

# LICENSING ORDINANCE TO COMBAT HUMAN TRAFFICKING

## *Massage Facility Licensure*

*Management and Finance Committee*

January 18, 2018



# Illicit Massage Businesses

- Businesses engaging in human trafficking are disguising themselves as massage therapy businesses in strip malls and office buildings
- Nationwide Problem
- Research shows 6,500 to 9,000 illicit massage businesses are operating in the United States with an estimated 400 in Colorado and 12-20 in Aurora
- Commercial-front brothel top 2 venues for sex trafficking
- Colorado estimated to be in top 10 for illicit venues



# TRAFFICKING



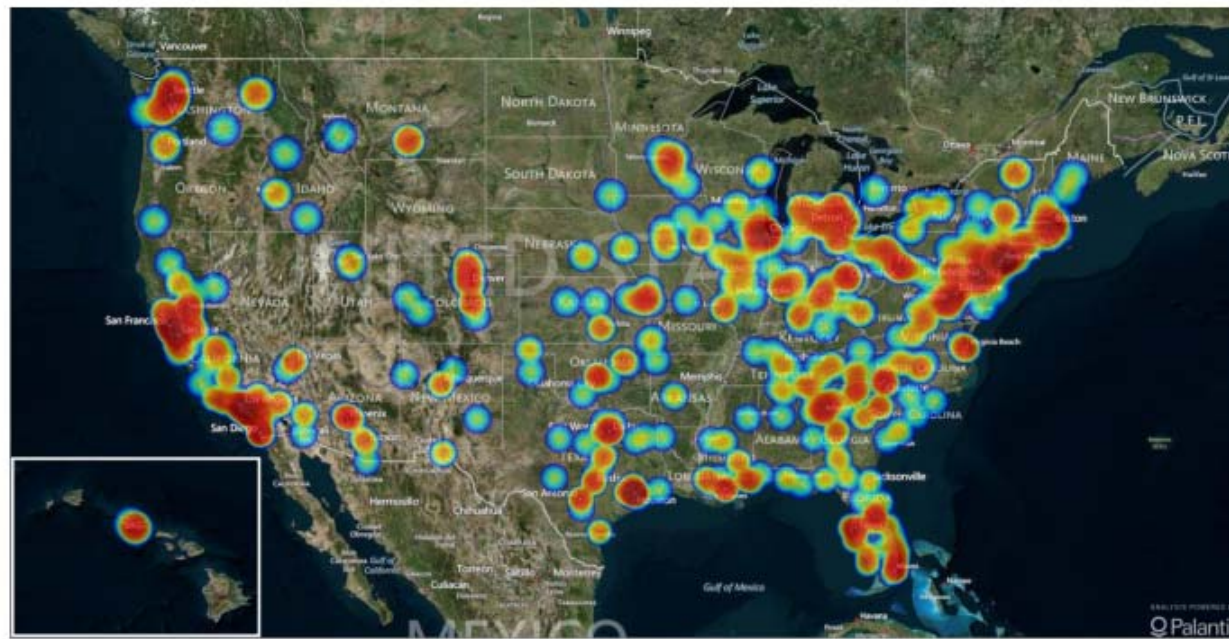
- Women may be promised a job in the United States
- Threats to control
- They become trapped. (Language barrier, no support network)
- Women are frequently rotated between business in multiple states, staying for a short time (2-3 weeks), often in the business itself
- Often not able to leave business, living on site 24 hours a day
- Victims are most often Asian women, of diverse ethnicities and nationalities



# NHTRC REPORTING LINE HEAT MAP

**NHTRC** | NATIONAL  
HUMAN TRAFFICKING  
RESOURCE CENTER  
1-888-373-7888

LOCATION OF POTENTIAL TRAFFICKING CASES (WHERE KNOWN)\*



*\*This map only reflects cases in which the location of the potential trafficking was known. Some cases may involve more than one location and are not reflected in this map.*



# CHALLENGES WITH TRADITIONAL LAW ENFORCEMENT APPROACH



- Traditional prostitution stings may inadvertently target victims, not the network or madam / pimp
- Very resource intensive
- Can lead to accusations of officer misconduct
- Misdemeanor crime on the worker / little impact to the madam or pimp
- Trafficking victims do not cooperate with law enforcement
- IB's have techniques to foil sting efforts (underwear test)



# WHAT IS FOUND IN AURORA IB's

- Women from other states and countries, often with visas or temporary visitor cards, especially sourced from New York, California and Florida
- Women running from businesses when license checks are conducted or refusing to be identified by themselves or by the business
- Suitcases, clothing, beds, fully stocked kitchens
- Aurora will not and has not issued business licenses unless operated by a state licensed massage therapist
- All Aurora suspected Illicit Businesses (IB's) are fronted by a licensed massage therapist
- Advertising highlights women as the product and not massage therapy





# EXAMPLES



# EXAMPLES





# EXAMPLES



# Advertising Examples

## ♥♥♥New Young And The Most Beautiful girls working-Top Nice Spa-Free Beautiful Table Shower

Posted: Monday, January 8, 2018 12:34 PM

[Reply](#)

Spa, top nice Spa. All young and the most beautiful girls working here, No Old lady.

