. Failure to obtain a positive fitness determination after fingerprinting;
- c. Unprofessional conduct, including denial of licensure, revocation, suspension, restriction, or any other disciplinary action against an applicant or certificate holder by another state, by any other government agency, or by another California health care professional licensing board;
- d. Procuring or attempting to procure a certificate by fraud, misrepresentation, or mistake.
- e. Violating or attempting to violate any provision of law or any rule or bylaw adopted by CAMTC;
- f. Conviction of any felony, misdemeanor, infraction, or municipal code violation, or liability in an administrative or civil action that is substantially related to the qualifications, functions, or duties of a certificate holder;
- g. Impersonating an applicant or acting as a proxy for an applicant in any examination;
- h. Impersonating a certified practitioner or therapist, or allowing an uncertified person to use a certificate;
- i. Committing any fraudulent or corrupt act that is substantially related to the qualifications or duties of a certificate holder; and,
- j. Committing any act punishable as a sexually related crime.

It should be noted that, according to stakeholders, there are other potential indicia of unprofessional conduct and illicit activity that CAMTC could use as a basis to discipline certificate holders. For example, gender discrimination in the offering of massage services or advertising in "adult media" or sexually explicit forums could be viewed as unprofessional, or even an indication of illicit activity. However, these behaviors are not specifically addressed under the current definition of unprofessional conduct.

Additionally, because it is not a governmental agency, CAMTC contends that it is not required to comply with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*. As a result, CAMTC's denial or disciplinary process does not result in the creation of accusations, and

therefore nothing is posted on its Web site. CAMTC does draft proposed denial and discipline letters, which state the basis of the proposed denial or discipline and are mailed to the applicant or certificate holder. However, those letters are not posted on CAMTC's Web site. If an applicant or certificate holder is ultimately denied certification or disciplined, a detailed "Notice of Decision" letter is mailed to the applicant or certificate holder identifying the basis for the denial and discipline and the reasons why the proposed action is being upheld. This document is not published on the Web site. However, CAMTC does publish the name, certification number, certificate type, effective date, expiration date, city, and status of a certificate holder who has had their certificate revoked, suspended, or otherwise acted against on its "verify certification" link accessible on its Web site. However, identifying information related to a specific certificate holder must be known in order to access this information.

Because CAMTC relies on a civil standard of evidence rather than criminal (i.e., beyond a reasonable doubt vs. clear and convincing evidence), it contends that it has greater discretion to deny, suspend, or revoke a certificate.

Enforcement protocols and procedures in practice:

When CAMTC receives a non-anonymous complaint related to a certificate holder, either by Web site link, email, letter or phone, the complaining party is notified that their complaint has been received and is under review. The Professional Standards Division reviews and considers every complaint. The decision on how to proceed in relation to any specific complaint is at the sole discretion of the Professional Standards Division. If the Professional Standards Division determines that the complaint is regarding a matter within CAMTC's jurisdiction, is credible, has actionable information, and meets other relevant criteria, it will be investigated. Many complaints received do not meet these criteria. For example, the complaint may be against a massage professional that cannot be identified, is not CAMTC certified, or may be related to a matter outside of CAMTC's jurisdiction, such as a contract dispute or an employment matter.

As previously stated, BPC 4602.5(b) authorizes local law enforcement and other local entities to provide CAMTC with pertinent criminal information pertaining to a certificate holder or an applicant. With this information, CAMTC may deny applications or discipline a certificate holder based on unprofessional conduct attested to in sworn declarations made under penalty of perjury by a member of law enforcement (or other city or county official). Declarations may be used to: deny an applicant certification when it provides evidence that the applicant has engaged in unprofessional conduct; discipline a certificate holder through the imposition of conditions on a certificate, or suspension or revocation of the certificate when there is evidence that the certificate holder has engaged in unprofessional conduct; immediately suspend the certificate of a certificate holder when the declaration provides clear and convincing evidence that a certificate holder has committed an act punishable as a sexually related crime or a felony that is substantially related to the qualifications, functions, or duties of a certificate holder. Additionally, if CAMTC receives notice that a certificate holder has been arrested, and charges have been filed for prostitution or an act punishable as a sexually related crime, CAMTC is authorized per BPC 4603 to immediately suspend the certificate of that certificate holder. City notification of certificate holder arrests with charges filed for prostitution or acts punishable as sexually related crimes allow CAMTC to act quickly without having to wait for notification via "subsequent arrest notices" from the Department of Justice.

Since accepting sworn declarations, CAMTC states that it has seen an increase in local law enforcement's participation in providing information that can assist in the applicant denial and

certificate discipline and revocation process. In December of 2010, CAMTC received seven sworn declarations and revoked 8 certificates. Since that time, the numbers of both sworn declarations received and revocations issued have steadily increased. In 2011, CAMTC received 33 sworn declarations, and revoked 17 certificates. In 2012, 138 sworn declarations were received and 46 certificates revoked. And in 2013, 240 sworn declarations were received and 29 certificates revoked. As of February 10, 2014 CAMTC has received 62 and is projected to receive approximately 480 by the end of 2014.

In addition, CAMTC reports that the number of proposed certificate holder revocations has also increased. In 2010, CAMTC proposed to revoke nine certificates, in 2011 that number jumped to 22, in 2012 it increased to 49, and in 2013 it was 42 over only a nine month period. It is estimated that the total number of proposed revocations for 2013 is 53.

Although the number of sworn declarations provided to CAMTC has increased, some local jurisdictions may still believe they do not have full legal authority to provide the pertinent arrest information or sworn declarations to CAMTC.

California law authorizes certain governmental and private organizations to conduct criminal offender record information background checks to help determine the suitability of a person applying for a license or certification, employment, or a volunteer position working with children, the elderly, or the disabled. In order to be authorized to collect fingerprint information, an agency or organization such as CAMTC, must apply with the DOJ to become an authorized applicant agency unless already designated by law. Pursuant to BPC 4601.3(b)-(d), CAMTC is authorized to receive state summary criminal history information pertaining to applicants for certification as a massage practitioner or therapists and subsequent arrest notifications.

In addition to obtaining criminal information during the initial fingerprint submission and inquiry, applicant agencies may also acquire subsequent arrest notification information for individuals for whom criminal background checks were requested. For purposes of CAMTC, they receive criminal history information prior to certification, and later if a certificate holder has been arrested. CAMTC will receive a notification from DOJ about a certificate holder's recent arrest. This subsequent arrest information affords CAMTC with an opportunity to take disciplinary action against a certificate holder if the criminal action merits it.

However, because DOJ may send summary arrest information without the disposition of the arrest, CAMTC may not immediately be notified of the outcome of the arresting event, which is necessary for some disciplinary actions. One way that CAMTC attempts to address this issue is the request of "sworn declarations" from law enforcement as soon as an arrest has occurred, as opposed to waiting for notifications from DOJ. Although the number of sworn declarations that CAMTC receives from law enforcement is increasing, there are still some local law enforcement entities that do not release such information to CAMTC.

For example, a January 16, 2014, letter from the Los Angeles Police Department to CAMTC stated that per Department policy, "the department is not compelled to release arrest reports unless mandated by the [DOJ's] Authorized Agency List." As a result, CAMTC is not immediately notified of certificate holders who are arrested in that jurisdiction - which may result in a slower response to disciplinary issues. This is despite the fact that CAMTC is an authorized agency by DOJ and is eligible, per BPC 4602.5(b), to receive summary arrest information from local law enforcement.

Staff Recommendation: *The Committees may wish to inquire of stakeholders how best to expand the legal authorization for local government and law enforcement, including the addition of CAMTC to the CADOJ's Authorized Agency list if need be, to share arrest information or declarations of misconduct by certificate holders or applicants in order to expedite CAMTC's disciplinary and review process.*

The Committees may also wish to discuss expanding the definition of unprofessional conduct to include behaviors such as gender discrimination in accepting clients and advertising in "adult" media or sexually explicit forums.

The Committees may also wish to explore requiring CAMTC to abide by a designated timeframe for completing enforcement actions.

TECHNOLOGY ISSUES

ISSUE #12: (WEB SITE CONTENT.) How can CAMTC provide more information to practitioners and the public via its Web site?

Background: Communication with certificate holders, law enforcement, stakeholders and industry representatives is vital to facilitating a robust certification and enforcement program. According to CAMTC, its Internet Web site was created in 2009. The site features links to CAMTC's bylaws, protocols, denial and disciplinary procedures, school review procedures, criteria for rehabilitation, forms and publications, online certification verification, agendas, approved minutes from Board meetings, CAMTC activity in the community, announcements and links to related content. The Web site allows viewers to file a written complaint against a CAMTC certificate holder and to enroll in a subscriber list, which provides an e-mail notification to subscribers when new information is added to the Web site.

Consumers can access specific information about a certificate holder on CAMTC's Web site using the Certification Verification tool. Entering the certificate holder's name, certificate number, or city or county allows a user to see certain information. A record appears with the certificate holder's name, certification number, and status (active, suspended, revoked, or expired), effective date and expiration date, the city listed as the home address, and the certification level achieved.

CAMTC's Web site is also a vital tool for local government and local law enforcement. CAMTC's Web site allows individuals who regulate massage therapy in local jurisdictions to assign a designated contact to receive information about those who are applying for, or who have received, certification in their area. Once registered those individuals are given access to all pertinent data and receive updates from CAMTC about new applicants.

Because the Web site is a vital resource, it is important that it contain updated and relevant information. It appears that, based on inspection by Committee staff, there are areas that need improvement regarding Web site maintenance and updates that could and should be made by CAMTC. For example, the Web site states that approved exams are the MBLEx and NCBTMB exams. However, on page 67 of the Sunset Review Report 2013, it more clearly identifies the specific examinations that CAMTC will accept for certification. The Web site should be updated to reflect

important information and changes that are relevant to the oversight and the voluntary certification of massage professionals.

