AGENDA MANAGEMENT AND FINANCE COMMITTEE THURSDAY, JANUARY 18, 2018

12:30 PM, Ponderosa, Aurora Municipal Center

Council Member Gruber, Chair Council Member Richardson, Vice Chair Council Member Bergan Deputy City Manager Michelle Wolfe Interim City Manager Jason Batchelor Finance Director Terri Velasquez

The Management and Finance Committee oversees the following Council goal and objectives:

PROVIDE A WELL-MANAGED AND FINANCIALLY STRONG CITY

- Ensure the delivery of high quality services to residents in an efficient and cost effective manner.
- Maintain superior financial reporting, financial controls, appropriate reserves, budgeting financial management, and transparency, and
 invest in capital and infrastructure to support efficient and effective long-term provision of services.
- Maintain a high financial credit (bond) rating, maintain debt policies and debt practices that allow the assessment of appropriate debt levels, and periodically review debt and debt service to minimize costs.
- Provide appropriate stewardship of natural resources to ensure long-term sustainability for the city.

1. APPROVAL OF MINUTES

The November 21, 2017 minutes were approved via email by the previous committee members.

2. CONSENT ITEMS

NONE

3. 2017 AUDIT ENGAGEMENT LETTER

Presenter: Nancy Wishmeyer, Controller (5 minutes)

4. LICENSING ORDINANCE TO COMBAT HUMAN TRAFFICKING

Presenter: Trevor Vaughn, Tax and Licensing Manager (20 minutes)

5. METROPOLITAN DISTRICTS (INFORMATIONAL ONLY)

Presenter: Vinessa Irvin, Manager of Development Assistance (15 minutes)

6. M&F COMMITTEE 2017 RECAP AND 2018 PLANNING

Presenter: Terri Velasquez, Finance Director (5 minutes)

7. SEXUAL HARASSMENT

Presenter: Council Member Richardson (15 minutes)

8. INTERNAL AUDIT UPDATE

Presenter: Wayne Sommer, Internal Audit Manager (15 minutes)

9. IMPOUND LOT (INFORMATIONAL ONLY)

Presenter: Deputy Police Chief Paul O'Keefe (15 minutes)

10. MISCELLANEOUS MATTERS FOR CONSIDERATION

• Future Meeting Dates

Total projected meeting time: 90 minutes

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Item Title: FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 86 OF THE CITY CODE RELATED TO MASSAGE PARLORS AND MASSAGE FACILITY LICENSING.	
Item Initiator: Trevor Vaughn, Manager of Tax and Licensing	
Staff Source: Trevor Vaughn, Manager of Tax and Licensing	
Deputy City Manager Signature: Jason Batchelor	
Outside Speaker:	
Council Goal: 2012: 6.0Provide a well-managed and financially strong City	
ACTIONS(S) PROPOSED (Check all appropriate actions)	

\boxtimes	Approve Item and Move Forward to Study Session
	Approve Item and Move Forward to Regular Meeting
	Information Only

HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)

The Aurora Police department has discovered that human trafficking and prostitution is occurring in Aurora under the front of massage therapy establishments. This ordinance is for the licensing of massage facilities and removal of an outdated massage parlor licensing requirement in city code. Massage facility licensing is common in other parts of the country at both state and municipal levels.

Facility licensing is a recommendation in the 2017 human trafficking report released by the Federation of State Massage Therapy Boards. The report found that between 6,500 and up to 9,000 illicit massage businesses may be active in the United States and that the 'commercial-front brothel' was one of the top two venues for sex trafficking. Online reviews of erotic massage parlors indicate that Colorado may be in the top ten of states for illicit massage businesses. The FSMTB report also states that establishment licensing can be a useful tool in protecting legitimate massage businesses and in reducing the number of illicit businesses by providing a state or jurisdiction with the ability to institutionalize accountability, track illicit business movement, deny or revoke license and impose discipline on establishments.

Until preemption by the state approximately 10 years ago, the City of Aurora licensed massage therapists. The state legislature removed the ability for the city to license and regulate therapists as a matter of statewide concern. Illicit businesses in Aurora have been opened by state licensed massage therapists. In order to obtain a state massage therapy license, an individual must have 500 hours of training from an approved school and pass a national certification exam.

Investigators have found that fraudulent practices at diploma mills in Colorado, California and other states have introduced many students without qualified skills but with the transcripts necessary to obtain a state issued massage therapist license. This has been combined with cheating on national exams leading to legal action taken recently by the FSMTB against parties in California and Texas. The state of Colorado as a matter of practice does not revoke licenses from students that attended a school that is later shut down. As a result, Colorado has many massage therapists licensed that should not be. The licensing process also was more relaxed in prior years. These therapists are opening

businesses statewide and are conducting in human trafficking and prostitution. The state only licenses the professional and does not regulate massage therapy businesses. This leaves many practices by the business unregulated, including ownership. The state also is only complaint based regarding the therapist and state officials do not conduct onsite inspections of business activities.

The city of Aurora has had a practice of verifying that a business license applicant has a valid massage therapy license. However, that has proven to be only somewhat effective in combatting the problem. Fraudulent therapist licensing is an issue nationwide. However, even a legitimately licensed therapist may engage in illicit activities.

These illicit massage businesses will rotate women from other states through massage parlors operated in Colorado. Many of these women come from Asia and are indentured. Some have therapist licenses and some do not. If city inspectors find unlicensed therapists providing massage, the owner of the business can be cited under state law. However, a citation does not result in closure of the business. The state will send a disciplinary cease and desist letter, but will not revoke a license until the third complaint even when the credentials of the applicant or questionable and the business engages in sexually suggestive advertising.

The city has shut down multiple locations in recent months utilizing various tactics to include presenting evidence to the landlord to obtain an eviction. This evidence includes reviews of prostitution, and zoning violations with people living in the business. Not all landlords have cooperated in this respect. In November, licensing summarily suspended three establishments and two had their business licenses revoked for unlicensed practice and other code violations. This approach is reactionary and is not able to address all of the suspected locations.

Police stings to catch prostitution are extremely resource intensive and may not be successful as the businesses engage in tactics to counteract such stings. Currently a dozen to two dozen businesses in Aurora are suspected of engaging in activities and advertising that indicates there may be human trafficking or prostitution. Reviews on the internet also indicates that prostitution is available.

In addition to licensing professional therapists in the majority of states, 11 states and many cities in other states license massage facilities. The state of North Carolina adopted a facility license this past summer. In Colorado, it is the stated position of the Department of Regulatory Agencies that they do not license or regulate massage businesses. As a result, there is an opportunity for the City of Aurora to adopt a best practice massage facility license that addresses practices conducted by illicit businesses. A license will also act as an additional hurdle to illicit businesses attempting to operate in the city. A facility license and regulation of certain business practices is a recommendation from the 2017 human trafficking report released by the Federation of State Massage Therapy Boards. An agent from the FBI has also indicated that steps currently taken by the City of Aurora utilizing licensing and the prospect of a facility license are positive steps to reduce these outlets for human trafficking. The city has been held out as an example in Colorado for these steps and as a result, was requested to host a regional law enforcement meeting to present on these efforts and the licensing research.

The city currently has a requirement for Massage Parlors to be licensed in Aurora. However, establishments operated for purposes of massage therapy are exempt from the parlor license requirement. Under state law, massage cannot be performed without a massage therapist license. The parlor license requirement is out of date and the city does not have any licensed massage parlors. As part of this ordinance, the massage parlor licensing requirement is deleted.

Another requirement of the new license is that establishments must report accusations of sexual misconduct. Recent news reports about a nationwide franchise massage chain discussed issues with sexual assaults occurring nationwide, including a location in Aurora. Some of the accusations included inaction by the business or a desire by the business to handle the issues without involving law enforcement.

ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)

This ordinance removes an outdated requirement for Massage Parlor Licensing and replaces it with a requirement for the licensing of massage facilities that engage in the practice of massage therapy. The City has no licensed massage parlors.

Sole proprietors will be excluded from the facility licensing requirement.

The ordinance requires the following as part of an application:

- The owner and manager must be of good moral character.
- Proof of ownership.
- Proof of control of the premises.
- Previous convictions
- Previous license suspensions and revocations.
- Proof that manager has a valid state issued massage therapy license as well as all the employees.

The ordinance places the following limitations on operation on massage facilities as part of the license:

- Operating without licensed massage therapists.
- Requires permits for table showers.
- Prohibits living on premise unless home occupation.
- Prohibits erotic massage.
- Prohibits giving massage in the nude or in unprofessional attire intended to arouse.
- Prohibits sexually suggestive advertising.
- Prohibits presence of sex toys, lubricant, and contraceptives.
- Prohibits concealing individuals from identification.
- Requires reporting accusation of sexual misconduct to Police.

The ordinance also requires the following of a licensed massage facility:

- Maintain records of employees and contractors.
- Maintain copies of state licenses.
- Maintain records of massage performed at the facility available for inspection upon request.
- Operate only under designation specified in the license.
- All employees and contractors must have identification and present it.
- Remain fully clothed in performance of massage.
- Keep doors unlocked unless only one employee is present.
- List address of the facility in advertisements.
- Permit inspections by city inspectors or law enforcement.

If the committee forwards this item to study session, this proposed ordinance will be forwarded to representatives of the massage industry for comments. Any feedback will be presented with any changes as part of the presentation at study session.

QUESTIONS FOR Committee

Does the committee wish to forward the ordinance to study session for full council consideration?

EXHIBITS ATTACHED:

FSMTB Trafficking report 2017.pdf Massage Facility License Ordinance 2018-1-9.doc MF advertising examples.pdf



Human Trafficking Task Force Report

FEDERATION OF STATE MASSAGE THERAPY BOARDS • 2017



Human Trafficking Task Force Report



10801 Mastin Boulevard, Suite 350, Overland Park, Kansas 66210 FSMTB Executive Office: 913.681.0380 | info@fsmtb.org | www.fsmtb.org

FSMTB Mission Statement

The mission of the Federation is to support its Member Boards in their work to ensure that the practice of massage therapy is provided to the public in a safe and effective manner.