Open at 9:00am to 11:00pm



60014 [google map](#) | [yahoo map](#)

• Location: Aurora, Denver, [redacted]

• Post ID: [redacted]

[email to friend](#)



[Enlarge Picture](#)



[Enlarge Picture](#)



[Enlarge Picture](#)



[Enlarge Picture](#)



# Advertising Examples

XXXXXXXX☆: ((( ♥♥HOT & LOVELY \_NEW ASIAN GIRLS♥♥ )))\_WAITING FOR YOU☆  
COXXXXXXXX

Posted: Sunday, December 17, 2017 4:07 PM

Reply

WELCOME  
ASIAN MASSAGE



# HISTORY OF REGULATION

- 1977: state of Colorado passes the massage parlor code in an attempt to mitigate prostitution
- 1990: places of massage therapy excluded from definition of massage parlor
- 2005: the City of Aurora begins licensing massage therapists after a run of prostitution busts at more than a dozen businesses operating under the cover of massage therapy
- 2008: state preempts city ability to license massage therapists
- 2012: state increases regulation to change from massage therapist registration to licensure
- 2015: state sunsets massage parlor code as unnecessary





# THERAPIST LICENSING FRAUD

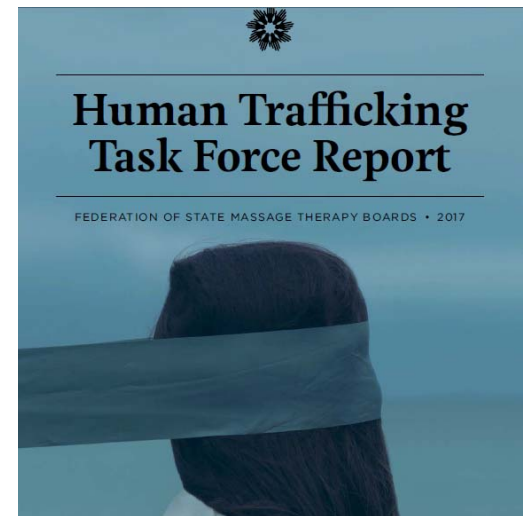
- Nationwide issue of licensing fraud:
  - State licensure requires 500 hours of education and passage of exam
  - Fake schools
    - Dozens of schools shut down for fraud but students still have licenses
  - Cheating on tests
    - In October, the FSMTB initiated litigation against parties selling MBLEX test answers
    - Test only provided in English and Spanish but students have passed without comprehension in either
- State not reviewing or revoking licenses when pattern of facts show licensee was from a terminated school, could not have passed exam, signs of operation of illicit business



# FSMTB HUMAN TRAFFICKING REPORT

Page 15: The actions of state and local governmental units to reduce the prevalence and impact of human trafficking on the massage profession include:

- Regulating establishments, and revoking establishment licenses for unlicensed practice within and establishment;
- Criminal actions against businesses and landlords;
- More expansive nuisance abatement ordinances that hold property owners responsible;
- Closing massage establishments;
- Restricting hours of operation;
- Banning sleeping quarters in massage establishments;
- Increased coordination between law enforcement, licensing boards;



# RECENT ENFORCEMENT ACTIONS

- Demonstration of online reviews of sex workers and advertising to landlords to encourage eviction and non-renewal of leases
- Two business license revocations upheld for no massage parlor license based on unlicensed practice and other aggravating factors - one near daycare in strip mall and one in an office building
- Currently reactive not proactive and not effective in all cases



# LOCAL REGULATIONS

C.R.S. 12-35.5-118(1):

*“No city, county, city and count, or other political subdivision of this state shall enact or enforce any local ordinance that regulates the practice or the profession of massage therapy.”*

State does not regulate the businesses, only the practice and profession of massage therapy. Position of DORA and interpretation by CML.

No state inspection of massage businesses, only complaint based.