Furthermore, although the Web site does contain some meeting minutes, not all minutes are available. Minutes are missing from several of the last Board teleconference meetings. Meeting minutes provide an important opportunity for interested parties and stakeholders to review recent Board actions, ensure transparency and provide a general summary of the meeting's proceeding. Accurate and up-to-date minutes should be available and accessible on its Web site. In addition, CAMTC lists its current Board members on the Web site however, it does not provide the specific biographical information, appointment date, or the appointing entity of each member. CAMTC's Web site also does not include other important information such as its most recent audit, an employee organizational chart, or any type of annual report.

Staff Recommendation: *CAMTC should immediately update its list of approved examinations and past meeting minutes on its Web site. Additionally, CAMTC should add biographical and appointment related data for its Board members to its Web site, or explain to the Committees why it does not. CAMTC should also post online a fuller explanation of its operational procedures.*

ISSUE #13: (WEBCASTING BOARD MEETINGS.) Should CAMTC make its Board meetings available on the Internet?

Background: CAMTC is subject to the requirements of the Bagley-Keene Open Meeting Act (Bagley-Keene Act). The Bagley-Keene Act generally requires all state boards and commissions to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized under by the Bagley-Keene Act to meet in closed session. The public meeting requirement applies to board and subcommittee meetings alike. A meeting is considered a "gathering" of a majority of the board or a majority of a committee of three or more persons where board business will be discussed. This includes telephone and email communications.

In 2013, CAMTC held four board meetings, three in Los Angeles and one in Santa Monica. Three additional teleconference meetings were held. While agendas are posted on-line in accordance with the requirements of the Bagley-Keene Act, the meetings are not currently recorded or Webcast, updated meeting minutes are not available and there appears to be limited, if any, additional information related to agenda items distributed to the general public or made available on its Web site.

Staff Recommendation: *The Committees may wish to explore requiring CAMTC to record or webcast its meetings to increase transparency and ensure that stakeholders, schools, law enforcement, and local government entities across the State are able to view and participate in Board meetings. All approved meeting minutes should be posted to CAMTC's Web site to ensure that all recorded votes and meeting information is accessible and identifiable to the general public.*

ADMINISTRATIVE ISSUES

ISSUE #14: (CUSTOMER SATISFACTION SURVEYS.) What are CAMTC's plans for an effective customer satisfaction survey?

Background: Currently CAMTC is conducting a pilot test for performance measures and three customer satisfaction surveys (general, certification, and enforcement) which have been sent to certain complaining parties and certificate holders. The pilot test is still being conducted, therefore it is too early to compile and assess the data. However, CAMTC states that it is planning to implement quarterly customer satisfaction surveys starting in 2014. Surveys of consumer satisfaction for CAMTC's handling of complaints will be sent to the complaining party via e-mail, or postcard if no e-mail is available, upon closing of the complaint.

Staff Recommendation: *CAMTC should update the Committees on its plan to utilize customer satisfaction surveys beyond 2014 and explain how the survey will be conducted and how the outcomes will be assessed. More importantly, CAMTC should explain to the Committees its understanding of who their "customers" are, and discuss whether stakeholders such as local governments or law enforcement would be included in those surveys.*

ISSUE #15: (SALARY STANDARDS.) What are CAMTC's salary standards for staff? How does CAMTC's salary standards compare to other boards, bureaus and committees under the purview of the DCA? How can CAMTC's salary standards be more transparent?

Background: The IRS does not have formal salary standards for a non-profit entity. However, various sources report that the salaries should be "just and reasonable."

CAMTC states that the current CEO has combined duties which include serving as the COO, Director of Outreach and Marketing, IT Manager and Director of Human Resources. It is not clear if the CEO is serving temporarily in those other capacities because of vacancies, or if those functions are in fact part of the ongoing role of CEO. The Sunset Report 2013 contained mentioned "incentives to attract and retain qualified staff" and included an organizational chart, but did not provide complete salary and bonus information for executive, administrative or legal staff. CAMTC provided the following breakdown of staff the salary ranges and salary brackets for each position:

<i>CAMTC Compensation Range</i>					
<i>Employee Type</i>					
Monthly Salary or Hourly Rate					
<i>Executives</i>					
Chief Executive Director	\$ 15,833	---	\$ 17,775	monthly	
Chief Operating Officer	\$ 12,500	---	\$ -	monthly	
Director Government Relations	\$ 6,667	---	\$ 7,211	monthly	
<i>Professional Standards Division</i>					
Director	\$ 50	hourly	\$ 7,500	monthly	
Senior Investigator	\$ 28	hourly	\$ 6,760	monthly	
Senior Background Investigator	\$ 28	hourly	\$ 6,039	monthly	
Investigator	\$ 25	---	\$ 28	hourly	
Hearing Officer	\$ 23	---	\$ 26	hourly	
Paralegal	\$ 25	---	\$ 30	hourly	

Executive Officers and Bureau Chiefs operating under the jurisdiction of DCA must follow salary setting guidelines as established by the California Department of Human Resources (CalHR). CalHR has the responsibility for all issues related to salaries and benefits, job classifications, civil rights, training, exams, recruiting, and retaining. For most state employees, many of these matters are determined through the collective bargaining process. The salary setting standards for Executive Officers and Bureau Chiefs under DCA are not 'one-size fits all' pay scales. Determination for pay is based upon numerous factors including the number of licensees' overseen, authorized positions at the board or bureau, complexity of the program, civil service appointment level, exempt status, career executive assignment and many other considerations. Because of this, it is difficult to compare with precision the current salary of the Chief Executive Officer of CAMTC with that of other Executive Officers or Bureau Chiefs with similar levels of programmatic responsibility.

As noted in its 2012 federal tax forms, CAMTC paid its CEO a total of \$260,000 during 2012. The CEO does not receive separate health or retirement benefits.

In addition, legal fees were also a substantial part of CAMTC's budget. The federal 990 tax form indicated that CAMTC paid \$557,483 for legal services.

Staff Recommendation: *CAMTC should provide aggregate compensation totals (salary and bonuses) for its entire staff, as well as breakdowns for benefits including health care and retirement, and explain its guidelines for awarding bonuses. CAMTC should explain why it has a COO position listed but not filled, and how that situation impacts the work of the CEO. It should also provide a more detailed accounting of its payments for legal fees and contracting with AMG.*

ISSUE #16: (SCHOOL APPROVAL.) Should CAMTC more thoroughly investigate schools prior to granting approval, and if so, what standards should it use? Is CAMTC fully using its existing authority to approve schools, or does its authority need to be expanded or clarified?

Background: According to CAMTC, it does not proactively approve schools, but rather disapproves a school if it finds that a school engages in inappropriate behavior or does not meet the minimum standards for training and curriculum. Schools may be disapproved for selling or offering to sell transcripts, failing to require students to attend the classes listed on the transcript, failure to require students to attend all of the hours listed on the transcript, or engaging in fraudulent practices.

Currently, CAMTC may issue certificates to applicants who have completed at least 250 hours of education at “approved” school(s). BPC 4600 specifies that, “[a]pproved school’ or ‘approved massage school’ means a school approved by [CAMTC] that meets minimum standards for training and curriculum in massage and related subjects” and that is approved by at least one other specified entities. The list of other agencies includes the Bureau of Private Postsecondary Education (BPPE), DCA, the organizations that accredit junior and community colleges, and corresponding agencies in other states. California State University and University of California schools also meet the definition of an “approved school.”

For the majority of massage schools in California, the additional State certifying agency is BPPE. If a California school does not have a massage program approved by BPPE or a massage program approved by another one of the certifying agencies listed in BPC 4600(a), CAMTC cannot accept the education transcripts from that school. CAMTC reports that it does not accept education from four specific schools because they are not approved by BPPE. Those schools are listed on CAMTC's Web site.

While CAMTC may unapprove a school for a number of reasons, the most common reason is transcript discrepancies, meaning the transcript does not accurately reflect the education actually received by the applicant. According to CAMTC, the reasons for transcript discrepancies range from inaccurate record keeping to fraud, such as the sale of transcripts. CAMTC is responsible for determining that schools meet the specified requirements necessary for certification. In addition, CAMTC has broad authority to investigate whether an applicant actually received the education claimed on an application or provided through a transcript. CAMTC reports that it has unapproved approximately 46 schools and placed seven on its "inadequate education list," which means that applicants who have taken courses at those schools must submit additional proof of education beyond a transcript and diploma.

The California Private Postsecondary Education Act (The Act) requires all *unaccredited* colleges in California to be approved by BPPE and all *nationally accredited* colleges to comply with numerous student protections. It also establishes prohibitions on false advertising and inappropriate recruiting. The Act requires disclosure of critical information to students such as program outlines, graduation and job placement rates, and license examination information, and ensures colleges justify those figures. The Act also guarantees students can complete their educational objectives if their institution closes its doors, and, most importantly, it gives BPPE an array of enforcement tools to ensure that colleges comply with the law. The Act establishes a robust fee structure to ensure BPPE's operational effectiveness, including an application fee and an annual institution fee.

BPPE's school approval process is separate from CAMTC's and currently, there is no formal relationship between the two entities. BPPE is charged with student protection and ensuring financial solvency of a school, while CAMTC's statutory responsibility is to determine whether the school meets minimum standards for training and curriculum and is limited to approving the school in relation to CAMTC certification. This means schools can be unapproved by CAMTC and still operate massage

programs, but students from those schools may not use educational units for CAMTC certification. Currently, there are 46 unapproved schools by CAMTC, and all 46 of those are listed as "approved" by BPPE. This disjointed relationship between the two entities impacts both BPPE's and CAMTC's ability to ensure that approved massage programs are operating properly and that students are not being harmed or misled as to the value of their education.