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 - 7 The Trafficking Victim Protection Act (TVPA) of 2000
 - 9 Evaluating Prevalence and Impact
 - 15 Reducing Prevalence and Impact
 - 20 Further Research

22 Areas within the Jurisdiction of the FSMTB to Combat Human Trafficking

- 23 Initiate and promote a campaign for the awareness of human trafficking
- 26 Evaluate the possibilities of a uniform, national accrediting body for massage therapy schools and programs
- 27 Create a work group to study the efficacy of massage establishment regulation and serve as an informational resource for state boards
- 29 Continue to develop its Massage Therapy Licensing Database (MTLD)
- 29 Amend the Model Practice Act to include a representative with a background in human trafficking to the composition of member boards

30 Measures that Could be Pursued by Individual Member Boards to Curtail or Eliminate Human Trafficking in the Massage Profession

- 31 Regularly report to the FSMTB MTLD
- 31 Advocate to ensure its state school oversight mechanism includes programmatic or specialized approval review and follow up audits
- 32 Encourage or require training in human trafficking
- 33 Discuss the possibility of implementing massage establishment regulation
- 35 Establish a relationship with law enforcement and government agencies
- 36 Use of the Systematic Alien Verification for Entitlements (SAVE)

37 Conclusion

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- 40 Appendix B: Human Trafficking Awareness and Training Resources

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EXECUTIVE SUMMARY

Massage Therapy is a profession that is commonly associated with human trafficking. It is undeniable that human trafficking is prevalent and that its impact on massage therapy is sizable. This is in part a perception problem, but it is largely based on reality due to the fact that illicit businesses (IBs) use massage therapy as a front for their illegal activity.

Regulators can change the reality. This report and the work it embodies is a step in that direction.

The Human Trafficking Task Force was created by the Federation of State Massage Therapy Boards (FSMTB) Delegate Assembly to describe the problem and to produce solutions for consideration by the FSMTB and state boards. The findings and recommendations in this report represent over 16 months of study, listening, discussion, and consensus building.

The key findings are:

- Human trafficking is prevalent within the massage profession. Research shows that as many as 6,500 illicit (massage) businesses are active in the United States. Less conservatively, it is estimated that up to 9,000 illicit (massage) businesses may be active. Research also shows that in each year from 2012 through 2016, the 'commercial-front brothel' was one of the top two venues for sex trafficking;
- The most concerning impact of trafficking on the profession is that it endangers therapists and the public;
- Trafficking costs, monetary and otherwise, are significant for professionals and consumers:
- Human trafficking is linked with fraud in massage therapist education and in the licensing pathways;
- Innovative law enforcement interventions and municipal code changes that focus on IMBs and their operatives are emerging.

"Regulators can change the reality. This report and the work it embodies is a step in that direction."

Recommendations for the FSMTB and state credentialing authorities to consider include:

- Improve awareness, both nationally and locally, through campaigns and ongoing communications and outreach:
- Study ways to improve massage school evaluation processes, considering both a national accreditation standard recognized in unison by the jurisdictions, and a state-based approval system that is capable of ensuring programmatic or specialized review:
- Increase reporting of credentialing-related data to a national clearinghouse. The Massage Therapy Licensing Database (MTLD) could fulfill this role;
- Create a task force to study massage establishment licensing;
- Develop closer relationships with stakeholders, such as law enforcement, nonprofit organizations, community service agencies, and others;
- Apply existing FSMTB resources like the Massage Therapy Licensing Database (MTLD), Regulatory Education and Competence Hub (REACH), In Touch newsletters and the FSMTB website toward recommended solutions.

PART ONE

Introduction: Charge and Background



CHARGE

At the 2015 FSMTB Annual Meeting, the Delegate Assembly passed a resolution introduced by the Tennessee Board of Massage Licensure. The resolution petitioned the Federation to unite against human trafficking.

The introductory recitals section of the resolution states that human trafficking has been "condemned ... as being tantamount to modern slavery, which should shock the conscience," and it underscores the effect on victims from the "sexual exploitation, gender-based violence, discrimination, marginalization, and underpaid illegal labor" inherent in human trafficking activity.

This prompted the creation of a Human Trafficking Task Force (HT Task Force) to complete the following assignments:1

- 1. Determine the prevalence and impact of human trafficking on the massage profession;
- 2. Identify areas within the jurisdiction of FSMTB to combat human trafficking: and
- 3. Identify measures that could be pursued by individual member boards to curtail or eliminate human trafficking in the massage profession.

BACKGROUND

The FSMTB HT Task Force met twice in person in 2016 and held several teleconference meetings in response to the Delegate Assembly's motion. The first meeting included a presentation from Polaris, a non-profit organization focused on disrupting the higher levels of human trafficking networks, assisting victims and conducting research concerning the prevalence and impact of human trafficking on the massage profession.

At the second meeting, FSMTB's Federation Authentic Information Review (FAIR) Task Force and HT Task Force exchanged findings common to human trafficking and fraud in the various stages of the license application process. This exchange

¹ Appendix A, Resolution Adopted by the Delegate Assembly

of information affirmed the notion that fraud and human trafficking are connected. Human traffickers commit fraud to obtain credentials that mask their illegal activity.

In addition, the HT Task Force created and distributed two surveys. One went to the leadership of the Coalition of National Massage Therapy Organizations regarding the prevalence of human trafficking within the profession, and the other went to states that regulate massage establishments regarding the methods and effectiveness of massage establishment regulation.²

This report validates concerns regarding the prevalence and impact of human trafficking and IBs³ upon the massage profession. It is published in order to call attention to those concerns, many of which have been brought to the attention of the Federation and its member jurisdictions, as well as to offer solutions for the regulatory community.

² FSMTB Human Trafficking Task Force Surveys Establishment Oversight Survey, May 2016 Massage Therapy Coalition Survey, June 2016

³ This report uses the term Illicit Businesses to describe establishments that use massage and bodywork as a front for their illegal activity. Polaris uses the term Illicit Massage Business to denote businesses using massage and bodywork as a front for human trafficking. We have inferred that use of the term 'illicit' alongside 'massage businesses' is not intended to delegitimize law-abiding massage businesses or associate them in any way with schemes that are engaged in human trafficking. Illicit Massage Business is a commonly used anti-trafficking term which is defined as an enterprise that purports to offer massage services but instead offers commercial sex. https://humantraffickinghotline. org/resources/human-trafficking-and-illicit-massage-businesses-report

PART TWO

Prevalence and Impact of Human Trafficking on the Massage Profession



Human trafficking is prevalent in massage therapy, and it has a very large and direct impact on the profession to a degree that remains largely unexplored. Though recent research has begun to measure the prevalence of sex trafficking, labor trafficking is a problem potentially as widespread within the massage therapy profession, and has received much less attention by means of legal action, legislation, through research, and in the media. The serious problem of sex trafficking and the attention it receives, consequently raises the question of whether it obscures the problem of labor trafficking. The HT Task Force believes all types of human trafficking demand our attention as regulators, and we fully support efforts to further define, expose, and combat it in all of its forms.

THE TRAFFICKING VICTIM PROTECTION ACT (TVPA) OF 2000

Human trafficking in the massage profession is part of a much larger international problem that creates slavery, bondage, intimidation, violence and trauma.

The most prominent law in effect nationally for the purpose of combating human trafficking is the United States Trafficking Victim Protection Act (TVPA) of 2000.⁴ It was implemented to support prosecution of offenders, protect victims, and to prevent human trafficking. One component of this very broad effort is human trafficking that occurs within the context of massage therapy.

The TVPA defines human trafficking and makes several findings that are noteworthy as attempts to qualify the problem. The recitals in the Tennessee Board of Massage Licensure's resolution mirror the TVPA definition and many of its findings. In addition, many of the legal tools and resources created by the Act and its amendments could be useful in combating human trafficking within the massage profession.

The TVPA defined human trafficking as: "(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.⁵"

⁴ The Act was reauthorized in 2003, 2006, 2008 and 2013.

⁵ TVPA Section 108 (3)

The Act further found the following:

- Traffickers primarily target women and girls, who are disproportionately affected by poverty, have limited access to education, suffer chronic unemployment, discrimination, and lack economic opportunities in their countries of origin;
- Traffickers lure women and girls into their networks through false promises of decent working conditions;
- Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, such as HIV and AIDS.

 Trafficking victims are sometimes worked or physically brutalized to death;
- Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide;
- Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion;
- For coercive effect, traffickers often make threats, implied or direct, to their victims that physical harm may be directed at them or others should the victim escape or attempt to escape;
- Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide;
- Trafficking in persons is often aided by corrupt government officials in countries of origin, transit, and destination, thereby threatening the rule of law;
- Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves;
- Adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries;

• Victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked. They are often subjected to coercion and intimidation including physical detention and debt bondage, and they often fear retribution and forcible removal to countries in which they will face retribution or other hardship. As a result, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.⁶

EVALUATING PREVALENCE AND IMPACT

Measuring Prevalence

There are many ways traffickers hide their activities and the exploitation of their victims. Massage therapy is one of the arenas in which they frequently operate. They may use massage, spa, reflexology, foot massage, bodywork, modeling, or another kind of service as a front. Illegal establishments often house individuals who have cheated to obtain a massage therapy credential, if a license is obtained at all. Unlicensed practice is common. In other cases, human trafficking is disguised as "free-agent prostitution" and marketed as massage.

Polaris estimates range from 6,000 to 9,000 total active IMBs in the United States.⁷ Its more conservative estimate is 6,500.⁸ In 2016, Polaris noted a marked decrease in the number of IMBs, documenting the closing of nearly 100 IMBs by law enforcement using in part what Polaris refers to as a networked approach, or a strategy addressing IMBs as larger operations, not simply as stand-alone businesses.⁹ Similarly, an estimate in 2012 indicated that there were over 7,000 illegal prostitution sites posing as legitimate massage establishments.¹⁰

⁶ TVPA Section 102 (B)

⁷ Polaris Blog, 10/26/2016, Carton, Meghan, "Behind the Scenes of an Illicit Massage Business Investigation"

⁸ Polaris publication, "Human Trafficking and Illicit Massage Businesses," https://polarisproject.org/initiatives/illicit-massage-businesses

⁹ Interview with Carton, Meghan, 1/1/2017, 2/15/2017

¹⁰ McCutcheon, Heather, "Hiding in Plain Sight - Human Trafficking's Impact on Massage Therapy," Associated Bodywork and Massage Professionals (ABMP) article, January/February 2013

Polaris' projections are predicated on open source data, or information that can be accessed, modified and shared without exclusion or limitation as to the purpose of its use. Buyer review boards like "Rub Maps" are commercial websites that exist solely for review of IBs, and they are often the starting point for gathering the open source data.¹¹

The states with the highest concentration of IBs are California, Texas, New York, Florida and New Jersey.¹²

