

BACKGROUND PAPER FOR The California Massage Therapy Council

**Joint Sunset Review Oversight Hearing, March 24, 2025
Assembly Committee on Business and Professions and the
Senate Committee on Business, Professions, and Economic Development**

IDENTIFIED ISSUES, BACKGROUND, AND RECOMMENDATIONS

BRIEF OVERVIEW OF THE CALIFORNIA MASSAGE THERAPY COUNCIL

The California Massage Therapy Council (CAMTC) was first established in 2009. Unlike the majority of regulatory bodies responsible for overseeing professions and vocations in California, CAMTC is not a state agency and does not function as part of the state’s government. Instead, CAMTC is incorporated as a private nonprofit public benefit corporation with 501(c)(3) tax exempt status. Certificates granted by CAMTC are voluntary at the state level, though only certificate holders may use the terms “certified massage therapist” or any other language that implies certification by the council.

As of June 2024, there are 50,495 certified massage therapists in California. The practice of massage, also referred to as bodywork, is defined in statute as “the scientific manipulation of the soft tissues.”¹ According to the National Institutes of Health, massage therapy has been found to provide short-term relief for several kinds of pain, and massage therapy may be helpful for anxiety and depression in people with fibromyalgia, cancer, or HIV/AIDS.²

While a number of recent studies support the promotion of massage therapy as a complementary approach to pain management, for much of the profession’s history it has been treated less as a healing art and more as a potential front for illicit activities such as sex trafficking and prostitution. Through partnerships with local law enforcement, CAMTC considers efforts to combat human trafficking to be at the core of its mission and mandate from the Legislature. Local governments frequently include a requirement that all massage professionals possess a certificate from CAMTC as part of their anti-trafficking ordinances. As a result, while certification by CAMTC is technically voluntary at the state level, it is mandated in numerous jurisdictions across the state and is often framed by local government as a form of “vice” regulation rather than health care practice.

CAMTC has the authority to grant or deny applications for certification and to discipline certificate holders by denying, suspending, or placing probationary conditions on certificates. CAMTC is also responsible for approving and unapproving massage schools whose students are eligible for certification. CAMTC does not have any authority over massage establishments, with the exception of when the owner of the business is a certified massage therapist.

¹ Bus. & Prof. Code, § 4601

² <https://www.nccih.nih.gov/health/providers/digest/massage-therapy-for-health>

The Creation of CAMTC

Prior to the creation of CAMTC, massage therapy was almost exclusively regulated at the local level. Assembly Bill 3325 (McAllister, Chapter 1352, Statutes of 1976) had provided that in addition to a city or county's power to require business licenses, an ordinance could be adopted conditioning the issuance of a massage establishment license on compliance with certain standards. Requirements could include standards relating to age, education and experience, and passage of a practical examination. Cities and counties were further authorized to deny massage licenses to anyone previously convicted of crimes such as prostitution, pandering, or sales of narcotics, as well as those required to register as sex offenders.

Several bills were subsequently considered that would have established a new state-level agency tasked with regulating massage professionals. Assembly Bill 1388 (Kehoe), introduced in 2003, would have established a new entity under the Department of Consumer Affairs (DCA). However, that bill failed to advance beyond its first policy committee.

In 2005, the Joint Committee on Boards, Commissions, and Consumer Protection in the California State Legislature considered state licensure of massage therapists through the Sunrise Review process, as required by statute whenever creating a new state board or legislation creating a new category of licensed professional.³ The California Chapter of the American Massage Therapist Association and the Associated Bodywork and Massage Professionals each supported shifting regulation of the profession from the local level to the state level, and each completed the Joint Committee's sunrise questionnaire.

The sunrise background paper stated that "massage has grown into the third most requested Complementary and Alternative Practice" and that "massage is used for managing stress, enhancing self-awareness, maintaining health, increasing athletic performance, rehabilitating from injuries, and as an adjunct to medical treatment for wide variety of conditions." The sunset background paper additionally estimated that up to 25,000 massage therapists were actively practicing in California and using a variety of unprotected titles and claims of national certification.

Ultimately, the Joint Committee issued a formal recommendation that the regulation of massage therapists be shifted from the local jurisdiction approach to a state-based approach to provide for more uniform standards. The recommendation cited criticisms alleging that the majority of local ordinances enacted were aimed more at curbing illicit adult services than regulating a healing arts profession. The Joint Committee's final recommendation stated:

It was argued by some that [local control of the massage profession] was enacted to deal in part with the adult-oriented sex business, but in doing so legitimate massage businesses are subject to local ordinances that inappropriately and oppressively regulate them as "adult entertainment." ... Because local jurisdictions control the regulation of massage, local ordinances can be vastly different – leaving the massage therapist with the burden of adhering to each jurisdiction's requirements. This can make movement between jurisdictions anywhere from difficult to impossible. ... Local regulation treats professionals and "massage parlors" alike and consumers have a problem knowing how to distinguish legitimate massage practitioners from "massage parlors." ... Different jurisdictions have different standards which would indicate that there is no local government agreement about what standards are necessary and sufficient. It would seem appropriate to move regulation of massage therapy to the state level to create a more uniform standard.

³ Gov. Code, §§ 9148-9148.8

Shortly after the final recommendations were published, Senate Bill 412 was amended by Senator Liz Figueroa, Chair of the Joint Committee, to create a new state-level regulator of massage professionals. The bill proposed the creation of a nonprofit entity established as the Massage Therapy Organization (MTO), which would grant certificates to qualified applicants as either massage practitioners or massage therapists depending on education and experience. The concept of the MTO as a nonprofit was modeled after the California Tax Education Council, which was similarly established through statute in 1997 in what was called a “grand experiment” in nongovernmental regulation of a profession by a nonprofit.

Under the legislation, two tiers of massage professionals would be regulated by the MTO. Certification as a “massage practitioner” would require 250 hours of education from an approved school. Certification as a “massage therapist” would require 500 hours of education from an approved school or the passage of an approved examination. Massage professionals who were already providing massage services prior to the creation of the MTO would be eligible to receive certification as a “massage practitioner” under grandfathering provisions allowing for lower qualifying hours of education in conjunction with proof of providing an identified number of hours of massage for compensation.

As originally introduced, Senate Bill 412 would have completely preempted local regulation of massage, prohibiting the enactment or enforcement of any ordinance regulating the practice of massage by individuals certified by the MTO. However, subsequent amendments to the bill were taken in response to opposition by cities and counties. The final text of the bill would have preserved the authority for local governments to adopt ordinances “governing zoning, business licensing, and reasonable health and safety requirements for massage establishments or businesses,” though ordinances could not place additional requirements on certificate holders. Amendments also added representatives of the California State Association of Counties and the League of California Cities to the MTO’s Board of Directors.

Senate Bill 412 was supported by the American Massage Therapy Association, California Chapter but opposed by both the California Chiropractic Association and the California Physical Therapy Association. Floor analysis for the bill summarized the opposition’s arguments against the MTO’s proposed status as a nongovernmental nonprofit and belief that “the regulation of massage practitioners and therapists, like the regulation of other health care providers, be better placed in the hands of the Department of Consumer Affairs.” The opposition also expressed concerns with the extent to which massage professionals would appear to be authorized to engage in healing arts practice despite having less training than other professionals.

Following two years of negotiations, Senate Bill 412 failed passage on the Assembly Floor by a vote of 24 to 38. The next year, Senator Jenny Oropeza introduced Senate Bill 731, which was substantially similar to the prior Figueroa bill; it maintained the MTO’s nongovernmental status, the voluntary nature of the MTO’s certificate program, and the continued role of local governments in regulating massage businesses. The first section of Senate Bill 731 began by reading:

It is the intent of this act to create a voluntary certification for the massage therapy profession that will enable consumers to easily identify credible certified massage therapists; assure that certified massage therapists have completed sufficient training at approved schools; phase in increased education and training standards consistent with other states; assure that massage therapy can no longer be used as a subterfuge to violate [laws against prostitution]; and to provide a self-funded nonprofit oversight body to approve certification and education requirements for massage therapists.

Senate Bill 731 was signed into law in 2008 by Governor Schwarzenegger, creating at last a voluntary statewide certification of massage professionals by a nongovernmental nonprofit.⁴

Subsequent Changes to the Massage Therapy Act

Subsequent legislation was enacted to further refine the structure and operations of the MTO. In 2010, Assembly Bill 1822 (Swanson) added representatives of law enforcement to the MTO's Board of Directors. In 2011, Assembly Bill 619 (Halderman) renamed the MTO in statute as the "California Massage Therapy Council" and prohibited local governments from charging business licensing fees to massage establishments at a higher rate than other professional service businesses. CAMTC sponsored Senate Bill 1238 (Price) to make additional changes to its governing statutes in 2012. Assembly Bill 1747 (Holden), among other provisions, would have made the records of the council open to public inspection pursuant to the California Public Records Act; however, this bill was not heard in committee.

The legislation authorizing CAMTC subjected the council to the Legislature's sunset review oversight process, with a scheduled repeal date of January 1, 2016; this was changed to a repeal date of January 1, 2015 by Senate Bill 294 (Negrete McLeod), which readjusted the sunset timeline for a number of regulatory entities. CAMTC underwent its first Joint Sunset Review hearing on March 10, 2014, which was conducted by the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development (Committees).

In the background paper for CAMTC's first sunset review, the Committees considered a number of issues relating to how massage therapy was now regulated. The Committees noted that the two-tier certification system was scheduled to be repealed with the phasing out of the "massage practitioner" certificate; the Committees noted that "because massage practitioners and massage therapists are permitted to provide the same services, it is unclear if the different practice titles provide any meaningful information to consumers." The Committees also noted that CAMTC did not have any oversight over massage establishments, and raised the possibility of creating a registration program for establishments or a certificate program for business owner/operators. Additionally, the Committees pointed out that CAMTC's approved school process consisted of unapproving schools following investigations into complaints, where it may be more sensible for the council to affirmatively approve schools.

The Committees' background paper also discussed whether the Act's preemption language was overly burdensome on local governments seeking to regulate professionals working in establishments within their jurisdictions. Representatives of cities and counties argued that because statute prohibited them from regulating certified massage therapists in any manner inconsistent with how all other professional service providers were regulated, it essentially meant they couldn't regulate them at all. The Committees recommended exploring ways that "preemption language might be revised in order to return a greater degree of control to local governments in regulating massage businesses while maintaining the integrity of the statewide certification process and ensuring that massage professionals do not face undue burdens or discrimination in their practices."

Whether it was appropriate to continue the operation of CAMTC as a nonprofit organization was also discussed in the Committees' background paper. The final issue in the paper read:

A strong argument can be made for the continuation of some form of professional regulation: statewide regulation is more efficient, consistent, and the norm across the majority of states.

⁴ Chapter 384, Statutes of 2008.

Without any regulation, consumers would lose any hope of making distinctions in quality between massage practitioners, practitioners would be again subject to a patchwork of licensing regimes, and local governments would be forced to develop new regulatory processes from scratch.

However, the question remains as to the form that regulatory oversight should ideally take. Should the non-profit model represented by CAMTC, perhaps with some changes, continue for another four years? Should CAMTC be allowed to sunset, and have its responsibilities taken over by a newly created board or bureau under the jurisdiction of DCA? Transition to a board/bureau model would certainly entail transition costs, including setting up the physical office, hiring staff, and shifting over the database and certificate production processes. Conversely, a board or bureau would provide greater consistency in administrative practices, greater transparency to the public, and perhaps confer greater enforcement powers as well. Of course, such a change would also represent a shift in control over regulation from the industry to the public sector as well.

If the Committee decides to retain CAMTC in its current form, staff recommends that it be granted only a two-year sunset extension in order to ensure that any outstanding issues are dealt with quickly and to the satisfaction of the Committees.

Following CAMTC's sunset review, Assembly Bill 1147 (Bonilla) was amended to extend the council's sunset date by the recommended two years and implement a number of reforms to address issues raised in the background paper. The bill added clarification to CAMTC's role by defining a number of key terms and organizing the sections of code governing massage therapy into the Massage Practice Act, to be enforced and implemented by the council. The bill reconstituted CAMTC's Board of Directors and required at least 90 days' notice to the public of any meeting to discuss increasing certification fees. The bill also enacted language to formally wind down the "massage practitioner" certification, ending the two-tier system. CAMTC was required to develop policies, procedures, rules or bylaws governing the requirements and process for the approval and unapproval of schools. In regards to the role of local government, the bill placed additional prohibitions on ordinances but removed provisions in the law preempting land use ordinances.

While Assembly Bill 1147 preserved the voluntary nature of certification, it did require that CAMTC provide the Legislature with "a feasibility study of licensure for the massage profession." This report was prepared by an outside consulting group and delivered on December 21, 2016. The study argued that "in spite of the many benefits of regulation, and the increasing number of occupations and professions governed by such regulations, there has recently been an increasing awareness that these regulations come with a cost, both for consumers and for practitioners." It further suggested that "the certification model is likely superior to a licensure model in accomplishing the goal of distinguishing legitimate practitioners from sex workers," explaining that "the primary benefit of California's certification model as administered by CAMTC is that, because certification is voluntary, it can be revoked much more quickly and easily than can a state-granted license."

In its report, the consulting group acknowledged sunrising a new board would not be logistically challenging, stating: "The primary obstacle to licensure, then, is not logistical, but rather political. Specifically, opposition from related professions as well as some elected officials can act to slow or stop efforts to create a new category of professional license." The report concluded that continuing the regulation of massage professionals through voluntary certification by a nonprofit was "the best alternative for regulation of massage therapists in California, but continued attention to accountability and due process is needed to maintain the faith in and therefor the effectiveness of this system."

CAMTC underwent its second sunset review and was discussed in an oversight hearing held by the Committees on March 14, 2016. The Committees' background paper reviewed the progress CAMTC had made since its prior review and raised a number of additional issues relating to its structure and operations. Following the review, CAMTC's repeal date was extended by a full four years through Assembly Bill 2194 (Salas) with only modest reforms to the Massage Therapy Act, and the regulation of the massage profession through voluntary certification by a nonprofit was sustained.

The next sunset review for CAMTC was originally scheduled to take place in 2020; however, the effects of the COVID-19 public health crisis prompted the Legislature to extend that review by an additional year through the enactment of Senate Bill 1474 (Committee on Business, Professions, and Economic Development). During the Legislature's review of CAMTC in 2021, the Committees received comments from stakeholders who argued that the private nonprofit model was inappropriate for a healing arts profession and that oversight of massage therapy should be a state-level responsibility in the form of a public licensing board. While the Committees acknowledged that "transitioning from voluntary certification to a statewide license requirement would potentially elevate the profession of massage therapy and align the industry with other therapeutic practices," it was further noted that "a licensing program with all the associated expectations of due process would likely be both more expensive and less efficient than what is currently operated by CAMTC."

Assembly Bill 1537 (Low) was subsequently amended to extend CAMTC's sunset date by another year, with additional codified language declaring the intent of the Legislature to engage in "subsequent consideration of legislation to create a new state board and a new category of licensed professional" through the Legislature's sunrise review process. In the interim, the Committees received a formal sunrise proposal from Associated Bodywork and Massage Professionals (ABMP), which provided supportive analysis for requiring state licensure of massage therapy. CAMTC commissioned its own analysis in a report comparing the potential difference in fees for certification versus licensure, asserting that the biennial fee assessed to practitioners would be substantially higher under a state licensure model. Each of these positions was presented and discussed during an oversight hearing the following year.

Ultimately, CAMTC's sunset date was extended by four years through the enactment of Assembly Bill 2687 (Committee on Business and Professions), which made only minor changes to the Massage Therapy Act. Recent changes in leadership within the Committees discouraged the pursuit of significant reforms to an active certification program, and it was determined that the benefits of licensure had not yet been sufficiently proven to outweigh the potential downsides. While professional stakeholders stated their intention to continue advocating for licensure in the future, the Committees chose to conclude exploration of that proposal as part of the sunset process for CAMTC.

However, in 2024, the Committees grew concerned that CAMTC had engaged in activities warranting more immediate oversight and action than initially anticipated within the scheduled sunset review, with committee analysis arguing that "further scrutiny to [CAMTC's] operations has been elicited by actions taken by the council that appear to reflect a deliberate circumvention of transparency and accountability." The Committees specifically raised objections over a substantial certificate fee increase imposed without meaningful opportunity for public input. Concerns were also articulated regarding recent meetings of CAMTC's Board of Directors, where "it became apparent that CAMTC's Board of Directors was expected to loyally affirm the decisions of the council's staff, rather than provide independent oversight of its functions on behalf of the public." As a result, Senate Bill 1451 (Ashby) was amended to reschedule CAMTC's sunset review to take place in 2025, a year earlier than originally planned, and to impose stricter term limits on members of CAMTC's Board of Directors, with those limits effective retroactively beginning July 1, 2025.