Staff Recommendation: *The Committees may wish to inquire of CAMTC as to why it has chosen to engage in a complaint-driven form of school review rather than a proactive and more complete approval process. If CAMTC were given more explicit direction to proactively review and approve massage schools, it should provide a forecast of the additional time and staff requirements needed to develop more robust standards and inspect all relevant schools.*

Additionally, CAMTC should update the Committees on its current working relationship with BPPE and any active efforts to improve coordination. The Committees may wish to explore amending current statute to clarify that the approval of a school by BPPE is contingent upon approval of a program by CAMTC.

ISSUE #17: (BOARD MEMBER COMPOSITION AND STANDING COMMITTEES.)

Should CAMTC change the composition or structure of its Board, or impose additional requirements on members?

Background: The Boards, Bureaus and Committees under the jurisdiction of DCA typically contain both representatives of the professional industry along with public members who are not affiliated with the regulated industry. These appointments are generally controlled by the Governor, the Speaker of the Assembly, the Speaker Pro Tempore of the Senate or the Senate Rules Committee. For example, the Physical Therapy Board is comprised of seven members: the Governor appoints four professional members and one public member, the Speaker of the Assembly appoints one public member and the Senate Rules Committee appoints one public member. Members are usually appointed to serve a four-year term plus a one-year grace period, and members cannot exceed two full terms.

CAMTC is unique in that its Board members are appointed by a mixed group of industry, massage school, and local government association representatives. CAMTC's bylaws allow for a maximum of twenty board members, but no less than four. By comparison, the California Medical Board has only fifteen members. CAMTC currently has 19 members with one vacancy. Seven members are certified massage professionals; eight members are representatives selected by four different professional associations; three members are representatives selected by statewide associations of private postsecondary schools; one member is representative appointed by the League of California Cities; one member is a representative selected by the California State Association of Counties; one is a representative selected by DCA; and the remaining six members are appointed by a two-thirds vote of the Board as provided in CAMTC's bylaws. The only CAMTC Board appointments with government oversight are those controlled by DCA and the Chancellor of the California Community Colleges. As stated in BPC 4600.5 (b)(D)-(E), those entities may even choose not to exercise the right of selection and leave their seats unfilled. Additionally, at least two members of the Board do not reside in California. While this may be common practice for non-profit boards, it is not customary for boards under the jurisdiction of DCA.

The Board currently has two standing committees under it. The Executive Committee consists of the elected officers of the Board and has the authority to review and recommend changes to the bylaws and to other operating policies to the Board. The Executive Committee also has any authority expressly delegated to it by the Board. CAMTC states that "because all CAMTC Board members are so committed and enthusiastic, the Executive Committee does not currently play a strong role in the governance of the organization – i.e. most decisions are made by the full Board." Separately, the Audit Committee is charged with oversight of financial reporting and disclosures. The committee interfaces with the auditing firm (Damore, Hamric & Schneider, Inc.) and the CEO, and makes recommendations to the Board regarding the approval of the annual audit report. It also reviews the organization's tax returns. There is no statutory requirement for the Board to have any specific committees.

Current state law requires board members of entities within DCA to complete Board Member Orientation Training in several important areas, including ethics, conflict of interest laws and sexual harassment prevention. CAMTC Board members are not required to complete a Board member training, nor does CAMTC offer a standard training. Currently, CAMTC legal counsel provides new board members with materials regarding the Bagley-Keene Open Meeting Act, public benefit organizations, CAMTC bylaws, meeting minutes, and various other policy documents related to CAMTC for them to read.

By way of comparison, California recognizes other non-profit models of professional regulation: tax preparers and interior designers. The California Tax Education Council (CTEC) was established by the Legislature to promote competent tax preparation. CTEC is a non-profit corporation founded under the authority contained in BPC 22250-22259. The Board of Directors for CTEC is comprised of fifteen, unpaid volunteers appointed by certain qualified organizations. CTEC's day-to-day operations are carried out by an administrator under a contract awarded by its Board of Directors. Currently, CTEC utilizes Avocation Strategies as its administrator. CTEC has registered approximately 38,481 tax preparers.

The California Council for Interior Design Certification (CCIDC), also a non-profit entity, administers a voluntary certification program for interior designers. Under the current bylaws of CCIDC, the Board is composed of eleven members, five of whom are members of designated national professional interior design associations; one member is a professional member who is not affiliated with any organization and one who is an "independent" or non-affiliated interior designer. One member is an interior design educator, and there are four public members, none of whom are associated with the interior design profession. All CCIDC Board members must be residents of California.

Staff Recommendation: *The Committees may wish to discuss the merits of restructuring CAMTC's Board to more closely reflect other healing arts boards under the jurisdiction of DCA in the following ways: reducing the total number of Board members to 15 or less; placing the appointment powers with the Governor, the Speaker of the Assembly, the Speaker Pro Tempore or the Senate Rules Committee; requiring a substantial number or even a majority of public members; instituting rigorous Board member training; requiring local government and law enforcement representatives among the Board members; and imposing a California residency requirement on all Board members.*

In addition, given the high level of interest from local governments and law enforcement in the regulation of the massage therapy industry, as well as questions about the effectiveness of communications between CAMTC and those stakeholders, the Committees may wish to consider

requiring the creation of a local government or law enforcement advisory committee to help ensure proper communications between the Board and stakeholders.

ISSUE #18: (Metrics and Data Collection.) How can CAMTC improve its performance measures for data collection and reporting?

Background: As noted elsewhere in this Background Paper, there are multiple kinds of data that, if collected, would enhance CAMTC's ability to maintain important quality control measures. For example, in addition to tracking the number of certificate holders, it would be valuable for CAMTC to maintain records pertaining to the local government outreach and response rates, including the total number of arrests or complaints received regarding certificate holders from local governments and the number of revocations based on those communications. CAMTC should maintain accurate records detailing the number of certificate-holder complaints received and the disposition of those complaints. In addition, the collection and distribution of additional information about school complaints and programmatic issues will help better determine the needs and functions of a school inspection program.

Staff Recommendation: *CAMTC should update the Committees on how it intends to develop and maintain better performance metrics for the collection and dissemination of information about applicants and certificate holders, and its communications with key stakeholders such as local governments.*

GENERAL

ISSUE #19: (PREEMPTION & PRACTICE RIGHTS.) Should the preemption of local control granted in statute to massage businesses using only CAMTC-certified professionals be revised in order to strike a better balance between the needs of the massage profession for fairness and certainty, and the needs of local governments for autonomy and effective tools to fight crime?

Background: The original intent of the SB 731 (Oropeza) (Chapter 384, Statutes of 2008) was to create uniform standards regarding education, training and background investigation for massage practitioners to help professionalize the massage industry in California and provide more distance from an unfortunate association with the sex trade.

According to the American Massage Therapy Association's 2014 Industry fact sheet, massage professionals work in a variety of work environments, sole practitioners account for 62% of practicing therapists, many of whom practice in multiple settings. 65% of those sole practitioners work at least part of their time at a client's home, business, or corporate setting, 38% at their office, 35% at their home, 26% in a healthcare setting, and 26% work in a spa setting. Because so many massage professionals are sole practitioners who work from their home, travel to a client's homes, or contract with spas in various cities and counties, the concept of statewide certification was designed to help alleviate practitioners from being required to meet multiple duplicative and often restrictive practice standards which would vary city by city. From a consumer protection standpoint, certification meant that a "certified professional" has met specified educational, training, and background standards, thereby giving consumers some reassurance that the practitioner was properly educated and trained.

According to CAMTC, for many years "the perception of massage as a vice resulted in many cities requiring expensive conditional use permits. [Some] [r]estricted massage businesses from opening within 1,000 feet of schools, churches, or residences effectively zoned massage out of many small cities. As reported by CAMTC, zoning massage as "adult entertainment," cities force[d] massage clients to seek healing and restorative services in unsafe, outlying and industrial areas, adjacent to adult bookstores and nude dancing establishments. Many cities still have local ordinances that presume massage clients will be engaging in sexual intercourse with the massage providers. For example, Los Angeles requires that a poster be posted in public areas informing massage clients that it is illegal to have condoms on the premises." Additionally, the proponents of state regulation argued in discussions around SB 731 that in the past, local regulation treated professionals and illicit massage businesses alike and consumers may have had a problem knowing how to distinguish legitimate massage practitioners from illicit massage businesses.

In crafting a voluntary, statewide certification program in California, proponents of statewide regulation recognized a need to eliminate restrictive and duplicative local registrations and certifications. SB 731 included a specific provision in BPC 4612(a)(4) which created a specific exemption (known as the 'preemption') for certified massage professional from certain restrictive business regulations. The statute specifically states "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.

Preemption clauses are included numerous massage therapy practice acts across the country. Currently, 22 other states include some form of preemption in their massage therapy statutes. Preemption clauses vary state by state and may or may not dictate land use controls in addition to licensing standards for massage professionals. The American Massage Therapy Association Web site provides suggested guidelines for a state-wide regulatory scheme for massage therapy, and recommends that any massage therapy practice act should include preemption of local regulations that would treat massage therapy differently in any way from local regulation of other healthcare professions. However, those guidelines do not include model language.

A number of local governments throughout California argue that the preemption as written severely hampers their authority to legitimately regulate massage businesses.

According to the League of California Cities, "While [existing law] specifies that jurisdictions can regulate businesses that provide massage services through independent contractors or employees to provide massage if they are not certified by CAMTC, [it] precludes the ability of jurisdictions to regulate certified massage therapists and businesses that employ certified massage therapists. Specifically, jurisdictions can only regulate massage establishments using CAMTC-certified massage professionals if jurisdictions apply the regulations to other professional services in a uniform matter. In addition, the legislation provides that certified massage therapists have the right to practice massage without any other license, permit, or other authorization.

