

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Sunset Evaluation Update: Massage

Summary

We evaluated the regulation of massage under Chapter 452, Hawaii Revised Statutes, and conclude that the public interest is best served by reenactment of the statute.

Massage is the manipulation by rubbing, pressing, or kneading of soft body tissues for therapeutic purposes. Massage therapists may also use mechanical or electrical apparatus and lotions.

In Hawaii, the regulatory program is placed under the five-member Board of Massage Therapy, which is administratively attached to the Department of Commerce and Consumer Affairs. The department's Professional and Vocational Licensing Division provides administrative services and the Regulated Industries Complaints Office (RICO) handles consumer complaints and pursues legal action when appropriate.

In our previous sunset evaluation in 1987 we found that massage therapists need continued regulation. We reach the same conclusion today because there is some potential for personal injury from the practice of massage. Regulation helps to reduce the potential for harm, diminish the association between massage and prostitution, and establish the boundaries of massage practice.

Since 1987, several improvements have been made in the regulatory program. Additional improvements are needed. For instance, we found that the administrative rules regarding out-call massage services are obsolete and should be deleted.

We also found that the board is trying to increase the hours of training required for licensure from 570 to 600 hours and to eliminate apprenticeship as an avenue for licensure. Both of these efforts would unnecessarily restrict entry into the profession. We found insufficient evidence that more training is necessary to protect consumers, and eliminating apprenticeship would mean that those wishing to become licensed would be required to attend a school of massage. Opponents of apprenticeship say that insufficient supervision of apprentices has led to the licensing of unqualified massage therapists and that harm to the public has resulted. We found little evidence of this.

In addition, we found that the licensing division does not ensure the reliability of the transcripts it receives and has some difficulty organizing applicants' files. Furthermore, the board has not always complied with the Sunshine Law. At times it has not stated specifically enough the reasons for going into executive session, recorded its vote to go into executive session, or kept minutes of these sessions, but improvements are being made.

Recommendations and Response

We recommend that the Legislature reenact Chapter 452, HRS to continue the regulation of massage. In addition, the Board of Massage Therapy should abandon its efforts to increase the hours of training required for licensure and should continue to use apprenticeship as a pathway to licensure.

The board should also delete all references to out-call massage services from the administrative rules. It should continue to comply with the Sunshine Law by fully documenting in the minutes of its open meetings the reasons for and vote of the members on going into executive session. The board should also keep minutes of all executive sessions.

The Professional and Vocational Licensing Division should require applicants for massage therapy licenses to have their transcripts sent directly from the massage school or hand delivered with a seal against tampering. In addition, the division should review applicant files against a checklist of licensing requirements.

The Board of Massage Therapy agrees with our recommendation to reenact Chapter 452 and to delete references to out-call massage services from the rules. It says that it will work to strengthen the apprenticeship program rather than eliminate it. The board does not agree that it should abandon its efforts to increase the required hours of training. The board feels that we overemphasized alleged violations of the Sunshine Law.

The Department of Commerce and Consumer Affairs disagrees with our recommendation concerning transcripts because transcripts are often not available from massage schools. The department says that it already uses a checklist form called the "Notice of Deficiency."

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