Future of the Massage Therapy Profession

As a nongovernmental entity, CAMTC receives no funding from the State of California and the nonprofit model is frequently described as a more efficient and responsive form of regulation than state bureaucracy. Additionally, CAMTC has placed an emphasis on its collaboration with local law enforcement to combat human trafficking, suggesting that the deletion of preemption language and restoration of local control has been successful in assisting anti-trafficking efforts. Both CAMTC itself and representatives of local government have shown support for preserving the current structure for regulating massage therapy through voluntary certification by a nonprofit.

However, advocates for the regulated industry have continued to characterize the state's massage therapy laws as enabling excessively burdensome local ordinances and continuing to cast a shadow on the profession as a "vice" industry. As 45 other states currently license massage therapists, certification has proven to be a barrier to allowing the practice to be fully accepted as a form of pain management alongside other nonpharmacological treatments and therapies. Additionally, some have continued to criticize the council's nongovernmental status as falling short of the transparency, accountability, and due process required of government agencies.

These criticisms and arguments for and against reform of how the massage profession is regulated is discussed under "Current Issues." The majority of these issues were not directly addressed during CAMTC's most recent sunset review, and as a result they are largely restated from the prior sunset background paper, with additional updates reflecting CAMTC's official responses and actions taken since 2022. While there is currently no plan for the Committees to consider or evaluate a formal sunrise proposal concurrently with this sunset review, there will continue to be an open discussion about how the Legislature can best promote the fair and effective oversight of massage professionals in California.

Mission Statement

CAMTC has adopted the following mission statement:

"California Massage Therapy Council's mission is to protect the public by certifying massage professionals in California that meet the requirements in the law and approving massage programs that meet the minimum standards for training and curriculum."

Board of Directors Composition

The Massage Therapy Act requires that CAMTC be governed by a Board of Directors, composed of thirteen members. Ten members are each required by statute to represent a key stakeholder interest for the council; appointing authority is given to entities representing local government, institutes of higher education, anti-trafficking organizations, and the Department of Consumer Affairs. Currently, only two seats on the Board of Directors are expressly allotted for professional members who are certified massage professionals. In addition to the ten reserved member categories, three additional members are appointed by the Board of Directors itself, which must include one licensed attorney, one representative of a massage business entity, and one individual who has "knowledge of the massage industry."⁵

Specifically, statute allocates appointments to the Board of Directors as follows:

⁵ Bus. & Prof. Code, § 4602

- One representative of the League of California Cities.
- One representative of the California Police Chiefs Association.
- One representative of the California State Association of Counties.
- One representative of an “anti-human trafficking” organization to be determined by the council.
- One member appointed by the Office of the Chancellor of the California Community Colleges.
- One member of the public appointed by the Director of the Department of Consumer Affairs.
- One member appointed by the California Association of Private Postsecondary Schools.
- One member appointed by the American Massage Therapy Association, California Chapter, who shall be a California-certified massage therapist or massage practitioner who is a California resident and who has been practicing massage for at least three years.
- One public health official representing a city, county, city and county, or state health department, to be determined by the council.
- One certified massage therapist or a certified massage practitioner who is a California resident who has practiced massage for at least three years prior to the appointment, selected by a professional society, association, or other entity which membership is comprised of massage therapist professionals, and that chooses to participate in the council. To qualify, a professional society, association, or other entity shall have a dues-paying membership in California of at least 1,000 individuals, have been established since 2000, and shall have bylaws that require its members to comply with a code of ethics. If there is more than one professional society, association, or other entity that meets these requirements, the appointment rotates based on a four-year term between each of the qualifying entities.
- One licensed attorney, who at the time of the appointment represents a city, county, or city and county, appointed by the Board.
- One representative of a massage business entity appointed by the Board.
- One individual appointed by the Board who “has knowledge of the massage industry or can bring needed expertise to the operation of the council.”

Board directors serve terms of four years. Previously, there was no limit to the number of terms a member may serve; however, beginning in 2025, board members are limited to a maximum of two terms, regardless of the appointing authority. Statute further provides that any board member who, as of January 1, 2025, has served on the Board for 8 out of the preceding 10 years will be required to vacate their appointment no later than July 1, 2025. A director may be removed from the Board for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct, by the entity that appointed the director. The Board itself may no longer remove directors.

The current composition of the Board of Directors is as follows:

Name and Bio	Original Appointment	Expiration of Current Term	Appointing Authority
<p style="text-align: center;">Mark Dixon (Chair)</p> <p>After completing a 1000-hour entry level massage education program at an American Massage Therapy Association (AMTA)-approved private post-secondary school in 1988, Mark Dixon entered full-time practice. During his career, he accumulated an additional 1666 continuing education hours. He volunteered on the boards of the AMTA, the AMTA Foundation (now known as the Massage Therapy Foundation), the National Certification Board for Therapeutic Massage and Bodywork and the California Massage Therapy Council. In addition to serving on three Olympic Sports Massage Teams, he founded the National Championship Sports Massage Team, which provided Sports Massage care for university and professional athletic teams. Now retired, his professional work included teaching massage nationally, private practice, employment at major hospitals and Oncology Infusion Centers and high-end private clubs in Orange County, CA.</p>	01/14/2010	07/01/2025	Appointed by Board of Directors – Knowledge of Massage Industry
<p style="text-align: center;">Stephanie Powell (Vice Chair)</p> <p>Dr. Stephany Powell is a noted subject matter expert on human trafficking, child abuse, sexual exploitation, and victim-centered direct services. Her unusual background as an executive in social services as well as a former police sergeant gives her insight into complex challenges facing the U.S. justice system. She is widely consulted on trauma-informed public policy questions. Since 2013, she has educated over 20,000 people on civil and criminal aspects of sexual exploitation, including international audiences through the UN Office on Drugs and Crime, and has assisted approximately 2,000 survivors of human trafficking with employment, court assistance, housing, and even helped deliver a baby. Dr. Powell has been featured in media ranging from Newsweek to the Los Angeles Times to Fox News. Dr. Powell has also been featured on HLN Chris Cuomo for her expertise in Human Trafficking. She recently authored a human trafficking workbook for teens, My Choice, My Body, My Rules, available on Amazon her workbook is currently being used on a national and international level. She is the contributing author for the textbook Teaching Beautiful Brilliant Black Girls, Girl Trafficking Misunderstood: Understanding the Commercially Sexually Exploited African American Girl, available through Corwin Press and Amazon.</p>	11/18/2015	07/01/2025	Anti-Trafficking Organization

<p style="text-align: center;">Andrew Garsten (Treasurer)</p> <p>Andrew Garsten (with his wife Helen) is the Regional Developer for Massage Envy in the Los Angeles Region since 2004, overseeing the opening of 39 clinics and supporting the current 23 open franchised locations owners. From 2004-2024, they were the owners of the Massage Envy Glendale CA location. He is a co-founder and current board member of the Massage Envy California Franchise Association (MECAFA) representing over 100 California franchise locations as well as being an active member of the national franchise association - Envy Owners Association (EOA). Andrew is also active in his local community, serving on several boards and advisory committees.</p>	10/10/2024	10/10/2028	Appointed by Board of Directors – Massage Business Owner
<p style="text-align: center;">Kristy Underwood (Secretary)</p> <p>Kristy Underwood was appointed to the position of Executive Officer of the California Board of Barbering and Cosmetology on August 10, 2005. As Executive Officer, Kristy oversees one of the largest barbering and cosmetology regulatory boards in the country with 104 employees and a budget of over \$21 million. Kristy has over 30-years of experience in several positions in the Department of Consumer Affairs, including positions with the Professional Engineers Board, Hearing Aid Dispensers Bureau, and multiple other regulatory programs. Kristy graduated from the Leadership for the Government Executive Program at Sacramento State University.</p>	03/04/2024	03/04/2027	California Department of Consumer Affairs
<p style="text-align: center;">Sara Frazier</p> <p>Sara has been practicing massage therapy since 2003. She is certified by the California Massage Therapy Council (#65363), and has worked in diverse environments, including a chiropractic office, day spas, and wellness clinics. Sara developed a deep love and passion for massage while working in the field, and carried that into the education sector. She’s been working in Private Post-secondary Massage Education since 2011. She is currently in the role of Director of Education where she works with faculty and students, providing training, support and goal focused planning. Sara is appointed to the CAMTC board by the California Association of Private Postsecondary Schools (CAPPS).</p>	12/13/2021	08/19/2027	California Association of Private Postsecondary Schools

<p style="text-align: center;">Jennifer Gonzales</p> <p>Jennifer Gonzales was appointed by the California Police Chiefs Association. Jennifer was appointed the Chief of Police in Napa, CA in August 2021. Jennifer started her law enforcement career in 1993 in Chico, CA and eventually moved to Napa in 2015. Jennifer serves on the NEWS Napa Board (domestic violence and sexual abuse services), the Napa Special Investigation Bureau Governing Board, the Women Leaders in Law Enforcement Mentor Committee, the Napa County Juvenile Justice Coordinating Council, and was appointed by Governor Newsom to the State of California 9-1-1 Advisory Board. In addition, she has served as the Administration Division Captain overseeing the Dispatch Center, and acting as the Training Manager, State of California Alcohol Beverage Control liaison, and the liaison for civil and legal claims against the City of Napa Police Department. Jennifer served as the Peer Support Coordinator, Inter-Departmental Review PERC/IDR representative, Child Abuse Prevention Council member, Napa Opioid Safety Coalition member, Napa Valley Latino Leadership liaison, Napa Valley Community Leaders Coalition member, District Attorney’s Office Liaison, Press Information Officer/Media Relations, Social Media Coordinator, and departmental Fleet Manager.</p>	<p style="text-align: center;">10/10/2023</p>	<p style="text-align: center;">10/10/2027</p>	<p style="text-align: center;">California Police Chiefs Association</p>
<p style="text-align: center;">Terry Harman</p> <p>Santa Clara County Assistant District Attorney Terry Harman graduated cum laude from UC Davis in 1991 with a degree in International Relations. She attended the University of San Francisco School of Law, graduating in 1994. Terry worked as a Research Attorney for the Santa Clara County Superior Court – Criminal Division for two years. In 1996, she became a Deputy District Attorney for Santa Clara County, where she prosecuted misdemeanors, felony domestic violence, rape, child physical and sexual abuse, and homicides. Terry left the DA’s Office in 2003 to join Rains, Lucia, and Stern, LLC. Terry returned to the DA’s Office as an Assistant District Attorney in 2012. Assistant District Attorney Terry Harman oversees Sexual Assault, the South County Office, and Paralegal staff. In 2014, she directed the implementation of the Human Trafficking task force and worked with attorneys and law enforcement to grow LEIHT into the biggest human trafficking task force in Northern California. Terry has worked with other DA’s Offices within California and beyond to establish best practices for internal changes in the areas of rape kit testing and human trafficking.</p>	<p style="text-align: center;">10/10/2024</p>	<p style="text-align: center;">10/10/2028</p>	<p style="text-align: center;">Appointed by Board of Directors – Public Attorney</p>

<p style="text-align: center;">Martha Soffer</p> <p>Internationally acclaimed Ayurvedic Panchakarma expert, Ayurvedic Chef, Herbal Rasayanist, and master Ayurvedic Pulse diagnostician, Martha Soffer is the founder of Surya, the recognized leader of modern Ayurveda. Martha’s focus on “Ayurveda for Modern Life” is achieved through a system of practical and easy self-care, helping each individual attain balance and wellness through healing retreats, restorative beauty, wellness and food products, as well as educational guidance and support. A frequent guest on the CBS talk show “The Doctors,” Martha also works with MDs who refer patients when western medicine cannot deliver a satisfactory solution, and who often come themselves for seasonal treatments. Martha teaches and lectures, and is featured in publications such as Vogue, Vanity Fair, In Style, Allure, the L.A. Times, New York Magazine, and Goop. With the Surya team, Martha brings vitality and health to clients who range from next-door neighbors to the top stars of the film and entertainment industries.</p>	09/15/2023	09/15/2027	Certified Massage Therapist Appointed by Professional Association
<p style="text-align: center;">Bernadette Murray</p> <p>A 1991 graduate from the Lauterstein-Conway School of Massage in Austin TX and a certified CMT #222 since 2009, Bernadette has practiced massage therapy in Woodland CA since 1996. Bernadette was appointed by ABMP in 2019 to her first 4-year Board term. In 2023, she was appointed to her second term by AMTA-CA. In addition to her service in the massage therapy field, and in spite of a dual 2005 MS diagnosis and a 2014 Parkinson’s diagnosis, Bernadette has years of experience volunteering with nonprofits, consumer cooperatives and local government advisory committees with a mission to protect her fellow citizens and consumers from harm while enhancing well being.</p>	09/06/2019	09/06/2027	American Massage Therapy Association, California Chapter
<p style="text-align: center;">Rich Desmond</p>	03/12/25	03/12/29	California State Association of Counties
<p style="text-align: center;"><i>Vacant</i></p>	--	--	League of California Cities
<p style="text-align: center;"><i>Vacant</i></p>	--	--	Chancellor of the California Community Colleges
<p style="text-align: center;"><i>Vacant</i></p>	--	--	Public Health Official Representing a City, County, City and County, or State Health Department

CAMTC's bylaws authorize the Board of Directors to create committees of the Board consisting of only directors, or advisory committees which may contain non-directors, and to appoint committee chairs. The current committees are as follows:

- **Executive Committee:** This committee consists of the elected officers of the BOD and has the authority to review and recommend changes to the bylaws and to other operating policies to the Board of Directors.
- **Audit Committee:** This committee is charged with oversight of financial reporting and disclosures. The committee interfaces with the auditing firm, the Chief Financial Officer, and the Chief Executive Officer, and makes recommendations to the BOD as to the approval of the annual audit report. It also files the organization's tax returns. This committee has historically been comprised of two members but currently has one member as the second member has been appointed to CAMTC's BOD and was voted to be the organization's treasurer, requiring his resignation from the audit committee.

CAMTC's Board of Directors previously established a School Advisory Committee, which made recommendations to the Board of Directors as to issues affecting CAMTC approved schools and their students. This committee was chaired by a Board member and comprised of one other Board member and five other individuals who are either owners or administrators of CAMTC Approved Schools. This committee recommended changes to the Policies and Procedures for Approval of Schools and other school-related policies, many of which have been adopted by the Board. However, according to CAMTC's current sunset report to the Legislature, this committee is no longer in operation.

Meetings of the Board of Directors and committees are required to comply with the Bagley-Keene Open Meeting Act. The Board holds one annual meeting for purposes of organization, election of officers, and transaction of other business. The Board may additionally meet throughout the year for any purpose during a special meeting. CAMTC is required to provide at least 90 days' notice of any meeting to vote upon a proposal to increase certification fees, including posting a notice on the council's website.

Staff

Statute authorizes CAMTC to hire staff as necessary to carry out its responsibilities.⁶ Senior staff employed by CAMTC includes a Chief Executive Officer (CEO); a Director of Government Affairs, Human Trafficking, and Information Technology; a Director of Law and Code Enforcement Relations; a Director of Educational Standards; and a Director of Background Review and Investigations, along with other employees who provide assistance to the CEO and the department heads. CAMTC also retains a contract management firm, an outside auditing firm, a Chief Financial Officer, an outside general counsel, and an outside special counsel, along with various other contractors for special projects.

CAMTC's current CEO is Ahmos Netanel, who is a trained massage professional. Mr. Netanel was originally appointed as a director on the council's Board of Directors in 2009 when CAMTC was first established. In 2010, Mr. Netanel resigned from the Board and was hired as the CEO. The salary and compensation received by CAMTC's CEO has been described as substantial. In 2018, CAMTC convened a CEO Compensation Committee; subsequently, the Board voted to contract with an independent consulting group to obtain a study on comparable compensation packages, which was presented by the consulting group to the Committees during CAMTC's next sunset review oversight hearing. The Board of Directors has discretion to increase that amount annually.

⁶ Bus. & Prof. Code, § 4602

Following an organizational restructuring in 2019, the prior Professional Standards Division (PSD) was rearranged into several new departments engaged in the investigation and review of applicants and certificate holders. These departments consist of Investigations, staffed by two dedicated sexual assault investigators, and the Background Review Department, both of which report to the Background Review Department and Investigations Director. Hearing Officers are now part of the Legal Department. The Director of Law Enforcement Relations, who was previously the Director of PSD, reports directly to the CEO. Existing staff responsibilities have been reorganized and redistributed to create efficiencies.

Many of CAMTC’s day-to-day operations, including certificate application processing and customer service, are performed by a contract management firm, Advocacy Management Group (AMG). Approximately half of CAMTC’s current workforce is comprised of individuals employed by AMG. One of AMG’s employees functions as CAMTC’s Director of Operations. In 2024, AMG was paid approximately \$1.7 million for its administrative services.

CAMTC contracts out for other services as well. The council contracts with the law firm of Jill S. England, and with Alison R. Siegel, who serves as CAMTC’s Special Counsel. These law firms bill on an hourly basis. CAMTC utilizes an auditing firm for independent auditing services. Additionally, J.S. Financial Group provides Chief Financial Officer services for the council.