In addition, if a business indicates that they only hire certified employees, cities and counties can't regulate the business. That's right — cities and counties can regulate big box stores, fast food restaurants, marijuana dispensaries, doctors' offices, and pretty much every other business in the local jurisdiction. The problem is a provision in SB 731 states that unless the jurisdiction regulates massage establishments no differently than the requirements that are uniformly applied to other professional services, the jurisdiction cannot regulate the massage industry.

Cities and counties do not regulate every professional business the same way. Governments place regulations on businesses to address particular issues specific to that business. For example, parking requirements for a doctor's office may not be the same as a big box store. A jurisdiction may limit the hours of operation for an adult store but not a nail salon."

Conversely, the American Massage Therapy Association contends that state certification and recognition is important because it "protects the public in other ways as well. It establishes a consistent standard of practice which is enforceable by a professional code of ethics. In addition, it establishes a formal grievance process for consumers that helps prevent unethical and/or non-compliant massage therapists from continuing to practice."

Based on a review of the legislative history of SB 731, it does not appear that the intent of the preemption clause was to dismantle a local jurisdiction's ability to regulate massage businesses, as it would any other business. Instead, it appears to have been an attempt, however flawed, to achieve two ends: to standardize the requirements of the profession so that professionals only need meet one set of state standards, and also to ensure that local land use decisions are made in a manner that does not unduly discriminate against massage professionals. Standardization is a useful tool for local jurisdictions because it allows them to efficiently recognize an individual's' certification in massage therapy having to create and administer their own duplicative certification system. The bulk of the contention over preemption does not appear to be with the imposition of a single state standard; rather, the majority of the discontent appears to stem from the perceived overbroad reach of the 'protective' provisions that restrict local government's ability to utilize its full land use authorities when a massage business uses only CAMTC-certified professionals.

Staff Recommendation: *The Committees may wish to discuss how the preemption language might be revised in order to return a greater degree of control to local governments in regulating massage businesses while maintaining the integrity of the statewide certification process and ensuring that massage professionals do not face undue burdens or discrimination in their practices.*

CONTINUED REGULATION OF THE MASSAGE PROFESSION BY CAMTC

ISSUE #20: (CONTINUED REGULATION BY CAMTC.) Can CAMTC continue to effectively fulfill its mission of certifying massage professionals in California? Will CAMTC be able to fulfill its mission if new requirements, such as more frequent or thorough school inspections, are imposed? Given the previously noted suggestions for reform, should CAMTC be dissolved and the industry deregulated, should its responsibilities be transferred to a new board or bureau

created under the purview of the DCA, or should CAMTC be permitted to continue operating in its current form?

Background: As intended by SB 731, the health, safety and welfare of consumers would be protected through a voluntary certification of massage professionals, ensuring greater consistency and quality amongst professionals while giving local governments the tools to more easily identify trustworthy practitioners. The current regulatory scheme combines education, training, and background standards into a systematic formal review process whereby only those individuals who have met those standards can dutifully represent themselves as massage therapists or massage practitioners. That system would be overseen by a regulating entity with a mission "to protect the public through the administration of a successful certification process." That mission is worthy of continuation.

Nevertheless, CAMTC faces many challenges to its ability to fulfill its mission: the need for greater oversight of educational institutions; a need for establishment and business inspections; a need for better administrative controls; questions regarding board composition; and a strong desire from local governments to regain some measure of land use authority over establishments using certified professionals. CAMTC will need to be proactive in addressing these issues in order to fulfill its mandate and earn the trust of its many stakeholders. In addition, CAMTC will need to enhance its communications with local government and law enforcement entities to help stop individuals and businesses engaged in illegal activity from masquerading as legitimate healing arts practitioners and damaging the reputation of the massage therapy profession.

A strong argument can be made for the continuation of some form of professional regulation: statewide regulation is more efficient, consistent, and the norm across the majority of states. Without any regulation, consumers would lose any hope of making distinctions in quality between massage practitioners, practitioners would be again subject to a patchwork of licensing regimes, and local governments would be forced to develop new regulatory processes from scratch.

However, the question remains as to the form that regulatory oversight should ideally take. Should the non-profit model represented by CAMTC, perhaps with some changes, continue for another four years? Should CAMTC be allowed to sunset, and have its responsibilities taken over by a newly created board or bureau under the jurisdiction of DCA? Transition to a board/bureau model would certainly entail transition costs, including setting up the physical office, hiring staff, and shifting over the database and certificate production processes. Conversely, a board or bureau would provide greater consistency in administrative practices, greater transparency to the public, and perhaps confer greater enforcement powers as well. Of course, such a change would also represent a shift in control over regulation from the industry to the public sector as well.

If the Committee decides to retain CAMTC in its current form, staff recommends that it be granted only a two-year sunset extension in order to ensure that any outstanding issues are dealt with quickly and to the satisfaction of the Committees.

Staff Recommendation: *The Committees may wish to discuss the relative merits of continuing the non-profit model of regulation, deregulating the industry completely, or transitioning to a board or bureau overseen by DCA. Of course, the creation of a new board or bureau should be done only with the agreement of the Governor's Administration. If it is determined that the current non-profit model remains desirable, CAMTC should be continued with a two-year extension of its sunset date*

so that the Legislature may review its progress in addressing the identified issues of concern.

The Committees may also wish to request that CAMTC provide it with an updated briefing to explain how it might implement the above recommendations, including expanded school inspection and approval, including estimates of both additional cost and time.

* * *



CEO Report

April 15, 2014

State of CAMTC

CAMTC is a strong, dynamic organization that continues to manage a multitude of challenges. Staff is fully engaged in all aspects of the Sunset review while continuing to make improvements to every aspect of our overall operation.

2013 in Review

2013 was a busy year for CAMTC. We improved services to the following stakeholders:

- Consumers
- Massage professionals
- Local and State governmental agencies
- Employers and businesses
- Schools

During 2013, staff concentrated on implementing the following strategic priorities set by the Board:

1. **Sunset:** Staff engaged on multiple fronts to support the Board's objective to extend CAMTC's enabling law to continue, post-Sunset, as a voluntary certification body.
2. **Management:** Senior management structure was sustained and our management company continued with performance improvements.
3. **Legitimacy of Certificate holders:** Staff developed and the Board approved a comprehensive plan to address the issue of certificate holders working in illicit massage establishments. CAMTC proposed key aspects of this plan as legislative amendments.
4. **Relationships with law enforcement:** In December we sent the attached letter to all police chiefs and Sheriffs in California in order to set up a cooperative relationship with their agencies. So far this year, we have provided a no-cost training to approximately 400 law enforcement officials (the highlighted agencies in the attached document already attended,

and the rest are on the calendar to attend in the next few months). The attached letter is just one sample of the enthusiastic response we have been receiving.

5. **Establishments:** Staff investigated various aspects of the establishments issue as it relates illicit behavior and proposed a plan of action to address the broad issues of curtailing illicit establishments. CAMTC communicated that plan to the Legislature.
6. **PSD's backlog:** The backlog for scheduling disciplinary hearings was successfully eliminated. We have reduced the waiting time for issuing legal notices such as proposed denials and final decision letters.

2014 - First Quarter

Operations

Our customer service is maintaining an excellent level of professionalism and responsiveness. We are in the process of restructuring the weekly reports to better reflect activity data and will resume issuing these reports as soon as the new format is completed. Management is in the process of evaluating the feasibility of adding two additional staff members to our main office. We are continuing with preliminary conversations and due diligence with various providers of database systems. IT needs will be dependent on the Sunset review outcome; therefore we are postponing a major decision regarding implementation of a new system until after the summer.

Finance

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

Excess Revenue Over Expenses:

Budgeted - \$229,611

Actual - \$494,847

Available cash:

Budgeted - \$1,860,212

Actual - \$ 2,393,984

Outreach

During the past 90 days, we focused our outreach initiatives in the following three areas:

- 1. Law enforcement** - PSD's Director and the Director of Governmental Affairs have been enduring a heavy traveling schedule throughout the state, presenting to law enforcement officials (PD's, Sheriffs, FBI, DA's). We are receiving additional requests to present our program on a regular basis and anticipate conducting additional presentations in the next 90 days.
- 2. Media** - The Sunset process created heightened interest in CAMTC by media outlets throughout the state. Both the CEO and the Director of PSD have been interviewed extensively. A Sacramento-based, independent public relations professional who we recently engaged has supported us by managing media relations.
- 3. Massage Profession** - CAMTC actively participated in the AMTA-CA annual education conference, which was held in North Hollywood from February 28 to March 2. We had a complementary booth and conducted two presentations which were well received.



CALIFORNIA MASSAGE THERAPY COUNCIL

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

December 23, 2013

Chief Larry Esquivel
Police Department
City of San Jose
201 W. Mission Street
San Jose, CA 95110

Re: Cooperation with your Department and No-Cost Training

Dear Chief Larry Esquivel:

I am writing to you in my capacity as Chief Executive Officer of the California Massage Therapy Council (CAMTC). CAMTC is the body charged with the responsibility of enforcing the State massage law (California Business & Professions Code Sections 4600 et seq.).

For the past four years, numerous local law enforcement agencies and their vice investigators have worked cooperatively with CAMTC's investigators on the denial and revocation of CAMTC-certifications and local police permits by providing information, declarations of unprofessional conduct, and enforcement assistance.

Based on our positive experience with other law enforcement agencies, CAMTC is interested in a cooperative relationship with your department. State law mandates CAMTC and authorizes local authorities to exchange information regarding CAMTC's applicants and certificate holders, including arrest reports, officer declarations, and prostitution-related prosecutions.

