



Recent History of California State Massage Regulation

In late 1991, the California Chapter of AMTA (AMTA-CA) organized the CA Coalition on Somatic Practices. This informal group, representing massage and somatic associations, individuals and school owners, developed a 40 page Informational Packet and Survey on questions of professional identity and regulation. In 1995 almost 20,000 surveys were sent throughout the state. At that time just over a majority of massage therapists supported state regulation. Non-massage somatic practitioners, who are not subject to local vice laws, mostly did not want to be regulated.

Six years later AMTA-CA surveyed our members specifically regarding massage regulation. All the massage and somatic organizations that might be affected were offered copies of the survey. Only ABMP did a concurrent survey.

With fairly strong support from our members for a state law to pre-empt local vice regulations, AMTA-CA began to explore feasibility. ABMP, with a large CA. membership, was told that we would not proceed if they were in opposition, and we encouraged their participation. Our intent was that non-massage somatic specialties be exempted, as is fairly standard in the newer state licensing laws.

We began with a fairly broad principle - if there is going to be regulation, one state regulation is preferable to multiple and vastly differing vice ordinances. It has been our experience after at least 3 decades of working on repeal or reform of local ordinances that very little progress is possible at that level. Both AMTA-CA and ABMP were in agreement regarding provisions such as full grandfathering and pre-emption of local ordinances.

Only AMTA-CA committed to the hiring of a lobbyist and took initiative to begin efforts for legislation to pre-empt local vice ordinances. We prepared to introduce a bill in the 2003-4 Session. Although it was extremely optimistic we expected to mobilize supporters and work with opponents and other stakeholders.

Then Assemblywoman Kehoe of San Diego agreed to author the bill. Under the pressure of meeting the bill filing deadline, communication broke down, causing some initial chaos. We expected a "spot bill", worded as "an intent to study the need for regulation", allowing us time to work on the actual wording. Instead, the Assemblywoman's staff cut and pasted sections from AMTA and ABMP Model State Codes that we had sent, along with sections of bills pending in other states. The result was that a bill that no one liked was pieced together in order to keep the bill active.



Many states, including California, require submission of a Sunrise Survey documenting the need for state regulation. Typically, it is based on potential harm to the public by the unregulated profession. There is little proof that massage practitioners do much physical harm.

The Sunrise Survey introduced in 2003 took the position that massage is not causing any significant physical injury but that the public would be better served by state regulation, rather than the patchwork of local regulations. We believe the public is harmed emotionally and financially by the current situation – as individuals as well as in the costs borne by communities in their mostly futile efforts to prevent the use of massage as a front by the sex industry. The costs of state regulation would be borne by the pooled fees of all licensees. The 30,000 or so California massage therapists are also harmed by being subject to varied and expensive local requirements, paying for criminal investigations and permit fees in multiple cities.

At the same time, a committee representing AMTA-CA, ABMP, and massage schools formed to discuss revisions to the bill, resulting in a version that we felt could begin the process of negotiation with other stakeholders, including city and local officials, employers, other schools, and other professions.

In Nov. 2003, AMTA-CA pulled the bill from consideration as there was still too much work to do to prepare for upcoming Sunrise hearings.

Fast forward to the 2005-6 session - finding an author was not easy – Arnold had just come to power with plans to do away with over half the boards regulating professions, and a serious budget crisis was taking attention from legislators. Our best option was a promise from then Senator Figueroa, powerful Chair of the Senate Business and Professions Committee (as well as the joint committee which would hear our Sunrise application) to come up with something if we passed the hearing. Her option was to author a bill with no sponsoring organization, but with AMTA and ABMP both providing the type of support that sponsors generally do. However, rather than a license law, Figueroa insisted on the odd CA. model of a private agency created by the legislature to issue certifications and regulate certificants – unlike the previous licensing bill, this would be title act, allowing those not certifying to work under other titles.

With lobbyists for both AMTA-CA and ABMP working together, SB 421 died in the very final hours of the session due to opposition mostly by the CA Chiropractic Association (CCA), and to a lesser degree, the Physical Therapy Association, over scope of practice issues.

The current session, Senator Oropeza authored SB 731, using the language from SB 421, with AMTA-CA as sponsoring organization. ABMP was in support, and we worked very hard to address the concerns that defeated the prior bill.



The CCA formally supported it after we agreed to remove the definition (scope of practice) of massage. Typically title acts don't need definitions, unlike practice (license) acts, which regulate both the practice as defined and the titles used.

SB 731 passed through the two required policy committees in the Senate and off the Senate floor. It then got stalled in the Assembly Appropriations Committee due to some strange political fighting between the Assembly and Senate that resulted in bundles of bills being held back.

2008 is the second year of a 2 – year legislative session. We are currently working to move the bill out of the Appropriations committee for a vote on the Assembly floor, and then, after concurrence committee to resolve any differences in versions passed by each house, on to the Governor to be signed into law. We are very optimistic that we will succeed.

California is a very large, diverse state. With over 200 schools teaching massage, at all levels of training, and vastly differing requirements throughout the state, the profession has unique regional needs and perspectives. The state itself is not very supportive of new state regulations. We feel that this optional title act is a reasonable solution. Those who prefer to work under their local massage ordinances, or in areas having none, can continue to do so. The bill has tiers of 250 and 500 hours, with the lower tier phasing out after 5 years. Those certified by the Board will be exempt from the need for local massage permits, and cities must recognize them in zoning and fees as they do other professions. By doing so, massage therapists in California can finally avoid regulations prepared for vice control.

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