Fiscal and Fund Analysis

As a nongovernmental, nonprofit organization, CAMTC does not receive any appropriation from the State of California and is entirely self-funded through fees. The Massage Therapy Act authorizes CAMTC to “establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties” and sets a maximum initial and renewal fee for certificate at no more than \$300 biennially. CAMTC previously increased its fees in 2019 from \$150 to \$200. In 2023, CAMTC again raised its fees up to the statutory cap of \$300. Late fees are assessed based on age of delinquency.

School application fees are \$3,450 over two years and school reapproval fees are \$6,900 over four years, plus an \$82 school background check cost that is paid directly to the vendor. CAMTC also charges fees for schools who request a hearing to challenge a proposed denial, discipline, or revocation of a school approval. As of 2019, the fee is \$1,800 for an oral telephonic hearing and \$1,400 for consideration of a written statement. These fees were raised significantly since CAMTC began approving schools in 2016. CAMTC states that the above fees still do not off-set the costs of its school approval program.

Although there is no statutorily mandated reserve level for CAMTC, it has established a minimum three-month reserve level with a six-month reserve goal for its operating expenses (an increase from its prior goal of three months). After decreasing from 2021 into 2022, revenue has steadily increased from 2023 into 2024, likely attributable to an increase in certificate fees. CAMTC’s expenditures have continued to rise each year; however, the increased revenue has led to a steady growth in its reserve.

	2021	2022	2023	2024
Beginning Balance	\$2,041,000	\$2,556,000	\$1,856,000	\$3,256,000
Revenue	\$6,276,000	\$5,631,000	\$7,981,000	\$7,920,000
Expenditures	\$5,758,000	\$6,331,000	\$6,581,000	\$7,076,000
Fund Balance	\$2,556,000	\$1,856,000	\$3,256,000	\$4,099,000
Months in Reserve	5.3	3.5	5.9	7

The majority of CAMTC’s spending is related to individual denials and discipline, with approximately \$3,157,000 in expenditures in 2024. CAMTC’s Educational Standards Division spent \$1,126,000 in 2024. The remaining source of expenditures was administration, with \$1,714,000 going to costs associated with CAMTC’s contract with AMG and \$1,080,000 spent on non-AMG administration costs.

Certification

CAMTC’s population of individual certificate holders is primarily comprised of Certified Massage Therapists, though there remain a small number of remaining Certified Massage Practitioners who were grandfathered in prior to 2015 when that tier was eliminated. Over the past four years the number of active certificate holders has remained relatively stable, as demonstrated in the below chart, which was last updated on June 30, 2024:

Certificate Holders			
2021	2022	2023	2024
49,867	50,693	50,556	50,495

This equilibrium is attributable in part to a consistent number of certificate holders seeking recertification each year, with the number of new certifications fluctuating only mildly. A total of 91,289 applications for certification or recertification were received by CAMTC between January 1, 2021 and June 30, 2024. During that time period, CAMTC purged 1,462 applications.

New Certificates Issued			
2021	2022	2023	2024 (Jan. – June)
3,523	3,787	3,020	1,512
Recertifications Issued			
2021	2022	2023	2024 (Jan. – June)
22,678	21,435	22,852	11,579

On average, applications for new certifications have taken approximately eight days from the date the file is complete for applicants with no background or education issues. The average is also eight days for recertifications with no issues. For new applicants who have either education or background issues, the average is 13 days, and 20 for recertifications.

Pursuant to the Massage Therapy Act, every applicant for a certificate is required to submit their fingerprints for a criminal history background check through the California Department of Justice and the Federal Bureau of Investigation. Applications for certification may be denied by CAMTC if the applicant has engaged in specified misconduct. Applicants may also be denied if they have been “convicted of any felony, misdemeanor, infraction, or municipal code violation, or being held liable in an administrative or civil action for an act, that is substantially related to the qualifications, functions, or duties of a certificate holder,” or “committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder.”

	2021	2022	2023	2024 (Jan. – June)
Applications Denied	229	233	212	30

Education

Applicants for certification as a massage therapist must demonstrate that they have completed a minimum of 500 hours of education from one or more approved schools. Beginning on July 1, 2016, all open massage schools must be affirmatively approved by CAMTC. For a school to be approved by CAMTC, it must meet minimum standards for training and curriculum in massage, as determined by the Massage Therapy Act and the council, and must be one of the following:

- 1) Approved by the Bureau for Private Postsecondary Education (BPPE);
- 2) Approved by the Department of Consumer Affairs;
- 3) Accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC) that is either a public, nonprofit, or for-profit institution;
- 4) A college or university of the state higher education system; or
- 5) A school requiring equal or greater training than what is required by the Massage Therapy Act and is recognized by the corresponding agency in another state, or is accredited by an agency recognized by the federal Department of Education.⁷

Statute requires CAMTC to “develop policies, procedures, rules, or bylaws governing the requirements and process for approving, denying approval of, imposing corrective action on, or unapproving schools.” These policies and procedures must “address topics including, but not limited to, what constitutes an acceptable curriculum, facility requirements, student-teacher ratios, clinical practice requirements, and provisions for the acceptance of accreditation from a recognized accreditation body or other form of acceptance.”⁸ CAMTC has published Policies and Procedures for Approval of Schools in response to this requirement.

To become a CAMTC-approved massage school, an application must be completed with an initial application fee of \$3,450. CAMTC will notify applicants whether their application is complete within thirty days of receiving it, and schools have sixty days to complete the application upon being notified that it is incomplete, or it will be purged. Schools with purged applications must wait 180 days to reapply. CAMTC may approve a school, propose to deny it, or notify the school that corrective action is needed. CAMTC requires that all school owners and massage program staff who are not CAMTC-certified undergo a background check. CAMTC also receives information from other parties such as BPPE, accreditors, local governments, and other states.

Schools that enroll students while still pending approval must notify all students that they are not approved and receive signed confirmation of that notice. Schools host a scheduled site visit from CAMTC, who verifies the information in the application; unscheduled visits may also occur. New massage schools and programs with no students enrolled may receive provisional approval, in which case two site visits occur: one at the initial review stage and another at a later time when students are enrolled.

⁷ Bus. & Prof. Code, § 4601

⁸ Bus. & Prof. Code, § 4615

For massage schools outside of California, CAMTC considers whether to accept an applicant's education on a case-by-case basis. Per statute, CAMTC will evaluate whether the applicant's education was received from a "school requiring equal or greater training" than required in California and that is also either accepted by another state's massage regulator or accredited by an agency recognized by the federal Department of Education. Since 2023, the Massage Therapy Act has given express discretion to CAMTC to give credit to applicants who received education at a school located outside the United States for comparable academic work completed by an applicant toward certification.

Initial approvals are valid for two years unless approval is revoked by CAMTC, and re-approvals are valid for either two years for \$3,450 or four years with payment of a \$6,900 re-approval fee, the school's choice. From July 1, 2016 when CAMTC's school approval process began, through February 5, 2025, CAMTC has approved 107 massage school campuses, denied 7 schools, proposed to revoke one school (3 campuses), and re-approved 131 campuses. As of February 5, 2025, there were 63 approved massage school campuses in California and 3 provisionally approved campuses. CAMTC provides a list of approved schools on its website, as well as an interactive map.⁹

CAMTC is additionally empowered to discipline or revoke the approval of or discipline schools in accordance with its Policies and Procedures for Approval of Schools. If the Educational Standards Division determines that there are potential grounds for discipline or revocation, the school is immediately placed under investigation. Any students who have submitted applications for certification with transcripts from the school are placed on hold. Within 60 days, the school is notified if the investigation will continue. If the investigation continues, the hold on the students is released, but they must pass an education hearing in order to be certified. When an investigation is completed, if CAMTC decides to propose revocation or discipline against the approved school, the school is sent a letter which identifies the factual and legal basis for the proposed revocation or discipline and supporting evidence. Schools are given the opportunity to be heard either through telephonic conference or in writing at least five days from the proposed effective date of the denial, revocation, or discipline, with a fee charged for that hearing. Decisions may be appealed through either a twenty-minute oral presentation or written statement to the Board of Directors, and schools have up to 90 days from the effective date of the revocation or discipline to file an action in superior court challenging the decision.

There is no continuing education requirement for massage therapists in California.

Examination

The Massage Therapy Act began requiring each applicant for certification to have "passed a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards and that is approved by the council" on January 1, 2015.¹⁰ The following examinations have been approved by CAMTC:

- The Massage and Bodywork Licensing Examination ("MBLEx");
- The National Certification Examination for Therapeutic Massage and Bodywork, if taken prior to February of 2015;
- The National Certification Examination for Therapeutic Massage, if taken prior to February of 2015;
- The New York State Massage Therapy Exam;
- The Board Certification Examination for Therapeutic Massage and Bodywork.

⁹ <https://www.camtc.org/schools-info-find-a-school>

¹⁰ Bus. & Prof. Code, § 4604

Currently in order to take the MBLEx, an individual is required to complete 500 hours of education, which is the certification requirement in California; the Board Certification Exam in Therapeutic Massage and Bodywork requires 750 hours of education. The New York State Massage Therapy Examination is only available if an individual meets specified educational requirements from New York. Therefore, for applicants for certification who have studied in California and have met the state's minimum education requirements, the MBLEx is the only exam that can be taken to achieve certification.

To be eligible to take the MBLEx exam, a candidate must have attended a massage therapy school approved or recognized by the state board or agency authorized to regulate massage therapy. In California, CAMTC is the body recognized by the Federation of State Massage Therapy Board (provider of the MBLEx). In recent years, there have been a number of issues where massage students completed their 500 hours in a massage school with an application for CAMTC approval pending, only to be rejected by MBLEx because the school was subsequently closed, or denied CAMTC school approval.

To address students who completed their studies at a school whose application for CAMTC approval was pending, the Legislature suspended the examination requirement in 2018 through Senate Bill 1480 (Hill). This suspension was extended for an additional year through Senate Bill 1474 (Committee on Business, Professions, and Economic Development). Beginning January 1, 2019, the passage of the MBLEx or any other examination is not a requirement for certification. This suspension was further extended during CAMTC's last sunset review and will now expire on January 1, 2027 unless extended or made permanent by the Legislature. In order to seek input from all sides on this issue CAMTC hosted a California Assessment Examination Requirement Stakeholders Summit on June 6, 2023, and the board report on this issue was submitted to the Legislature as part of its Sunset review report.

Enforcement

Statute authorizes CAMTC to discipline certificate holders in a number of ways, including placing the certificate holder on probation, suspending their certificate for a period of up to a year, or revoking the certificate. CAMTC is also broadly authorized to take other denial and disciplinary actions pursuant to the Massage Therapy Act.¹¹

The Massage Therapy Act lists a number of potential causes for denial or discipline by CAMTC against an applicant or a certificate holder. Failure to comply with various statutory requirements, such as displaying an original CAMTC certificate at the therapist's place of practice or notifying CAMTC of a change of email address, may result in discipline. More serious unprofessional conduct by an applicant or active certificate holder is defined as including, but not limited to, the following:

- (A) Engaging in sexually suggestive advertising related to massage services.
- (B) Engaging in any form of sexual activity on the premises of a massage establishment where massage is provided for compensation, excluding a residence.
- (C) Engaging in sexual activity while providing massage services for compensation.
- (D) Practicing massage on a suspended certificate or practicing outside of the conditions of a restricted certificate.

¹¹ Bus. & Prof. Code, § 4610

(E) Providing massage of the genitals or anal region.

(F) Providing massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider.

In addition to the above codified examples of unprofessional conduct, the Massage Therapy Act additionally makes dressing in any of the following manners while providing massage as cause for denial or discipline, intended to prohibit massage services of an intentionally sexual or prurient nature:

(A) Attire that is transparent, see-through, or substantially exposes the certificate holder's undergarments.

(B) Swim attire, if not providing a water-based massage modality approved by the council.

(C) A manner that exposes the certificate holder's breasts, buttocks, or genitals.

(D) A manner that constitutes a violation of Section 314 of the Penal Code [Indecent Exposure].

(E) A manner that is otherwise deemed by the council to constitute unprofessional attire based on the custom and practice of the profession in California.

CAMTC is also authorized to deny an application or discipline a certificate holder for "being convicted of any felony, misdemeanor, infraction, or municipal code violation, or being held liable in an administrative or civil action for an act, that is substantially related to the qualifications, functions, or duties of a certificate holder." Another cause for denial or discipline is "committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder" or any act punishable as a sexually related crime.

The council is required to immediately suspend the certificate of any individual who is arrested and has criminal charges filed for prostitution or any act punishable as a sexually related crime. CAMTC is also authorized to suspend the certificate of any individual for whom they have received a written statement signed under penalty of perjury stating that the individual engaged in an act punishable as a sexually related crime or a related felony absent an arrest, with requirements for notice and appeal. Statute requires that any denial or disciplinary action "shall be decided upon and imposed in good faith and in a fair and reasonable manner," and specifically requires that the following procedure be followed:

(1) Denial or discipline shall be based on a preponderance of the evidence. In determining the basis for the denial or discipline and making a final decision that denial or discipline shall be imposed, the council may consider all written documents or statements as evidence, but shall weigh the reliability of those documents or statements. A final decision to deny or impose discipline may be based solely on a written statement or declaration made under penalty of perjury and the individual providing the written statement or declaration made under penalty of perjury shall not be required to appear at an oral hearing or provide additional documents or information beyond the written statement or declaration made under penalty of perjury that was already provided.

(2) The provisions of the procedure are publicly available on the council's Internet Web site.

(3) The council provides 15 calendar days prior notice of the denial or discipline and the reasons for the denial or discipline.

- (4) The council provides an opportunity for the applicant or certificate holder, to be heard, orally or in writing, not less than five days before the effective date of the denial or discipline, by a person or body authorized to decide whether the proposed denial or discipline should go into effect.¹²

Denial and disciplinary actions initiated by CAMTC are initially reviewed by either an Investigator or a BRD reviewer, depending on the type of conduct alleged. If CAMTC staff decides after information gathering and review that there may be cause for denial or discipline, the information is provided to BRD for final review by a minimum of two BRD employees, neither of whom were previously involved in the initial review or investigation. These individuals review the evidence and make a proposed recommendation for denial or discipline. Applicants and certificate holders are provided at least fifteen days' notice of the proposed denial or discipline through a "Proposed Denial Letter" (PDL) or a "Proposed Revocation/Discipline Letter" (PRL) and an opportunity for either an oral or written hearing at least five days prior to the proposed effective date.

Hearings are then held by a minimum of two Hearing Officers, who are part of CAMTC's Legal department. These Hearing Officers are charged with reviewing all the evidence submitted, including evidence provided by the applicant or certificate holder, and deciding whether to uphold, reject, or modify the proposed decision to take action. The decision of the Hearing Officers is final. Certificate holders and applicants wishing to further contest a denial or disciplinary action following the decision of the Hearing Officers may file suit against CAMTC in superior court within ninety days of the effective date of the denial or discipline. In the 2016 licensure feasibility study provided to CAMTC, the consultant group made the following observation about the benefits of voluntary certification by a nonprofit in regards to enforcement:

Perhaps most importantly, however, certification offers the ability to respond more quickly and nimbly relative to a licensure approach. Because certificate holders have made a voluntary choice to pursue certification, they have also agreed to have their certification revoked if they violate the terms set out by the not-for-profit entity setting the standards (i.e. CAMTC). As a result, certification can be revoked much more quickly and easily relative to a licensure revocation process, which can often take months or years to resolve complaints against licensed professionals. ... While DCA has the ability to respond quickly in the case of certain exigent circumstances, the data ... clearly show that CAMTC is able to respond to complaints much more quickly relative to the DCA entities shown as a result of the more extensive due process requirements inherent in the DCA-based licensure process.

Data provided by CAMTC appears to confirm this argument, as the council consistently outperforms its own disciplinary performance targets, which it believes are already more aggressive than is standard among the boards and bureaus under the Department of Consumer Affairs. CAMTC compared its actual performance numbers for the 2nd quarter of 2024 to the actual aggregate averages for boards and bureaus during the same time frame. For complaint intake, CAMTC had a target of four days versus an actual average of eight days for the boards, while CAMTC had an actual average of 0 days for the 2nd quarter of 2024; for intake and investigation, CAMTC had a target of 90 days versus an actual average of 124 days for the boards, with CAMTC's actual average being 12 days for the 2nd quarter of 2024; and for imposition of formal discipline, CAMTC had a target of 240 days versus an actual average of 784 days for the boards, with an actual average for CAMTC of 183 days for the 2nd quarter of 2024.

¹² Bus. & Prof. Code, § 4610

The overall total number of proposed revocations and disciplinary actions against certificate holders has remained relatively steady from 2021 through 2024. The following chart provides an overview of the disciplinary actions taken against certificate holders by CAMTC between 2021 and June 30, 2024:

	Discipline Proposed	Hearings (Oral / Written)	Certificate Revocations	All Probations and Suspensions
2021	71	98 / 71	71	150
2022	54	90 / 65	60	170
2023	47	55 / 61	61	175
2024 (Jan. - June)	30	32 / 28	38	102

Many cases are initiated by complaints against certificate holders, both from the public and from local law enforcement agencies. Complaints are received and reviewed by BRD. In the first half of 2024, CAMTC averaged 28 complaints against certificate holders per month from all sources, and 11 complaints against certificate holders submitted by law enforcement agencies. These statistics were consistent with numbers provided over the prior three years, with approximately 825 complaints against certificate holders received between 2021 and June 30, 2024. Additionally, cases may be initiated proactively by CAMTC during background reviews upon recertification, or following a subsequent arrest notification.

