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**Testimony to the Senate Committee on Public Health and Welfare
In Opposition to SB531
March 15, 2022**

Chairman Hilderbrand and Committee members:

Our associations are not opposed to licensure of massage therapists, but we are opposed to several provisions in this bill. Our interest in this industry has to do with human trafficking that is associated with problem massage facilities, services, and the people performing those services.

We believe a licensing program for massage therapists should include sufficient provisions to assure bad actors using a massage business as a front to human trafficking or other illegal activities are excluded from licensing and also provide investigative aids to law enforcement. The good, honest working massage therapists deserve to be protected from the reputation damage the bad actors can cause to the industry. Several of our cities and counties currently have working licensure programs that provide the oversight of the massage activity needed in their communities.

That brings us to our first point of contention with section 13 of the bill on page 11, lines 9-19. While we understand the concern with requirements for multiple local licensures in multiple communities, the proposal in SB531 does not adequately address the needs of our local efforts to control the bad actors that use the guise of massage for illicit purposes. Our members tell us the local access to the therapist's application for licensure is an important investigative tool. The problem massage "therapists" often stay in one location a short time and move on. We don't find anything in the bill that would address these travelling therapists. We also believe the bill has not adequately addressed the information sharing needed to be effective for local efforts.

We also note the licensing provisions of section 4 could grandfather in the bad actors law enforcement is attempting to address in our communities. To be grandfathered in and licensed a person only must meet the four requirements on page 2 lines 36-40, plus any one of the items listed on page 3 lines 15-26. Note one of those on page 3 is to have practiced massage therapy for at least three years. This leaves the grandfathered people without any training or testing requirement in lieu of the three years of experience. So, a person engaging in questionable massage practices for three years, even if none of the experience were in Kansas or even in the United States, would be licensed.

We note the importance of the difference between licensing the massage businesses and licensing the therapists. As we review the bill, it appears it does not intend to license the business, but only the therapist. But then we find a provision in section 13 addressing the

preemption does not apply to zoning requirements. Zoning requirements do not zone for people, they zone for types of business activity or types of residential structures. And another provision in section 13 provides local law enforcement may inspect business premises where massage therapy is practiced. This leaves us wondering if the intent of the bill is to license businesses also, and if not, why are these provisions in the bill? We believe licensing of businesses should be left to the local authorities to include not just zoning issues (page 11, lines 11-12) but other operational standards and reporting. The bill needs to explicitly allow local licensing of massage businesses.

Another gap in the bill is that the local preemption in section 13 appears to start immediately when the bill would go into effect, but the new state licensing requirement does not become effective until September 1, 2024 (page 5 line 25). During that time there would be no state licensure or local licensure.

In the licensing requirements starting on page 8 line 39, we note there is no required rejection of an applicant, only the permissive “may refuse” if the conditions are not met. We propose there should be two lists of requirements, one for those which the board may refuse to license and another for those provisions requiring a license shall not be issued. Those which we believe should result in no license being issued are convictions for sex offenses, being a registered sex offender, and probably some others. We also believe a person who has pending charges for crimes that could result in revocation of their license should be suspended after a probable cause finding by the court until the case is finalized.

We believe this bill needs a lot of work if it is going to be an effective replacement for local licensing programs currently in place. We oppose any preemption of local licensing unless a state licensing program replaces all the tools of the local licensing processes, and we oppose any preemption of local licensing of massage businesses. It is our belief that to do so will impair our efforts to address the human trafficking crimes in our communities.

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