

# CAMBS

California Alliance of Massage and  
Bodywork Schools

August 2003

## Position Statement

The California Alliance of Massage and Bodywork schools has released the following position statement regarding Assembly Bill 1388 (AB1388). The statement has been sent to the governor, members of the Assembly Business and Professions Committee, Christine Kehoe and her chief of staff, the authors of the bill, and representatives of the AMTA and ABMP.

## Statement text...

“Assembly Bill 1388 affects all members of the California massage therapy profession, their educators, employers, professional organizations and clients. Although on the surface massage schools would appear to benefit from passage of this bill, after careful review of AB1388, the members of CAMBS find that AB1388 it is not representative of the immediate or future needs of our growing profession, and therefore should not be passed.

We base our position on the following facts:

### A. Massage therapy poses no threat of harm to the general public.

1. AB1388 is a “practice act” intended to avert severe harm or the potential to harm public health, safety or welfare that could be caused by unregulated practitioners.<sup>1</sup>
2. There is sufficient evidence on the national, state and local level indicating the massage therapy profession poses no harm to the general public.<sup>2,3</sup>
3. Incidences of malpractice for massage therapists over the past 10 years indicates there were less than 2 claims per 1000 insured--with less than 1% actually being paid.<sup>4</sup>
4. Medline citations of massage related injuries from 1965 to 2003 indicated only 11 cases in over 12 million reported medical citations.

There was no repeating injury patterns or significant statistics to support concern.<sup>5</sup>

5. Liability insurance rates increase in relationship to increases in claims. Rates as a portion of the annual professional membership fee have not significantly increased in 10 years. Only 27% (\$65) of the AMTA’s annual national membership fee is for insurance coverage.<sup>6</sup>

### B. Legislative redundancy—AB1388 requires the same information that is currently required by local, city and county regulatory agencies.

1. Massage therapy currently qualifies as an unlicensed therapeutic/preventative care profession under SB577.<sup>7</sup>
2. Even though the AB1388 calls for State pre-emption over city, county and local authorities, if the city charter specifically includes massage therapy, there will be dual fees and coverage.<sup>8</sup>
3. Non-charter cities will be reluctant to relinquish their right to collect fees and enforce regulations appertaining to massage therapy and will oppose AB 1388.<sup>9</sup>

### C. Negative affects on the public and massage community.

1. Increased costs and delays (up to six months) for the therapist—additional education, license and exam fees. Limited access of massage therapy to public due to increased delays in licensure<sup>10,11,12</sup>
2. By unfairly favoring Title IV schools, could cause closure of smaller massage schools with a devastating economic drain on the Student Tuition Recovery Fund and potential assessments passed on to other schools.<sup>13,15</sup>

3. If the NCE is adopted (following 23 out of 33 licensing states), California defers control of standards to a private corporation (NCBTMB affiliate of AMTA and COMTA). The NCE does not test practical skill only academic knowledge. The NCE discriminates against people who are non-traditional learners, challenged learners (dyslexia) or those whose native language is not English.<sup>14</sup>
4. AB 1388 narrowly focuses on a small number of medical massage practitioners to the exclusion the diverse modalities professionally represented in California.

CAMBS is committed to advancing the public acceptance and use of massage and related practices of touch. CAMBS is dedicated to working with the Bureau of Private Postsecondary and Vocational Education to foster quality in massage training and to working with local agencies to foster a cooperative attitude of regulation. In pursuing these goals, CAMBS is committed to keeping entry to massage practice suitable for adult learners with multiple responsibilities and to providing for issues of learning diversity. AB1388 does not accomplish these goals.

In conclusion, CAMBS opposes AB 1388 since it neither serves the profession nor the general public.

Sincerely,

Teresa Nead, Chairman  
California Alliance of Massage and Bodywork  
Schools

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Endnotes:

1 Senate B&P Committee Discussion of AB 1096 (Interior Design) include a statement of the purpose and types of regulation

(<http://www.cfharchitects.com/govaff/IDCalAnalysis.htm>)

Measure Intended to be a Title Act. To understand the primary policy consideration raised by this bill (whether there should be state regulation of interior design work), it is important to note the distinction between "practice regulation" and "title regulation". The following is based on the Assembly policy committee analysis.