CAMTC prioritizes disciplinary investigations and reviews involving sexual assault, and cases involving allegations against certificate holders, as opposed to applicants, are the highest priority. The Investigations Department aims to provide BRD with enough evidence to take action against certificate holders as quickly as possible, as authorized by the Massage Therapy Act. While entities under the Department of Consumer Affairs typically must seek an interim suspension order against a licensee when criminal charges are pending, CAMTC is authorized to unilaterally suspend a certificate once criminal charges have been filed against the individual for acts punishable as a sexually related crime, including prostitution, or when they have received a written statement signed under penalty of perjury attesting that a certificate holder has engaged in such acts or has committed a substantially related felony.

Public Information Policies

CAMTC maintains a website where it provides information to certificate holders, applicants, and the public. A “Verify Certification” page enables consumers to confirm whether a massage therapist is certified by the council. Searches can be conducted using the name, location, or certificate number of the massage therapist. CAMTC also produces flyers, pamphlets, and brochures. These print materials are made available to various stakeholders including consumers, massage therapists, and local governments. CAMTC has also produced a number of materials specific to issues relating to human trafficking.

Pursuant to the Bagley-Keene Open Meeting Act, CAMTC also posts notifications of upcoming Board of Directors meetings, including agendas, at least ten days in advance for all meetings. Board packets and audio recordings of meetings are also posted on the website and maintained indefinitely. Meetings of the Board of Directors are not traditionally webcast, due to CAMTC believing that doing so would be prohibitively expensive.

Workforce Development and Job Creation

CAMTC has developed a system to allow employers to send employment offers to certificate holders located within a specific geographic area without CAMTC disclosing personal identifying information. Employment offers are sent by CAMTC upon request through postcards paid for by the employer once reviewed by CAMTC, and may be targeted by zip code. Certificate holders may opt out of this system.

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

CAMTC last underwent sunset review in 2022. During the prior sunset review, the Committees raised a number of issues and provided recommendations. Below is a summary of actions taken since that time to address these issues. Many of these issues were not completely addressed or are otherwise still of concern and are further discussed under “Current Sunset Review Issues.”

Prior Issue #1: Board of Directors Composition. The Committees questioned whether the current membership on CAMTC’s Board of Directors provided sufficient expertise from representatives of the profession. CAMTC noted that there had recently been national criticism of regulatory boards featuring an outsized influence from the industry that they regulated as opposed to representation of the public. No changes were subsequently made to the composition of CAMTC’s Board of Directors.

Prior Issue #2: Director Term Limits. The Committees posed the question of whether members of CAMTC’s Board of Directors should be authorized to serve indefinitely, as they were at the time. CAMTC argued that the Board was functioning at a high and engaged level and should not be changed. While term limits were not set in CAMTC’s sunset bill, subsequent legislation imposed strict four-year terms, limited to two per director.

Prior Issue #3: Staff Compensation. The Committees raised the issue of the compensation paid to CAMTC’s CEO, which had been criticized as excessively high. CAMTC responded that it believed its compensation policy is transparent and consistent with restrictions enforced by the Internal Revenue Service (IRS), and cited prior studies that compared the compensation to what other executives receive. CAMTC’s sunset bill did not ultimately include any language on this topic, and the salary paid to CAMTC’s CEO has increased since that time.

Prior Issue #4: Public Records Act. The Committees proposed requiring CAMTC to comply with the Public Records Act (PRA). CAMTC responded with the argument that it already shares requested information with law enforcement and local governments, and as part of subpoena requests. CAMTC believes that imposing PRA requirements on CAMTC would also require a significant increase in administrative expenses. This topic was not ultimately addressed in CAMTC’s sunset bill.

Prior Issue #5: Whistleblower Protections. The Committees considered whether various state laws providing whistleblower protections to employees should be expressly applied to CAMTC. In its response, CAMTC stated that it believes some provisions of the Labor Code already apply to CAMTC as an employer, which it believes is sufficient.

Prior Issue #6: Administrative Procedures Act. The Committees similarly asked whether CAMTC’s adoption of bylaws and enforcement activities should be consistent with the Administrative Procedure Act. CAMTC stated it believes its adoption of bylaws need only comply with the California Corporations Code. CAMTC noted that its enforcement activities must comply with the Fair Procedures doctrine and the Massage Therapy Act, which it argued provides adequate due process and transparency.

Prior Issue #7: Department of Finance Investigations. While noting that CAMTC does not receive funds from the state, the Committees considered authorizing the Department of Finance to audit or investigate CAMTC’s financial records. CAMTC responded that as a nonprofit corporation, it currently undergoes an annual audit by an outside accounting firm specializing in nonprofit organization audits, which is provided to the public. CAMTC believes that this is already a sufficiently open process.

Prior Issue #8: California State Auditor. The Committees inquired about whether the State Auditor has sufficient authority to audit CAMTC if called upon by the Legislature. The Committees concluded that the State Auditor likely did already have that authority. CAMTC responded that it would be more than willing to open its books to the State Auditor, and noted that it already receives independent audits.

Prior Issue #9: Conflicts of Interest. The Committees next considered the applicability of provisions of the Political Reform Act of 1974 governing conflicts of interest. CAMTC noted that its General Counsel had discussed this issue during annual Board trainings to ensure that directors comply with a Conflict of Interest Policy, which is reviewed by the IRS as part of its application for 501(c)(3) status.

Prior Issue #10: Lobbying Activity. The Committees questioned whether CAMTC's retention of a lobbying firm potentially jeopardizes its statutorily required 501(c)(3) status. In response, CAMTC stated that it receives ongoing advice from its accountants and auditors regarding the limits on lobbying and always stays well below the required threshold.

Prior Issue #11: Fee Levels. The Committees raised the question of whether CAMTC's fees are appropriately balanced given its indication that fees charged for specific services do not sufficiently cover those activities. CAMTC responded that "unlike boards and bureaus that struggle financially, CAMTC is solvent. It is able to put money aside and keep a more than appropriate level of reserves." CAMTC further stated that "CAMTC's fees are appropriately balanced to cover its specific services and provide it with an appropriate level of reserves." However, only months after concluding sunset review in 2022, CAMTC increased its certificate fees in April 2023, to their statutory maximum, representing 50 percent increase.

Prior Issue #12: Fund Balance. The Committees considered whether there was cause for concern that the number of months in reserve for CAMTC's budget has fallen significantly since 2016. CAMTC disagreed with the characterization that their reserve fund balance was "falling significantly," arguing that its increased spending provided for enhanced serves without jeopardizing its financial stability. However, as previously noted, CAMTC did determine a substantial fee increase was needed to be implemented in 2023 following the conclusion of its sunset review in 2022.

Prior Issue #13: Certification versus Licensure. The Committees engaged in lengthy discussion as to whether voluntary certification obtained from CAMTC should be converted to a license that is required at the state level. CAMTC argued strongly to maintain the current program due to the advantages of efficiency that come with certification rather than licensure. While the Legislature did discuss a sunrise proposal from other stakeholders, no changes were ultimately considered.

Prior Issue #14: Fair Chance Licensing Act. The Committees asked whether the requirements of Assembly Bill 2138 (Chiu/Low) should be applied to CAMTC's certification program. CAMTC argued its ability to quickly take action against a certificate for alleged misconduct not necessarily resulting in a criminal conviction was important because those offenses often do not ultimately result in prosecution but should nevertheless be subject to quick action from CAMTC based on the underlying conduct.

Prior Issue #15: Competency Assessment Examination. The Committees discussed whether applicants for certification should be required to pass the MBLEx or a similar examination, or whether the requirement should be eliminated permanently. CAMTC agreed that it was important to continue discussion of the issue, noting that there were strong positions on all sides. Subsequently, CAMTC's sunset bill extended the suspension of the MBLEx requirement until January 1, 2027.

Prior Issue #16: Continuing Education. The Committees raised the question of whether massage therapists should be required to take continuing education courses. CAMTC agreed that this was worth continued exploration, noting that different states imposed different continuing education requirements, and some, like California, did not impose any. CAMTC offered to continue to engage on this issue, though no related proposal was ever considered by the Committees.

Prior Issue #17: School Approval and Unapproval. The Committees questioned whether CAMTC's current process for approving and unapproving schools appropriately provided due process for schools and students. CAMTC argued that its current process provides for appropriate due process and stated that it did not believe that the criticisms it faces are a valid cause for changes to the Massage Therapy Act. CAMTC's sunset bill ultimately did not make changes to this process. Since that time, there has been ongoing litigation challenging CAMTC in its oversight activities related to school approval.

Prior Issue #18: Foreign Education. The Committees raised the question of whether statute needed to be revised to enable CAMTC to accept education from massage schools located outside the United States. CAMTC stated that it looked forward to working with the Committees on this topic, agreeing that it believed there was a path to solving this complicated issue. CAMTC's sunset bill was subsequently amended to provide discretion to accept foreign education from an applicant for certification.

Prior Issue #19: Relationship with the BPPE. The Committees discussed whether the shared responsibility for massage school approval with the Bureau for Postsecondary Education (BPPE) allows for efficient and effective regulation. CAMTC explained that it has a close working relationship with BPPE and that the existing division of labor is logical and allows for efficient and effective regulation.

Prior Issue #20: Human Trafficking. The Committees engaged in a discussion about how the current regulation of the massage therapy profession contributes to statewide efforts to combat human trafficking. CAMTC declared emphatically that it is proud of its work with law enforcement, prosecutors, and nongovernmental organizations to combat human trafficking. CAMTC states that it is committed to continuing to work on local massage ordinances that are fair to legitimate providers.

Prior Issue #21: Massage Establishments. The Committees considered whether CAMTC's lack of oversight over massage establishments and their owners represents a gap in its enforcement authority. CAMTC responded that it believes it currently strikes a balance between local control and a statewide program for massage certification, and that this authority is working well and does not need to be changed.

Prior Issue #22: Complaints. The Committees asked whether CAMTC's current process for receiving and enforcing complaints sufficiently protects the public. CAMTC provided an overview of its process for handling complaints and explained that it does not accept anonymous complaints against individuals in an effort to protect the rights of its applicants and certificate holders.

Prior Issue #23: Enforcement Process. The Committees raised the question of whether there is sufficient due process provided throughout CAMTC's procedure for certificate revocation, suspension, or other discipline. CAMTC argued that it goes well beyond the legal standard in its absolute commitment to fairness to certificate holders, raising the point that there has not been substantial or successful litigation against CAMTC in regards to its enforcement activities. CAMTC states that its employees in enforcement positions are well qualified to perform their tasks fairly and competently.

Prior Issue #24: Relationship with Local Governments. The Committees discussed whether the relationship between local government and CAMTC is an effective model for regulation of the profession and prevention of illicit activity. CAMTC responded by characterizing its relationship with local government as broad and effective, pointing to its ongoing cooperation and coordination with local governments and their staff. However, CAMTC did point to some examples of where it believes local jurisdictions are not complying with existing law, and suggested clarifications to help address those issues.

Prior Issue #25: Pandemic Response. As it did for all entities undergoing sunset review amidst the state's declared public health crisis, the Committees asked how CAMTC had responded to the COVID-19 public health crisis in its regulatory activities. CAMTC provided an overview of how it met the challenges of the pandemic by assisting certificate holders, deploying new technologies, and advocating for massage to be declared an essential business category. CAMTC has suggested clarifying for the future that certified massage professionals are healthcare providers.

Prior Issue #26: Technical Cleanup. The Committees suggested there may be the need for technical cleanup, which it worked with CAMTC to address.

Prior Issue #27: Continued Regulation. The Committees considered whether the certification of massage professionals should be continued by the California Massage Therapy Council. While there was subsequently discussion of a sunrise proposal brought to the Legislature by stakeholders, the decision was ultimately made to extend CAMTC's sunset without making any substantial changes to its responsibilities.

CURRENT SUNSET REVIEW ISSUES FOR THE CALIFORNIA MASSAGE THERAPY COUNCIL

ADMINISTRATIVE ISSUES

ISSUE #1: Board of Directors Composition. Does the current membership on CAMTC's Board of Directors provide a sufficient balance of disinterested public oversight and professional expertise?

Background: The Massage Therapy Act dictates that “the council shall be governed by a board of directors composed of 13 members,” with specific designations for how each member is appointed and which stakeholder interests they are intended to represent. Four members are required to be representatives of local governments, including both local law enforcement and public health agencies. Two members represent massage schools, with one allocated to the Community Colleges Chancellor and one to the California Association of Private Postsecondary Schools (CAPPS). One member is reserved for an anti-human trafficking organization, and one member is appointed by the Department of Consumer Affairs. Only two members are specifically reserved for representatives of the profession, with the American Massage Therapy Association (AMTA) appointing one member and the other appointment going to a certificate holder selected by professional associations meeting certain requirements that rotate every four years. Three additional members are appointed by the Board of Directors, which are required to include a public attorney, a massage establishment owner, and an individual deemed to possess “knowledge of the massage industry.”

To the extent that the Board of Directors is charged with directing the activities of the council and overseeing its effectuation of identified policy objectives, CAMTC's Board of Directors is relatively analogous to licensing boards under the Department of Consumer Affairs. Meetings of the Board of Directors also must similarly comply with the Bagley-Keene Open Meeting Act. However, there are a number of distinctions when it comes to member composition.

For state licensing boards, members are generally divided into two categories: public members and professional members. Public members are broadly defined as persons without any vested interest in the regulated profession—in other words, they do not hold a license to practice any activities regulated by the board. Correspondingly, professional members reflect the perspectives of the regulated profession and offer expertise relevant to decisions being made by the board.

While statutes dictating board memberships vary, most regulatory boards are roughly split equally between public and professional members, with one classification often retaining a slight majority. For example, the California Architects Board is evenly split at five professional members, five public. The Medical Board of California has a professional majority with eight physician members versus five public members. The Board of Vocational Nursing and Psychiatric Technicians has a slight public majority with six public members and five licensed members.

Prior to 2015, CAMTC's Board of Directors was much larger, with twenty total members. The membership composition also had substantially more professional representatives, with two member appointments allotted to each qualified professional association—seven professional members in total. Following the council's sunset review, the Board of Directors was reconstituted and generally reduced in overall size to its current form through the enactment of Assembly Bill 1147. The bill substantially lowered the number of professional members, in part by clarifying that only California-based associations were eligible for an appointment.

CAMTC’s Board of Directors does not expressly distinguish between professional and public members; most of its membership categories are comprised of appointing authorities, and only one member is expressly required to be “a member of the public,” which is the member appointed by the Director of Consumer Affairs. There is otherwise nothing prohibiting other members of the Board of Directors from being active certificate-holders. Meanwhile, only two members are expressly required to be massage professionals—the AMTA representative and the professional association appointee. The current director appointed for “knowledge of the massage industry” and the current director appointed by CAPPS are also both certificate holders, but they are not required to be.

There are potential downsides to increasing professional representation on a regulatory board. In 2015, the United States Supreme Court ruled in *North Carolina State Board of Dental Examiners v. Federal Trade Commission* (“*NC Dental*”) that when a state regulatory board features a majority share of active market participants, any allegedly anticompetitive decision-making may not be subject to Parker antitrust litigation immunity unless there is “active state supervision” to ensure that all delegated authority is being executed in the interest of the public and not the private commercial interests of the members. This has led many to believe that boards are better served by having a public member majority.

Nevertheless, clearer delineations of public and professional board memberships offer a number of benefits. A relatively equal division of the categories provides for a balance of perspectives. While members of the public are presumably more independent and are more likely to prioritize the interests of the consumer in their decision-making, professional members offer more expertise and can often provide valuable insight into questions of whether a licensee’s actions were reasonable or appropriate. CAMTC’s Board of Directors may then benefit from having more of its members specifically reserved for representatives of the profession, as well as having more board positions expressly reserved for disinterested members of the public.

Staff Recommendation: *The council should provide the Committees with information regarding how its Board of Directions currently functions and whether it believes any changes to member composition would better empower its governance, particularly in regards to clearer designation of public and professional memberships.*

ISSUE #2: *Director Terms. Do the stricter term limits recently imposed on members of CAMTC’s Board of Directors affect the stability of its membership in the long term?*

Background: The Massage Therapy Act has long provided that “board member terms shall be four years” for CAMTC’s Board of Directors. However, prior statute did not place any limitation on the number of terms that a member may serve, nor was it clearly stated that a board member must vacate their position following the completion of their term unless reappointed. As a result, some directors on the board persisted well beyond their four-year terms without express reappointment. CAMTC argued that this was authorized not specifically by the Massage Therapy Act but through provisions in the Corporations Code generally governing board memberships for nonprofit benefit corporations.