There are several reasons why quantifying the connection between human trafficking and IMBs is complex, but the conclusion that it is prevalent is unavoidable. In addition to the convictions, indictments and complaints that continue to register with law enforcement, one indicator shows that from 2012 through 2016, 'commercial-front brothel' has been recorded as one of the top two venues for sex trafficking.¹³ In addition, the National Human Trafficking Resource Center (NHTRC) Hotline indicates that during the five-year period between January 1, 2011 and December 31, 2015, 2,137 IMB-related calls were made to the Hotline.¹⁴

A NHTRC resource on Fake Massage Businesses further observes:

"Women in brothels disguised as massage businesses typically live on-site where they are coerced into providing commercial sex to 6 to 10 men a day, 7 days a week. Fake massage businesses frequently operate in strip malls, office buildings, and sometimes, residential homes, in urban, suburban, and rural areas across the United States... Fake massage businesses generally operate within a network of traffickers, similar to organized crime of other varieties. Each fake massage business is managed by a Brothel Keeper. The location may be financed by a business owner, who operates multiple locations from behind the scenes.¹⁵"

¹¹ Interviews with Meghan Carton, Polaris, 12/28/2016, 1/11/2017, 1/19/2017

¹² Polaris publication, "Human Trafficking and Illicit Massage Businesses," https://polarisproject.org/initiatives/illicit-massage-businesses

¹³ Hotline Statistics, https://humantraffickinghotline.org/states

¹⁴ https://humantraffickinghotline.org/resources/human-trafficking-and-illicit-massage-businesses-report

¹⁵ NHRTC Hotline, Fake Massage Businesses, https://humantraffickinghotline.org/states

Yet we also expect that the instances of IB-related human trafficking are underreported due to 1) the factors identified in the TVPA definition of human trafficking, specifically that it involves force, fraud, or coercion; 2) existing misperceptions about victim motivations; and 3) its criminal nature.

One fallacy that contributes to underreporting of human trafficking is the assumption that IB-related prostitution is voluntary. The Federal Bureau of Investigation (FBI) has worked to dispel the misperception of voluntary engagement in human trafficking through publicity. A 2011 bulletin states:

Many people probably remember popular movies and television shows depicting pimps as dressing flashy and driving large fancy cars. More important, the women—adults—consensually and voluntarily engaged in the business of prostitution without complaint. This characterization is extremely inaccurate, nothing more than fiction. In reality, the pimp traffics young women (and sometimes men) completely against their will by force or threat of force; this is human sex trafficking.¹⁶

In addition, the criminality particular to human trafficking obscures the baseline measurement, as operatives can be sophisticated in their deviance and subterfuge. Evidence of trafficking is more elusive than for other crimes due to the coercive influence of operatives, who imperil the safety of victims and their support networks through physical violence, mental and emotional abuse, threats, and intimidation. Debt bondage, for example, creates perverse incentives that work against bringing the ringleaders to justice.

Defining Impact

The HT Task Force identified several impacts of human trafficking on the massage industry. They are summarized here:

¹⁶ Walker-Rodriguez, Amanda and Hill, Rodney, "Human Sex Trafficking," FBI Law Enforcement Bulletin, March 2011

- It endangers therapists. In addition to all of the dangers inherent in human trafficking, the association of massage therapy with prostitution or "happy endings" subjects therapists to assault, threats, harassment, and more subtle forms of intimidation:
- The cost of doing business rises due to increased exposure to safety risks and security hazards;
- Compromised reputations:
 - Regulatory board responses may be viewed as inadequate or ineffective due to public perceptions of the nature and scope of the problem;
 - Smaller massage establishments may suffer disproportionately. Larger massage franchise brands may be perceived as less likely to be involved in illicit activity;
 - The presumption of illicit activity is prevalent and negatively affects bona fide professionals, schools and establishments;
- It encourages racial and ethnic profiling, as well as discrimination against certain groups;
- A substantial amount of fraud directed at massage therapy educational institutions, testing authorities, and state licensing boards is a problem that casts uncertainty on their ability to limit entry to qualified candidates;
- The necessity (and burden) of additional regulation and safety protections, such as:
 - Increased application fees funding interventions to detect and prevent fraud and to support investigations and prosecutions of human trafficking;
 - The high cost of ensuring that adequate security measures are in place for examinations to prevent cheating and item harvesting and to support legal action;
 - Multiple and overlapping regulatory requirements (local and state, professional and establishment);
 - Establishment licensing requirements.

Survey Results of the Coalition of Massage Therapy Organizations Regarding Prevalence and Impact

The Coalition of Massage Therapy Organizations (the Coalition) is a consortium of national massage therapy stakeholders whose purpose is to consider important issues related to the massage profession. These massage therapy organizations participate in the Coalition:

- Alliance for Massage Therapy Education (AFMTE)
- American Massage Therapy Association (AMTA)
- Associated Bodywork & Massage Professionals (ABMP)
- Commission on Massage Therapy Accreditation (COMTA)
- Federation of State Massage Therapy Boards (FSMTB)
- Massage Therapy Foundation (MTF)
- National Certification Board for Therapeutic Massage & Bodywork (NCBTMB)

The HT Task Force sent a survey to the Coalition in June 2016 to evaluate opinions regarding the prevalence and impact of human trafficking on the profession. The results validate concerns about prevalence and impact. Responses included the following:¹⁷

¹⁷ Human Trafficking Task Force Survey of the Massage Therapy Coalition

"I sense there are a lot of professionals in our industry that reflexively reject this issue (human trafficking) as an affront to our sensibilities. But like prostitution, it is real and must be met head-on to protect our reputation. We need to start being more realistic over the fact that traffickers are using our profession as a shield and adjust policies accordingly, instead of fighting against progress to combat it - which ultimately hurts our reputation. It does not have to be seen as "offensive" when therapists are asked to produce documentation of legitimacy. It can be seen as a way to protect the massage therapists themselves."



"The primary manifestation (of impact) is the continued association of massage with prostitution..."

"Given that there are no real data to reflect the instances of human trafficking on the profession, the real impact is perception..."

"Human trafficking has a negative impact on the Massage Therapy profession. Women are forced to perform sexual acts under the guise of massage therapists, which gives the profession a demeaning reputation."

"Admitting that this problem exists is the first step. It took us a long time to get here. I don't think getting massage therapists involved is the answer but creating awareness for therapists and consumers that the men and women who perform these sexual acts are forced into it would help people understand the racket. It is not their faults and we all need to understand this. Human Trafficking is slavery and must be treated so."

REDUCING PREVALENCE AND IMPACT

Resources and Initiatives

State and Local Government Action

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

- designation of aiding and abetting of unlicensed practice as a crime;
- regulating establishments, and revoking establishment licenses for unlicensed practice within an establishment;
- state actions against fraudulent massage schools or diploma mills;
- criminal actions against businesses and landlords;
- protections for trafficking victims;
- more expansive nuisance abatement ordinances that hold property owners accountable for illegal activity occurring on their premises;
- expanded definitions of massage establishment to include those that advertise or offer massage or massage services;
- widening law enforcement discretion for entering and inspecting massage establishments;
- mandated credentialing of therapists;
- closing massage establishments;
- suspending and revoking practitioner licenses for offenses related to public indecency and prostitution;
- restricting hours of operation;
- banning sleeping quarters in massage establishments;
- Increased coordination between law enforcement, licensing boards, and human trafficking support services.

Advocacy

Polaris has taken action on a number of fronts to reduce the prevalence and impact of massage-related human trafficking.

In 2015, it launched a national initiative focused specifically on the elimination of the IMB organizational model. The "End Trafficking in Illicit Massage Businesses Initiative" is a collaborative project among service providers, survivors, law enforcement, and other community members. It creates and shares known best practices to dismantle "criminal networks fueling human trafficking in IMBs," and it aims to provide survivors with "trauma-informed and culturally sensitive services.18"

Additionally, as part of the End Trafficking Initiative, Polaris has begun work on recommendations for a massage establishment ordinance language tool kit.

In November 2015, Polaris hosted a face-to-face meeting of several national massage and bodywork organizations, regulatory boards, and other stakeholders to discuss the impact of human trafficking and IMBs on the massage profession.

Then in April 2016, as part of a venture with AEquitas, a non-profit advocacy group that works with law enforcement to improve the quality of justice for abused women, Polaris began offering a three-part webinar training series on the subject of human trafficking and IBs. The training explains how human trafficking arrests often result in misdemeanor convictions of trafficked employees, or victims, and it asserts the imperative of targeting IB operatives.¹⁹

Finally, advocates emphasize the importance of front line resources like the National Human Trafficking Center Hotline²⁰; how to engage appropriate law enforcement resources should criminal activity be suspected within a community; the availability of immigration services like permanent residency status for trafficked victims, the T-Visa, the Department of Health Services' certification program for public services; witness protection programs; and the need for cultural competence in human trafficking interventions.

Challenges

Police Work

The difficult work of shutting down establishments and bringing operatives to justice has proven more challenging than arrests and prosecutions of front line traffickers and victims of the operatives. As a result, charges, prosecutions and

¹⁸ http://polarisproject.org/initiatives/illicit-massage-businesses

¹⁹ http://www.aequitasresource.org/trainingDetail.cfm?id=137

²⁰ https://polarisproject.org/national-human-trafficking-hotline?gclid=Cj0KEQiAzZHEBRD0ivi9 pDzgYMBEiQAtvxt-KV99b-9L_v4kJvAgOfdcODvFG7LtxTD8pgclz-gwRAaArLx8P8HAQ

convictions are frequently based upon more readily identifiable offenses, like prostitution, unlicensed practice, or occasionally solicitation. In such cases, when human trafficking ringleaders are not targeted, the illegal establishment is likely to re-emerge after a case settles, or after the law enforcement focus has shifted or abated. When convictions are handed down, the result is that victims are punished more severely than the operatives.

A 2014 study by the Urban Institute on sex-based human trafficking explains why it has been more difficult to isolate the operatives. Interviews with law enforcement personnel and convicted offenders revealed that the number of cases of sex trafficking and pimping that are prosecuted in the United States is a small reflection of a problem that is much larger than law enforcement is able to pursue, due to resource constraints, political barriers, or lack of public awareness about sex trafficking crimes.²¹

To supplement massage therapy title protection provisions, which are routinely violated through unlicensed practice, new strategies are emerging. A recent ordinance in Houston, TX, has targeted law enforcement resources directly at IB advertisements online and elsewhere. Advertisement of massage therapy services has been brought within the municipal code's definition of massage establishment, allowing inspection of unlicensed IBs on the same terms as licensed establishments. The Houston Municipal Code's definition is:

"any building, room, place, or any establishment whose business includes advertising or offering a massage or other massage services upon the human body for compensation by any person whether with or without the use of mechanical, therapeutic or bathing devices, and shall include Turkish bathhouses.²²

Code enforcement officials are trained to recognize the signs of human trafficking and in turn communicate suspected violations to law enforcement officials. To assist law enforcement in following up on the leads, the Houston Mayor's office states that a new ordinance, Section 28-370, expands police authority to inspect

²¹ Dank, Meredith, et .al., "Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major Cities," Urban Institute, 2014

²² Houston Municipal Code, Section 28-361. https://www.municode.com/library/tx/houston/codes/code_of_ordinances?nodeld=COOR_CH28MIOFPR_ARTXIIMAES_S28-361DE

illicit businesses as a way to "single out the operators and owners.²³" (If entry is denied, a warrant is still required.)