Ability for locality to regulate business practices

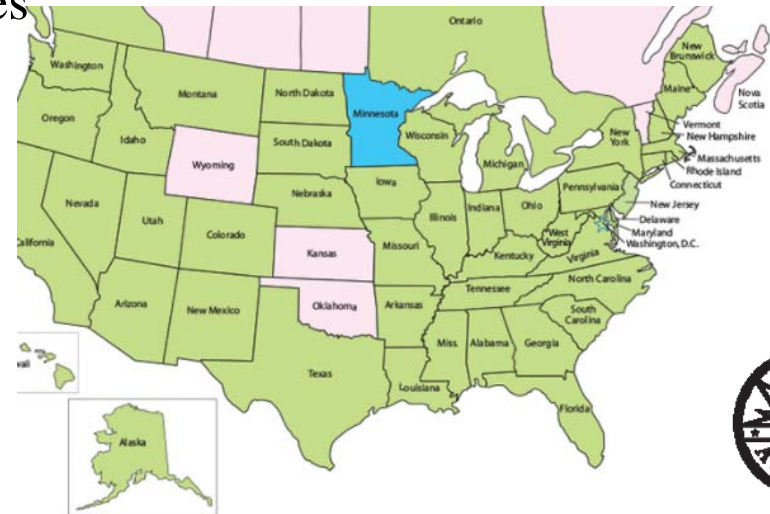
- Hours of operation
- Advertising
- Recordkeeping
- Reporting





# LOCAL REGULATIONS

- Facility licensure not yet adopted anywhere in Colorado. Practice act 2008
- 46 states have a practice act. Exclud. WY, KS, MN, VT
- 13 states also have a facility/establishment license
- Cities with facility license in 22 more states
- Cities in WY, KS, MN license both



# RECENT LEGISLATION

- North Carolina and Delaware passed establishment licensure in 2017 to combat human trafficking



- New York has bill in committee



- North Carolina bill was approved with overwhelming support 153-4

- Delaware bill was supported by local chapter of AMTA



- Johnston, IA passes establishment license ordinance after state of Iowa passes legislation allowing local establishment licensure.



# CURRENT PARLOR ORDINANCE

- Exempts massage therapy practices
- Outdated and used only as a hammer against unlicensed practice
  - None currently licensed or in recent history
- Legitimate industry does not like the term Massage Parlor
- Current Ordinance contains a public hearing, needs and desires process, a large occupation tax (2,500)
- Should be repealed and replaced - repeal alone would remove law enforcement tool



# PROPOSED ORDINANCE GOALS

- Create a barrier to entry of illicit businesses without creating a barrier to legitimate ones
- Detect hidden ownership through application process



- Permanent removal of illicit business from criminal network (loss of investment)





# PROPOSED ORDINANCE

## EXCLUDES:

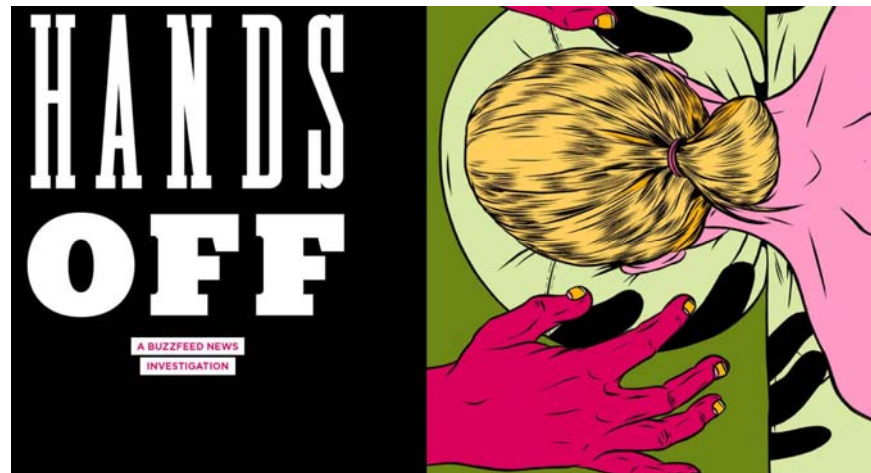
- Solo practitioners complying with all acts and no business name
- Massage provided in athletic clubs, health practitioners, cosmetologists
- Training rooms of accredited schools
- Associated with athletic teams
- Health practitioners
- Short term for not more than 72 hours and is a public or private event where primary purpose is not to provide massage therapy



# PROPOSED ORDINANCE

## **Some regulation to improve safety at legitimate businesses**

- Proposed ordinance does help protect therapists and clients at legitimate businesses
  - Reporting requirement and recordkeeping of employees
- Recent news story about sex assault at multiple locations of nationally franchised massage business
  - Failure to report
  - Story included Aurora location
  - State told media it does not regulate massage businesses



# PROPOSED ORDINANCE

## **Application Process (similar to liquor)**

- Background check for anyone with 10% + ownership
- Submission of source of funds (find hidden ownership)
- History of business ownership
- Criminal history / disciplinary history
- Lease and right of possession
- Manager requirement with background investigation and license required



# PROPOSED ORDINANCE

## **Unlawful business practices**

- Unlicensed operation without facility license when required
- Aiding and abetting unlicensed practice (also illegal under state law)
- Operating a table shower without a permit
- Allowing people to live or lodge on premise (unless home occupation)
- Massage with intent to arouse
- Massage in nude or exposing unprofessional attire.