In 2024, the Legislature enacted Senate Bill 1451 (Committee on Business, Professions, and Economic Development), which provided for clearer term limits for CAMTC’s Board of Directors. The bill expressly provided that members could serve for up to two four-year terms before needing to be replaced, with up to one year’s grace period provided for a successor to be appointed. Additionally, as of July 1, 2025, current directors who have served on the Board for 8 out of the past 10 years, regardless of the appointing authority, will be required to vacate their appointment.

The intent of this language was to ensure that CAMTC’s Board of Directors continues to benefit from fresh perspectives. Further, the language responded to concerns expressed by the Committees that the current membership of the Board had become institutionalized to the degree where there was an expectation that directors “loyally affirm the decisions of the council’s staff, rather than provide independent oversight of its functions on behalf of the public.” However, while the imposition of strict term limits will aid in resolving these issues, a significant amount of the Board’s membership will be terming out at the same time approximately eight years in the future. Three of the Board’s 13 appointment slots already currently vacant. To look ahead to the potential problematic effect of this consequence, the Committees may wish to begin discussions regarding whether it would be appropriate to stagger the initial terms of members newly appointed to the Board.

Staff Recommendation: *CAMTC should provide an update on its implementation of Board term limits and whether it believes action should be taken to prevent high vacancy rates in the future.*

ISSUE #3: *Staff Compensation. Is the financial compensation for CAMTC’s Chief Executive Officer inappropriately high compared to leadership at other regulatory entities?*

Background: As a private nonprofit corporation, CAMTC’s employees are not subject to civil service requirements and its Board of Directors has broad discretion to make hiring decisions and set compensation. It has been previously pointed out that CAMTC’s CEO receives a substantial salary. While nonprofit corporations are generally authorized to grant compensation to its executives deemed “reasonable” by the Internal Revenue Service (IRS), the question of whether salaries provided by CAMTC are excessively generous is meaningful given that the entirety of the council’s budget is derived by fees, included those collected from certificate holders who are often locally required to be certified.

This issue was first raised in CAMTC’s 2014 sunset review background paper, which pointed to 2012 when the council’s CEO had earned \$260,000 per year. In 2019, at which point the CEO’s salary had been raised to \$369,000, CAMTC commissioned a “CEO Compensation Study” to determine the appropriate range for the CEO’s compensation. This study found that the CEO’s \$369,000 salary was just over the 25th percentile when compared to what was identified as similar nonprofit executives. As a result, CAMTC’s Board of Directors adopted a new compensation policy in 2019 to prohibit the CEO’s total compensation package from exceeding the 75th percentile for peer groups identified by the study over the course of the agreement or eroding the council’s three-month reserve.

However, further examination of the study reveals what could be considered major flaws in its comparative analysis. The study identified a number of nonprofit organizations as “peer groups” to whom CAMTC should be compared in terms of executive compensation; however, virtually none of these organizations could be considered regulatory entities, but are instead primarily professional and trade associations such as the California Chamber of Commerce, the California Medical Association, and the California Restaurant Association. Using these organizations as peer groups resulted in the study determining that the cited 75th percentile mark would be approximately \$705,000 per year.

While technically a trade association is typically designated as a nonprofit under Section 501(c)(6) of the Internal Revenue Code, its mission is markedly different from that of CAMTC, a 501(c)(3) nonprofit. Meanwhile, other 501(c)(3) nonprofits may also not be appropriate comparisons. While charitable organizations and foundations are nonprofits, their funds are voluntarily contributed, unlike CAMTC, which has the authority to charge specified fees for certification, which is sometimes locally mandated.

As a more direct comparison, the Department of Consumer Affairs also commissioned a salary study in 2019 to analyze compensation trends among regulatory board Executive Officers (EOs). That study found that the median salary for an EO is approximately \$107,000 per year, with the highest paid EO at the time making \$146,000 per year. If the CEO of CAMTC is more accurately compared to the EO of a regulatory board than a trade association, then the council's executive compensation is well over three times the median salary of its peers. As an arguably starker contrast, the salary currently provided to the Secretary of the Business, Consumer Services, and Housing Agency (\$247,000) is currently less than the salary paid to the CEO of CAMTC (\$615,897). It should be noted that retirement plans and other benefits available to state employees differs from what CAMTC likely offers; however, it is still likely that the CEO's total compensation is substantially greater than that for comparable roles in state government.

Staff Recommendation: *CAMTC should explain why it believes its executive compensation represents a reasonable expenditure of certificate fee revenue.*

ISSUE #4: Public Records Act. Should CAMTC be required to comply with the requirements of the California Public Records Act?

Background: While the Massage Therapy Act is clearly intended to provide CAMTC with regulatory responsibilities analogous to a government body, it is established in statute as a private nonprofit and is therefore not necessarily required to comply with various laws aimed at ensuring transparency and accountability within state bureaucracy. This was arguably in part the legislative intent of the nonprofit model, as it provides more flexibility and efficiency. Statute *does* require meetings of CAMTC's Board of Directors to comply with the provisions of the Bagley-Keene Open Meeting Act. However, many other similar laws and public oversight mechanisms do not necessarily apply to the council's operations.

The California Public Records Act (CPRA) generally provides that "public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record." The CPRA defines "state agency" for purposes of the Act as "every state office, officer, department, bureau, board, and commission or other state body or agency, except those agencies provided for in ... the California Constitution." This language is significantly less broad than the definition of "state body" provided in the Bagley-Keene Open Meeting Act and almost certainly does not include a private nonprofit like CAMTC. This is supported by caselaw; in *California State University v. Superior Court* (2011), the court found that CSU auxiliary organizations, which are private nonprofit corporations operating pursuant to statute, are not state agencies subject to the CPRA.

The fact that the Massage Therapy Act additionally requires that CAMTC comply with the Bagley-Keene Open Meeting Act and authorizes it to "adopt additional policies and procedures that provide greater transparency" additionally indicates that the CPRA does not apply, but it could be made to apply through statutory change. Doing so would no doubt create inefficiencies in CAMTC's operations, as it currently does not need to engage in public inspection of its documents, which are largely under the management of AMG. This could potentially disrupt the purpose of establishing CAMTC as a nonprofit by allowing for less flexibility. However, given interest by members of the public in understanding the process by which CAMTC engages in oversight activities, there may nevertheless be a compelling reason to consider expanding the CPRA to the council.

Staff Recommendation: *CAMTC should provide an overview of what efforts it makes to be transparent to the public despite the lack of applicability of the CPRA and provide any perspective on what requiring compliance with public records laws would do to its current operations.*

ISSUE #5: Whistleblower Protections. Should various state laws providing whistleblower protections to employees be expressly applied to CAMTC?

Background: There are three statutes that generally provide whistleblower protections to California employees. This includes the California Whistleblower Protection Act, the Whistleblower Protection Act, and whistleblower provisions within the Labor Code. Each of these laws is intended to ensure that any corrupt or inappropriate activities by entities empowered by the public trust are accountable and may be revealed to oversight entities without risk of reprisal.

The California Whistleblower Protection Act provides protections to employees of state agencies “to report waste, fraud, abuse of authority, violation of law, or threat to public health without fear of retribution.” This Act is enforced by the California State Auditor. The Act’s protections specifically apply to employees of state agencies, which are defined under Section 11000 of the Government Code. Section 11000 defines “state agency” as “every state office, officer, department, division, bureau, board, and commission or other state body or agency,” with exceptions. (Essentially the same definition as the one within the CPRA.) It is likely that these provisions do not therefore cover CAMTC.

Similarly, the Whistleblower Protection Act prohibits an employee from directly or indirectly using or attempting to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to do any of the above, for the purpose of interfering with the right of that person to disclose to a legislative committee improper governmental activities. This Act applies to employees of state agencies defined under Section 11000, as well as “public entities,” defined as including the state, the University of California Regents, and local governments. While this is more expansive applicability than the California Whistleblower Protection Act, it still does not cover private nonprofits.

Finally, the Labor Code prohibits an employer from having a policy that prevents an employee from engaging in political activities or from threatening discharge or loss of employment for engaging in political action or activity. These provisions apply both to private employers and to those employed by the state and local governments. As a nonprofit corporation authorized to hire staff, CAMTC has stated that it agrees it would be considered a private employer subject to these provisions. It is worth considering whether, given the oversight responsibility provided to the council, the public interest would be served by providing more clearly applying the protections of other whistleblower laws to any employees wishing to provide information regarding malfeasance to the State Auditor or the Legislature.

Staff Recommendation: *CAMTC should discuss the benefit of whistleblower protection laws with the committee and speak to what policies it has in place to promote transparency.*

ISSUE #6: Administrative Procedures Act. Should CAMTC’s adoption of bylaws and enforcement activities be subjected to the Administrative Procedure Act or similar requirements?

Background: The Administrative Procedures Act (APA) establishes a series of basic minimum procedural requirements for the adoption of regulations, the conduct of administrative hearings, and for administrative adjudication. The APA ensures that agency rulemaking and administrative hearings conform to a full public process. Chapter 3.5, which establishes the public process for establishing administrative regulations, is expressly applied only to a state agency as defined under Section 11000, rendering it presumably inapplicable to the CAMTC. This definition is also used for provisions governing administrative hearings.

In regards to administrative adjudication, “agency” is more broadly defined to include not only state agencies, but adjudicative proceedings conducted by a “quasi-public entity.” This is defined as “an entity, other than a governmental agency, whether characterized by statute as a public corporation, public instrumentality, or otherwise, that is expressly created by statute for the purpose of administration of a state function.” This definition would arguably appear to apply to CAMTC as established.

However, these statutes provide only that conflicting laws specifically outlining adjudication procedures for an entity preempt those generally provided for under the APA. Because the Massage Therapy Act does provide for a basic procedure for adjudications conducted by the council, it is likely that these adjudications do not have to comply with the standard provisions of the APA. Instead, CAMTC must only comply with any APA procedures not in conflict with its own governing statutes.

While the provisions of the APA provide for some of the strongest policies for ensuring public access, participation, and due process in government, they are also arguably among the most burdensome. If there remains an incentive to ensure that CAMTC be more responsive and flexible than state agencies, it may not be practical to expect that they comply with APA’s provisions governing rulemaking or administrative hearings. However, there may still be opportunities for improving public access and due process in CAMTC’s current operations.

Staff Recommendation: *The council should explain what policies it follows in lieu of provisions of the APA and whether it believes existing law provides for an appropriate degree of transparency.*

ISSUE #7: *Conflicts of Interest. Do provisions of the Political Reform Act of 1974 governing conflicts of interest appropriately include CAMTC’s Board of Directors and employees?*

Background: The conflict-of-interest provisions of the Political Reform Act prohibit a “public official” at any level of state or local government from making, participating in making, or in any way influencing a governmental decision in which they have a financial interest. The Political Reform Act further establishes financial disclosure requirements for public officials. Here, “public official” is defined as every member, officer, employee, or consultant of a state or local government agency. It is not entirely clear whether “state agency” would include CAMTC for these purposes, as there is no express definition.

In an opinion issued by the Fair Political Practices Commission (FPPC), four criteria were established for determining whether an entity is an agency subject to conflict-of-interest provisions: (1) the impetus for formation of the entity originates with a government entity; (2) the entity is substantially funded by a government agency; (3) the principal purpose of the entity is to provide services or undertake obligations that public agencies traditionally perform; and (4) the entity is treated as a public entity by other statutory provisions. CAMTC arguably meets the third criterion; in a relevant decision, the FPPC determined that the Ocean Science Trust, a nonprofit corporation, met this standard because it pursued public policies established by the Legislature.

However, CAMTC does not likely meet the criterion that it receive substantial funding from a government agency. Therefore, it is uncertain that the FPPC would find that the conflict-of-interest provisions would apply to CAMTC. An additional opinion or decision from the FPPC would be required to determine full applicability.

Staff Recommendation: *The council should inform the Committees of its internal policies to avoid either real or perceived conflicts of interest and whether any further safeguards would be appropriate.*

ISSUE #8: *Department of Finance Investigations. Regardless of whether CAMTC receives funds from the state, should the Department of Finance possess the right to audit or investigate CAMTC's financial records?*

Background: The Department of Finance (DOF) has “general powers of supervision over all matters concerning the financial and business policies of the State and whenever it deems it necessary, or at the instance of the Governor, shall institute or cause the institution of such investigations and proceedings as it deems proper to conserve the rights and interests of the State.” This includes investigations of state agencies, which allows for the examination of financial records. These provisions apply to “each agency of the state” and refer specifically to “the handling of public money or its equivalent.”

CAMTC is funded through certificate fees in essentially the same manner that state boards are funded through license fees deposited in special funds. However, CAMTC is not a state agency, and its finances are not part of the state’s budget. Therefore, it is unlikely that DOF has any authority to inspect or examine CAMTC’s finances. It is furthermore uncertain that the intention behind DOF’s investigatory authority is applicable to CAMTC, as it is not part of the state budget process.

Staff Recommendation: *The Board should provide the Committees with information regarding how it ensures fiscal transparency despite an inapplicability of DOF’s investigatory authority.*

ISSUE #9: *Lobbying Activity. Does CAMTC’s retention of a lobbying firm potentially jeopardize its statutorily required 501(c)(3) status?*

Background: CAMTC is required by the Massage Therapy Act to be incorporated as a 501(c)(3) nonprofit. According to guidance from the IRS, “no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as lobbying). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status.” The IRS provides two tests to determine whether a nonprofit’s lobbying activities would likely rise to a level where its 501(c)(3) status would be jeopardized. The first is the “substantial part test.” Under this test, attempting to influence legislation may not constitute a “substantial part” of the activities of an organization exempt under Section 501(c)(3). What constitutes a “substantial part” is not entirely clear but is within the discretion of the IRS to determine. The second test is referred to as the “expenditure test,” which measures lobbying activity by comparing the organization’s exempt purpose expenditures to its lobbying expenditures.

Since early 2020, CAMTC has retained a private lobbying firm, presumably to represent its interests before the Legislature as measures amending its authorizing statutes have the potential to be considered. During the 2023-24 legislative session, CAMTC paid approximately \$143,000 to this firm; during the 2021-2022 legislative session, the amount paid was \$156,000. While not unsubstantial, these payments would likely fall short of the “substantial part” test enforced by the IRS. Nevertheless, if CAMTC continues to employ private lobbyists to influence legislation, care should be taken not to exceed what the IRS would consider an acceptable amount of lobbying activity or risk jeopardizing the 501(c)(3) status required by law.

Staff Recommendation: *CAMTC should speak to how it intends to ensure that its lobbying activity is limited to such an extent that the IRS is not likely to take action against its current exempt status.*

FISCAL ISSUES

ISSUE #10: Certificate Fees. Has CAMTC been sufficiently prudent and transparent in its actions relating to the fees it charges to certificate holders?

Background: During CAMTC’s most recent sunset review, which began in 2020, its certificate fees were \$200 biennially, which had recently been increased in 2019 from \$150. At that time, the Committees noted that CAMTC’s sunset report referenced other fees associated with various operations as being insufficient to cover the cost of those activities. The Committees asked whether CAMTC’s fees were appropriately balanced given its indication that fees charged for specific services did not fully cover those activities. The Committees also noted during CAMTC’s prior sunset review that the number of months in reserve for CAMTC’s budget had fallen significantly over the past several years.

In response to the issues raised by the Committees, CAMTC stated: “Unlike boards and bureaus that struggle financially, CAMTC is solvent. It is able to put money aside and keep a more than appropriate level of reserves.” CAMTC further disagreed that its reserves had “fallen significantly,” arguing that it was still meeting its self-imposed goal of a three month reserve, and that a determination had been made that “it is more prudent to provide a higher level of customer service and support of local law enforcement and local government rather than having an excessive amount of reserves sitting in the bank.” CAMTC unequivocally argued that “CAMTC’s fees are appropriately balanced to cover its specific services and provide it with an appropriate level of reserves.”

Over the course of CAMTC’s prior sunset review by the Legislature, which included the submission of supplemental reports and multiple public hearings, CAMTC did not deviate from its characterization of its fund balance as healthy and its fees as appropriately tailored to its needs. As a result, the Committees did not engage in any deeper discussion of CAMTC’s finances. In September 2022, the Governor signed Assembly Bill 2687 (Committee on Business and Professions), which extended CAMTC’s sunset by a standard four years. However, almost immediately following the conclusion of the sunset oversight process, CAMTC took action in a November 2022 meeting of its Board of Directors to raise its certificate fees to their statutory maximum of \$300, which represented a 50 percent increase.

In response to this action, members of the Legislature wrote to CAMTC to express “significant concern” with the process through which the fees had been increased. A joint letter from multiple members of the California State Assembly, including the Chair of the Assembly Committee on Business and Professions, stated: “Upon review, it appears that this substantial fee increase was indeed effectuated without proper transparency toward both the profession and the Legislature.” The letter further specified the following “disturbing details” of how the vote to increase fees took place:

1. Materials were provided over the Thanksgiving holiday weekend for a meeting held just several days later at 8:00 a.m.;
2. Discussion of the potential fee increase was relocated from item 19 to item 1, immediately upon the establishment of a narrow quorum, making an already difficult situation even more challenging for those who wanted to participate in the item; and
3. A consultant fee study had already been commissioned and completed without any public discussion or involvement, evincing that CAMTC staff knew well in advance that an increase was likely to be on a future agenda.