Another law enforcement intervention noteworthy for its comprehensive approach and collaboration occurred recently in Indianapolis, where six IBs were closed after experts in East Asian massage networks provided culturally adaptive and trauma-based services to police and prosecutors as the case developed. Several organizations were involved to assist the Indianapolis Metropolitan Police Department and Marion County Prosecutor's Office, including the Department of Homeland Security, the Indiana attorney general's office, the Indiana Department of Revenue, several local sheriff's offices and police departments and the Indiana Fusion Center, a county Homeland Security organization with a focus on privacy rights.²⁴ This is an example of the networked law enforcement approach, cited by Polaris as being instrumental in shutting down close to 100 IMBs in 2015-2016.

As awareness grows, there may be more resources dedicated to interventions that effectively isolate the operatives, culturally adaptive training, and victim services. The current reality on the ground, however, is that resources are stretched, and victim services are often not fully developed or offered. Yet convictions are increasingly resisted by advocates if they result in criminalization of victims or rely on an approach that only temporarily displaces the problem.

Legal Action

There is opportunity for improvement in combating massage-related human trafficking through legal action as well.

Significant court actions have included indictment for advertising women in media sources, convictions involving use of massage establishments as a guise for prostitution, and prison sentences.

²³ Driessen, Katherine, "City Strengthens Law to Crack Down on Illicit Massage Businesses, Updated Law Helps Officers to Inspect Facilities," 12/2/2015, http://www.houstonchronicle.com/news/houstontexas/houston/article/City-strengthens-law-to-crack-down-on-illicit-6671734.php and Davis, Patel, and Latiolais, Todd, "Illicit Massage Establishments, Proposed Ordinance Amendments" powerpoint presentation, https://www.houstontx.gov/council/committees/pshs/20151119/ime.pdf

²⁴ Carton, Meghan, "Challenging the Reality of Human Trafficking - Illicit Massage Businesses, https://polarisproject.org/blog/2016/10/26/behind-scenes-illicit-massage-business-investigation

The TVPA has increased the penalties for human trafficking offenses, expanded the reach of laws aimed at the less visible coercive tactics of traffickers, and added human trafficking offenses to the Racketeering Influence and Corrupt Organization Statute (RICO) statute.²⁵

Still, most of the prosecutions occur at the local level, where some successful approaches have been effective, but too often the challenges associated with a more traditional, non-networked law enforcement response prevail, and the criminal enterprise is left intact.

Barriers have also been encountered in the use of the TVPA civil law remedies as a means to reduce prevalence and impact. While there has been some increase in the number of civil cases filed on behalf of trafficking victims, only 117 cases had been filed from the time of enactment of the civil remedy in the TVPA Reauthorization in 2003 until 2013.²⁶

In order to connect illegal IB activity to its operatives and networks, existing laws like the RICO statute could be leveraged to greater advantage, and the following laws are noted by Polaris and AEquitas as additional tools that may be deployed in legal actions:27

- The Department of Labor's Fair Labor Standards Act false statements laws;
- The Equal Employment Opportunity Commission's civil remedies under Title VII, Sexual Harassment and:
- The Internal Revenue Service's tax evasion conspiracy provisions.

Freedom Network website post, U.S. Laws, http://freedomnetworkusa.org/what-is-humantrafficking/trafficking-laws-in-the-united-states

²⁶ Freedom Network, http://freedomnetworkusa.org/addressing-human-trafficking-in-the-unitedstates-fn-comments-for-the-trafficking-in-persons-report/

²⁷ Polaris and Aequitas, webinar series, "Investigating and Prosecuting Trafficking in Illicit Massage Businesses"

"... too often the challenges associated with a more traditional, non-networked law enforcement response prevail, and the criminal enterprise is left intact."

FURTHER RESEARCH

Reducing the prevalence and impact of human trafficking on the massage profession will improve if mapping of locations continues, victim and IB indicators are further defined, adjustments are made to interventions that too often only temporarily displace the activity, and advanced strategies are adopted to isolate and bring IB operatives to justice. Inroads have been made in tracking human trafficking schemes through the use of open source data and by defining where activity is more pronounced (CA, FL, IL, NY, TX). As Polaris asserts, more attention should be paid to the known illegal operations in those states.²⁸

Similarly, all states could benefit from a state-by-state comparison of IBs to legitimate massage establishments.²⁹ It is very likely that accurate data is available on the number and location of credentialed state massage establishments in the 10 states that regulate them. For the 40 states that do not regulate establishments, it is unlikely there is an accurate accounting of regulated establishments, so there is no accurate means of discerning the number of bona fide massage businesses

²⁸ Interview with Keyhan, Rochelle, Polaris, 12/6/2016 29 Ibid.

in those states, or the number, location and ownership of advertised or suspected unlicensed operations. An establishment licensing requirement could fill in those critical information gaps.

In addition, Polaris' research lists the top five nationalities of potential victims as China, Korea, Thailand, Mexico/Central America, and the United States.³⁰ Illicit massage workers are "Most often from China or Korea, and they are shipped across the country from entry points on the coast.³¹" Tracking victims by nationality is important and should continue. It will generate better information on how to support law enforcement with culturally adaptive case management, interpreter, and investigative interventions that can lead to more successful prosecutions of IB operatives.

Finally, more research is needed to further define and quantify the prevalence and impact of IB related human trafficking, its reach in unlicensed (and licensed) practice, and the degree to which labor trafficking occurs within IBs.

³⁰ Polaris publication, "Human Trafficking and Illicit Massage Businesses," https://polarisproject.org/initiatives/illicit-massage-businesses

³¹ Rood, Lee, "Concerns Grow as Massage Parlors Spread Across Iowa," Des Moines Register, November 17, 2016 (amended), quoting Keyhan, Rochelle, Polaris



Initiate and promote a campaign for the awareness of human trafficking.

This campaign would be an ongoing project to raise and maintain awareness about the prevalence and impact of human trafficking and to advocate for practices that support the prevention of this heinous enslavement of women, men and children. It would be aimed primarily at the massage regulatory community and the broader professional massage community. The attention given to an awareness campaign targeted at the needs of each community could be one of the most effective means to motivate closure of the existing loopholes in the education and licensure pathways.

These strategies are recommended:

1. Work with massage school approval boards and approved schools to develop human trafficking awareness trainings for students, instructors and administrators.

The FSMTB could work directly with state approval boards or through its member boards in outreach efforts directed at approval boards and schools.

First of all, a greater understanding of the prevalence and impact of human trafficking on the profession by state approval boards could lead to a change in their standards. If incentives for enhanced curriculum inclusions regarding human trafficking and IBs are put in place by approval boards, or if it is otherwise not voluntary for schools to address the issue, awareness will inevitably increase.

Second, instructors and their students in massage therapy schools need to be aware that human trafficking is an issue associated with the profession and that it endangers therapists. They need to be educated on IB indicators. Polaris has identified several IB indicators. Many, but not all, describe sexually oriented businesses: 1) Serves only male clientele; 2) Locked front door, customers can only enter if buzzed in; 3) Excessive security measures; 4) Massage licensing and credentials not displayed and/or not accurate; 5) Regular rotation of women, new women coming in every several weeks; 6) Sexual advertising on social media and classified advertisement websites; 7) Open longer than posted hours; and 8) The

average illicit massage business has two to three women being forced to provide commercial sex.³²

Trainings would help instructors and students to understand that IBs are not about massage at all, but about criminal activity that forces people to perform acts against their will. Education and awareness starts with one seed planted at a time. When instructors and students grow in their awareness, they can more effectively assist in protecting their communities and their reputation.

Moreover the role that massage therapy schools and their administrators play in the awareness campaign for human trafficking is directly related to that of instructors and students. Along with curriculum enhancements, education and training, they can create awareness through public channels of communication and advancement of community knowledge on a larger social scale. Massage schools uphold standards of education and professional practice; woven within their standards is the idea of professional integrity and social justice – a caring for the good of others and inherent respect for the dignity and worth of all people.

2. Establish partnerships with other human trafficking stakeholders and develop joint initiatives with them to create and maintain awareness in communities about the prevalence and impact of human trafficking.

Sustained attention and greater cooperation among stakeholders will be necessary to successfully combat the prevalence and impact of human trafficking.

Partnership organizations may include: national massage therapy professional stakeholder organizations; law enforcement; non-profit groups; community service agencies; and state and local human trafficking task forces.

Collaboration with these constituencies could take place on a number of fronts.

Continuing Education course(s) on the subject of human trafficking could be developed. Webinars and/or online courses could be offered through the FSMTB's Regulatory Education and Competence Hub (REACH) or another FSMTB resource that teaches how to recognize human trafficking, presents national and regional human trafficking data and trends, suggests known best practices in how to

³² polarisproject.org publication, "Human Trafficking and Illicit Massage Businesses" (1-7) and Polarisproject.org, "Behind the Scenes of an Illicit Massage Business Investigation," October 26, 2016 (8). See also, National Human Trafficking Hotline, Human Trafficking/Recognizing the Signs, https://humantraffickinghotline.org/what-human-trafficking/recognizing-signs

engage and interface with law enforcement and other resources, explains how to make most effective use of the reporting channels for suspected criminal activity (e.g., the Human Trafficking Hotline), and guides interested parties in how to facilitate assistance for victims.

Existing FSMTB media resources could be employed more extensively. Use of the section of the FSMTB website that is dedicated to Human Trafficking could be increased. The member board publication, In Touch with FSMTB, and its school newsletter, In Touch with Education, could target messages to the jurisdictions and to schools. Use of social media platforms could be intensified (e.g., facebook, twitter, blogs and e-mail). Live trainings could be created. Finally, publicity could be directed at larger audiences, such as billboards with human trafficking hotline information, or the question, 'Is your massage therapist licensed,' and press releases announcing initiatives, successes and challenges.

