



February 3, 2015

Senate Public Health and Welfare Committee

Testimony in Support of Senate Bill 40

Chairwoman Pilcher-Cook and Members of the Committee,

My name is Jean Robinson and I am the government relations director for Associated Bodywork & Massage Professionals (ABMP). ABMP is a national professional association for massage therapists. Member benefits include: professional liability insurance, business resources, professional publications, and legislative and regulatory advocacy for our members. ABMP has more than 80,000 members nationwide, including more than 600 members in Kansas.

ABMP's priority is to ensure that the regulation of the profession be accomplished in a way that our members and other massage therapists can continue to thrive in business, and public access to massage therapy health care is not adversely affected. The profession has worked hard since 2011 to achieve some consensus on how to most effectively move toward regulating the profession in Kansas. SB 40 is the result of that effort and ABMP supports this bill.

Forty-five states and three territories currently regulate the profession. There is no reason to re-invent the wheel. In fact, Kansas is in the enviable position of being able to learn best practices in regulation from the other states. I'm confident that SB 40 reflects those best practices. The requirements for licensure in Kansas would be consistent with other states and impose the least restrictive provisions necessary to address the health and safety needs of the public.

National picture and SB 40

The scope of practice defined in SB 40 is not only consistent, but virtually identical to the other 45 states that regulate massage. Massage therapists don't diagnosis medical problems or prescribe pharmaceuticals. Massage programs do not teach the physiological effects of exercise so massage therapists don't prescribe or recommend specific therapeutic exercise. Massage therapists manipulate the soft tissues of the body – there is joint movement during the course of delivering different massage techniques (stretching) of course, but massage therapists don't manipulate or adjust the joints the way a chiropractor does or evaluate and focus on the joint integrity or mobility as a physical therapist would. In fact there are specific exclusions (no coverage) for such activities in professional liability insurance policies.

The **entry-level education and exam** requirements in SB 40 are as consistent as possible.

- In 2015, as we look massage therapy licensing requirements throughout the country, twenty-seven (27) states require completion of a minimum 500 hour massage program, while 18 states require more than 500 hours. Kansas would require 500 hours. This puts Kansas right in step with the majority of other states and in a good position to license candidates possessing an out-of-state massage license in a timely manner so people can get back to work in their new state quickly.

- Forty-two (42) of the forty-five (45) states require passage of an **entry-level exam** for licensure. Kansas would require an exam. (pg. 2 Sec. 2)
- Every state that has implemented licensing has allowed a grandfathering provision for existing practitioners so they would not have to jump through unnecessary hoops to continue practicing. SB 40 includes a very **generous grandfathering provision**. (pg. 3, Sec 3)

Background checks. The vast majority of states require massage therapists, actually all health professionals, to submit to a state and federal background check prior to issuing a license to practice. ABMP strongly supports this requirement. Given the nature and physical environment of a massage therapy treatment, a power differential exists between client and therapist, with client vulnerability being inherent. Treatment is typically performed in a private subjective setting with the client largely unclothed, but appropriately draped. The public deserves to know that their therapist has at least been screened and has no background issues that disqualify them from licensure.

This bill takes background check to the next level by providing the Nursing Board with **subsequent arrest notifications**. This is another “best practice” issue we have learned from other states. Several states have this provision in place and it is a great tool to further protect the public. The Nursing Board will have the ability to act quickly if a licensed massage therapist is arrested for an offense that threatens public protection, such as sexual assault. (pg.10, Sec 13)

Local jurisdictions.

You’ll notice that this bill limits regulation to individual professionals. There are a handful of states that include facility or business licensing under their state regulatory boards. We have learned that this is not a good public policy choice in this profession. Not one state that has facility licensing does a good, or even, decent job of regulating businesses. There are a lot of reasons why but the biggest issue is that 80% of massage therapists are sole-proprietors. Most work part-time in this profession – it’s a physically demanding occupation. This is also a mobile profession. Massage therapists may work for a spa or clinic part-time, but the majority have their own business as well. Many work out of their home, rent a room in a chiropractor’s office, or provide massage in their client’s home. There is also very little to regulate since massage therapists don’t use chemicals, tools, or machinery.