The legislators' letter concluded that "the CAMTC Board of Directors appears to have taken every step to rush it through mere weeks after it believed itself to be out of the legislative spotlight of sunset review." The Board was urged "to be more mindful of the public trust that the Massage Therapy Act affords it." In response, CAMTC argued that the Board had acted in compliance with the specific requirements of the law and its own protocols, and that an increase of \$50 a year was a relatively small amount of money.

While CAMTC declared that the fee increase was necessary to "maintain fiscal viability into the future," its revenue has outgrown its expenditures since the new fees went into effect, and as a result its fund balance has grown to seven months in reserve. Meanwhile, it appears that CAMTC has changed its self-imposed reserve goal from three months to six months. The Board has also voted to increase the salary paid to CAMTC's CEO despite the circumstances that supposedly necessitated a fee increase.

Because CAMTC's certificate fees are now at their statutory maximum, legislation will be needed to allow for any additional increases. Given the formal rebuke extended to CAMTC's Board of Directors from members of the Legislature, it can be assumed that a future request for increased fee caps will be met with scrutiny and apprehension. In the meantime, it may be appropriate for CAMTC to provide the Legislature with further insight into how it is ensuring that its fee levels are judiciously tailored to the financial needs of the organization to avoid placing unnecessary burdens on massage practitioners.

Staff Recommendation: *CAMTC should provide the Committees with an update on its fiscal condition along with any comments about how it will engage in pursuing future fee increases.*

CERTIFICATION ISSUES

ISSUE #11: *Fair Chance Licensing Act. Should the requirements of Assembly Bill 2138 (Chiu/Low) be applied to CAMTC's certification program??*

Background: In 2018, Assembly Bill 2138 (Chiu/Low) was signed into law in 2018, making substantial reforms to the initial application process for individuals with criminal records seeking licensure through a board or bureau under the Department of Consumer Affairs. Under Assembly Bill 2138, an application may only be denied on the basis of prior misconduct if the applicant was formally convicted of a substantially related crime or was subject to formal discipline by a licensing board. Further, prior conviction and discipline histories are ineligible for disqualification of applications after seven years, with the exception of serious and registerable felonies, as well as financial crimes for certain boards. The bill additionally requires each board to report data on license denials, publish its criteria on determining if a prior offense is substantially related to licensure, and provide denied applicants with information about how to appeal the decision and how to request a copy of their conviction history.

Because CAMTC is not a licensing board under the Department of Consumer Affairs, the provisions of Assembly Bill 2138 do not apply to it. CAMTC is required to conduct a fingerprint background check of each applicant for a certificate through both the California Department of Justice and the Federal Bureau of Investigation. Statute prescribes what misconduct disqualifies an applicant from certification, resulting in the denial of applicants who have been "convicted of any felony, misdemeanor, infraction, or municipal code violation, or being held liable in an administrative or civil action for an act, that is substantially related to the qualifications, functions, or duties of a certificate holder," or "committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder."

If Assembly Bill 2138 were applied to massage therapy certificates, CAMTC would only be authorized to deny applicants who have actually been convicted of substantially related offenses; the council would no longer be allowed to deny applicants it has merely deemed to have committed “acts” that were not formally adjudicated. Arrests or mere acts underlying a conviction that is not substantially related to the massage profession would not be cause for a licensure denial. Further, nonserious, nonviolent, nonsexual convictions would also “wash out” after seven years and no longer be eligible after seven years.

CAMTC has stated that it does not keep track of how many of these denials were due to a criminal conviction or other background issue with the applicant (versus another issue such as failure to meet education requirements), so it is uncertain how many applicants would potentially become eligible for certification were the provisions of Assembly Bill 2138 applied to massage therapists. Whether these reforms that were enacted for state regulatory board licensing programs should be extended to certificates granted by CAMTC may be worthy of consideration given the sustained policy interests in removing barriers to economic opportunity for individuals with nonviolent criminal histories.

Staff Recommendation: *CAMTC should update the Committees on whether it believes there is a significant reason why Assembly Bill 2138’s provisions should not be extended to massage therapists.*

ISSUE #12: Certification versus Licensure. Should the voluntary certification obtained from CAMTC be converted to a license that is required at the state level?

Background: While the certification program operated by CAMTC was authorized by the State Legislature and was intended to bring statewide uniformity to the standards and qualifications for massage therapists, there is no state-level requirement for a massage professional to seek and obtain a massage therapy certificate. The Massage Therapy Act makes it unlawful for a person to advertise their services using the title “certified massage therapist” or “certified massage practitioner,” or any term implying they are certified or licensed, unless they are in fact in possession of an active and valid certificate issued by the council pursuant. Otherwise, state law does not restrict who may provide services considered to be within the informally accepted scope of practice of a massage professional, nor does it expressly prohibit a massage therapist whose certificate was revoked by CAMTC from continuing to practice massage therapy as long as they do not claim certification.

In most cases, the certificate granted by CAMTC serves instead as part of local regulation of the massage industry. The Legislature initially authorized the council after determining that the massage industry was “regulated in California by a chaotic mish-mash of local vice ordinances,” with each locality setting its own standards for who can offer massage services based on how it chose to draft its local ordinances to prevent prostitution or sex trafficking operations. While the Massage Therapy Act does not require that any local jurisdiction incorporate CAMTC’s certificate program into its local regulatory scheme, it does prohibit local governments from enacting or enforcing an ordinance that conflicts with the Act. If a massage therapist possesses a valid certificate from CAMTC, local governments cannot impose any additional professional standards or required qualifications on the professional; they must accept the certificate as confirmation that the individual has sufficient training and fitness to practice.

Local governments otherwise do continue to exercise a great deal of control over how massage services are provided within their jurisdictions. CAMTC has no authority over massage establishments, except when the owner of a massage business is a certificate holder. The Legislature restored much of local government’s authority to regulate establishments under its land use authority when it removed preemption language in Assembly Bill 1147.

Significantly, cities and counties may enact ordinances that require massage professionals to receive a CAMTC certificate at the local level. For example, the City of Los Angeles’s massage ordinance states that “each person employed or acting as Massage Practitioner or Massage Therapist shall have a valid certificate issued by the California Massage Therapy Council.”¹³ The City of San José’s massage ordinance states that “it shall be unlawful for a person to perform Massage on a person in exchange for money or any other thing of value, or for checks, credit or any other representation of value unless that individual is a certified Massage Therapist.”¹⁴ More often than not, the “voluntary” statewide certification is effectively a requirement for massage professionals to practice in a particular jurisdiction.

However, the fact that certification technically remains voluntary at the state level has led to a number of concerns and complaints from representatives of the industry. Advocates for several professional associations have argued that because California lacks a consistently required statewide license, the industry is frequently disqualified from discussions such as the expansion of coverage and ability to bill Medicare and Medicaid and the incorporation of nonpharmacological therapies into pain management treatment plans. These advocates point out that California is one of only a small handful of states without statewide licensure for massage therapy.

Finally and not insignificantly, representatives of the industry have argued that by not enacting a for full licensure requirement for massage therapy, California has essentially relegated the profession to a class below that of other healing arts. Arguments have been made that the existing certification program for massage therapy exists more as a safeguard against criminal activity and vice than as support for a profession offering genuine health and wellness services. The Bureau of Labor Statistics, which reports that employment of massage professionals nationwide is projected to grow 26 percent from 2016 to 2026, has stated that “as more states adopt licensing requirements and standards for massage therapists, the practice of massage is likely to be respected and accepted by more people as a way to treat pain and improve overall wellness ... similarly, demand will likely increase as more healthcare providers understand the benefits of massage and these services become part of treatment plans.”¹⁵

It should also be noted that as long as certification remains voluntary, massage therapists will be generally afforded lower standards of due process. As the feasibility study for licensure commissioned by CAMTC pointed out, the greater property right associated with a required license would be accompanied by stronger requirements for due process in regards to how licenses are granted, denied, suspended, or revoked. While this would undeniably result in more costly application reviews and less swift and efficient enforcement actions, a reasonable argument could be made that the current model may be perceived as unfair given that many massage professionals are required to obtain a certificate to practice in a particular jurisdiction while not being afforded the same rights as licensed professionals.

Following the discussion of these issues by the Committees during CAMTC’s review in 2021, the Legislature enacted a one-year sunset extension with language declaring an intent that “there be subsequent consideration of legislation to create a new state board and a new category of licensed professional” in accordance with the sunrise review process. The following year, the Committees received a presentation of a sunrise survey put forth by ABMP, an organization that supported massage therapy licensure. While there was robust discussion of the possible benefits and disadvantages of licensure versus certification, no sunrise legislation was ultimately authored.

¹³ Los Angeles Municipal Code § 103.205

¹⁴ San José Ordinance No. 29662

¹⁵ Bureau of Labor Statistics, U.S. Department of Labor, “Occupational Outlook Handbook: Massage Therapists Summary,” (2016).

Transitioning from voluntary certification to a statewide license requirement would potentially elevate the profession of massage therapy and align the industry with other therapeutic practices. It would no doubt implicate questions of how to appropriately treat those professionals currently practicing massage in jurisdictions that do not require a certificate from CAMTC, and a licensing program with all the associated expectations of due process would likely be both more expensive and less efficient than what is currently operated by CAMTC. Nevertheless, the question of whether licensure would provide greater benefit than the current certification model remains a topic of discussion.

Staff Recommendation: *CAMTC should provide an update on any stakeholder discussions it has had with supporters of licensure and if it has any new insights to offer on the topic.*

EDUCATION AND EXAMINATION ISSUES

ISSUE #13: *Competency Assessment Examination. Should applicants for certification be required to pass the MBLEx or a similar examination, or should the requirement be eliminated permanently?*

Background: Assembly Bill 1147 established new requirements for massage therapy certification, including a requirement that starting on January 1, 2015, all applicants pass a massage and bodywork competency assessment examination that is approved by CAMTC. The following exams have been approved by the CAMTC: the Massage and Bodywork Licensing Examination (MBLEx); the National Certification Examination for Therapeutic Massage and Bodywork and the National Certification Examination for Therapeutic Massage if taken prior to February of 2015; and the Board Certification Examination for Therapeutic Massage and Bodywork.

In order to take the MBLEx, an individual is required to complete 500 hours of education, which is the certification requirement in California. The New York State Massage Therapy Examination is only available if an individual meets specified educational requirements from New York. The Board Certification Exam in Therapeutic Massage and Bodywork requires 750 hours. The National Certification Exam for Therapeutic Massage and Bodywork must have been taken on or before February 2015. Therefore, for applicants for certification who have studied in California, under the state's 500-hour education requirements, the MBLEx is the only exam that can be taken to achieve certification.

The Federation of State Massage Therapy Board (FSMTB, the provider of the MBLEx) began requiring candidates seeking to take the MBLEx to demonstrate that they have received their education from an "approved massage therapy education program" beginning July 1, 2017. The massage therapy school must be approved or recognized by the state board or agency authorized to regulate massage therapy. In California, CAMTC is the body recognized by the FSMTB; to be eligible to sit for the MBLEx, an applicant must have attended a school that was affirmatively approved by the council.

The CAMTC only began approving schools in 2016; prior to that, schools were presumed approved until unapproved. Due to the ineligibility of many qualified applicants for certification as massage therapists in California to take the MBLEx, the examination requirement was suspended in 2018 through Senate Bill 1480 (Hill). This suspension was further extended in 2020 through Senate Bill 1474 (Committee on Business, Professions, and Economic Development). While CAMTC and the Committees have considered issues to resolve the outstanding issues with the FSMTB, it may also be considered whether an examination requirement is necessary for a massage therapist to provide services in California.

The suspension of the examination requirement was extended from January 1, 2022 to January 1, 2027 during CAMTC's previous sunset review. While the expiration of the suspension no longer aligns with CAMTC's sunset date, there should nevertheless be further discussion of whether to extend or make permanent that extension through the sunset review process this year. Given the protracted period of time that the fate of the examination requirement has been left uncertain, the Committees may wish to make a final determination during this legislative session.

Staff Recommendation: *CAMTC should provide its opinion on whether an examination requirement should be restored and propose any newly identified solutions to the issues with MBLEx eligibility.*

ISSUE #14: School Approval and Unapproval. Does CAMTC's current process for approving and unapproving schools appropriately provide due process for schools and students?

Background: Statute defines an "approved school" or an "approved massage school" as a school that is approved by CAMTC, has not been unapproved by CAMTC, and is approved by the BPPE, the Department of Consumer Affairs, or the organizations that accredit junior and community colleges, and corresponding agencies in other states.¹⁶

Until 2014, CAMTC did not have a formal school approval process. However, during CAMTC's first sunset review, concerns were raised that many schools were potentially producing diplomas while not providing an actual massage therapy education to individuals, and CAMTC process was only reactive. This was especially important during a period of time when there were concerns about illicit businesses and practitioners infiltrating the legitimate massage therapy profession. In 2014, the Legislature questioned whether CAMTC's reactive unapproval process was the best mechanism to ensure that students were meeting important programmatic standards for massage therapy practice.

In order to alleviate that concern, Assembly Bill 1147 required CAMTC to restructure its school approval system from a complaint-driven unapproval process to a more thorough and proactive approval process. Assembly Bill 1147 did not specify the parameters for what that approval process should entail, and instead required CAMTC to develop policies, procedures, rules or bylaws governing the requirements and process for the approval and unapproval of schools, including any corrective action required to return a school to approved status. Essentially, the parameters of how CAMTC would review schools, deny approval, the criteria necessary for a massage program, among others, was left for the CAMTC to develop.

Statute requires that CAMTC develop policies, procedures, rules, or bylaws governing the requirements and process for the approval and unapproval of schools, as specified, including any corrective action required to return a school to approved status.¹⁷ These policies, procedures, rules, or bylaws shall address topics including, but not limited to, what constitutes acceptable curriculum, facility requirements, student-teacher ratios, clinical practice requirements, and provisions for the acceptance of accreditation from a recognized accreditation body or other form of acceptance. The required policies and procedures were developed by CAMTC through the organization's board process and any alterations to CAMTC's policies continue to be done by the Board of Directors. The CAMTC Board of Directors has made numerous edits to policies and procures over the years, including the implementation of very detailed requirements for a school to meet minimum standards for training and curriculum in massage and related subjects.

¹⁶ Bus. & Prof. Code, § 4601

¹⁷ Bus. & Prof. Code, § 4615

Given that CAMTC is a voluntary certifying entity, a school operator does not need to have CAMTC approval to offer a massage therapy education in California to operate. However, individuals who attend non-CAMTC approved institutions are not able to obtain CAMTC's voluntary certification, unless they applied during specified-grace periods offered by CAMTC. Applications for schools approval became available on April 1, 2015. It took time for CAMTC to review schools and formally deny schools, which posed a challenge to individuals in the process of obtaining education at schools in the formal approval pipeline. In an effort to address those concerns, CAMTC established grace periods for students who attended or were in the process of attending a school that had not obtained a formal approval process.

A number of schools and students reached out to the Committees and the Legislature to share concerns about the prolonged school approval process, and as a result, Assembly Bill 775 (Chau) was passed in 2019 to establish timelines for the initial approval of a massage therapy school by CAMTC, and to require a school that is not approved by CAMTC to notify student applicants and obtain signed acknowledgements of confirmation that each applicant understands that the school is not approved and that the education will not count towards voluntary certification. Since CAMTC School Approval began on July 1, 2016, through February 5, 2025, CAMTC approved 107 campuses, with 20 schools provisionally approved; denied seven schools; proposed to revoke one school's approval for three campuses; purged 85 school applications; and re-approved 131 campuses. There are currently 78 unapproved schools. Of those, eleven have been unapproved since July 1, 2016.

In 2019, a massage school with campuses in San José and Santa Cruz was informed by CAMTC that its application for re-approval would be denied. This denial was asserted violations of the Massage Therapy Act including, among other things, allegations that the school sold transcripts to students. CAMTC indicated that it believed that an "accelerated program" offered by the school at a greater cost than its standard program resulted in students completing their 500 hours unrealistically quickly and with home addresses listed in Southern California. The students of the denied school presented the Committees with photographs, videos, and other documents to prove that they attended classes. Furthermore, the school claimed that when the CAMTC inspector arrived for a surprise audit, three classes were actively underway and the students waited half an hour after the end time for the inspector to come see them in class, but he left without ever doing so. The school pointed out that they operate a successful acupuncture program that has never been the subject of any allegations. The school also alleged that they were afforded very little due process.