3. Create a committee on human trafficking and fraud prevention.

These two problems are connected. Closing the loopholes in regulation that enable fraud and human trafficking is a long term problem that requires sustained leadership, intervention and outreach. In view of its mission, the FSMTB is well positioned to provide this leadership and to play a central role in advancing awareness through outreach.

The committee could spearhead FSMTB efforts by bringing together a diverse group of experts to create and implement a long term plan of action. This would prepare the Federation to become an even more engaged, national human trafficking prevention and response resource for individual member boards, the broader massage community, and consumers.

The committee could create and disseminate known best practices, FAQs, and information related to advocacy and legislative policy, among other tools and resources.

4. Add the subject of combating human trafficking within the massage profession to the FSMTB strategic plan.

One of the priorities in the Communications Objective section of the FSMTB's Strategic Plan is to "Encourage the awareness of fraud in the licensure process." This could be amended to include human trafficking. Like fraud, human trafficking is an entrenched problem that affects the massage profession disproportionately.

As such, specific mention of it in the strategic plan should ensure adequate resources are dedicated to solutions over the long term.

Evaluate the possibilities of a uniform, national accrediting body for massage therapy schools and programs.

Accreditation and approval organizations should aim to ensure accountability and transparency. Rigorous school oversight is critical in order to protect students, schools and the public from low standards that promote the preconditions for fraud, deficient record keeping and other dubious activity.

Unlike many professions, states that regulate massage therapy do not recognize in unison a national accrediting authority.

Instead, there are currently two principal pathways of review: voluntary peer review organizations (regional and national) like COMTA; and state approval entities that are provided with legal authorization to operate. State massage therapy boards are typically involved only insofar as the approval or accreditation relates to massage therapist credential application requirements, and the United States Department of Education's (DOE) accreditation concerns are principally with an institution's stability, including its financial profile for financial aid purposes.³³ DOE is also concerned in matters of consumer protection.

Accreditors and approval authorities set standards for the following:

- Course adequacy and course approval
- School adequacy (facilities, curricula, instructors, enrollment)
- Advertising of courses
- Tuition and fee rules
- School transfer
- Cancellation, refund and change of ownership policies
- Bonding requirements
- Bylaws
- Equal opportunity
- School catalog (listing degrees and majors, term schedules, entrance and completion requirements, and attendance, grading, student conduct and placement policies)

³³ Interview with Dies, David, Wisconsin Educational Approval Board, 1/16/2017

- Self-evaluation procedures
- Disclosures, e.g., enrollment information

Since the depth and breadth of school review in the individual states vary³⁴, states that endorse education from schools approved in other states are dependent upon the standards of a state approval or accrediting body that may apply lesser approval and oversight standards. Degree mills, accreditation mills and visa mills are allowed to operate more freely in this environment, without a uniform, national school accreditation mechanism that could eliminate this lowest common denominator portability dilemma.

One of the principal concerns with a national accreditation requirement is that it would be a financial burden on schools, forcing some to close as a result of their inability to afford the review. The HT Task Force recognizes this concern and advises that any review of an accreditation recommendation include a complete analysis of its cost impact and how accreditation costs could be minimized.

Still, there has been some movement toward a national standard within the profession. In the FSMTB Model Practice Act definitions section, under 'Approved Massage Therapy Education Program,' it states, "...it is intended that eventually all those who enter the profession shall have received an accredited education. Accreditation enables state boards to approve massage schools through a nationally established standard of accreditation and would promote educational quality and increase portability by eliminating the need for individual states to devise their own standards.³⁵"

Create a work group to study the efficacy of massage establishment regulation and serve as an informational resource for state boards on this subject.

The work group could create a report identifying the benefits, costs (physical/emotional, economic, social, other), evidence of harm, fiscal impact, and potential unintended consequences of regulations that govern massage establishments.

³⁴ Massage programs housed in community colleges or other, larger non-profit or for profit, private institutions may have institutional accreditation that does not include programmatic or specialized review of the massage program.

³⁵ FSMTB Model Massage Therapy Practice Act, First Edition, pages 7-8

"Centralized and shared access to resources related to human trafficking will promote a more effectively interconnected communication infrastructure for state boards."

Creating a tracking mechanism and minimum standards for operation through a public authority would improve jurisdictions' abilities to monitor IBs and their operatives. It would make establishments more accountable and traceable, and it would expose unlicensed practice. It would also improve the exchange of information and resources among stakeholders in their cooperative efforts to identify and eliminate IBs and their criminal networks.

In Houston, for example, a recent search of 240 businesses advertising massage revealed that only 9 were licensed.³⁶ It was the establishment licensing law that made this discovery possible. In jurisdictions without an establishment credentialing or registration requirement, this comparison is not available to regulators or law enforcement.³⁷

In addition, the FSMTB Model Practice Act does not currently address establishment licensing. The FSMTB or the work group could consider including establishment licensing in the Model Practice Act.

³⁶ Davis, Patel, and Latiolais, Todd, Illicit Massage Establishments, Proposed Ordinance Amendments, PowerPoint presentation slide no. 8. https://www.houstontx.gov/council/committees/pshs/20151119/ ime.pdf

³⁷ In at least one state, the FBI has requested that establishments be regulated.

Continue to develop its Massage Therapy Licensing Database (MTLD).

Centralized and shared access to resources related to human trafficking will promote a more effectively interconnected communication infrastructure for state boards. The FSMTB will continue to develop its Massage Therapy Licensing Database (MTLD). It could facilitate collection and sharing of adverse history information useful in pinpointing credentialed operatives and establishments with trafficking history, create a cross reference to aid in identifying unlicensed practice, and provide an additional checkpoint for licensing boards in states that lack information from outside their own borders. Complete information, timely notifications, and more sophisticated and reciprocal communication among states and with the Federation will be invaluable to a widely engaged, interstate licensing and discipline alert tool.

Amend the Model Practice Act to include a representative with a background in human trafficking to the composition of member boards.

Amend Section 202 of the FSMTB Model Practice Act, "Board Composition and Qualifications," to include a member experienced with human trafficking. The issue of human trafficking is one that impacts every sector of the massage profession. The organized criminal activity taking place within human trafficking crime networks and its disproportionate impact on the profession warrants inclusion of a dedicated state board representative who is specifically trained, educated and/or experienced in the subject of human trafficking.

As examples, this representative could be a law enforcement official with special expertise in human trafficking, an advocacy organization representative, an educator with a background in the subject matter, or a massage professional with a defined interest in human trafficking.

PART FOUR

Measures that Could be Pursued by Individual Member Boards to Curtail or Eliminate Human Trafficking in the Massage Profession

Regularly report as much information as possible to the FSMTB Massage Therapy Licensing Database (MTLD) and query MTLD for every applicant and licensee as frequently as necessary for regulatory purposes.

Increased reporting and use of this national data commons will improve the circulation of information necessary to make informed licensing, investigation, and enforcement decisions. Since human trafficking is often a highly organized and networked criminal activity, it operates across jurisdictions, and its perpetrators are skewed at evading authorities. As the only comprehensive central repository of adverse information that collects data nationwide on licensing and discipline history in the massage profession, MTLD is positioned to become a critical resource in the fight against human trafficking.

Each state massage professional regulatory authority should ensure that a current list of approved massage therapy and/or massage and bodywork schools in their state is provided to and kept current with the FSMTB. Any changes to the list should be promptly communicated to the FSMTB.

State regulatory authorities should work with the FSMTB to obtain and maintain current school listings. The HT Task Force advises that sufficient staff resources are provided to ensure communications with the FSMTB are active, ongoing and initiated by the states when necessary and appropriate.

Advocate to ensure its state school oversight mechanism includes programmatic or specialized approval review and a capacity to conduct follow up audits on the performance of massage therapy and/or massage and bodywork schools to ensure each school is meeting standards.

Education is one of the key requirements for licensure as a massage therapist. The task force agrees that the approval process for massage therapy programs and schools is vital to ensure that they are effective and meet high standards.

Likewise, the public has a right to know that a credentialed massage therapist performing massage/bodywork has had the proper entry level education and training to meet the qualifications needed to practice competently and safely.

This right is currently being impeded by the absence of a uniform, national school oversight mechanism or, alternatively, a decentralized, state-based system that is dependable from jurisdiction to jurisdiction.

In the current state-based system, endorsing states lack familiarity with out of state institutions and do not have authority to affect another state's approval standards, notwithstanding doubts about the quality of the schools. As a result, a local problem has been nationalized.

Programmatic or specialized review (with periodic, follow up reviews including site visits) would solve problems within the prevailing state-based review system. Typically, if a school or program has achieved programmatic or specialized accreditation, it demonstrates a higher standard curriculum and bona fide faculty, and it signals achievement of a certain level of assured quality. This kind of comprehensive evaluation could prohibit institutional approval or accreditation standing in for program approval evaluation in states with exemptions or loopholes in their laws, policies or procedures. Irrespective of the review pathway, what is needed is a rigorous review of schools that assures the public that sound systems and procedures are in place.

Effective communication between state regulatory authorities and school approval agencies on issues of mutual concern would also help to solve the problem. Whenever necessary, they should work together to ensure that fraudulent schools (transcript and diploma mills) are properly closed.

Encourage or require training of their massage board members and staff, in human trafficking, and familiarize themselves with human trafficking initiatives within their jurisdiction, state and federal laws, any current legislation on human trafficking, and other available resources.

Since regulatory authorities are charged with protecting the public and vetting individuals that apply for a credential to practice in the profession, training in human trafficking specifically as it relates to the massage profession and knowledge of a jurisdiction's resources and laws are essential in the protection of the public, prevention and prosecution of human trafficking, and in the treatment of victims.

To address the more global problem of human trafficking, Polaris provides a tiered rating of the states and the District of Columbia that evaluates human trafficking

laws in 10 categories and tracks actions to enact new laws and amendments to existing laws.38

See Appendix B for a complete list of resources that may be used to train in the general subject of human trafficking that may also be applied to massage therapy related human trafficking.



Discuss the possibility of implementing massage establishment regulation, after the recommended Federation work group studying the efficacy of massage establishment regulations issues a report.

Establishment licensing can be a useful tool in protecting legitimate massage businesses and in reducing the number of IBs by providing a state or jurisdiction with the ability to institutionalize accountability, track IB movement, deny or revoke licenses, and impose discipline on establishments.

³⁸ https://polarisproject.org/resources/2014-state-ratings-human-trafficking-laws/

States could review whether establishment licensing is appropriate in their jurisdictions³⁹ and what to include in the rule. In addition to the new regulation review factors identified on page 27, the establishment licensing survey created by the HT Task Force suggests an important tool: the ability to conduct unannounced inspections over time.