CAMTC not only investigates certificate holders and individuals applying for certification, we also investigate massage schools that are selling or falsifying transcripts and/or providing sub-standard education. And while CAMTC does not currently regulate massage establishments, we can assist you with enforcement challenges you may be experiencing in this area. We have many tools at our disposal that can enhance your efforts to prosecute illegal conduct in massage establishments and to fight human trafficking.

We would like to offer a training opportunity with our investigators and your vice officers, as well as anyone else you would like to include. CAMTC can share what we look for when investigating illicit massage activities and your officers can ask questions and identify issues

December 23, 2013

Page 2

about which we can help. Based on positive feedback from other departments about this training, we believe that you will find this to be a valuable learning opportunity which will further our mutual goal of protecting the public.

I look forward to discussing these issues with you in greater detail. Please contact me directly at the number or email below, or have your designee contact CAMTC's Director of Professional Standards Division, LAPD Vice Detective (Ret.) Rick McElroy. Rick's direct cell number is (805) 390-0397 and his email address is rmcelroy@camtc.org.

Respectfully,

A handwritten signature in black ink that reads "Ahmos Netanel". The signature is written in a cursive, flowing style.

Ahmos Netanel
Chief Executive Officer
(310)826.4594
anetanel@camtc.org

CALIFORNIA MASSAGE THERAPY COUNCIL LAW ENFORCEMENT TRAINING

Thursssday • February 20th • 10am • 400 County Center, Redwood City
Board of Supervisors Room, 1st Floor

CAMTC's priority is to work together with local law enforcement agencies to curtail the use of massage as as subterfuge for prostitution. Our goal is to allow the public to benefit from the services of certified therapeutc massage professionals who provide much needed care to people in California. Some topics covered by Rick McElroy in this training session include:

- Human Trafficking
- CAMTC Formation and Background
- Who works there?
- Local Law Enforcement Agencies
Benefit from CAMTC Authority
- Implicit Authority Provided to
Local Law Enforcement
- CAMTC - Value of a Private
Certification Body
- Information Sharing
- Advantages of Working With CAMTC
- CAMTC Disciplinary Process
- Unprofessional Conduct
- Public Demand For Therapeutc
Massage vs. Proliferation of
Massage Parlors
- Are You Connected?
- Ordinance Review and Discussion
- Consequences for Sunsetting
the State Law at the End of 2014
- Questions and Answers



Rick McElroy, is a 32 year veteran LAPD detective with 28 years assigned to citywide vice enforcement. He authored the LAPD SMART (Specialized Multi Agency Response Team) Red Light Abatement manual, "Operation ABC" grants for 13 years, co-authored the 2007 LAPD Vice Investigators Manual and also authored the 1985 Los Angeles massage ordinance. As Director of the CAMTC Professional Standards Division, Rick oversees background investigations as well as CAMTC's disciplinary process.



For more information contact:

Beverly May

CAMTC Director of Governmental
Affairs

bmay@camtc.org

650-587-5288

Number	Police Department:
1	Adelanto Police Department
2	Agoura Hills Police Department
3	Alameda County Sheriff's Department
4	Alameda Police Department
5	Anaheim Police Department
6	Apple Valley Police Department
7	Arroyo Grande Police Department
8	Bakersfield Police Department
9	Baldwin Park Police Department
10	Belmont Police Department
11	Big Bear Lake Police Department
12	Brea Police Department
13	Brentwood Police Department
14	Burlingame Police Department
15	California Department of Corrections and Rehabilitation/Ceres Parole Unit
16	Camarillo Police Department
17	Campbell City Attorney's Office
18	Campbell Police Department
19	Carmel-by-the Sea Police Department - declined training
20	Cathedral City Police Department
21	Ceres Police Department
22	Chino Hills Police Department
23	City of Brisbane
24	City of Burlingame
25	City of Milbrae
26	City of San Mateo, City Attorneys Office
27	City of San Rafael, Community Developing Department
28	Coalinga Police Department
29	Coloma Police Department
30	CSG Consultants
31	Culver City Police Department
32	Cypress Police Department
33	Daly City Police Department
34	Danville Police Department
35	DHHS
36	Downey Police Department
37	El Rio Police Department
38	El Segundo Police Department
39	Elk Grove Police Department
40	Escondido Police Department
41	Fillmore Police Department

42	Folsom Police Department
43	Fontana Sheriff's Station
44	Fountain Valley Police Department
45	Fullerton Police Department
46	Garden Grove Police Department
47	Gardena Police Department
48	Gilroy Police Department
49	Glendale City Attorney
50	Glendale Police Department
51	Glendale Project Manager
52	Grand Terrace Police Department
53	Hanford Police Department
54	Hesperia Police Department
55	Highland Police Department
56	Human Rights advocate (without permission)
57	Huntington Park Police Department
58	Ingelwood Police Department
59	Kern County Sheriff's Office
60	Lake Elsinore Police Department
61	Lemoore Police Department
62	Loma Linda Police Department
63	Lompoc Police Department
64	Manhattan Beach Police Department
65	Manteca Police Department
66	Marina Police Department
67	Menlo Park Police Department
68	Milpitas Police Department
69	Modesto Police Department
70	Monterey Park Police Department
71	Moorpark Police Department
72	Moraga Police Department
73	Moreno Valley Police Department
74	Morgan Hill Police Department
75	Mountain View Police Department
76	Murietta Police Department
77	Needles Police Department
78	Newbury Park Police Department
79	Novato Police Department
80	Oakdale Police Department
81	Orange County District Attorney
82	Oxnard Police Department
83	Pacifica Police Department
84	Palo Alto Police Department

85	Pasadena Police Department
86	Paso Robles Police Department
87	Piedmont Police Department - declined training
88	Pittsburg Police Department
89	Rancho Cucamonga Police Department
90	Redondo Beach Police Department
91	Redwood City Planning Department
92	Redwood City Police Department
93	Riverside County Sheriff's Department
94	San Bernardino County Sheriff's Department
95	San Bernardino Police Department
96	San Gabriel Police Department
97	San Jose Police Department
98	San Mateo City Attorney's Office
99	San Mateo County Sheriff's Office
100	San Mateo District Attorney
101	San Mateo Police Department
102	San Rafael Police Department
103	San Ramon Police Department
104	Santa Ana Police Department
105	Santa Clara District Attorneys Office
106	Santa Monica Police Department
107	Santa Rosa Police Department
108	Saticoy Police Department
109	Seal Beach Police Department
110	Sierra Madre Police Department
111	Signal Hill Police Department
112	Simi Valley Police Department
113	Solano County Sheriff's Office
114	Somis Police Department
115	Stanislaus County council
116	Stanislaus County Sheriffs
117	Stanislaus District Attorney's Office
118	Sunnyvale Police Department
119	Tehama County Sheriff's Office
120	Temecula Police Department
121	Thousand Oaks Police Department
122	Torrance Police Department
123	Tracy Police Department
124	Turlock Police Dept
125	Twentynine Palms Police Department
126	Ventura County Sheriff's Office
127	Ventura Police Department

128	Victorville Police Department
129	Westlake Village Police Department
130	Yucaipa Police Department
131	Yucca Valley Police Department

Police Department
JR Gamez
Chief of Police



1301 Maple Street
Redwood City, CA 94063
Telephone (650) 780-7122
Fax Line (650) 780-7149

March 4, 2014

Beverly May
Director of Governmental Affairs
California Massage Therapy Council
One Capitol Mall, Suite 320
Sacramento, Ca 95814

Re: CAMTC Law Enforcement Training

Dear Mrs. May,

I wanted to take the opportunity to thank you and the California Massage Therapy Council for the Law Enforcement Training that you presented in San Mateo County on February 20, 2014. The Redwood City Police Department personnel who attended reported to me that the training was informative, useful, and beneficial to their understanding of the cooperative role between law enforcement and the CAMTC. We look forward to any future training opportunities that your organization may present in the future.

Sincerely,

A handwritten signature in black ink that reads 'JR Gamez'. The signature is written in a cursive style with a large, stylized 'J' and 'R'.

JR Gamez
Chief of Police
Redwood City Police Department

Treasurer's Report Board Meeting: April 15, 2014 Summary of Fiscal Year 2013

Applications Received and Re-Certifications Billed 2013 & 2012

New Applications

Through March 2014 CAMTC has received 63,025 applications since the start of operations on July 27, 2009.

For the year ended December 31, 2013, approximately 11,994 new applications were received. This number is up 8.5% from 2012, but still below 2011 and 2010.

While the number of new applications is up from the previous year, re-certifications billed fell 12.8% from 2012. The cause of this decline is important. It may be a reflection of nothing more than the fact that more applications were received in 2010 than in 2011, so more people needed to be re-billed in 2012. If this is the case, it reflects the normal pattern of renewals. If some other factors are also contributing, they need to be addressed.

The recertification process began in July, 2011; approximately 9,500 re-certifications have already been re-billed through March 29 of this year, continuing to reflect re-certifications of those who were certified or re-certified in 2010 and 2012..

Year	New Applications Received	Re-Certifications Billed
2013	11,944	13,553
2012	11,004	15,475*
2011	12,428	2,800
2010	13,572	0
* estimated from bar chart		

New applications for 2013 exceed budget by 13% and, in spite of the fact that there was a decline in the absolute number, re-certifications applied were up 9%.

CAMTC continues to have two markets, both of substantial importance, over the coming years: new applicants and re-certifiers. In developing marketing and communication

strategies, thought needs to be given to whether those two segments need different motivations.

For both 2012 and 2013 there appears to be a seasonal pattern, with the low points in April through July. Average Renewals Paid for both years was just over 70%. While efforts to increase the renewal rate might be considered, a large part on the non-Renewals Paid is almost certainly due to churn in the industry.

