TESTIMONY IN OPPOSITION OF SB 40 – The Massage Therapy Licensure Act

To: Honorable Chairman Mary Pilcher-Cook
Members of the Senate Committee on Public Health and Welfare

From: Thomas Hongslo, Police Chief
City of Lenexa

Date: February 2, 2015

Honorable Chairman and members of the Senate Committee on Public Health and Welfare, the City of Lenexa thanks you for the opportunity to provide testimony opposing SB 40.

We see several issues with SB 40 which are informed by experience. In the past few years, the City of Lenexa completed the administrative process of revoking the business licenses of several massage therapy businesses within our City. The bases for the revocations included, but were not limited to, prostitution, unlicensed individuals conducting massage therapy, improper contact by a therapist with the patron's genitals, serving alcohol on site, improper supervision of a business, and failure to maintain required employee information. While our disciplinary process focused on revocation of the business licenses, the vast majority of the underlying issues were related to the actions of the individual therapists at the establishments.

One of our significant discoveries during this process is that an alarming number of massage therapists do not actually attend school or training; they simply purchase transcripts and completion certificates from sham educational organizations. SB 40 does not remedy this issue. While it defines "Massage school" and requires that each school meet standards set forth by the respective state's educational institution act or "comparable legal authority," this definition does not close all of the loopholes or address very real concerns with state-to-state massage licensure standards. Many states do not currently have therapist licensure or educational standards for massage therapy schools. Further, a number of states are struggling to address the issue of fraudulent "schools." A good example is California. There, the California Massage Therapy Council (a State Legislature-created council implementing education and background

requirements) has investigated this issue and refuses to recognize credentials from a number of fraudulent organizations because they have determined that the organizations are involved in human trafficking. At the same time, the California State Bureau for Private Post-Secondary Education maintains that many of these same organizations have qualified and legitimate massage therapy programs. SB 40 does not make it clear which California State Board's determination on this issue would rule, or how the State of Kansas would handle suspected fraudulent training issues. This is a significant issue of paramount concern to the City of Lenexa.

The City of Lenexa is also concerned that fingerprinting and certified copies of the schooling are the only background investigation that would be completed. Rubber stamping what would appear to be a legitimate transcript would be a mistake. As we have taken a closer look at incoming applications we have discovered that many individuals do not complete the applications truthfully or completely as to their work, licensure or criminal history, or their legal status to work in the United States. We believe mandatory background checks and fingerprinting greatly increase our ability to assess an applicant's truthfulness and qualification for licensure. Below is a summary of the massage therapy license and massage therapy business license activity for Lenexa in 2014:

- 50 new Massage Therapists
- 79 renewal Massage Therapists
- 129 total Massage Therapists
- 46 new Massage Establishment Managers
- 25 new Massage Establishment Owners
- 200 Total Massage Therapy/Owner/Managers Processed

Of those totals:

- 176 approved
- 16 denied
- 8 Pending

We believe this legislation would create a very disjointed regulation of massage therapy in Kansas in several respects. First, individual therapists would be licensed by the State and massage establishments would be licensed locally, yet the Bill does not contemplate or provide for any sharing of therapist licensure information between the two. While the therapists are operating locally, revocation and/or discipline against a therapist license is solely the province of the State under standards which do not exist at this time. The State and local authorities may have very different ideas of what should constitute a disqualifying offense, and we believe that cities should have local control over these issues which are important and sensitive to their citizens. At the local level, we have the ability to complete an investigation and have closure in a court of law in a very timely manner. Many times, the violation of the law by a massage therapist has

also impacted the massage business therapy license. We currently have the ability to efficiently solve both of these issues at the local level. Finally, there is no indication in the Bill that the State licensing Board, which is solely responsible for licensure and discipline, will make any effort to regularly inspect or monitor the operations of these therapists. These are issues which we believe would yield significant negative results in the regulation of the massage therapy industry throughout Kansas.

The City of Lenexa recognizes that there are many legitimate massage therapists and that it is unfortunate that the actions of a few affect the operations of many. That being said, in Lenexa we are looking for ways to balance the sincere need to regulate this field while cooperatively working with and encouraging legitimate massage therapists. SB 40 will create confusion and gaps in information at a time when we need to tighten up the licensing of massage therapists – for the mutual benefit of legitimate therapists and our communities.