One innovative approach to monitor is the Houston experience⁴⁰ which grants law enforcement the authority to enter and investigate establishments that advertise massage services without being credentialed by a public authority. In the absence of a reliable establishment licensing system, the process of opening an illicit business is lacking in sufficient oversight. Trafficking owners and operators have exploited loopholes and security vulnerabilities by obtaining legally required credentials for the IB (and individuals working there). When action is taken against them, they change the methods they use to defraud the system or crop up again in another location in order to avoid punishment and tracking. A credible establishment licensing capability would make subterfuge more difficult to accomplish. It would also create a 'paper trail' of criminal and/or disciplinary history for future reference and referral between law enforcement and licensing authorities.

Establishment licensing can reinforce application review in the jurisdictions with additional sources of historical information, such as a criminal background/ fingerprint check of the operatives, license verifications from other states (revealing past discipline), pending investigations, withdrawn applications, prior history of employing unlicensed therapists, and results of in-person board interviews (which may occur for every applicant or in a more targeted manner, when questionable applications are flagged).

If disruption of human trafficking operations at the higher organizational levels is to succeed, then the focus of public safety must continue to shift to isolate the ringleaders. An effective establishment licensing system is an important strategy in achieving this goal.

³⁹ One of the first steps in the review should be a determination as to whether there is enabling legislation that allows the Board to write rules on establishment licensing.

⁴⁰ Patel and Latiolais, Id. "Illicit Massage Establishments, Proposed Ordinance Amendments," at slide 8

Establish an active and ongoing working relationship with local and state law enforcement and government agencies.⁴¹

IB traffickers' tactics are continuously changing. Constant monitoring and creative solutions are needed to successfully combat them. Ultimately, stakeholders need to communicate and work together outside of their own silos in order to check the interstate movement of human traffickers and their negative effects on the massage profession and public safety.

For example, the widespread problem of unlicensed practice in this area may necessitate use of a state's civil law injunctive authority, or nuisance abatement laws, combined with the criminal law and licensing agency remedies typically employed (and often criticized) to combat unlicensed practice.

State board representatives could reach out to law enforcement and other governmental agencies to present informational material about human trafficking in the profession, following the example of the Tennessee Board of Massage Licensure, which exchanged information in 2016 with law enforcement agencies regarding how licensing laws can aid law enforcement, and vice versa. As part of a training provided to state, county and city law enforcement by the state's licensing authorities, dialogue was held on the kind of law enforcement responses that provide the information sought by the licensing authorities to protect the public, specifically through license denial or enforcement action.

Additionally, participating as a state board representative or a massage profession representative knowledgeable about human trafficking on federal, state or local human trafficking task forces would ensure that the problems impacting the profession are shared widely and brought forward, and it would increase awareness in important ways.

Finally, regulators may follow the example of a case in Florida, which serves as an example of effective collaboration between state credentialing authorities,

⁴¹ Content of any collaboration with external organizations should be cleared with legal counsel to ensure compliance with state and federal disclosure laws, federal anti-trust laws and all other applicable state, local and federal laws.

law enforcement, and other stakeholders. After a discrepancy between the hours reported on license application documents and school forms was noticed by an employee at a Florida massage school, it was discovered that fraudulent college certificates and transcripts were being sold for \$10,000 - \$15,000 per student. The Florida Board suspended and revoked the licenses of those who submitted fraudulent documents and initiated follow up audits. Several other stakeholder organizations were involved, including the South Florida and Clearwater Human Trafficking Task Forces and local law enforcement.⁴²

Consider Careful Use of the Systematic Alien Verification for Entitlements (SAVE) to verify massage therapy applicants' immigration status/right to live and/or to work in the United States.

The Systematic Alien Verification for Entitlements Program (SAVE) is a free tool administered by the Department of Health and Human Services (DHHS) Citizenship and Immigration Services (CIS) Division. It is used to verify an applicant's immigration and/or citizenship status.

SAVE is an informational clearinghouse that was created to assist benefit-granting agencies in determining an applicant's immigration status.

⁴² Clarkson, Brett, "Over 80 Massage Therapists in Trafficking Used Fake Credentials from Same College, Say Regulators," Florida Sun Sentinel, September 20, 2012

PART FIVE Conclusion

The problem of human trafficking within the massage profession is multi-faceted. It has developed over a long period of time. It is a criminal enterprise that stretches law enforcement resources, and it is a regulatory dilemma for the FSMTB and states that are under increasing pressure to contain costs.

"Success in combating the problems will depend not just on the number of recommended solutions that are pursued but also on the degree of collaboration and level of sustained commitment to reducing the prevalence and impact of the problem over the long term."

New research has defined the problem in ways that will help to pinpoint and to target resources effectively. There are success stories that should be highlighted, such as effective regulatory interventions, networked law enforcement strategies focused on pursuing human trafficking operatives, new ways to identify and assist victims, and increased awareness.

The HT Task Force believes more needs to be done, and it has presented several options to meet the challenge in this report. Success in combating the problems will depend not just on the number of recommended solutions that are pursued but also on the degree of collaboration and level of sustained commitment to reducing the prevalence and impact of the problem over the long term.

APPENDIX A: Resolution on Trafficking in Human Beings

- Member Board/Committee Proposing Resolution: Tennessee Massage Licensure Board
- WHEREAS, human trafficking is a deplorable violation of the human dignity of its victims; and
- WHEREAS, many of the victims of human trafficking are women and children who are forced into sexual exploitation, endure gender-based violence, discrimination, marginalization and underpaid illegal labor; and
- WHEREAS, both governmental and non-governmental entities have condemned the practice as being tantamount to modern slavery which should shock the conscience; and
- WHEREAS, many victims of this heinous conduct are coerced into prostitution under the guise of performing massage therapy:
- THEREFORE BE IT RESOLVED, that the Federation of State Massage Therapy Boards take a decisive and unified stance against human trafficking; and
- RESOLVED FURTHER, that Federation of State Massage Boards form a Task Force to Address Human Trafficking in the Massage Profession. The Task Force shall consist of at least one representative from at least five states and shall meet telephonically at least twice.
- RESOLVED FURTHER, that the purpose of the Task Force shall be to determine the prevalence and impact of human trafficking on the massage profession and identify areas within the jurisdiction of the Federation of State Massage Therapy Boards to combat it.
- RESOLVED FURTHER, that the Task Force shall identify measures that could be pursued by individual member boards to curtail or eliminate human trafficking in the massage profession.
- RESOLVED FURTHER, that the Task Force to Address Human Trafficking in the Massage Profession shall report its findings to the Delegate Assembly at the 2016 annual meeting of the Federation of State Massage Therapy Boards.

APPENDIX B: Human Trafficking Awareness and Training Resources

- https://www.fsmtb.org/consumer-information/human-trafficking/ FSMTB, Consumer Information webpage, relating to human trafficking
- http://www.aequitasresource.org/trainingDetail.cfm?id=137 Polaris Group and Aequitas Group, 3 part Human Trafficking Training Video Series
- https://traffickingresourcecenter.org/resources?keys=education&sort_by=field_date_published_value Polaris Project National Trafficking Hotline and Resource Library
- https://polarisproject.org/resources/2014-state-ratings-human-trafficking-laws/ Polaris provides a tiered rating of the states and the District of Columbia that evaluates human trafficking laws in 10 categories and tracks actions to enact new laws and amendments to existing laws.
- https://www.bja.gov/ProgramDetails.aspx?Program_ID=51 US Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Anti-Human Trafficking Initiative
- http://www.naag.org/naag/media/campaigns-and-initiatives/naag-human-trafficking-committee-initiative.php The National Association of Attorney Generals Human Trafficking Committee Initiative
- http://www.ice.gov DHS Immigration and Customs Enforcement, overview of homeland security and public safety resources
- https://www.dhs.gov/blue-campaign/awareness-training DHS Blue Campaign, federal human trafficking awareness training program
- http://www.acf.hhs.gov/endtrafficking/programs/rescue-and-restore US Department of Human Services Office on Trafficking in Persons
- http://humantraffickingawareness.org/about-us-2/ Human Trafficking Awareness Partnerships, human trafficking awareness resource
- http://www.nij.gov/topics/crime/human-trafficking/pages/welcome.aspx National Institute of Justice (NIJ): Human Trafficking
- http://freedomnetworkusa.org/ Freedom Network
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Acknowledgements

Human Trafficking Task Force Members

Tom Ryan, MPA, JD, Task Force Chair, Wisconsin Department of Safety and Professional Services

Kim Adams Johnson, FSMTB Board of Directors, Nebraska Board of Massage Therapy

Marvis Burke, Tennessee Massage Licensure Board

Kimberly Hodge, Tennessee Massage Licensure Board

Dawn Hogue, Virginia Board of Nursing

Dianne Layden, North Carolina Board of Massage and Bodywork Therapy

Barbara Lis, Indiana State Board of Massage Therapy

Lydia Nixon, Florida Board of Massage Therapy

Stephany Powell, EdD, California Massage Therapy Council

Task Force Contributors

Darlene Campo, Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

Meghan Carton and Rochelle Keyhan, Polaris

FSMTB Support Staff

Kevin Snedden, Director of Professional Standards

Elizabeth Chaosan, Executive Assistant Sonja Way, Government Relations Specialist

FSMTB Board of Directors

President | Ed Bolden, Chair, Tennessee Massage Licensure Board

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Director | Linda Lyter, Executive Director, West Virginia Massage Therapy Licensure Board

Director | Tom Ryan, Executive Director, Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

Immediate Past President | Karen Armstrong, Michigan Board of Massage Therapy (former)

Executive Director | Debra Persinger, PhD



FSMTB

FEDERATION OF STATE
MASSAGE THERAPY BOARDS

Federation of State Massage Therapy Boards

10801 Mastin Boulevard, Suite 350, Overland Park, Kansas 66210 FSMTB Executive Office: 913.681.0380 | info@fsmtb.org | www.fsmtb.org



A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 86 OF THE CITY CODE RELATED TO MASSAGE PARLORS AND MASSAGE FACILITY LICENSING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

<u>Section 1.</u> That Division 3 - Massage Parlor Licenses of Article V – Special Business Licenses – Class 2 of Chapter 86 of the City Code of the City of Aurora, Colorado, is hereby repealed in its entirety and replaced with the following:

<u>Section 2.</u> That Article V, Division 3 of Chapter 86 of the City Code of the City of Aurora, Colorado, is hereby amended and shall read as follows:

Division 3. – Massage Facility License

Section 86-436. – Definitions

Except as otherwise indicated by the context, the following words, terms and phrases, shall have the following meanings for purposed of this division:

Agent means an individual designated by a publicly-held corporation to act on behalf of the corporation under this article. An agent shall be a bona fide resident of Colorado and a citizen or legal resident of the United States or otherwise authorized to work in the United States.

