

SB 731 FACT SHEET

SB 731 MEETS STANDARDS CURRENTLY ESTABLISHED BY CITIES AND COUNTIES AND WILL ALSO BENEFIT CITIES AND COUNTIES:

I. SB 731 Meets Standards Established by Cities and Counties:

- Applicants for state certification will undergo criminal background checks including fingerprints. (Section 4601.3(a)). The CAMTC is mandated to request subsequent arrest notification service from the Department of Justice for all applicants for licensure for whom fingerprints are submitted. (Section 4601.3(d)).
- The CAMTC will be authorized to investigate the certificate of completion of questionable schools and reject those it determines to be fraudulent. (Section 4601(g)(1) and (2)).
- The CAMTC will be authorized to discipline certificate holders through probation, suspension, revocation, or other means it deems proper. (Section 4601(a)).
- The CAMTC will be required to permanently revoke the certificate of anyone violating subdivision (b) of Section 647 of the Penal Code of any offense described in subdivision (h) of Section 4603. The law requires the CAMTC to immediately suspend the certificate, notify the certificate holder and any business employing the certificate holder of such suspension. Upon notice that the charges have resulted in a conviction, the CAMTC has authority to revoke the certificate. (Section 4602(c)).
- The CAMTC will be authorized to deny or revoke certificates for unprofessional conduct, including, but not limited to, denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a certificate holder by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence of these actions. (Section 4603(a)).
- The CAMTC may also deny or revoke a certificate for the following: procuring a certificate by fraud, misrepresentation, or mistake; violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any rule or bylaw adopted by the organization; conviction of any felony, or conviction of a misdemeanor that is substantially related to the qualifications or duties of a certificate holder, in which event the record of the conviction shall be conclusive evidence of the crime; impersonating an applicant or acting as a proxy for an applicant in any examination referred to under this chapter for the issuance of a certificate; impersonating a certified practitioner or therapist, or permitting or allowing an uncertified person to use a certificate; committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder; committing any act punishable as a sexually related crime. (Section 4603(a)-(h)).

- It is an unfair business practice to state that one is certified, registered or licensed by a governmental agency (the CAMTC will be a private not-for-profit with legislative oversight) as a massage therapist or practitioner. (Section 4605).
- It is an unfair business practice for any person to hold oneself out or use the title of "certified massage therapist" or "certified massage practitioner" or any other term, such as "licensed," "registered," or "CMT," that implies or suggests that the person is certified as a massage therapist or practitioner without meeting the requirements of the law. (Section 4606).

II. SB 731 Allows Cities and Counties to Know Who is Practicing in Their Jurisdiction:

- SB 731 gives the CAMTC broad authority to share information with local authorities. The CAMTC is authorized to provide to local authorities information concerning a certificate holder, including but not limited to, the current status of the certificate holder, address of the certificate holder (home and work), history of disciplinary actions against the certificate holder (including revocation), and any other information necessary to verify facts relevant to administering a local ordinance (Section 4602.5(a)).
- The CAMTC must also accept information provided by local authorities, and has a responsibility to review information received and take action warranted by that information. (Section 4602.5(b)).
- The CAMTC is required to request subsequent arrest notification service from the Department of Justice for all applicants for licensure. (Section 4601.3(d)). The CAMTC can share this information with local authorities, as stated above.

III. Important Authority Retained by Cities and Counties under SB 731

- Cities and counties retain authority over any person not certified pursuant to SB 731. (Section 4613(a)).
- SB 731 specifies that the superior court in and for the county in which any person acts as a massage practitioner or massage therapist in violation of the provisions of this chapter, may, upon a petition by any person, issue an injunction or other appropriate order restraining the conduct. The proceedings under this paragraph shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. (Section 4607).
- A city or county may adopt reasonable health and safety requirements with respect to massage establishments or businesses, including, but not limited to:
 - ✓ Cleanliness of rooms
 - ✓ Cleanliness of towels and linens
 - ✓ Reasonable attire and personal hygiene requirements
 (Section 4612(b)(6)).
- A city or county may require an applicant for a business license to operate a massage establishment to fill out an application providing relevant information and make reasonable investigation into the information provided. (Section 4612(b)(7)).
- Local authorities can deny or restrict a business license if the applicant has provided materially false information (Section 4612(b)(7)).

- The owner/operator of a massage establishment is responsible for the conduct of all employees or independent contractors working on the premises. Local authorities can still suspend, revoke or otherwise restrict the license issued to a massage establishment for violations of SB 731 or local ordinances. (Section 4612(c)).
- Local authorities may have and enforce an ordinance that is applicable to massage businesses or establishments that provides duly authorized officials of the city or county the right to conduct reasonable inspections during regular business hours, to ensure compliance with this chapter, the local ordinance, or other applicable fire and health and safety requirements. Such ordinances may require an owner or operator to notify the city or county of any intention to rename, change management, or convey the business to another person. (Section 4612(d)).
- Local authorities may require a massage establishment to maintain on its premises for review evidence demonstrating that all persons providing massage services are certified. A local authority may require a business to file copies or provide other evidence of the certificates held by persons providing massage services at the business. Section 4612(b)(2)(A)-(B).
- Cities and counties may adopt land use and zoning requirements applicable to massage establishments provided that the requirements are no different than those uniformly applied to other professional or personal services businesses. (Section 4612(b)((4)).

IV. Restrictions on Local Authorities

- Local authorities cannot have land use and zoning requirements applicable to massage establishments that are not also applied to other professional or personal service businesses. (Section 4612(b)(4)).
- Local building code or physical facility requirements applicable to massage establishments cannot:
 - ✓ Require additional restrooms, showers or other facilities that are not uniformly applicable to other professional or service businesses
 - ✓ Require unlocked doors when there is no staff available to assure security for clients and staff behind closed doors
 - ✓ Require windows that provide a view into massage rooms
 (Section 4612(b)(5)).
- Local authorities cannot adopt ordinances that impose additional qualifications, such as medical examinations, background checks or other criteria, upon anyone certified by the CAMTC.