Period	2012		2013	
	Renewals Billed*	Renewals Paid	Renewals Billed*	Renewals Paid
January	1336	76%	1430	72%
February	1757	76%	910	69%
March	2202	77%	910	74%
April	891	79%	690	74%
May	693	70%	640	69%
June	916	73%	890	69%
July	990	69%	920	70%
August	1757	71%	1050	69%
September	1485	61%	1060	70%
October	1237	66%	1790	75%
November	990	64%	1450	76%
December	1222	58%	1835	74%
Total	15475	71%	13555	72%

Financial Statements* and Year-to-Year Comparison (2013 & 2012)

Statement of Functional Activities (Income Statement)

Overview 2012

The revenue allocation procedure recognizes 27% of the \$150 initial application and renewal fees when the application is received, 38% when the certificate is issued and the balance, 35%, over 24 months.

Revenues for 2013 exceeded budget by 10.7% and expenses were 5.9% below the budget amount. The net effect is an excess of revenues over expenses of \$610,136 compared with a budgeted amount of \$33,777. This is the second consecutive year in

which both revenues and expenses were more favorable than budget. This certainly could reflect effective management; however, future budgets might be reviewed to determine that they are based on realistic reasonable goals.

Actual revenue in 2013 was \$3,868,828, 13.5% above 2012 revenue of \$3,408,251 and substantially above the \$2,409,031 in 2011 and over twice the \$1,787,411 in 2010. The increase in revenues from 2011 was 41%. Applications received, renewals applied and prior year deferrals accounted for the gain over 2012. Changes in other revenue sources were not major factors in the increases

Renewals, applied and approved, accounted for 33% of revenues in 2013 and prior year deferrals contributed 22%. However, in the future, as deferrals from this source are recognized, renewals will account for an increasing share.

Source	2013	2012	2011	% of 2013 Revenue
Applications Received	\$662,892	\$505,116	\$503,698	17%
Certificates Issued	\$700,325	\$672,201	\$612,351	18%
Renewals - Applied	\$662,538	\$443,961	\$97,322	17%
Renewals - Approved	\$616,896	\$610,584	\$135,261	16%
Current Year Deferrals	\$129,023	\$295,236	\$151,401	3%
Prior Year Deferrals	\$851,174	\$559,483	\$725,369	22%
Denied Applications	\$37,422	\$124,063	\$109,828	1%
Purged/Revoked Applications	\$22,018	\$25,842	\$38,982	1%
Hearing Fees	\$30,490	\$43,320	\$0	1%
Misc. Fees	\$82,176	\$45,453	\$33,806	2%
Recertification Late Fees	\$73,035	\$82,475	\$0	2%
Interest Income	\$839	\$517	\$1,013	0%
Total	\$3,868,828	\$3,408,251	\$2,409,031	100%

Expenses in 2013 were \$3,258,692 were up 17% from 2012 and up 29% from 2011, \$2,784,316 and \$2,519,854, respectively.

While expenses were up 17% from last year, revenues were up 14% -- resulting in a slight decline in excess revenue over expenses. (\$610,136 in 2013 and \$623,935 in 2012.)

The following table shows expenses by category for the three years; 2013, 2012 and 2011. Most of the increase between 2013 and 2012 was in two categories, Professional Standards Division and Professional services. These same two categories grew substantially 2011 to 2013.

Comparison of Expenses, 2013 and 2012				
Category	2013	2012	2011	Difference (2013 minus 2012)
Board & Committee	\$23,878	\$28,597	\$24,689	(4,719)
Outreach/Marketing	\$91,259	\$31,901	67,998	59,358
General Administrative	\$341,909	\$356,398	310,359	(14,489)
Executive Staff	\$454,942	\$401,519	399,368	53,423
Professional Standards Division	\$1,241,381	\$964,998	871,391	276,383
General Staffing	\$95,905	\$66,885	53,678	29,020
Professional Services	\$1,009,418	\$916,018	792,371	93,400

Performance Relative to Budget by Major Expense Categories.

Listed below are the major expense categories, in the order shown on the Statement of Functional Activities and the variance from the budget for 2012. In every category, except for Professional Standards, actual is below budget.

Comparison of Expenses 2013, Actual and Budget			
Item	Actual	Budgeted	Variance (negative numbers mean actual exceeded budget)
Board & Committee	\$23,878	\$27,600	\$3,722
Outreach marketing	\$91,259	\$114,912	\$23,653
General Administrative	\$341,909	\$341,909	\$0
Executive Staff	\$454,942	\$472,376	\$17,434
Professional Standards	\$1,241,381	\$1,327,495	\$86,114
General Staffing	\$95,905	\$95,905	\$0
Professional Services	\$1,009,418	1,019,590	\$10,172
Other	\$0	\$61,671	\$61,671
TOTAL	\$3,258,692	\$3,461,458	\$202,766

Statement of Financial Position (Balance Sheet)

Overview Total equity is up in 2013 even though the gain in expenses exceeded the increase in revenues. The reason is the recognition of deferred fees from prior years, considerably reducing liabilities.

- Total assets in 2013 are \$1,889,090 up from \$1,693,789, at year end 2012.
- Liabilities are down substantially, to \$1,017,519 down from \$1,422,485 in 2012. However, most of these liabilities are deferred income so, in a real sense, the backlog of deferred fees has fallen.
- Net worth at the end of 2013 is \$871,571 roughly triple the \$271,304 on December 31, 2012

Proposed 2014 Budget

Based on actual 2013 performance, the proposed budget for 2014 shows an increase of 11% in revenues and 12% in expenses. The biggest gain is in general staffing, up 48%.

Comparison of Actual 2013 and Proposed 2014 Budget Figures			
Item	2013 Actual	2014 Budgeted	2014 Budget as a % of 2013 Actual
Revenue			
Expenses	\$3,868,828	\$4,286,766	111%
Board & Committee	\$23,878	\$25,763	108%
Outreach marketing	\$91,259	\$87,873	96%
General Administrative	\$341,909	\$355,169	104%
Executive Staff	\$454,942	\$478,322	105%
Professional Standards	\$1,241,381	\$1,443,237	116%
General Staffing	\$95,905	\$142,092	148%
Professional Services	\$1,009,418	1,054,602	104%
Other	\$0	\$72,000	*%
Total Expenses	\$3,258,692	\$3,659,058	112%
Revenue minus Expenses	\$610,136	\$627,708	103%

Financial Statements for Quarter Ended March 31, 2014

Overview

This is an abbreviated analysis; the focus of this Treasurer's report had been on year-to-year comparison. In addition, the 2014 proposed budget has not been adopted by the Board.

The analysis of the financial statements is generally favorable.

Relative to the proposed budget, the Statement of Functional Activities shows a strong excess in revenue with no corresponding excess in expenses. The result is that revenues exceed expenses by more than twice the budgeted amount.

The statement of financial position is substantially stronger than it was at the end of the year 2013. Assets are up substantially while liabilities increased only moderately, resulting in a substantial increase in equity.

Statement of Functional Activities (Income Statement)

Overview Relative to Budget

The revenue allocation procedure recognizes 27% of the \$150 initial application and renewal fees when the application is received, 38% when the certificate is issued and the balance, 35%, over 24 months.

Revenues through March 31 exceeded budget by 19% and expenses were 5% below the budget amount. The net effect is a total revenues over expenses of \$494,847 compared with a budgeted amount of \$229,611.

Revenues

An excess of Renewals Applied and Renewals Approved accounted for 77% of the increase over budget. Applications received exceeded budget by \$43,345. Since this amount is 37% of the total, it means that 780 more applications were received than were budgeted.

Expenses

Almost all of the expense categories contributed to the below budget total of \$44,927. Outreach/Marketing accounting for the largest share, 27% of the below budget total.

Statement of Financial Position (Balance Sheet)

Overview The CAMTC balance sheet on March 31, 2014, as noted, is stronger than it was at year-end, December 31, 2013.

- Total assets on March 31, 2014 are \$2,452,718 up from \$1,889,090 at the end of 2013. Almost all of the assets are in the form of cash.

- Liabilities are \$1,086,299 down slightly from \$1,017,519 on December 31 last year. Most of the liabilities are deferred income.
- Net worth is up to \$1,366,419 up from \$871,571.

Conclusions

- A pattern of renewals is becoming apparent. The rate appears to be just over 70%. It will be important to ensure that the rate does not decline. While it may not be realistic to expect substantial improvement in this level, even moderate increase would be beneficial.
- Given that CAMTC should have among its goals building awareness and a favorable image among both New Applicants and Renewals, the dollars spent on Outreach Marketing should be viewed as important to the long term success in staying in touch with the market.
- CAMTC has done about as well in 2013 as 2012 . However, because expenses went up substantially last year, additional expense commitments should be carefully reviewed.
- While the proposed budget seems reasonable based on activity last year, the strong first quarter performance should be considered, particularly on the revenue side, before finalizing the 2014 figures.

Respectfully submitted by Michael Marylander,
Treasurer
April 9, 2014

CALIFORNIA MASSAGE THERAPY COUNCIL
(4/10/14)
PROPOSED BUDGET 2014

The following changes were made to the original budget presented to the board on December 3, 2013.

Summary - Projected total revenue is of \$4,286,766 with total expenses of \$3,865,169 netting an operating surplus of \$421,597 for the year. Projected year end cash is \$2,131,298 which equals to six and a half months of operating expenses.

REVENUE:

The first quarter Jan-Mar 2014 actual revenue and expenses are reflected in the proposed budget.

OPERATING EXPENSES:

OUTREACH/MARKETING EXPENSES: Includes a change to allow for a new PR contract.

GENERAL & ADMINISTRATIVE EXPENSES: the credit card fees were increased due to the renewals almost exclusively being paid by credit card.

PROFESSIONAL STANDARDS DIVISION: Clerical salaries were increased to include the reclassification of a clerical employee.

PROFESSIONAL SERVICES EXPENSES: Application processing expenses have an increase starting in May of \$6,000 per month to accommodate two additional personnel.