Applicant means an individual acting on behalf of a massage facility to apply for a license.

Client means an individual who enters into an agreement for massage therapy for a fee, income or compensation of any kind within the city.

Control means the power to direct or cause the direction of the management and policies of an applicant, licensee or controlling person, in any way. Control is presumed to exist:

(1) In a privately-held corporation, if a person has the direct or indirect ownership of or power to vote ten (10) percent or more of the outstanding voting securities of the applicant, licensee or controlling person, or to control in any manner the election of one or more of the directors of the applicant, licensee or controlling person. To determine the percentage of voting securities owned, controlled or held by a person, there shall be added the voting securities of any other person controlled by (i) that

- person, or (ii) by an officer, partner, employee or representative of that person or (iii) by a spouse, parent or child of that person.
- (2) In a publicly-held corporation, in an on-site manager who directs the daily operation of the massage facility, and every additional manager at the same location to whom the on-site manager reports, whether or not the on-site manager or additional manager(s) has any ownership interest in the massage facility.
- (3) In a partnership, if the general partner or a limited partner holds ten (10) percent or more of the voting rights of the partnership.
- (4) In a limited liability company, if a member holds ten (10) percent or more of the voting rights of the company.
- (5) If a creditor of the applicant, licensee or controlling person holds a beneficial interest in ten (10) percent or more of the liabilities of the applicant, licensee or controlling person.
- (6) In an on-site manager of a massage facility who directs the daily operation of the massage facility, whether or not the on-site manager has any ownership interest in the massage facility.

Controlling person means a person directly or indirectly possessing control of an applicant or licensee.

Employee means any person who performs any service at a massage facility on a full-time, part-time or contract basis, whether or not the person is designated an employee, independent contractor or otherwise. Employee does not include a person exclusively at the massage facility for repair or maintenance of the massage facility or for the delivery of goods to the licensee.

Erotic Massage Parlor means a massage facility that entices clients through advertising or other business practices directed toward sexual desires, lust or passions.

Massage facility means any place of business where any massage therapy or full body massage is practiced or administered. The term "massage facility" shall not include:

- (1) Training rooms of public and private schools accredited by the state board of education or approved by the state division charged with the responsibility of approving private occupational schools;
- (2) Training rooms of recognized professional or amateur athletic teams;
- (3) Offices, clinics, and other facilities at which health care practitioners licensed by the state of Colorado or any other state, provide massage services to the public in the ordinary course of their profession;
- (4) Health care facilities licensed by the state;
- (5) Barber shops, beauty salons, and other facilities at which barbers and cosmetologists licensed by the state provide massage services to the public in the ordinary course of their professions;

- (6) Bona fide athletic clubs not engaged in the practice of providing massage services to their members or to the public for remuneration; for purposes of this definition, if an athletic club does not receive more than 10 percent of its gross income providing massages to its members or to the public, such shall be prima facie evidence of its status as a bona fide athletic club;
- (7) A place of business where a person offers to perform or performs massage therapy:
 - (A) For not more than 72 hours in any six month period; and
 - (B) as part of a public or charity event, the primary purpose of which is not to provide massage therapy;
- (8) A place of business where a licensed massage therapist practices as a solo practitioner and complies with all required acts of this section and;
 - (A)Does not use a business name or assumed name; or
 - (B) Uses a business name or an assumed name and provides the massage therapist's full legal name or license number in each advertisement and each time the business name or assumed name appears in writing; and
 - (C) Does not maintain or operate a table shower.

Massage or massage therapy means a system of structured touch, palpation, or movement of the soft tissue of another person's body in order to enhance or restore the general health and well-being of the recipient. Such system includes, but is not limited to, techniques such as effleurage, commonly called stroking or gliding; petrissage, commonly called kneading; tapotement or percussion; friction; vibration; compression; passive and active stretching within the normal anatomical range of movement; hydro massage; and thermal massage. Such techniques may be applied with or without the aid of lubricants, salt or herbal preparations, water, heat, or a massage device that mimics or enhances the actions possible by human hands.

Massage therapist is an individual that has fulfilled the requirements for state licensure under Colo. Rev .Stat. §12-35.5-107, and has a valid massage therapist license issued by the state of Colorado to engage in the practice of massage therapy.

Mobile massage unit means a vehicle or other movable enclosure specifically equipped for a massage therapist to provide massage therapy inside the vehicle or enclosure.

On-site manager means a person on the premises of the massage facility who has responsibility for the operations of the massage facility.

Person means a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. It includes a trustee, receiver, an assignee, or similar representative.

Sexual act means sexual contact, sexual intrusion, or sexual penetration as defined in section Colo. Rev. Stat. §18-3-401.

Spa establishment means a commercial massage facility that offers or engages in personal services that call for the patron to disrobe, such as body wraps, hydro mineral wraps, body polish, body wash, baths and hydro tub soak.

Table shower means an apparatus for the bathing or massaging of a person on a table or tub.

Vichy shower shall have the same meaning as Table Shower.

Section 86-437. – Licenses generally; minimum requirements.

- (a) The licenses required by this article are in addition to any other applicable licenses or permits required by the city, county or state. Massage facilities licensed under this article shall comply with all other applicable ordinances and laws, including the city zoning ordinance.
- (b) All licenses issued under this article are non-transferable between persons. However, a licensed massage facility may change locations as provided by this article.
- (c) All licenses issued under this article shall be for a period of one (1) year from the issuance date, but may be revoked or renewed under this article.

Section 86-438. – License required;

- (a) No person shall be permitted to operate a massage facility in the city without a valid massage facility license; and
- (b) No person shall be permitted to work as a manager of a massage facility without a massage facility manager's license.

Section 86-439. – Application.

- (a) In addition to the requirements of section 86-29 each application for a massage facility license shall contain the following information:
 - (1) If the applicant is an individual, satisfactory proof that he or she is 18 years of age or older;
 - (2) If the applicant is a legal entity, satisfactory proof that each of the individual officers, directors, managers, partners, members, principal owners and/or anyone with 10 percent or more financial interest of such entity are 18 years or older:
 - (3) Whether the applicant or any of the other individuals required to be listed in the application have been convicted of a felony or misdemeanor, in any Federal, State or Municipal court in any of the United States jurisdictions or possessions or any foreign country, including but not limited to "Crimes of Moral Turpitude" such as prostitution, solicitation of prostitution, fraud, theft,

- embezzlement, money laundering or similar crimes. Failure to disclose any criminal conviction may result in denial of the license application.
- (4) Whether the applicant or any of the other individuals required to be listed in the application has had a previous license under this or any other similar massage facility ordinance from another city or county in the United States denied, suspended, or revoked, and, if so, the name and location of the massage facility for which such license was denied, suspended, or revoked, as well as the date of such denial, suspension, or revocation;
- (5) Whether the applicant or any of the other individuals required to be listed in the application has been an officer, director, manager, partner, member, and/or principal owner of any legal entity which currently or previously operates or operated a massage facility or business meeting the definition of massage facility in this article and the name, dates of operation and location of such business or businesses:
- (6) Satisfactory proof of the applicant's ownership or right to possession of the premises wherein the massage facility will be operated.
- (b) Each manager of a massage facility shall submit an application for a manager's license on a form to be provided by the licensing administrator which shall contain the following information:
 - (1) If the applicant is an individual, satisfactory proof that he or she is 18 years of age or older;
 - (2) The applicant's name, address, date of birth, telephone number, and state massage therapist license number;
 - (3) Whether the applicant or any of the other individuals required to be listed in the application meet the requirements specified in section 86-439(a) and, if so, the criminal act involved, the date and place of conviction, and the disposition;
 - (4) Any disciplinary actions taken by any state or local massage therapy board or criminal convictions for violations of a massage therapy practice act in any jurisdiction and the result of such disciplinary actions.
 - (5) Dates and location of massage therapist education as required by Colo. Rev. Stat. § 12-35.5-107(a).
 - (6) Date of passing of one of the examinations under Colo. Rev. Stat. § 12-35.5-107(b).

Section 86-440. – Review by other departments.

(a) Prior to the issuance of any massage facility license, the license application shall be submitted to the police department for review as provided in section 86-34. The police department shall provide information as to whether the applicant and each of the other individuals required to be listed in the license application meet the requirements in section 86-439(a). Such review shall be completed within 20 days after the license application is submitted to such department.

- (b) Prior to the issuance of any massage facility manager's license, each license application shall be submitted to the police department for review as provided in section 86-34. The police department shall provide information as to whether the applicant has been convicted of any criminal act specified in section meet the requirements in section 86-439(a). Such review shall be completed within 20 days after the license application is submitted to such department.
- (c) The police department shall only be required to provide the information specified in subsections (a) and (b) of this section and shall not be required to approve or disapprove the license application.

Section 86-441. – Issuance; denial

- (a) If, after investigation, the licensing administrator finds, in addition to the findings required by section 86-35, that the individual applicant, or each of the officers, directors, managers, partners, members, and/or principal owners of the applicant, and the applicant's manager:
 - (1) Are 18 years of age or older;
 - (2) Shall not, (a) have voluntarily surrendered any license to practice as a massage therapist or operate a massage facility as a result of or while under investigation; (b) have had a license to practice as a massage therapist or operate a massage facility or similar license denied or revoked by the State of Colorado or a political subdivision of Colorado, or a regulatory board in another United States jurisdiction or possession, for an act that occurred in that jurisdiction that would be a violation under this article;
 - (3) Shall not be a registered sex offender or required by law to register as a sex offender:
 - (4) Shall not have any prior conviction for an offense involving sexual misconduct with a child, including sexual abuse, sexual assault, sexual conduct, sexual molestation and sexual exploitation;
 - (5) Shall not have any prior convictions or pending violations for any crime of moral turpitude, including but not limited to prostitution, or of operating a prostitution enterprise, theft, embezzlement, or money laundering;
 - (6) The location where the license is applied for has not had a similar license revoked or surrendered for cause within the last 24 months; and
 - (7) Shall be free of all reasons to deny an application on the basis of the character and reputation and likelihood that the facility will be operated lawfully.
- (b) Then he or she shall, within 30 days following receipt of the license application, approve the issuance of massage facility license to the applicant for use at the location identified in the license application as the situs of the business.
- (c) The licensing administrator shall be empowered to place reasonable conditions and restrictions upon any massage facility license on a case by case basis. The licensee shall have the right to a hearing before the Finance Director to review any such conditions or restrictions in accordance with the provisions of section 86-55(a).