Another controversy involving CAMTC's oversight of massage education providers is an ongoing legal dispute between CAMTC and representatives of a massage school with several campuses in Southern California. As synopsised in formal court documents, in January 2023, CAMTC ordered a corrective action for this massage school based on concerns that arose during site visits about the ability of the school's students to understand English when the school's catalog required all classes to be taught in English, along with other circumstances causing CAMTC to suspect fraud. One of the conditions placed on the school was a requirement that all graduates of the school attend an informal interview or education hearing prior to being granted certification. During this period, the school remained approved and was not under formal investigation. A third of the students interviewed passed informal interviews and were certified but, two-thirds did not. The school filed suit against CAMTC, seeking injunctive relief, and in September 2023 the Court granted a motion for preliminary injunction that enjoined CAMTC from requiring the students to attend education hearings or informal interviews as a certification requirement. However, CAMTC still refused to certify the students, arguing that the injunction prevented the council from meeting the requirement of the Massage Therapy Act that, when it has a reason to question whether or not an individual has all of the education listed on their transcript, it "shall" investigate whether an applicant has received all of the required education before issuing a certificate.

This resulted in the certification of approximately 140 students who had allegedly completed their required massage education being placed in limbo. CAMTC subsequently placed the school under formal investigation, reinforcing its position that graduates of the school must comply with additional vetting and sent the Southern California school a letter proposing to revoke its school approvals due to violations of the Massage Therapy Act, violations of its school procedures, and engagement in fraudulent practices including providing transcripts with more listed hours of education than the students actually completed. Meanwhile, the school's litigation against CAMTC remains ongoing.

At the same time, a separate lawsuit related to the one described above against CAMTC has been filed by Asian Americans Advancing Justice Southern California on behalf of six graduates of the Southern California massage school, who alleged that the actions taken by CAMTC not only violated the Massage Therapy Act, but also the Unruh Civil Right Act. The lawsuit alleges that CAMTC "imposed disparate requirements on graduates of [the school] based on their perceived ability to speak English" despite there being no English proficiency requirement to practice massage in California. The Court ruled in favor of the petitioners' motion for a preliminary injunction, finding that "while the Massage Therapy Act authorizes the Council to approve or unapprove massage therapy schools and to develop policies and procedures for that process, it does not permit the Council to penalize individual students for the alleged conduct of a Council-approved school." The Court ordered CAMTC to issue provisional certifications to the petitioners, including one individual who was denied certification based on CAMTC's finding that they did not attend the hours of education listed on their transcript, and to cease withholding certification based solely on CAMTC's investigation against the school. CAMTC has appealed this decision.

While multiple court decisions from the same judge have upheld arguments made against CAMTC by representatives of the Southern California massage school and its students, it is important to be mindful that the litigation is ongoing and remains unresolved, and it is not the role of the Committees to adjudicate factual and legal disputes specific to one school. However, these cases do prompt additional scrutiny by the Committees as to how CAMTC has exercised its school approval authority. These cases also invoke broader conversations about the degree of due process that is afforded by CAMTC to individuals and entities accused of misconduct, which is of significance especially considering that multiple controversies have involved allegations of racial prejudice against Asian Americans.

Schools proposed to be denied approval or have their school approval revoked or disciplined may oppose the proposed decision in an oral telephonic hearing or through the submission of a written statement. Fees are charged for each of these hearings. The opposition is then considered by at least two School Hearing Officers who serve only in this capacity, who are also employees of CAMTC and whose decision is final. A school may then appeal that denial or disciplinary decision to CAMTC's full Board. If the Board upholds the denial or disciplinary decision, further review may be had in superior court. Essentially, a denied school such as the one in the recent case has no option for appealing a CAMTC decision except to different segments of CAMTC itself. It is unlikely that once a school has been determined by CAMTC to merit discipline, including revocation of approval, there is very little recourse.

At the same time, CAMTC has made it clear that it takes its authority to approve, deny, and discipline schools seriously and that it believes this function is part of its core mission to prevent human traffickers from securing fraudulent credentials for those engaged in illicit sexual activity under the guise of massage therapy. While it is generally acknowledged that the due process provided to schools approved, denied, or disciplined by CAMTC is substantially lower than processes in place at state agencies, this is considered a tradeoff of the greater speed and efficiency that CAMTC possesses. While there may be concerning accusations and criticisms of CAMTC's process for denying or disciplining schools, it should be considered whether its current operations remain the best way to quickly address fraudulent activity.

Staff Recommendation: *CAMTC should discuss how it seeks to fairly and effectively oversee massage schools and how it intends to respond to criticisms it has received from schools and students.*

ENFORCEMENT ISSUES

ISSUE #15: *Human Trafficking. How does current regulation of the massage therapy profession contribute to statewide efforts to combat human trafficking?*

Background: CAMTC states that it has been “at the forefront of anti-human trafficking efforts since inception.” According to the council, “human traffickers want the air of legitimacy provided by businesses that appear to be legitimate massage establishments but are actually fronts for illicit activity.” In instances where staff for CAMTC describe its purpose and work, combating human trafficking is nearly always one of the core topics raised. Despite evidence suggesting that massage therapy has physiological benefits analogous to other healing arts licensed by the state, the industry has long been associated with commercial sexual activity. The result has been a treatment of massage therapy practice as a “vice” industry. The term “massage parlor” has in many discussions been treated as a euphemistic synonym for a bordello. This perception has persisted as national awareness of human trafficking has grown. In a 2012 report issued by state Attorney General Kamala D. Harris titled *Human Trafficking in California*, the definition of “sex trafficking” references “brothels disguised as massage parlors.”

In 2016, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development held an informational hearing titled *The Role of Regulated Professions in Combatting Human Trafficking*. The Committees examined how state legislation regarding massage therapy has contributed to local anti-trafficking efforts. The paper described how “some licensed professionals may be uniquely situated to identify victims of human trafficking” and indicated that more education for licensees could be an effective approach. The report stated that “strict and enforceable disciplinary standards may help alleviate licensed professions being infiltrated by illegal enterprises attempting to use legitimate businesses within California for human trafficking.”

In 2018, the Polaris Project, an anti-trafficking organization, released a report titled *Human Trafficking in Illicit Massage Businesses*. This report, which analyzed tens of thousands of human trafficking cases reported through the project’s hotline cross-referenced with other data sources, identified massage establishments as the second most common context for sex trafficking after escort services. Per the Polaris Project, California is home to “over 35 percent of the country’s illicit massage businesses (IMBs) and contains two of the three main cities in the country to which victims are recruited.” The report found that as many as 42 percent of Mandarin-language ads recruiting women in California for massage jobs “show one or more flags of trafficking.” California is also identified as a key “port of entry” for trafficking victims, with IMBs operating in networked connections with others across the country.

In a section of the report specifically titled “The Regulatory Landscape of California,” the Polaris Project acknowledges that the state’s Massage Therapy Act has resulted in “the enactment of many dramatically different laws at the county and city level,” and states that many counties have instituted strong regulatory schemes. However, the report goes on to express concern that “three counties with some of the highest concentration of IMBs in California, and therefore highest in the entire country, either do not have a law regulating massage business operations (Los Angeles County), have laws that regulate massage businesses as sexually-oriented businesses (San Diego County), or their major cities do not have laws regulating massage business operations (Santa Clara County).”

The report notes that because county laws are only enforceable in unincorporated areas, traffickers simply relocate to a specific large city to avoid strong regulations at the county level. An example given involves Santa Clara County, which worked with the Polaris Project to develop a new county-level law, wherein the result was simply that “traffickers simply picked up and moved to San José (the heart of Silicon Valley) or other cities with more permissive laws.” The core issue, Polaris Project states, is that “traffickers reap tremendous benefits from a lack of coordination between state, county and city legislation. The only way to cut them off at the pass is to undertake a coordinated effort to make sure they have nowhere else to go.”

The fact that California does not provide for universal statewide licensure of massage therapists has been identified as an impediment to the implementation of policies that would leverage the state’s regulatory function to identify and combat traffickers. Furthermore, the fractured nature of massage therapy regulation has been criticized by some as not only for producing inconsistent or insufficient local enforcement of illicit businesses. The strong association between massage therapy and sex trafficking has led some jurisdictions to pass what the massage industry regards as unduly onerous regulation that inappropriately burdens legitimate businesses. This criticism is compelling considering that many massage therapy services are provided by small businesses or sole proprietorships staffed and operated by vulnerable immigrant communities. A reasonable argument could be made that true sex trafficking enterprises are well-equipped to circumvent any constrictive local regulations, placing the weight of their impact on legitimate businesses.

On November 16, 2017, CAMTC issued a response to the Polaris Project’s findings, stating that in reviewing its data, it “does not have evidence that its certificate holders are either victims or perpetrators of human trafficking” and that “no CAMTC certificate holder has a criminal conviction for human trafficking and no certificate individual has stated to CAMTC that they have been trafficked.” CAMTC has made it clear that it believes its process for granting certifications and approving massage schools has a substantial impact on preventing human traffickers from operating massage establishments. Additionally, CAMTC’s Board of Directors specifically includes a designated representative of an anti-human trafficking organization.

The council’s role in combating trafficking is empowered by the Massage Therapy Act. Statute requires CAMTC to immediately suspend the certificate of any individual who is arrested and has criminal charges filed for prostitution or any sexually related crime. CAMTC is also authorized to suspend the certificate of any individual whom they believe to have committed a sexually related crime or a felony absent an arrest based on a declaration signed under penalty of perjury, with requirements for notice and appeal. In addition, the Massage Therapy Act specifically prohibits massage services from being offered by individuals who are unclothed or dressed in an alluring manner, including transparent attire and swimsuits (except under specific circumstances).

When evaluating the significance of CAMTC’s actions against human trafficking, there are certain arguments that should be considered in the context of the council’s laudable endeavors. First, while certainly sex trafficking continues to be an active and abhorrent industry operated by transnational criminal organizations and other perpetrators, it may be reasonably assumed that not *all* paid sexual services offered by massage therapists are the result of force or coercion by a sex trafficker. While pimping, pandering, and prostitution remain illegal under state law and are a justifiable cause for revoking a massage therapist’s certificate, it may be considered ill advised to overzealously conflate all commercial sex acts with human trafficking, and recognize that in many instances the illicit activities being prevented may in fact be a form of consensual sex work.

Additionally, while human trafficking has certainly been identified as a pervasive issue in the massage industry, it is also not the only profession where victims of trafficking are forced to work. Studies indicate that human trafficking is also common in service industries such as nail salons, construction, and the restaurant industry. While forced sexual activity is arguably the most appalling form of trafficking, some anti-human trafficking advocates have postulated why only massage therapy appears to be subjected to often extreme restrictions in the interest of preventing activities that appear to be less zealously combated elsewhere.

Finally, as discussed elsewhere, CAMTC does not currently have any authority over massage establishments, only certified massage therapists working within them. Therefore, inasmuch as the council has a key role in combating sex trafficking operations through its enforcement activities, it is limited to taking action against those providing illicit services and the schools that provide them with fraudulent diplomas. If an unlawful massage business is indeed operating as a front for traffickers forcing massage professionals to engage in commercial sexual activity, it is debatable whether revoking the victim's certificate is in fact an urgent priority in law enforcement's response.

CAMTC should be applauded for its ongoing work to partner with local law enforcement to combat human trafficking. However, the sustained and stigmatic association between commercial sexual activity and the massage industry is doubtlessly harming the reputation of a legitimate healing art profession, and there continue to be reports of local governments enforcing draconian ordinances against lawful massage businesses in the furtherance of anti-trafficking policies. As CAMTC continues to root much of its mission in its work against sex trafficking, there should remain a mindfulness to ensure that supporting good actors within the profession is not unduly deprioritized.

Staff Recommendation: *The CAMTC should further discuss its commitment to combating human trafficking and provide its thoughts on how to avoid burdening legitimate operators in pursuit of those efforts.*

ISSUE #16: *Massage Establishments. Does CAMTC's lack of oversight over massage establishments and their owners represent a gap in its enforcement authority?*

Background: The Massage Therapy Act currently does not grant CAMTC authority over massage establishments, which are defined as “a fixed location where massage is performed for compensation, excluding those locations where massage is only provided on an out-call basis.”¹⁸ The council has oversight over massage professionals who seek and receive voluntary certification, as well as schools that wish to have their programs count toward certificate requirements. In regards to places of business where massage services occur, however, CAMTC's authority is very limited.

Statute does allow CAMTC to discipline an owner or operator of a massage business or establishment “for the conduct of all individuals providing massage for compensation on the business premises.” However, this only applies when the business owner or operator is themselves a certified massage therapist already subject to CAMTC's oversight.¹⁹ CAMTC cannot take any direct enforcement against uncertified massage establishment owners, or place requirements specifically on massage establishments that fall outside their regulation of certified professionals.

¹⁸ Bus. & Prof. Code, § 4601

¹⁹ Bus. & Prof. Code, § 4607

Instead, power to regulate massage establishments belongs to local governments. Provisions in the Government Code expressly recognize the right of cities and counties to “enact an ordinance which provides for the licensing for regulation of the business of massage when carried on within the city or county.”²⁰ These ordinances are limited in terms of what requirements may be placed on massage professionals working within those businesses that conflict with the provisions of the Massage Therapy Act, but generally local governments retain authority to regulate and take enforcement action against establishments. CAMTC therefore often states that it sees its role as providing support to local governments in their oversight of massage businesses. CAMTC describes its relationship with local government as “broad and effective.”

The question of whether CAMTC’s authority should extend beyond massage professionals and bring massage establishments under their oversight has long been raised. During the council’s first sunset review in 2014, the background paper raised the question: “Should CAMTC certify or regulate massage businesses or establishments?” The background paper pointed out that were CAMTC given that authority, “a business or establishment registration or certification would be eligible for denial, suspension or revocation for specified unprofessional conduct and other reasons as to be determined by CAMTC and other stakeholders, making it more difficult for improperly managed businesses to remain in operation.”

Ultimately, the Legislature chose not to extend CAMTC’s oversight to massage establishments, and instead local government’s authority to regulate those businesses was expanded and restored. A bill proposed in 2018, Assembly Bill 3061 (Gloria), would have created a statewide registration program for massage establishments within CAMTC. However, this bill ultimately did not pass with that language.

High-profile incidents regarding misconduct at massage establishments further invoked the question of whether CAMTC should possess greater oversight authority. In November 2017, a major franchise chain of massage establishments was the subject of an article reporting that there had been over 180 complaints of sexual misconduct against the company and its employees worldwide. When some accused the national company of having policies in place that were partially responsible for allowing this misconduct to persist, there was little authority for CAMTC to investigate or take action against the owners of the establishment; instead, their jurisdiction was limited to specific therapists accused of misconduct who had been certified by the council.

Whether CAMTC should have authority over massage establishments remains a topic of discussion. Part of the consideration is whether local governments are exercising sufficient oversight over these service settings to satisfy the role that CAMTC would play were its jurisdiction expanded. This question will also serve generally as part of the larger question as to what the Legislature expects from CAMTC’s regulatory role and whether it is adequately empowered to carry out that role in a way that protects the public and advances the profession of massage.

Staff Recommendation: *CAMTC should provide its perspective to the Committees regarding whether it believes there would be benefit from providing the council with jurisdiction over massage establishments and whether there have been any new developments since the last time the issue was raised.*

²⁰ Gov. Code, § 51030

ISSUE #17: *Complaints. Does CAMTC’s current process for receiving and enforcing complaints sufficiently protect the public?*

Background: Consistent with many other licensing entities, CAMTC receives complaints about individual certificate holders. Complaints can come from anywhere (cities, law enforcement, individuals, students, schools, and the public); however, CAMTC's inquiry is limited to investigating conduct by CAMTC certificate holders and applicants that potentially violate the Massage Therapy Act. As previously discussed, CAMTC does not have any authority to revoke a business license or permit.

Approximately 825 complaints against certificate holders were received from all sources from January 1, 2021 through June 30, 2024. CAMTC has demonstrated significant pride in its complaint resolution timelines, which it believes are much faster than those for boards under the Department of Consumer Affairs. CAMTC notes that it seeks to quickly address all complaints received and treats notifications from law enforcement as complaints, and asks that any information local jurisdictions have to share with CAMTC be communicated through the complaint link.

As noted on the CAMTC website, through the council’s complaint guidelines, in order to make a complaint, an individual must provide their name and contact information, including any information about filed police reports. In addition, if the CAMTC decides to investigate the complaints, the individual who levied the complaint must be willing to provide a signed declaration under penalty of perjury; possibly testify to the allegations; explain the relationship with the massage professional; and provide any other evidence in their possession. CAMTC does not investigate anonymous complaints. While other licensing boards acknowledge that anonymous complaints are much harder to investigate and resolve, there may be a legitimate question as to whether CAMTC’s policy of requiring identifying information from each complainant is appropriate given its mission of protecting the public.

Staff Recommendation: *CAMTC should provide an update regarding its complaint intake and resolution process and explain why it has chosen not to accept or investigate anonymous complaints.*

ISSUE #18: *Enforcement Process. Is sufficient due process provided throughout CAMTC’s procedure for certificate revocation, suspension, or other discipline?*

Background: The Massage Therapy Act grants CAMTC broad authority to take disciplinary action against certificate holders, including through suspensions and revocations of certificates. Statute identifies a broad range of specific causes for discipline for acts constituting professional misconduct. As with any regulatory program, taking swift and effective action against professionals who have engaged in misconduct or gross negligence is a core component of CAMTC’s mission to protect the public.

