

January 29, 2014

House Health and Human Services Committee.

Testimony in Support of House Bill 2187

Chairman Crum and Members of the Committee,

My name is Stuart Little and I am appearing today on behalf of the Kansas Chapter of the American Massage Therapy Association. We requested the introduction of House Bill 2187. I will provide the Committee with brief background information as well as an update on what we have done in an attempt to make House Bill 2187 better and gain your support and pass the bill out of Committee to the full House. The revisor has a few brief amendments that improve the bill.

Basics of House Bill 2187

Establishes the title massage therapist and the ability to practice placed under authority of the State Board of Nursing—currently there are no state requirements

- Bring professional licensure status to massage therapists to protect the public and ensure standards of practice in the field are protected and preserved.
- Massage therapists will be licensed by the state under the Kansas State Board of Nursing, with a Massage Therapy Advisory Committee to represent massage therapist and to advise the Board.
- The bill would set minimum training requirements, define a scope of practice while specifically protecting all other professions, provide an avenue for consumer complaints, and pre-empt granting a local license to practice but not zoning, etc.

Grandfathering

- Generous Grandfathering Rules for Current Massage Therapists: For a period of two years, existing practitioners would be able to qualify for a state license by meeting one of the following criteria:
 - Has completed a massage program consisting of a minimum 500 hours; *or*
 - Has completed a massage program of at least 300 hours and has practiced massage for a period of 3 years; *or*
 - Has practiced massage for at least 3 years prior to the date of application; *or*
 - Has been an active member of a national massage therapist association (such as AMTA or ABMP) which provides professional liability insurance for at least a year; *or*
 - Has passed a nationally recognized examination approved by the board.

New Applicants after bill takes effect:

- All NEW applicants only will have to demonstrate they have completed a massage program consisting of at least 500 hours *and* passed an examination approved by the board.

Additional Provisions

- The licensing fee would be no more than \$80 every two years.
- Continuing education requirements would be limited to no more than 6 hours per year.
- Massage therapists would be required to carry professional liability insurance.

Why massage therapy support House Bill 2187

- Forty-three states have some form of massage licensure
- Nationwide, in 2009 over 280,000 individuals practice massage therapy in an estimated \$10 billion business.
- The practice of massage therapy has doubled in size since 1998 prompting many states to initiate regulation.
- In Kansas, an estimated 2,500 individuals perform massage therapy, the vast majority in well-run and safe solo practices or businesses, many part-time providing a desired health-related service to Kansas
- Kansas Department of Health and Environment Credentialing Review Committee and Secretary Moser concurred that there is a compelling public safety interest warranting licensure.
- Sets minimal regulations at no cost to the state and low cost to therapists:
 - Professional standing and growing consumer demand for a clear scope of practice, uniform standards, competency, quality, and safety.
 - Provides a means to evaluate and close down unscrupulous, transient “massage businesses” when they appear.
 - The right to control their profession, not place it in the control of others
 - Some Kansas cities have some limited local regulations but lack of uniformity. The general public and practitioners are confused about those various standards
 - Provides a means for protecting therapists from consumers seeking illicit activities when massage practitioners are state licensed professionals who must meet minimal standards.

The Public Interest

Many in the public are unaware that massage therapists are not licensed.

- Clients can receive assurance that a licensed massage therapist has:
 - A clear scope of practice
 - A minimal education and training level
 - Continuing education
 - A means of filing a complaint or grievance

- A state regulatory body empowered to enforce sanctions against those who violate the public trust

Except for a criminal or civil action, there is no recourse for the public

- Provides a method for filing formal complaints to protect the public and future clients from physical harm, sexual abuse, and unwanted and unwarranted sexual impropriety
- Provide a means for customer complaints to protect the integrity of the profession and thus ensuring public confidence through businesses with licensed massage therapists.

Summer of 2013 Compromise Committee

- Participants included:
 - Kansas Chapter of American Massage Therapy Association
 - American Massage Therapy Association
 - Associated Bodywork & Massage Professionals
 - Kansas Association of Therapeutic Massage and Bodywork, Inc.
 - Free State Coalition
 - Kansas State Board of Nursing
 - Individual massage therapists

The group discussed generally a number of issues such as:

- The role of the Massage Therapy Advisory Committee under the Board of Nursing including the membership composition and how public input will be provided through the Advisory Committee.
- Discussion of the current Board of Nursing process for handling complaints, investigations, etc. The BON explained their procedures and processes. For example, a call to the BON to complain does not automatically mean anyone is guilty. The BON has procedures to initiate inquiries to determine if a full-fledged investigation is warranted. It was clear that a negative phone call from a competitor would not automatically close you down for business.