A practice act confers the exclusive right to practice a given profession, and to advertise one's status as a licensed professional, on practitioners who meet specified criteria related to education, experience, and examination. A practice act is generally thought to be the highest and most restrictive form of professional regulation, and is intended to avert severe harm to the public health, safety or welfare

that could be caused by unlicensed practitioners.

A title act, on the other hand, reserves the use of a particular professional designation to practitioners who have demonstrated specified education, experience or other qualifications. A title act does not restrict the practice of a profession or occupation; it merely differentiates between practitioners who meet the specified qualifications and are authorized by law to represent themselves accordingly, and those who do not. Title acts can be found in many hybrid forms in California law.

<sup>2</sup> Grant, K.E., Ph.D. "Injuries Reported in Medline as Related to the Practice of Therapeutic Massage – 1965 to 2003" accepted for publication in Journal of Bodywork and Massage Therapies.

<sup>3</sup> Summary of 1997 Georgia review of massage  
[http://www.mckinnonmassage.com/articles/ga\\_opb\\_masgre v.html](http://www.mckinnonmassage.com/articles/ga_opb_masgre v.html)

West Virginia's 2003 legislative auditor's review  
[http://www.legis.state.wv.us/Joint/perd/MassTher\\_1\\_2003.p df](http://www.legis.state.wv.us/Joint/perd/MassTher_1_2003.p df)

<sup>4</sup> Studdert DM, Eisenberg DM, Miller FH, Curto DA, Kaptchuk, TJ, 1998 Medical Malpractice Implications of Alternative Medicine. The Journal of the American Medical Association 280:1610-1615

<sup>5</sup> Grant, K.E., Ph.D. "Injuries Reported in Medline as Related to the Practice of Therapeutic Massage – 1965 to 2003" accepted for publication in Journal of Bodywork and Massage Therapies.

<sup>6</sup> Studdert DM, Eisenberg DM, Miller FH, Curto DA, Kaptchuk, TJ, 1998 Medical Malpractice Implications of Alternative Medicine. The Journal of the American Medical Association 280:1610-1615

<sup>7</sup> which requires disclosure of a therapist's education and practice, a statement that the therapist does not provide medical services, lists specific acts that are not permitted and provides the public with a way of reporting complaints and malpractice to the State therefore achieving the aim of protecting the public.

<sup>8</sup> California Constitution, Article II, Section 5, Paragraph A

<sup>9</sup> Jim Kellas; presentation given to the CAMBS Board regarding Local and Municipal licensing and tax regulations.

<sup>10</sup> The tests are objective, in English. The test discriminates against non-English or learning challenged (dyslexic) professionals. (Non-English speaking students can only have a word-for-word dictionary with definitions during the test).

<sup>11</sup> The NCE sets a de facto requirement for 500 hours of training. Sixty-five percent (65%) of the cities surveyed by CAMBS require 300 hours or less training without a test requirement to get a permit.

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<sup>12</sup> In some cities it takes up to 8 weeks from the time the therapist passes the test to receive the permit to practice. It takes up to three months to apply for, take, and receive the results from the NCE. As for the time it would take to process a state license, acupuncturists, for instance, must wait about three months for their license to be processed after passing the State Boards. This total delay equals about eight months. The purpose of a vocational or career training school is to have graduates eligible for work. Delays created by the permitting or licensing processes jeopardizes the graduate's employment potential. These delays would be exacerbated by AB 1388 requirements.

<sup>13</sup> Currently massage students in California are able to take an entry-level course and then go to work while taking more training. If the students have to finance their whole education at the beginning rather than paying their way while working, they will have to rely more and more on subsidized education, with greater cost to the taxpayer.

<sup>14</sup> Many people who are drawn to learn massage are not suited for traditional kinds of education. Individuals drawn to the field of massage tend to be kinesthetic learners who are more successful in a non-traditional learning setting. The NCE requirements (very academic) would keep those folks from entering the profession.

<sup>15</sup> Sixty-five percent (65%) of the cities surveyed require 300 hours or less training without a test requirement to get a permit. Two-thirds of the California massage schools have curricula of less than 500 hours. This would disqualify their students from taking the NCE and State licensure. Expanding their programs would pose economic burden on the smaller schools, which could mean eventual closure. The economic impact for local communities, potential employers and individual therapists is significant.