# PROPOSED ORDINANCE

## Unlawful business practices

- Sexually suggestive advertising
- Operation between 10pm and 5am
- Possession of sex toys, sexual lubricants, or contraceptives in business
- Prohibition of arranging for or allowing sex acts in the facility
- Concealing individuals, eluding ID. Maintain records of employees and contractors.
- Failure to report accusations of sexual or criminal acts or sexual assault



# PROPOSED ORDINANCE

**Unlawful business practices : Language below in draft ordinance will be modified and industry comment sought on a replacement.**

- Permitting of nudity unless bona fide spa marketing to both male and female clients and practicing appropriate draping



# Table / Vichy Shower Example



# Table / Vichy Shower

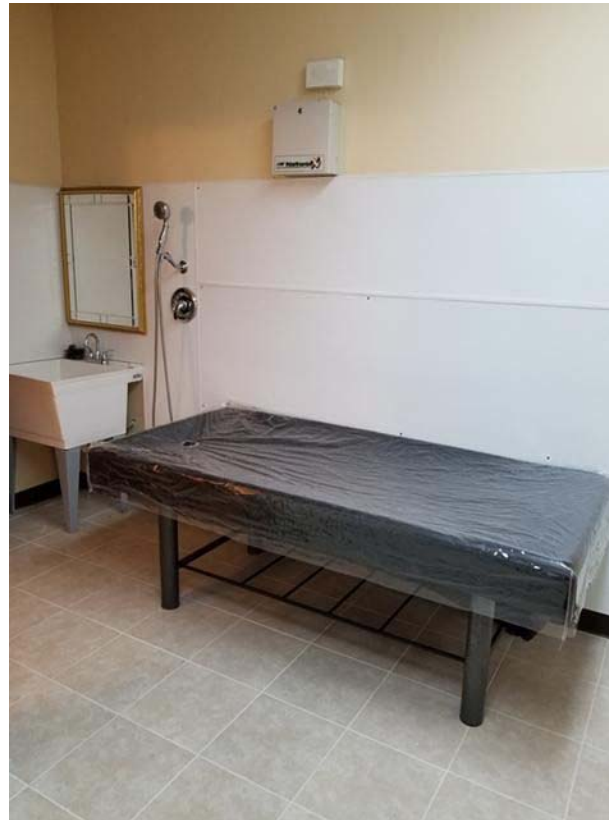


# Table / Vichy Shower





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# PROPOSED ORDINANCE

## Required business practices

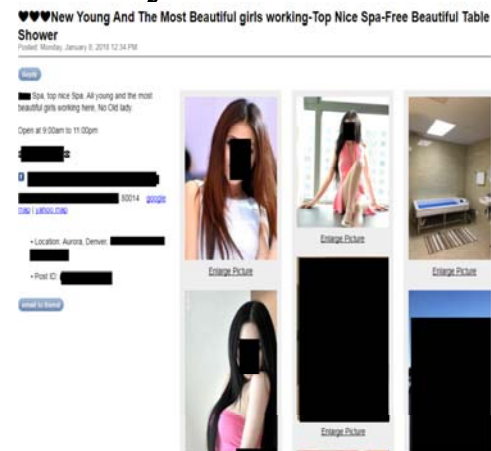
- Maintain list of employees and licenses on site for one year
- Log of massage provided for one year
- Operate only under trade name in license
- All employees and contractors must have government ID
- Remain professionally clothed



# PROPOSED ORDINANCE

## Required business practices continued

- No locking of doors unless only one person on premises
- List address of facility in any advertisement
- List state massage therapist license numbers in any advertisement that includes people shown to do massage





# OTHER PROVISIONS

- Inspections of facility, cabinets, records without interference or delay
- Revocation or suspension for violations of code and Colorado massage therapy practice act
- Revocation results in loss of location as massage facility for 24 months
  - Important provision as facilities are kept in illicit business network



# NEXT STEPS

- If committee moves forward: staff recommends soliciting for comments from industry organizations and lobbyist and bringing ordinance forward with any edits brought to study session
- Any other direction recommended by committee.





## Questions for Council

- 1) Is the committee in favor of the next steps with comment from the industry and forwarding to study session?

