

February 8, 2012

House Health and Human Services Committee.

Testimony in Support of House Bill 2564

Chairwoman Landwehr 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 2564 and appreciate the opportunity to discuss the issue of licenser for massage therapists in Kansas.

Policy Choice

You have heard the description of the bill from staff. I am happy to discuss the technical details of HB 2564 but I am going to focus on the public policy choice you are faced with today: should individuals who perform massages be licensed by the State of Kansas. The choices will not be easy because we are asking you to require government regulation of individuals who right now practice without government fees, state standards, or state oversight. They can essentially perform their business in a free and open market where the good will flourish and the bad will fail.

Many Kansans have a regular or occasional massage therapist. A massage therapist is usually referred to someone by a friend or family member or his or her physician. Folks assume a massage therapist is licensed and might not even think about the massage therapist's qualifications, education, background, or history. There is no need because you got an informal reference you trust. That system works well most of the time and problems are rare. Your massage therapist is happy too. They run their own business, some working in the field only part-time without any oversight or government regulation. Why change it? We believe that House Bill 2564 will not damage the current system. It will provide minimal professional standards, create oversight, and a means of recourse when someone's experience turns bad. The most fundamental issue is that the public does not know, never has to know, and there is no legal reason for anyone to know when the individual in the closed room with you or our unclothed family member has hurt someone in the past, has a criminal history, has perverse and undetected proclivity. Under current state law in Kansas anyone can say he or she a trained massage therapist and no one will ever know.

Background

The supporters of HB 2564 have completed the following tasks:

- The Kansas Department of Health and Environment Credentialing Review Committee held public hearings on the issue and took testimony for and against the issue. Their final

recommendation was that a compelling public safety interest existing warranting licensure. Secretary Moser agreed.

- Met with the State Board of Healing Arts and either met or discussed with the allied regulated professions in the BOHA and attempted to address their issues in HB 2564. Their participation in discussion does not connote consent or agreement with the bill and their testimony will certainly convey any issues they have.
- Reviewed the laws in the forty-three states that currently provide some form of regulation for massage therapists and incorporated into HB 2564 the best regulations that work in other states.
- Meet with various massage therapist stakeholders over the proceeding years in preparation for licensure. Not all massage therapists agree with licensure but the national professions to which most Kansas massage therapists belong support licensure and support HB 2564.
- Written a bill that sets minimal standards of state regulation, establishes minimum educational and continuing education requirements, provides a means to protect the practice of massage therapists without infringing on the scope of practice of other allied professions, at a cost that is minimal and that costs the state nothing.
- Written a bill that does not overregulate the practice of massage therapy but protects the practitioners and the public

The massage therapy community

- Nationwide, in 2009 over 280,000 individuals practice massage therapy. It is 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 desire health-related service to Kansas
- Wants minimal regulation at a low cost for several reasons:
 - Professional standing and growing consumer demand for a clear scope of practice, uniform standards, competency, quality, and safety
 - Some Kansas cities have some limited local regulations but lack of uniformity. The general public and practioners are confused about those various standards
 - A few cities have some local regulations that are similar to some of the requirements in HB 2564
 - Most local ordinances are designed to curtail prostitution, human trafficking, not professional regulation and health codes.
 - 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 themselves 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.

Conclusion

Clearly not everyone in the practice of massage therapy wants 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.

Proposed Amendments to House Bill 2564

Proposed by Stuart J. Little, on behalf of the American Massage Therapy Association—Kansas Chapter

Sec 1 new subsection

(g) “Professional massage and bodywork therapy association” means a state or nationally chartered professional membership organization that has been approved by the board under this act offering services to massage therapists that has been in existence for at least five (5) years prior to the effective date of this Act, or that currently has at least 500 members in good standing, and whose membership requirements include the following:

(1) The organization requires that its members meet minimum eligibility criteria, which include massage or bodywork education completion standards. Required education must include the subject areas of anatomy, physiology, hygiene, sanitation, ethics, and application of techniques; and

(2) The organization has an established code of ethics, standards of practice and requires members to agree to that code.

Sec 3 (a) (4)

Strike "professional massage association or organization" and insert "professional massage and bodywork therapy association."

Sec 3 (a) (5)

Strike “national certification examination” and insert “nationally recognized certification examination.”

Sec 6 (b)

Strike “2013” and insert “2014.” Grandfathering deadline and mandatory license date must match.

Sec 9 (a) (3)

Strike “naturopathic doctor” and insert “massage therapist.”