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## What to do next

Don't relax yet! The movement for licensing isn't going to go away and delaying action would be dangerous. It is important for all sectors of the massage profession to participate in the process of developing the future of massage. Even though there has been no news since AB 1388 was dropped from

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the B&P committee agenda, this doesn't mean there has been no activity.

The sponsors and authors of AB 1388 (Kehoe and AMTA) have been actively seeking support from local and state government agencies and legislators. Bob Benson, President of ABMP has been seeking to arrange a meeting between the authors of the bill (Christine Kehoe and the AMTA) and other interested parties, to work on changing AB 1388. At the same time, CAMBS has had several meetings of its legislative committee who, after serious consideration, drafted the above position statement.

Now is the time for massage schools to actively participate in the process of defeating this bill and developing a more thoughtful way of addressing the future of massage in California.

- Write a letter to the Governor of California expressing your stand on AB 1388.
- Write to every member of the Assembly Business and Professions Committee urging them to vote no on AB 1388. Email Ramona Moody at [ramonam@earthlink.net](mailto:ramonam@earthlink.net) for addresses.
- Write to your own Assembly representative and urge him/her to vote no on AB 1388 if it comes before the entire Assembly. Follow up with a phone call to be sure your representative received your letter. Make an appointment with your representative to discuss the bill. Find the address of your local assembly representative at [www.assembly.ca.gov](http://www.assembly.ca.gov), click on the link "Find your representative."
- Don't lose the momentum – encourage students, therapists, and clients to write letters to their Assembly representatives. Make it easy for them by having sample letters available that they can sign and send or use as a model for their own letters. Contact [teresa@bodyinstitute.com](mailto:teresa@bodyinstitute.com) for sample letters.
- Plan on another round of letter writing in November and December, as the bill will come before the Assembly Business and Professions Committee again in January and a different governor may have been elected by then.
- Organize local discussions with massage therapists, massage instructors, employers and other interested persons to discuss whether licensure is needed, what should be included, and in what direction the future of massage practice in California should move.

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- Discuss AB 1388 in your classes and involve students in the process of letter writing and participation in their future through political processes. Try to send at least 100 letters as soon as possible.
- Implement SB 577 in your practice and in your classrooms. Teach students in your business and ethics classes how to implement SB 577 in their practices. For more information on SB 577 and sample forms, visit <http://www.californiahealthfreedom.org>.
- Create public interest by sending copies of the students' and therapists' letters to local newspapers and television news programs. Be sure to include information about how this bill would affect local therapists, employers, and clients. Include your own contact information so that local news media can contact you for a quote or further information.
- **Join CAMBS today!!** Call Birgit Ball-Eisner for membership information: 831-626-6916.

## How to implement SB 577 in your business and your practice

On September 23, 2002, history was made in California. With the unanimous support of the legislature, Governor Davis signed into law SB 577, sponsored by the California Health Freedom Coalition (CHFC) and authored by Senator John Burton.

As of January 1, 2003, California law now recognizes the professional legitimacy of alternative and complementary health care practitioners and healers allowing them, for the first time, to be able to legally provide and advertise their services in California.

As Governor Davis noted, SB-577 "will ease access to alternative and complementary health care options for all Californians." He also stated that "the bill provides adequate safeguards for California consumers and enables them to make an informed choice regarding their personal health care."

Unless their practice is strictly limited to personal care services, and no claims of any therapeutic benefit are made at all, massage therapists must comply with SB 577. Schools can take the lead

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by teaching students in their business classes how to comply with the law, which requires certain disclosures regarding the therapist's background in massage, types of massage performed, and intent, and includes some restrictions. Therapists must give each client a form that discloses this information and get a signature from each client acknowledging that he/she received the information. Sample forms and more information are available on the California Health Freedom Coalition web site at

<http://www.californiahealthfreedom.org>

The California Health Freedom Coalition also needs donations to cover the costs incurred in getting this bill passed. Check the website for information on how to send donations. This information is derived from the CHFC website and is used with permission.

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