Compromise components:

The meetings produced a list of compromise agreements that were mutually achieved in an attempt to make licensure easier for massage therapists. The group worked collaboratively on the topics. All participants in the meeting voiced support for the proposed amendments. However, it should be noted that following the compromise agreement, one group who participated did not agree to support the legislation. Our group worked hard on compromise and got it, it is unfortunate that one group cannot support or remain neutral on the bill now.

The following issues are proposed to be added to House Bill 2187:

1. Make Easier Grandfathering into Massage Therapy License for Current Therapists: The group agreed that the requirement for current therapists to be grandfathered should be reduced from five to three years of experience in practice.
2. Protection for massage therapists who are not aware of the new license: Section 6 (b) of the bill will be amended so that if a therapist is not aware of the new law and does not apply for grandfathering by July 1, 2016, they may not be subject to violating of the act. A massage therapist would have to knowingly with “intent” violate the law to be charged with violating the license act. There was concern some therapists might not be aware of the new law and this change will allow the Board of Nursing to not charge a person with a misdemeanor if a massage therapist currently in practice unknowingly misses the grandfathering deadline.
3. Local Government Issue: The state will only have the role to grant a license to practice massage. The bill does not affect local units of government ability to manage local regulations (zoning, general business licenses, etc.) as they do currently.
 - a. Insert new language to clarify the role of local authority
4. Sports and entertainment massage: In the exceptions section eliminated the word “professional” for out of state entertainers and athletic teams who may be accompanied by a massage therapist not licensed in Kansas. This will exempt college athletic teams and non-professional entertainers to practice while temporarily in Kansas.
5. Agreement to include in exceptions section the specific language “ortho bionomy.”
6. Agreement that the chiropractic association suggested amendments are not acceptable.
 - a. Consensus agreement to continue opposition to proposed amendments that prior authorization be required for massage therapy

Brief Comments About Sex

Many of you are aware of the issue of illicit massage businesses and have asked if licensure will stop that from happening. High profile cases in Wichita and the Johnson County area continue. In Wichita, see attached Exhibit A, out of state operators in 2013 recruited women to work in Kansas in an illicit massage business. As the defended in this Wichita case stated: “According to the July 2013 complaint, suspect Gary Kidgell told an investigator he and his wife moved to Wichita from California after learning about the massage business and the city’s ‘lack of massage parlor regulations.’” The absence of a professional license certainly made that easier and appealing to illicit businesses. Exhibit B is an on-line advertisement dated January 24, 2014, includes the suggestive language offering illicit services in Wichita.

A massage therapy license will not end the sex business. A massage therapy license will provide at least two benefits. One benefit is preventive. Kansas will not be a haven for illicit operations because illegal operators will be aware that they cannot open a business without a licensed employee. Two, the State Board of Nursing will maintain a searchable on-line database for licensed massage therapists as they currently maintain for nurses. Law enforcement or citizens will be able to search to determine if a massage therapist has a license. If they don't, they can be investigated and closed down. Rather than focusing law enforcement resources on sting operations, licensure will provide an immediate tool for verification. If further investigation is warranted, the Board of Nursing or law enforcement may investigate but setting the standards to practice provides a first level of defense.

Conclusion

A few in the practice of massage therapy do not want licensure and you will hear from them. They have worked successfully in the field for years without licensure or any regulation and oversight. However, the field of massage therapy has expanded, as public use of massage has increased, and as massage has gained a greater role in the system of health, the times have changes. We believe a point has been crossed where protection of the public and the profession of massage therapy now require a regulated professional status.

I would be happy to stand for questions at the appropriate time.

Exhibit A

WICHITA, Kan. -

FactFinder 12: Parlor Trick

Brian Heap, bheap@kwch.com

POSTED: 09:38 PM CST Nov 24, 2013 UPDATED: 10:05 PM CST Nov 24, 2013

Massage parlors are more than just the punch line for a joke. Some are known to be havens for crime. For months, FactFinder 12 Investigators have worked to learn more about massage parlor activities in Wichita.