CAMTC													
PROPOSED 2014 BUDGET (4/10/14)													
	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014
REVENUE	ACTUAL	ACTUAL	ACTUAL										
Number of new applications deposited	1,300	982	1,049	850	850	850	850	850	850	850	850	850	10,981
1 New Application Fees Recognized (37% of \$150)	\$ 72,150	\$ 54,501	\$ 58,220	\$ 47,175	\$ 47,175	\$ 47,175	\$ 47,175	\$ 47,175	\$ 47,175	\$ 47,175	\$ 47,175	\$ 47,175	\$ 609,446
Certificates Issued	928	764	722	816	816	816	816	816	816	816	816	816	9,758
2 Certificates Recognized (39% of \$150)	\$ 54,288	\$ 44,694	\$ 42,237	\$ 47,736	\$ 47,736	\$ 47,736	\$ 47,736	\$ 47,736	\$ 47,736	\$ 47,736	\$ 47,736	\$ 47,736	\$ 570,843
Renewals-Applied	2024	2048	1569	1120	1098	1039	1113	1535	1345	1231	982	996	16,100
3 Renewals Recognized (46% of \$150)	\$ 139,656	\$ 141,312	\$ 108,261	\$ 77,280	\$ 75,762	\$ 71,691	\$ 76,797	\$ 105,915	\$ 92,805	\$ 84,939	\$ 67,758	\$ 68,724	\$ 1,110,900
Renewals-Approved	2010	2035	1588	1086	1065	1008	1080	1489	1305	1194	953	966	15,778
4 Renewals Recognized (42% of \$150)	\$ 126,630	\$ 128,205	\$ 100,044	\$ 68,443	\$ 67,099	\$ 63,493	\$ 68,015	\$ 93,804	\$ 82,193	\$ 75,226	\$ 60,010	\$ 60,866	\$ 994,028
Deferred Current / Prior Years													
5 Deferred Current Year (24% of \$150 /24)/(12% of \$150/24)	\$ -	\$ 3,468	\$ 6,477	\$ 5,661	\$ 7,548	\$ 9,435	\$ 11,322	\$ 13,209	\$ 15,096	\$16,983	\$18,870	\$20,757	\$ 128,826
6 Deferred Prior Yrs	\$ 76,460	\$ 72,085	\$ 65,582	\$ 60,715	\$ 56,917	\$ 53,794	\$ 50,315	\$ 46,124	\$ 41,933	\$37,431	\$32,317	\$28,615	\$ 622,288
Denied Applications	40	16	0	50	50	50	50	50	50	50	50	50	506
7 Denied Applications Recognized (63% of \$150)	\$ 3,780	\$ 1,512	\$ -	\$ 4,725	\$ 4,725	\$ 4,725	\$ 4,725	\$ 4,725	\$ 4,725	\$ 4,725	\$ 4,725	\$ 4,725	\$ 47,817
Purged/Revoked/Sus/Cancelled/Nullified	4	8	8	20	20	20	20	20	20	20	20	20	200
8 Purged Applications Recognized (63% of \$150)	\$ 378	\$ 756	\$ 756	\$ 1,890	\$ 1,890	\$ 1,890	\$ 1,890	\$ 1,890	\$ 1,890	\$ 1,890	\$ 1,890	\$ 1,890	\$ 18,900
9 Hearing Fees	\$ 2,140	\$ 2,525	\$ 2,710	\$ 2,300	\$ 2,300	\$ 2,300	\$ 2,300	\$ 2,300	\$ 2,300	\$ 2,300	\$ 2,300	\$ 2,300	\$ 28,075
10 Re-certification Late Fees	\$ 9,070	\$ 9,970	\$ 10,135	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 78,675
11 Miscellaneous Fees	\$ 8,645	\$ 6,445	\$ 7,235	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 76,325
Total Fee Revenue	\$ 493,197	\$ 465,473	\$ 401,657	\$ 327,425	\$ 322,652	\$ 313,739	\$ 321,775	\$ 374,378	\$ 347,353	\$ 329,905	\$ 294,281	\$ 294,288	\$ 4,286,123
Interest	\$ 66	\$ 37	\$ -	\$ 60	\$ 60	\$ 60	\$ 60	\$ 60	\$ 60	\$ 60	\$ 60	\$ 60	\$ 643
Total Other Revenue	\$ 66	\$ 37	\$ -	\$ 60	\$ 643								
TOTAL REVENUE	\$ 493,263	\$ 465,510	\$ 401,657	\$ 327,485	\$ 322,712	\$ 313,799	\$ 321,835	\$ 374,438	\$ 347,413	\$ 329,965	\$ 294,341	\$ 294,348	\$ 4,286,766
OPERATING EXPENSES													
Board & Committee Expenses													
14 Board Travel	\$ 982	\$ 523	\$ 1,073	\$ 1,083	\$ 1,083	\$ 1,083	\$ 1,083	\$ 1,083	\$ 1,083	\$ 1,083	\$ 1,083	\$ 1,087	\$ 12,329
15 Facility/Banquet	-	-	500	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250	11,750
16 Printing /Supplies/Postage	-	184	-	100	100	100	100	100	100	100	100	100	1,084
17 Conference Calls	-	-	-	-	100	100	100	100	-	100	-	100	600
Total Board & Committee Expenses	\$ 982	\$ 707	\$ 1,573	\$ 2,433	\$ 2,533	\$ 2,533	\$ 2,533	\$ 2,533	\$ 2,433	\$ 2,533	\$ 2,433	\$ 2,537	\$ 25,763

CAMTC
PROPOSED 2014 BUDGET (4/10/14)

	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014
Outreach/Marketing													
19	Communications & Promotion	\$ 2,410	\$ 2,432	\$ 90	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 72,432
20	Public Relations	-	-	7,791	5,000	5,000	5,000	5,000	5,000	850	850	850	40,341
21		-	-	-	-	-	-	-	-	-	-	-	-
22	Total Outreach/Marketing	\$ 2,410	\$ 2,432	\$ 7,881	\$ 12,500	\$ 8,350	\$ 8,350	\$ 8,350	\$ 112,773				
General Administrative													
23	Office Supplies	\$ 163	\$ 352	\$ 238	\$ 3,500	\$ 500	\$ 500	\$ 500	\$ 500	\$ 500	\$ 500	\$ 500	\$ 8,253
24	Office Rental - Sacramento	3,939	3,939	4,040	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	48,818
25	Office Furniture/Equipment	-	-	-	150	150	150	150	150	150	150	150	1,350
26	Printing/Copying	1,611	2,065	1,556	1,750	1,750	1,750	1,750	1,750	1,750	1,750	1,750	20,982
27	Records Shredding	-	-	-	-	-	-	-	-	-	-	1,500	1,500
28	Postage/Mailing	2,327	4,044	1,596	1,300	1,300	1,300	1,300	1,300	1,300	1,300	750	19,117
29	Telephone/Fax	55	68	114	450	450	450	450	450	450	450	450	4,287
30	Dues/Subscriptions-Software/Licenses	-	135	-	-	-	1,800	-	-	1,800	-	-	5,535
31	Insurance-D&O/E&O/GL	2,208	2,208	2,208	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	33,624
32	Banking/credit card fees	6,240	8,674	8,783	8,750	8,750	8,750	8,750	8,750	8,750	8,750	8,750	102,447
33	Staff Travel	-	586	40	125	125	125	125	125	125	125	125	1,751
34	Certification/Materials/Printing/Mailing	10,693	11,058	4,358	9,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000	107,109
35	Database Maintenance	2,089	855	579	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	18,823
36	Database Development	2,175	1,165	-	1,900	1,900	1,900	1,900	1,900	1,900	1,900	1,900	20,440
37	Amortization Expense						-					-	-
38	Miscellaneous	-	617	5	30	30	30	30	30	30	30	20	882
39	Total General Administrative	\$ 31,500	\$ 35,766	\$ 23,517	\$ 35,755	\$ 32,755	\$ 34,555	\$ 32,755	\$ 32,755	\$ 34,555	\$ 32,755	\$ 35,495	\$ 394,918

CAMTC
PROPOSED 2014 BUDGET (4/10/14)