Unlike other regulatory boards, however, the investigation, enforcement, and adjudication processes for allegations against massage therapists are all entirely placed within the purview of the council. Whereas boards and bureaus under the Department of Consumer Affairs typically utilize the Attorney General’s office to prosecute discipline cases, with many ultimately being heard by an Administrative Law Judge within the Office of Administrative Hearings, CAMTC does not implicate any of these entities and handles all disciplinary matters itself. As previously discussed, the Administrative Procedures Act has limited applicability to CAMTC when it comes to how cases are brought and decided following a complaint or accusation.

The discipline process begins when a potential case against a certificate holder is identified by way of a notice from the DOJ of a subsequent arrest, a complaint from the public or local law enforcement, an update of information from a certificate holder, or through review of an application for recertification. Once a potential violation of CAMTC's law or procedures has been identified, matters are directly assigned to either an Investigator, if it is a potential case of sexual assault, or a BRD employee for all other potential violations for review.

Potential sexual assaults are investigated by the Investigators, who are in a separate Investigations department, which is simply a different branch of CAMTC employees. (Investigations and BRD were once part of the same Professional Standards Division before being split off in 2019.) These Investigators focus solely on potential sexual assaults then engage in gathering evidence about the alleged conduct by interviewing witnesses and victims and obtaining documents and declarations. Once an investigation is complete, the Investigators make a recommendation to BRD regarding whether the matter should be cleared or not, or if discipline is recommended, what violations they believe the certificate holder committed and what discipline would be most appropriate. Only BRD may make the decision to proceed with discipline or close a case.

CAMTC states that after the review by an Investigator or BRD employee is completed, BRD will then conduct a final review to determine if denial or disciplinary action should be imposed or the matter should be cleared at a final review meeting, which occur every other week. At the final review meetings decision are made by a minimum of two BRD employees who were not previously involved in the investigation or review of the specific matter before them as to whether or not to deny the application, impose discipline, or clear the matter.

At the final review meetings conducted every other week, BRD employees discuss the evidence and determine whether they think a disciplinary action is justified and appropriate. CAMTC states that if a majority of the BRD employees on the call believe that there is sufficient evidence to take action against a certificate holder, then a proposed decision is officially made, including the type of discipline to be imposed. If there is not sufficient evidence, then the matter is cleared.

Certificate holders are then provided at least fifteen days' notice of the proposed discipline in the form of a "Proposed Revocation/Discipline Letter" (PRL). This letter includes the factual and legal basis for the proposed action and the violations that the certificate holder is accused of. The certificate holder is then also notified of their opportunity to be heard. Certificate holders have the right to challenge the proposed action before it becomes final and effective by requesting an oral hearing or consideration of a written statement. If they do so, their matter is heard by dedicated Hearing Officers.

Certificate holders being accused of misconduct may pay CAMTC a fee to have either a telephonic hearing or to submit a written statement. CAMTC charges certificate holders a \$270 fee for telephonic hearings and a \$180 fee for consideration of a written statement. These hearings are then held by at least two Hearing Officers. These Hearing Officers are also employees of CAMTC and part of the Legal Department under the direct supervision of the Senior Staff Attorney. The Hearing Officers review all the evidence submitted, including evidence provided by the certificate holder in the hearing or through written statement, and decide whether to uphold, reject, or modify the proposed decision. According to CAMTC, "the decision of the Hearing Officers shall be final." If a certificate holder wishes to continue to appeal the decision, their only option is to file a lawsuit against CAMTC in superior court. This lawsuit must be filed within ninety days of the effective date of the discipline.

In essence, the Hearing Officers function much like administrative law judges (ALJs) in matters before boards and bureaus. The Hearing Officers consider proposed disciplinary action brought by BRD based on the recommendations and evidence submitted by Investigators or other BRD employees not involved in making the proposed decision to impose discipline. Each one of these individuals is an employee of CAMTC. At no point in time does an independent entity consider the case. CAMTC appears to believe that additional fair procedure is created by ensuring that those who review or investigate a matter are not the same individuals that make a proposed decision to discipline an individual, nor are they the same individuals that make a final decision when a proposed decision to discipline is opposed at a hearing. If a certificate holder truly believes CAMTC's employees acted wrongly in their proposed discipline, then a lawsuit against the council is their opportunity to have a third party weigh in.

It is additionally unclear whether CAMTC requires each of the employees involved in this process to meet any particular qualifications. For example, it is not apparent that either BRD or Investigations staff are required to have a law enforcement or criminal justice background, though it is possible that some do. While Hearing Officers are divisionally placed under CAMTC's Special Counsel and Senior Staff Attorney on its organizational chart, it is not known if these individuals themselves must be licensed attorneys. There is similarly no legal requirement for certified massage therapists to be involved in the investigation or enforcement of cases for discipline as subject matter experts. While nothing in the Massage Practice Act requires minimum qualifications for these employees, there is a question as to how distantly related these CAMTC employees are to the investigators, prosecutors, and judges involved in a disciplinary action brought by a board under the Department of Consumer Affairs.

As has been discussed, there is no denying that CAMTC's disciplinary process is tremendously efficient when compared to enforcement activities at similar state agencies. Meanwhile, because CAMTC's certification is voluntary, there is a valid reasoning that the expectations for due process should not rise to that same level. However, given the enormous amount of discretion that clearly exists solely within the jurisdiction of CAMTC and its employees regarding whether a massage therapist will be subjected to formal discipline, there should be a discussion of whether additional steps to ensure accountability and transparency in the enforcement process are justified.

Staff Recommendation: *CAMTC should explain its current enforcement processes for disciplinary actions against certificate holders, including what qualifications and standards are applied to those working within BRD, Investigations, and as Hearing Officers, and speak to whether it believes there could be any improvements to enhance due process for certificate holders.*

ISSUE #19: *Additional Enforcement Recommendations. How would CAMTC's recommended enhancements to its enforcement authority enable it to better fulfill its public protection mission?*

Background: CAMTC's report to the Committees identifies several statutory changes that CAMTC believes would equip it to more effectively engage in its oversight and enforcement responsibilities under the Massage Therapy Act. First, the Massage Therapy Act requires every applicant for a certificate to submit their fingerprints for a criminal history background check through the California Department of Justice and the FBI, and this information is then reviewed by CAMTC to determine whether an application for certification should be denied for specified forms of prior misconduct. According to CAMTC, federal criminal history information is not received directly from the Department of Justice, nor is it receiving subsequent arrest notifications about federal level convictions. CAMTC has asked that specific language be placed into statute to allow for it to receive this information.

Another issue identified in CAMTC’s report to the Committees involves notifications of a legal name change. Currently, CAMTC must be notified within 30 days when a certificate holder changes their home address, work address, or e-mail address. However, there is no similar requirement for legal name changes, and CAMTC says that this notification often does not occur until the certificate holder’s next certification, which may be up to two years away. CAMTC has requested language to require notifications of legal name changes to be provided within 30 days, consistent with address changes.

CAMTC has also recommended modifying existing provisions of the Massage Therapy Act to enable it to more broadly engage in information sharing with state and federal law enforcement agencies, as well as professional licensing agencies. Current law allows specified information to be shared upon request with law enforcement agencies or other local government agencies responsible for enforcing local ordinances involving massage therapy establishments. CAMTC believes that this should be expanded to cover additional information and to specifically include state agencies.

Another recommendation from CAMTC involves the question of whether CAMTC can take action on a nolo contendere plea consistent with action it takes following a conviction. Current law empowers CAMTC to deny an application for certification or discipline a current certificate holder when the individual is convicted for an act considered to be substantially related to the qualifications, functions, or duties of a certificate holder. While CAMTC believes the Legislature’s intent was for this to include a plea or verdict of guilty or a conviction after a plea of nolo contendere, it has stated that this is sometimes not clear to third parties. CAMTC has asked for language clarifying the law in these cases.

Finally, CAMTC has requested statutory language allowing it to deny a certificate or discipline a certificate holder when the individual has been determined to be unfit to perform the duties of a certificate holder for mental health reasons or reasons of criminal insanity. The language requested by CAMTC would add “being determined to be a threat to public safety based on mental health reasons as determined by a medical or mental health professional or a finding of criminal insanity” to the list of examples of unprofessional conduct under the Massage Therapy Act. CAMTC argues that this addition would address situations where a certificate holder has exhibited violent or harmful behavior but has not yet been an instance where this behavior has occurred during the course and scope of providing a massage. CAMTC’s position is that closing what it believes to be a loophole would help to protect the public.

Staff Recommendation: *CAMTC should provide the Committees with its requested language and further explain why it believes each of its proposals would enable it to better protect the public.*

LOCAL GOVERNMENT ISSUES

ISSUE #20: *Relationship with Local Governments. Is the relationship between local government and CAMTC an effective model for regulation of the profession and prevention of illicit activity?*

Background: A key element of an effective massage regulatory system in California is open communication, specifically uniform sharing of information that leads to consistent regulation of the profession in every jurisdiction. Since the inception of a statewide, voluntary certification program in California, the relationship between CAMTC, local governments, and practitioners has been fraught with issues and has been a consistent topic addressed during every sunset review oversight effort for CAMTC.

There are many layers that establish oversight of the massage therapy profession in California. As previously discussed, CAMTC is responsible for the voluntary certification of individuals, while local governments are responsible for regulating businesses and establishments, as well as the individuals who choose not to obtain certification from CAMTC. Although some local jurisdictions require CAMTC certification in order to practice within their area, not all cities or counties do. Since CAMTC only certifies an individual, and does not have authority over any business or establishment operator or owner (unless the business owner happens to be a sole-proprietor who has certification), a transparent and communicative relationship between CAMTC, local governments, and law enforcement is imperative.

As a result of changes made to the Massage Therapy Act during the CAMTC's first sunset review, Assembly Bill 1147 more clearly delineated regulatory oversight of massage therapy businesses for cities and counties related to land use for massage establishments and businesses. Assembly Bill 1147 also established a number of new protections for certified massage professionals, including restrictions on local governments from requiring certificated individuals to do the following: complete a medical examination; complete a separate background check; comply with any additional education requirements beyond those required for certification and; obtain any other license, permit, certificate or authorization to provide massage for compensation in excess of what CAMTC already considers.

One challenge to a consistent regulatory landscape is the illicit industry that cities and local jurisdictions continue to contend with. While CAMTC can swiftly revoke or provide probationary status for a certificate holder, local jurisdictions have a greater challenge in addressing bad business operators (non-certified business owners). There have been discussions about CAMTC expanding its regulatory authority to help combat illicit business through the regulation of establishments; however, to date, the CAMTC continues to provide a voluntary certification of individual massage providers only and does not certify or have any relationship with businesses owners or establishments throughout the state.

CAMTC, law enforcement, and local jurisdictions, must rely on communication with each other to help combat bad actors. Currently, the CAMTC provides a no-cost *CAMTC Law & Code Enforcement Training* to law and code enforcement and local agencies. CAMTC noted in its 2019 Sunset Review Report that "CAMTC also communicates regularly with cities, counties, and local law enforcement agencies to gather information about local disciplinary actions taken against an applicant or certificate holder applying for certification or recertification. Email communication with cities, counties, and law enforcement agencies related to applicants and certificate holders is continuous and on-going. Weekly notifications of all suspensions, reinstatements, and revocations are sent to all authorized contacts."

Additionally, communication between the local governments and CAMTC is imperative in addressing enforcement related challenges. While issues have been raised in past sunset reviews as to whether or not there was effective communication between all parties, CAMTC noted in its 2019 sunset review report, "CAMTC is receiving more information than ever before, and putting this information to good use, resulting in an increase in suspensions based on evidence. Likewise, local jurisdictions are using CAMTC's help to close down illicit establishments."

Staff Recommendation: *CAMTC should update the Committees on the status of its relationship with local governments, particularly local law enforcement, and whether any action by the Legislature would further strengthen these critical partnerships.*

PRACTICE ISSUES

ISSUE #21: *Healthcare Provider Status. Do events that took place during the COVID-19 pandemic reveal a need to clarify the role played by massage therapists in their communities?*

Background: While massage therapy is not a licensed profession in California, it is included in the acts listed under Division 2 of the Business and Professions Code, which is titled “healing arts.” As previously discussed, there has been extensive research into the therapeutic value of massage, including as a means of addressing specific symptoms of both acute and chronic medical conditions. The Legislature has repeatedly acted to reinforce massage therapy’s status as a form of healthcare practice.

During its previous sunset review, CAMTC stated that during the initial stages of the pandemic, it assisted with seeking clarify for its certificate holders regarding how the stay-at-home orders impacted their services and whether they would be considered essential. According to the CAMTC, whether massage was considered “healthcare” was a central debate during the lockdown and a “hugely divisive and contested issue.” CAMTC sent a formal letter to the Governor’s Office seeking clarification of this issue. The California Department of Public Health clarified that only massage therapists providing “medical massage” based on the referral from a doctor or chiropractor would be permitted indoors as an essential service. Ultimately, massage therapy studios were included under the Governor’s guidance for “personal care services” and massage services in non-healthcare settings became allowed indoors with modifications and restrictions.²¹

CAMTC has indicated that while it is proud of what it was able to accomplish under the restrictions of the COVID-19 public health crisis, it does believe that it might be helpful for the Legislature to statutorily clarify that a certified massage therapy professional is a “healthcare provider.” This distinction arguably became less semantic and more substantive during the pandemic, when it had immediate effects on the ability of therapists to keep their businesses open. Such a clarification would also likely be helpful for future scenarios when the Legislature is considering how best to enable healthcare providers to provide care to their communities.

Staff Recommendation: *CAMTC should assist the Committees in the development of language to clarify that certified massage therapists are healthcare providers.*

TECHNICAL CLEANUP

ISSUE #22: *Technical Cleanup. Is there a need for technical cleanup?*

Background: As the massage profession continues to evolve and new laws are enacted, many provisions of the Business and Professions Code relating to massage therapy become outmoded or superfluous. In its report to the Committees, CAMTC has identified several areas where noncontroversial changes to the Massage Therapy Act would be useful. CAMTC should work with the Committees to further recommend cleanup amendments for statute.

Staff Recommendation: *CAMTC should recommend cleanup amendments for inclusion in its sunset bill.*

²¹ <https://files.covid19.ca.gov/pdf/guidance-expanded-personal-care-services--en.pdf>

CONTINUED REGULATION OF THE MASSAGE PROFESSION
BY THE CALIFORNIA MASSAGE THERAPY COUNCIL

ISSUE #23: *Continued Regulation. Should the certification of massage professionals be continued and be administered by the California Massage Therapy Council?*

Background: Since CAMTC was first established through the enactment of Senate Bill 731 in 2008, the Legislature’s core intent to provide for consistent, statewide standards and qualifications for massage therapists has arguably been achieved. Subsequent legislation has continued to restructure the council and adjust the balance of responsibility between CAMTC and local governments. However, continuation of the entity as a nonprofit regulator has ultimately been the result of multiple prior sunset reviews.

There is little argument to be made that the state should not continue to revert to the so-called “chaotic mish-mash” of local ordinances governing the requirements to practice massage therapy in California. The certificate program operated by CAMTC has greatly increased mobility and clarity within the profession, though as previously discussed, inconsistencies in whether the certificate is featured as a requirement for a particular locality continues to frustrate historical efforts by the profession to achieve the universal scheme that exists in other states. As previously discussed, this has led to the persistent debate about whether the Massage Therapy Act should transition from a Title Act to a Practice Act and require licensure for all massage therapists practicing within the state.

From an administrative perspective, CAMTC has certainly delivered upon the promises inherent with the nongovernmental regulator model. The council is able to act swiftly, flexibly, and inexpensively in its operations, particularly when compared to analogous boards and bureaus under the Department of Consumer Affairs. If the Legislature wishes to prioritize these traits in its regulation of professionals, then CAMTC could certainly be held up as a paragon of the nonprofit structure.

However, as discussed throughout this paper, there are a number of potential downsides to empowering an entity outside the auspices of state government to exercise oversight over a profession. Some may argue that the efficiencies boasted by CAMTC come at the cost of transparency, accountability, and due process. With so many so-called “good government laws” passed over the years to promote public confidence in bureaucracy inapplicable to CAMTC, the balance of interests remains subject to adjustment by the Legislature. Further prompting this deliberation is statements from some within the massage industry, including those representing societies and associations, that the current framework CAMTC operates is uncondusive to the persistent goal of elevating the profession as a healing art.

There are many reforms, both minor and significant, that may be contemplated by the Committees as CAMTC undergoes its current sunset review. There is little doubt that statute could be revised to require the council to further emulate the state licensing board model in areas that would increase public confidence and allow the industry to more closely resemble other health care professionals. However, the Legislature should remain mindful that each potential new mandate or structural change would likely be at the expense of the advantages that come with constructing CAMTC as a nonprofit corporation.

Staff Recommendation: *Some mode of state-level oversight of the massage profession should be continued, with further discussion as to whether solutions to the issues raised in this background paper may reasonably be implemented by CAMTC in its current form.*