A criminal complaint filed in U.S. District Court charges three people with operating a human trafficking ring out of several Wichita massage parlors. According to the July 2013 complaint, suspect Gary Kidgell told an investigator he and his wife moved to Wichita from California after learning about the massage business and the city's "lack of massage parlor regulations."

Wichita Police say they've identified 29 businesses that are fronts for prostitution, money laundering and other crimes. Some of these places post provocative ads on Craigslist. Other websites list places in the city that offer more than just massages. Clients share reviews and talk in graphic detail about the price of sexual services. "Something where you are manipulating another person's body should be under the direction of something, says certified massage therapist Jennifer Gaylord. "I mean you have to have a license to cut someone's hair."

Gaylord has hundreds of hours of training. Her business, Spiritouch, has an "A" rating with the Better Business Bureau. She says places that offer sexual services give all healing therapists a bad name.

When Gaylord opened her business in 2009, she went to the City of Wichita to get a license. She was "shocked" to learn it wasn't required.

However, FactFinder 12 learned city law does require a license. Details are outlined in a strongly worded 1978 ordinance – an ordinance the city has chosen not to enforce for more than a decade.

Section 3.56 of the city code requires a massage business be licensed and pay a \$500 fee. All employees who give massages must pay for a yearly permit. Failure

to have a license or permit is punishable by up to a year in jail.

The ordinance spells out specific training and health requirements. It requires police to investigate all applicants. There's a subsection devoted to sexual contact that even prohibits a person from performing a massage on a member of the opposite sex.

In accordance with the Kansas Open Records Act, FactFinder 12 asked the City of Wichita to provide licensing information for massage businesses for the past three years. The city responded with an email reading "no documents exist". The city legal department also answered "none" when asked how much money has been collected for licensing fees and how many citations were issued since 2011.

Wichita City Attorney Gary Rebensdorf says the city stopped issuing licenses and permits around the year 2000 because of concerns it exposed the city to lawsuits. "We advised the police department that the ordinance was not enforceable and therefore you cannot issue a citation under it," says Rebensdorf.

In 2003, the city tried to rewrite the law to put more focus on training and certification and less focus on criminalizing the industry. The 2003 council voted it down unanimously. Efforts to pass statewide licensing restrictions have also failed. "It is a concern and we're being proactive about how we address it as an organization," says Wichita Police Chief Norman Williams. Williams doesn't think police need a licensing requirement to stop the criminal activity in massage parlors. He says the formation of a vice unit in 2008 and the addition of more resources to that unit last year have helped police control things.

Since 2008, WPD has investigated 29 massage businesses for criminal activity. Detectives have made 14 arrests for prostitution in 2003. They made 16 in the previous three years combined. Williams says that's proof the expanded approach is working.

"Our hands aren't tied as far as dealing with criminal activity. We're taking care of business," he says.

Exhibit B

backpage

Post an Ad

kansas free classifieds

[backpage.com](#) > [kansas adult entertainment](#) > [kansas body rubs](#)

[Report Ad](#)

DANIELLE... (#1 full-body) :) MASSAGE SERVICES !! (non-asian) - 32

Posted: Friday, January 24, 2014 2:23 PM

Happy NewYear! Come treat yrself. have it YOUR WAY! LEAVE HAPPY,STRESS FREE (316-409-9090)
i offer FULL-BODY SWEDISH,HOT STONES,SENSUAL,PROSTATE MASSAGE extra)RELAXING &
ENJOYABLE SESSION.
very nice, quiet ,CANDLE-LITE SETTING,SOFT-JAZZ PLAYING!!

CALL ONLY ME (316-409-9090)**
i'm a CMT) pro,classy,pretty,friendly& busy:

I Like GENTLEMEN, you prefer Up Scale Quality Service! I offer wine/spirits.!

HYDRAULIC at PAWNEE, 67216 [google map](#) | [yahoo map](#)

Poster's age: 32

- Location: Wichita, HARRY/WEBB AREA
- Post ID: 3804633 kansas

[Email this ad](#)

[Account Login](#) | [Affiliate Program](#) | [Promote Us](#) | [Help](#) | [Privacy Policy](#) | [Terms of Use](#) | [User Safety](#) | [backpage.com](#)
© Copyright 2014

kansas.backpage.com is an interactive computer service that enables access by multiple users and should not be treated as the publisher or speaker of any information provided by another information content provider.