	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014
Executive Staff													
40	Senior Management Team	\$ 24,986	\$ 24,986	\$ 24,986	\$ 24,986	\$ 25,274	\$ 25,274	\$ 25,274	\$ 25,274	\$ 25,274	\$ 25,274	\$ 25,274	\$ 302,136
41	Senior Staff-Contingency-Requires BOD Approval	-	-	-	-	-	-	-	-	-	-	-	-
42	Benefit Allowance	5,788	5,788	5,837	5,998	6,019	6,019	6,019	6,019	6,019	6,019	6,019	71,563
43	Off Site - Office Rental	1,892	1,892	1,892	1,946	1,968	1,968	1,968	1,968	1,968	1,968	1,968	23,366
44	Vacation Expense	1,396	698	279	865	865	865	865	865	865	865	865	10,158
45	Travel & Meetings	3,535	847	5,443	5,500	5,500	5,500	5,500	5,500	5,500	5,500	5,500	59,325
46	Cell Phone	215	-	385	375	375	375	375	375	375	375	375	3,975
47	Supplies	106	-	-	100	100	100	100	100	100	100	100	1,006
48	Equipment/Furniture	1,305	450	-	250	250	250	250	250	250	250	250	4,005
49	Phone - land Line-DSL	75	-	-	250	250	250	250	250	250	250	250	2,325
50	Miscellaneous	-	13	-	50	50	50	50	50	50	50	50	463
51	Total Executive Staff	\$ 39,298	\$ 34,674	\$ 38,822	\$ 40,320	\$ 40,651	\$ 478,322						
Professional Standards Division													
52	Management	\$8,893	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$ 91,393
54	Clerical	31,123	26,475	29,055	32,000	32,000	32,000	32,000	32,000	32,000	32,000	32,000	374,653
55	Field Investigators	16,948	16,317	16,305	17,917	17,917	17,917	17,917	17,916	17,916	17,916	17,916	210,819
56	Employee Benefits Allowance	3,664	3,664	4,464	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	48,692
57	PTO Expense	1,402	701	(1,238)	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	18,865
58	Supplies	-	777	-	208	208	208	208	208	208	208	212	2,653
59	Cell Phones	1,595	1,674	1,860	833	833	833	833	833	833	833	837	12,630
60	Travel	720	2,115	4,209	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	20,544
61	Conference Calls	-	1,196	702	833	833	833	833	833	833	833	837	9,399
62	Dept Meetings	-	425	-	50	50	50	50	50	50	50	50	875
63	Equipment	-	60	-	833	833	833	833	833	833	833	837	7,561
64	Legal Attorneys - Denials/Litigation	-	69,940	38,500	42,500	40,000	40,000	40,000	40,000	40,000	40,000	40,000	470,940
65	Legal - In - House (salary & benefit allowance)	16,300	16,300	16,300	16,300	24,300	24,300	24,600	24,600	24,600	24,600	24,600	261,400
66	Investigations (SSA)	-	-	-	200	200	200	200	200	200	200	200	1,800
67	Court Record Fees	103	-	76	150	150	150	150	150	150	150	150	1,529
68	Appeals+ Denials Printing/Supplies/Mailing	228	-	22	200	200	200	200	200	200	200	200	2,050
69	Miscellaneous	-	-	-	100	100	100	100	100	100	100	100	900
70	Total Professional Standards Division	\$ 80,976	\$ 147,144	\$ 117,755	\$ 127,224	\$ 132,724	\$ 132,724	\$ 133,024	\$ 133,024	\$ 133,023	\$ 133,023	\$ 133,023	\$ 1,536,703
Staff General Expenses													
71	Insurance (Workers' Comp)	\$ -	\$ -	\$ 8,934	\$ 958	\$ 958	\$ 958	\$ 958	\$ 958	\$ 958	\$ 958	\$ 958	\$ 17,556
72	Payroll Taxes (Exec Staff and PSD)	15,003	8,965	8,236	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	122,204
73	Payroll Services (all staff)	190	140	427	175	175	175	175	175	175	175	175	2,332
74	Total Staff General Expenses	\$ 15,193	\$ 9,105	\$ 17,597	\$ 11,133	\$ 142,092							

**CAMTC
PROPOSED 2014 BUDGET (4/10/14)**

	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014	2014
Professional Services													
75 Accounting/Audit	-	-	7,150	100	100	100	100	100	100	100	100	100	\$ 8,050
76 Application Processing	78,750	78,750	78,750	80,333	86,333	86,333	86,333	86,333	86,333	86,333	86,333	86,333	1,007,247
77 Consulting	-	-	-	300	300	300	300	300	300	300	300	300	2,700
78 Legal general counsel & routine	52	7,731	7,068	7,750	7,750	7,750	7,750	7,750	7,750	7,750	7,750	7,750	84,601
79 Total Professional Services	\$ 78,802	\$ 86,481	\$ 92,968	\$ 88,483	\$ 94,483	\$ 1,102,598							
80 Sub-total Operating Expenses	\$ 249,161	\$ 316,309	\$ 300,113	\$ 317,848	\$ 326,779	\$ 328,579	\$ 327,079	\$ 327,079	\$ 328,778	\$ 322,928	\$ 322,828	\$ 325,688	\$ 3,793,169
81 Miscellaneous Contingency	\$ -	\$ -	\$ -	\$ 8,000	\$ 8,000	\$ 8,000	\$ 8,000	\$ 8,000	\$ 8,000	\$ 8,000	\$ 8,000	\$ 8,000	\$ 72,000
82 TOTAL OPERATING EXPENSES	\$ 249,161	\$ 316,309	\$ 300,113	\$ 325,848	\$ 334,779	\$ 336,579	\$ 335,079	\$ 335,079	\$ 336,778	\$ 330,928	\$ 330,828	\$ 333,688	\$ 3,865,169
83 OPERATING SURPLUS / (DEFICIT)	\$ 244,102	\$ 149,201	\$ 101,544	\$ 1,637	\$ (12,067)	\$ (22,780)	\$ (13,244)	\$ 39,359	\$ 10,635	\$ (963)	\$ (36,487)	\$ (39,340)	\$ 421,597
<i>OPERATING SURPLUS / (DEFICIT) YTD</i>	<i>\$ 244,102</i>	<i>\$ 393,303</i>	<i>\$ 494,847</i>	<i>\$ 496,484</i>	<i>\$ 484,416</i>	<i>\$ 461,637</i>	<i>\$ 448,393</i>	<i>\$ 487,752</i>	<i>\$ 498,387</i>	<i>\$ 497,424</i>	<i>\$ 460,937</i>	<i>\$ 421,597</i>	<i>\$ 421,597</i>
CASH FLOW PROJECTIONS - 2014													
Cash Flow from Operations													Annual
Cash Received	\$ 509,385	\$ 463,470	\$ 402,645	\$ 303,800	\$ 300,500	\$ 291,650	\$ 302,750	\$ 366,050	\$ 337,550	\$ 320,450	\$ 283,100	\$ 285,200	\$ 4,166,550
Cash Expenses	\$ (249,161)	\$ (316,309)	\$ (300,113)	\$ (325,848)	\$ (334,779)	\$ (336,579)	\$ (335,079)	\$ (335,079)	\$ (336,778)	\$ (330,928)	\$ (330,828)	\$ (333,688)	\$ (3,865,169)
Total Cash Flow from Operations	\$ 260,224	\$ 147,161	\$ 102,532	\$ (22,048)	\$ (34,279)	\$ (44,929)	\$ (32,329)	\$ 30,971	\$ 772	\$ (10,478)	\$ (47,728)	\$ (48,488)	\$ 301,381
Cash Flow from Financing													
Other												\$ -	\$ -
Total Cash Flow from Financing	\$ -												
Starting Cash	\$ 1,829,917	\$ 2,090,141	\$ 2,237,302	\$ 2,339,834	\$ 2,317,786	\$ 2,283,507	\$ 2,238,578	\$ 2,206,249	\$ 2,237,220	\$ 2,237,992	\$ 2,227,514	\$ 2,179,786	\$ 1,829,917
Ending Cash	\$ 2,090,141	\$ 2,237,302	\$ 2,339,834	\$ 2,317,786	\$ 2,283,507	\$ 2,238,578	\$ 2,206,249	\$ 2,237,220	\$ 2,237,992	\$ 2,227,514	\$ 2,179,786	\$ 2,131,298	\$ 2,131,298



April 10, 2014

Memo to CAMTC Board Re: Policy on citations and arrests for practicing without permit or certification

From: Beverly May, Director of Governmental Relations

Current CAMTC policy is that we do not hold it against an applicant that they have been working without a local massage permit.

The reason for this policy was that when the law went into effect there were a tremendous number of legitimate massage therapists working without proper local permits. Reasons ranged from prohibitive costs to the fact that it was often extremely difficult or impossible to work legally. Sacramento County required a conditional use permit that cost \$18,000 and might not be issued. Numerous cities prohibited massage that was not ancillary to another business, such as a gym or medical office. Still others zoned massage to red light districts. Many massage therapists found requirements such as annual VD tests and investigations by the vice dept to be humiliating and inappropriate and so worked quietly in their homes, going to homes or in locations such as chiropractic offices and salons.

PSD may propose to deny an applicant who submits no work history yet may have an arrest or citation for working without a permit. If an applicant has disclosed the citation or the fact that he or she has been working without local permits it has not by itself been used as a reason for discipline or denial.

Staff is proposing that the Board re-consider and update this policy of leniency. It has now been almost five years since the first certifications were issued. Cities have asked why we still have this policy as many of them are cracking down on those working without city permits or certification. Massage therapists have had adequate time to learn of the law and get certified, or obtain local permits. The reasons not to do so, no longer apply.

Staff recommends that CAMTC' Professional Standards Division review applications from those who have been cited, fined or arrested for practicing without a local permit or CAMTC certification and take action as appropriate.

Item 16: Board of Directors - Standard operating procedures

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

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

The motion:

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

Information provided to the board shall include:

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

Using this issue as an example:

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

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

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

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

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

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

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

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

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

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

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

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

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

The con's include:

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

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

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

- **Date of implementation.**

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

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

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

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

The motion:

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

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

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

A short description of why the policy should be changed.

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

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

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

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

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

NOTICE TO APPLICANTS AND SCHOOLS:

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

CAMTC needs to provide correct and consistent information to all certificate holders, applicants, and the public. I do not believe certificate holders and applicants were notified of the change by email even though the need to do so was discussed on the January 2014 conference call. This needs to be a bigger priority.

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

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

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

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

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

Pro's:

Less confusion

Clear standards and expectations.

A more professional CAMTC organization.

Cons:

Staff time and resources.

The impact on current certificate holders and applicants.

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

A suggested date for the change to be implemented.

I recommend the board adopt a standardized 90-day notification policy when any changes to certification qualifications or requirements are made. Changes impacting the certificate holders

and applicants should have a specific date of implementation to ensure that people are treated fairly and consistently and notification should be given to allow people time to adjust and plan for new requirements.

I recommend the board adopt this new policy effective immediately.

c. Protocol for posting approved minutes on the website.

The motion:

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

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

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

A short description of why the policy should be changed.

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

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

Posting minutes is not referred to in statute.

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

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

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

Pro's: a more timely informed public.

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

The impact on current certificate holders and applicants.

None.

A suggested date for the change to be implemented.

I recommend the board adopt this policy effective immediately.