State regulation maintains a consistent entry-level requirement for professionals while still allowing local jurisdictions the ability to regulate massage businesses in a way that works for that specific jurisdiction. Many local jurisdictions probably don’t have issues with illicit businesses operating under the guise of massage therapy, but those that do will maintain the ability regulate massage businesses if the community decides it’s necessary. In addition, SB 40 calls for local and state law enforcement and the Board of Nursing to communicate and work together (pg 9 (g)). Everyone is on the same team; we all want illicit businesses operating under the guise of massage to be shut down. It’s obvious that local jurisdictions know their communities best. This bill leaves it all up to them.

Continuing education requirements. Most states have a two year renewal requirement. As far as CE requirements go, 23 states and territories require at least twenty-four (24) hours per 2 year renewal, twelve (12) states require less than twenty-four (24) hours, and eleven (11) states don’t

require CE for renewal. SB 40 would limit the number of continuing education required for renewal to no more than 12 hours. This is a compromise that we feel is quite reasonable. In the massage therapy profession, the cost to obtain continuing education averages \$18 - \$20 per hour.

Nationally, most states have separate **massage boards**, however, there are examples of different regulatory structures. For example, in Ohio, massage therapists are regulated under the Medical Board, in Virginia under the Nursing Board. In Kansas we support being regulated by the Nursing Board. Being regulated under an established board will provide an existing structure that will help keep fees low.

Eight states currently require licensed massage therapists to maintain professional liability insurance. We are definitely seeing a trend that new most new licensing bills include the requirement. Of the 5 remaining states that don't require a state license to practice, four states currently have bills to consider establishing licensure programs: Kansas, Minnesota, Oklahoma and Wyoming - all 4 include a requirement to maintain professional liability insurance. (There is no current bill in Vermont.) It is the job of the regulatory boards to protect the public so it is no surprise that several state boards are also considering adding this provision.

I've heard it argued that state credentialing is a way for membership associations to gain membership.

However, membership in a professional membership association is not required in the bill, professional liability insurance is.

In the massage profession, there are at least 6 different economical ways to obtain liability insurance coverage. There are 2 major membership associations – ABMP and AMTA. Both associations include liability insurance as a benefit of membership. The cost to join ABMP is \$199 per year; that cost has not changed in the more than 25 years we've been around. We have been able to keep our membership fees the same, not because we don't have claims – we do, we've been able to keep fees the same because we have grown. Like all insurance, it costs less when you spread the risk.

I've provided basic information about some of the other organizations below:

Associated Bodywork & Massage Professionals (ABMP): \$199 per year (www.abmp.com)

American Massage Therapy Association (AMTA): \$235 per yer (www.amtamassage.org)

Hands on Trade Association (HOTA): \$165 per year (<http://handsontrade.com>)

International Massage Association (IMA)/ National Association of Massage Therapists (NAMT)/Beauty and Bodywork Insurance: \$89.95 per year (<http://imagroup.com/>, <https://www.insurebodywork.com/>)

Massage Magazine Insurance Plus (MMIP): \$159 per year (<http://www.massageliabilityinsurancegroup.com/school/>)

American Massage Council (AMC): \$99 per year (<http://www.massagecouncil.com/>)

Private insurance companies also provide professional liability insurance.

Just like any other business decision, MT's will be able to choose whether they want additional professional resources included or if they want to go with a lower cost option of professional liability insurance only.

The goal here is to impose the least restrictive provisions necessary to address the public need for health and safety. Thank you for your consideration of ABMP's views, we ask that you vote in favour of SB 40. I'm happy to answer any questions.

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