- (d) If, after investigation, the licensing administrator finds, in addition to the findings required by section 86-35, that:
 - (1) The applicant meets all the requirements of subsection (a) of this section;
 - (2) The applicant has completed all requirements of section Colo. Rev. Stat. §12-35.5-107 and holds a valid state massage therapist license.
- (e) Then he or she shall, within 30 days following receipt of the license application, issue a manager's license to the applicant.

Section 86-442. – Temporary License.

- (a) The licensing administrator may issue a temporary massage facility permit upon receipt of a complete massage facility license application involving the sale or change in ownership of a business. Such permit shall be issued for 30 days and renewed each 30 days until approval or denial of the massage facility license.
- (b) The licensing administrator may issue a temporary massage facility manager permit upon receipt of a complete massage manager license application upon sale, change of ownership, or change of manager of an existing licensed massage facility. Such permit shall be issued for 30 days and renewed each 30 days until approval or denial of the massage facility manager license.

Section 86-443. – Limitations on operation.

- (a) It shall be unlawful for any person in the business of operating a massage facility, or any manager or employee thereof:
 - (1) To operate a massage facility without a valid massage facility license or with a license that has been suspended, revoked, or expired;
 - (2) To operate a massage facility without a licensed massage facility manager registered to the facility;
 - (3) To be open for business without a massage therapist on the premises that has been licensed in accordance with Colo. Rev. Stat. §12-35.5-107.
 - (4) To operate or maintain a table shower or vichy shower on the premises without a table shower permit issued by the licensing administrator;
 - (5) To permit a licensed massage facility to be used for housing, sheltering, or harboring any person(s), or as living or sleeping quarters for any person(s). The owner and family members of a massage facility operated as a home occupation, as defined by Section 146-2001 of the Aurora City Code, are exempt from this prohibition.
 - (6) To massage any other person, or give or administer any bath or baths in a manner intended to arouse, appeal to or gratify the lust or passions or sexual desires of such other person;
 - (7) To allow a nude or partially nude employee to provide massage therapy or other massage services to a customer;

- (8) To permit nudity or encourage nudity as part of any massage service unless it is a bona fide spa establishment offering and regularly conducting a full range of spa services and treatments to both male and female clients and the facility practices appropriate draping;
- (9) To advertise or market sexually suggestive content in the promotion of the massage facility including sexual suggestive photos or statements in regards to the employees of the establishment;
- (10) To permit employees or agents of the business to dress in lingerie or other attire intended to appeal to the sexual interests and desires of clients or potential clients:
- (11) Use or possession of adult-oriented merchandise, including sex toys, sexual aids, vaginal or anal lubricant, or any contraceptive item, in any part of a massage facility;
- (12) To permit any individual, including a client, student, contractor, or employee, to engage in any sexual act in the massage facility;
- (13) To fail to immediately report to the police department any disorderly conduct, sexual acts, or other criminal activity occurring on or within the licensed premises;
- (14) Permitting any person to make arrangements to engage in a sexual act in any other place;
- (15) Concealing persons in the facility or eluding identification by inspectors or law enforcement to include but not limited to exiting side or back doors or remaining behind locked doors in the facility;
- (16) To permit anyone to perform massage therapy without a valid massage therapists license issued under Colo. Rev. Stat. §12-35.5-107;
- (17) To operate between the hours of 10:00 p.m. and 5:00 a.m.;
- (18) Any violation of Colo. Rev. Stat. §12-35.5-111(q); and
- (19) Any violation of Colo. Rev. Stat. §12-35.5-111(1)

Section 86-444 – Required Acts

- (a) Every licensed massage facility shall be required to:
 - (1) Maintain a list of employees and contractors on site for the current and previous (1) year with start dates of employment or contracted service, full legal name, date of birth, home address and telephone number, employment position, date first began service and when terminated service;
 - (2) Maintain a copy of each massage therapists Colorado license for each employee and contractor performing massage;
 - (3) Maintain a log of all massage therapy administered at the facility. The log shall contain the following information: date, time and type of each massage therapy administered, name of the client, and name of the employee administering the massage therapy. The log shall be retained for a minimum of one (1) year following any massage therapy. The massage therapy log shall be subject to inspection and copying, upon request by the Licensing Director or designee, during normal business hours;

- (4) Operate under or conduct business under only the designation specified in the license;
- (5) All employees, contractors and other persons excluding patrons present in the massage facility massage facility must have valid government identification and must immediately present such identification upon request of an inspector or law enforcement;
 - a. A valid Colorado driver's license:
 - b. An identification card issued in accordance with Colo. Rev. Stat. § 42-2-302:
 - c. A valid driver's license, containing a picture, issued by another state;
 - d. A military identification card;
 - e. A valid passport; or
 - f. An immigration registration card or any other federal document;
- (6) List the state massage therapist license numbers in any advertisement that depicts persons either explicitly or implicitly implied to be therapists employed or contracted by the massage facility;
- (7) Massage therapists shall remain fully clothed while administering massage or otherwise visible to clients on business premises, including premises designated by the client through an outcall massage service. The massage therapist's attire shall not include: (1) attire that is transparent, exposes cleavage, thigh, midriff, that is see-through, or that substantially exposes the therapists undergarments;
- (8) Massage facilities interior and exterior doors shall remain unlocked while the massage facility is open. Exterior doors may remain locked if the massage facility is owned by one individual with no more than one employee or independent contractor;
- (9) List the address of the facility in any advertisement; and
- (10) Upon the sale or transfer of any interest in a massage establishment, the license issued pursuant to the chapter shall be null and void and a new application shall be required.

Section 86-445. – Table shower permit.

- (a) Operating or maintaining of a table shower on or about the licensed premises shall require a permit.
- (b) The licensing administrator may issue a permit if the following conditions are met:
 - (1) The table shower is commercial and professional in nature and is designed solely for the purpose of massage utilizing multiple spray nozzles, massage bathtubs and tables with accessory sprayers shall not qualify;
 - (2) The facility where the shower is being installed is a bona fide high spa establishment offering and regularly conducting and marketing a full range of spa services and treatments to both male and female clients; and
 - (3) The facility practices appropriate draping of a client to include draping of the buttocks and genitalia of all clients, unless the client gives specific informed consent to be undraped.
- (c) If the licensing administrator has reason to believe that there is a failure to comply with the conditions in part (b) of this section. The administrator shall provide licensee with written notice that the table shower permit is terminated and the conditions violated.

(d) The licensee may appeal the termination or denial of a table shower permit in accordance with 86-55.

Section 86-446. – Revocation or suspension of license.

- (a) In addition to any reason set forth in section 86-47 and notwithstanding any provision of this chapter to the contrary, the director may suspend or revoke a massage facility license if he or she finds that:
 - (1) The licensee has committed a violation of 86-443 or 86-444;
 - (2) The licensee failed to permit an inspection any time the facility is occupied or open for business;
 - (3) It is found that the qualifications of the owner or manager utilized to obtain a massage therapist license under Colo. Rev. Stat. §12-35.5-107 were likely obtained through fraud, deceit or misrepresentation, and the State has revoked the massage therapy license of the licensee; or
 - (4) A pattern of credible facts emerges that the facility is attempting to operate an erotic massage parlor or prostitution enterprise whether or not there is a violation of any other specific rule or code.
- (b) The director may summarily suspend a massage facility license with a hearing to be scheduled within 15 days when the director finds that:
 - (1) The licensee willfully violated any provision 86-441 or 86-442 and / or the director has reason to believe that the facility may be permitting acts sexual acts or negotiations for sexual acts on or about the licensed premises;
 - (2) The licensee knowingly permitting a person to perform massage therapy when licensee should reasonably know that such person is not licensed in accordance with Colo. Rev. Stat. §12-35.5-107 when such license is required;
 - (3) The licensee failed to permit an inspection any time the facility is occupied or open for business, or any other substantiated information that indicates an unlawful operation.

Section 86-448. – Inspections.

- (a) No owner, manager, massage therapist, or employee shall fail to immediately grant full massage establishment access any time such establishment is occupied or open for business, to a Licensing Officer, or any other person authorized or required by law to inspect the massage establishment;
- (b) All rooms, cabinets, storage areas shall be subject to inspection and any locked rooms, cabinets or storage areas shall be promptly opened for inspection;
- (c) Each massage facility shall keep a complete set of books of account open to inspection without unreasonable delay;
- (d) Inspectors may request to review the massage therapist license issued by the State at any time during an inspection for the massage therapists, managers, or massage therapist employed as contractors.

(e) All owners, managers, massage therapists, employees, contractors or persons occupying the facility other than patrons shall present identification and shall not elude identification.

Section 86-448. – Fees.

(a) Application, and annual license fees for massage facility and manager's licenses shall be established by the director in accordance with the provisions of section 2-587 of this code.

Section 3. – Severability

The provisions of this ordinance are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

<u>Section 4.</u> That all ordinances, or parts of ordinances, of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

<u>Section 5.</u> That pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the Office of the City Clerk.

INTRODUCED, READ AND ORDERI , 2018.	ED PUBLISHED this day of
PASSED AND ORDERED PUBLISHE, 2018.	ED BY REFERENCE this day of
	STEPHEN D. HOGAN, Mayor
ATTEST:	
LINDA BLACKSTON, City Clerk	

APPROVED AS TO FORM

HANOSKY HERNANDEZ, Asst. City Attorney

Tax and Licensing Division 15151 E. Alameda Parkway, Ste. 5700 Aurora, Colorado 80012 303.739.7800





January 8, 2018

Below are examples of online advertising by Aurora massage facilities. All facilities are operated by a licensed massage therapist. The proposed licensing ordinance would prohibit many elements of this advertising that shows people other than the therapists and advertises women instead of legitimate massage services.

New Young And The Most Beautiful girls working-Top Nice Spa-Free Beautiful Table Shower Post of Most Lancer 6, 2018 2, 20 FM Spa. top rice Spe. All young and the most beautiful girls working fiere. No Oid lady. Open at 9,00am to 11,00pm 2019 **Post ID** **Post ID** Enlarge Picture Enlarge Picture Enlarge Ficture Enlarge Ficture

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Tax and Licensing Division 15151 E. Alameda Parkway, Ste. 5700 Aurora, Colorado 80012

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