

Date of Hearing: June 27, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

SB 314(Nguyen) – As Amended April 26, 2017

SENATE VOTE: 37-0

SUBJECT: Massage therapy: certification: credit hours

SUMMARY: Requires the California Massage Therapy Council (CAMTC) to accept hours earned by an applicant for certification as a massage therapist if those hours were completed before July 1, 2016, but were earned from a school that was subsequently unapproved by CAMTC due to denial or disciplinary action against the school by the National Certification Board for Therapeutic Massage and Bodywork.

EXISTING LAW:

- 1) Establishes a state-wide voluntary certification system for massage therapists under the Massage Therapy Act. (Business and Professions Code (BPC) § 4600-4621)
- 2) Establishes the CAMTC, a nonprofit organization, to carry out the responsibilities and duties under the Massage Therapy Act. (BPC §§ 4601(d), 4602)
- 3) Establishes the educational requirements for certification as a massage therapist, including completion of a minimum of 500 hours of specified coursework from an approved school. (BPC § 4604)
- 4) Defines an "approved school" or "approved massage school" as a school approved by the council that meets minimum standards for training and curriculum in massage and related subjects, that meets any of the following requirements, and that has not been otherwise unapproved by the council:
 - a) Is approved by the Bureau for Private Postsecondary Education (BPPE). (BPC § 4601(a)(1))
 - b) Is approved by the Department of Consumer Affairs. (BPC § 4601(a)(2))
 - c) Is an institution accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges, as specified. (BPC § 4601(a)(3))
 - d) Is a college or university of the state higher education system, including the University of California, the Hastings College of the Law, the California State University, the California Community Colleges, and their respective off-campus centers. (BPC § 4601(a)(4))
 - e) Is a school requiring equal or greater training than what is required under the Massage Therapy Act and is recognized by the corresponding agency in another state or accredited by an agency recognized by the United States Department of Education. (BPC § 4601(a)(5))

- 5) Requires CAMTC to determine whether a school meets the requirements under the Massage Therapy Act and requires CAMTC to develop policies, procedures, rules, or bylaws governing the requirements and process for the approval and unapproval of schools, as specified. (BPC § 4615)
- 6) Authorizes a city, county, or city and county to enact ordinances for the licensing for regulation of massage businesses and specifies requirements for and limitations on those ordinances. (Government Code §§ 51030-51034)

THIS BILL:

- 1) Requires CAMTC, pursuant to its policies and procedures, to accept hours earned by an applicant for certification as a massage therapist if those hours were completed before July 1, 2016, and were earned from a school unapproved by CAMTC after July 1, 2016, based on the fact that the National Certification Board for Therapeutic Massage and Bodywork took denial or disciplinary action against the school.
- 2) Defines “unapproved” to mean CAMTC has determined it will not accept hours from the school for certification.

FISCAL EFFECT: None

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, this bill "helps the students who were impacted when their massage therapy school suddenly became one that the Council did not accept education credits from prior to July 1, 2016. It is only fair that students who earned their education hours prior to the new law, with the understanding that they were working toward their certification, should receive credit for those hours they already earned."

Background. The Massage Therapy Act establishes a certification system for massage therapists. Unlike licensing programs, a certificate is not required before a practitioner may practice. In this case, a certificate helps a consumer distinguish a massage therapy practitioner who meets certain training and criminal history criteria from one who does not. A consumer may still choose a non-certified massage therapist if the consumer prefers. However, some local governments require the certificate as a prerequisite to working as a massage therapist.

The Act also creates CAMTC, a nonprofit organization, to administer the program. Under the program, a massage therapist who meets specified education and professional conduct requirements may obtain a certificate in massage therapy and use the title "certified massage therapist" and similar titles and initials. The Act prohibits the use of the title without a certificate issued by CAMTC. As of 2015, there were over 50,000 active certificates issued.

School Approval Process. Under the Act, in order for an applicant to use hours earned from a massage school towards certification, the school must meet certain statutory criteria in order for CAMTC to accept credits earned at a particular institution for certification. Among other things, the Act requires all schools to be approved by CAMTC and not "otherwise unapproved" by CAMTC. Prior to 2015, CAMTC implemented this process by generally treating schools as approved unless it affirmatively “unapproved” them. During the CAMTC's 2014 Sunset Review,

the staff background paper recommended that CAMTC take proactive steps to improve their complaint-driven unapproval process and instead find a more proactive approval process.

As a result, CAMTC's sunset bill (AB 1174 (Bonilla), Chapter 406, Statutes of 2014) required CAMTC to establish an affirmative approval process for schools. According to the CAMTC's most recent 2016 Sunset Review Report, "On April 1, 2015, CAMTC began accepting applications from massage schools for voluntary CAMTC school approval. CAMTC notified schools that as of July 1, 2016, CAMTC will no longer accept education from applicants unless that education is completed at a CAMTC approved school. CAMTC also notified schools that it had to receive their application for CAMTC approval by May 1, 2015 in order to guarantee that a decision on school approval could be made before the July 1, 2016 cutoff date."

For students who attended a school pending approval under the new policy, CAMTC holds the applications until the school is approved, at which time the applications are processed in accordance with CAMTC's standard procedures. However, there are also schools that have failed to apply for CAMTC approval or were denied approval by CAMTC. This has resulted in a number of students who earned hours at a school not "otherwise unapproved."

Since the new policy was implemented, there were several changes made to CAMTC's acceptance policies. As of March 9, 2017, CAMTC now provides a 90-day grace period, allowing students to apply for certification with education from recently unapproved schools as long as the application is received within 90 days from the date CAMTC made the change to its policies, or the effective date of unapproval, whichever is later.

This bill would additionally require the CAMTC to accept hours earned before July 1, 2016, beyond the default 90-day grace period if earned from a school unapproved by the National Certification Board for Therapeutic Massage & Bodywork.

The National Certification Board for Therapeutic Massage & Bodywork (NCBTMB). According to the NCBTMB's website, the NCBTMB is a nonprofit organization founded in 1992. Its mission "is to define and advance the highest standards in the massage therapy and bodywork profession. In support of this mission, NCBTMB serves the profession through Board Certification, Approved Providers, and Assigned Schools."

The NCBTMB's process is similar to accreditation. The website notes that an "Assigned School is an institution researched and approved by NCBTMB, proving the school is legitimate, operating legally and meets our minimum curriculum requirements of 500 hours of education." The NCBTMB reviews both accredited and unaccredited schools, but has stricter standards for unaccredited schools.

ARGUMENTS IN SUPPORT:

Associated Bodywork & Massage Professionals (ABMP) writes in support, "ABMP supports [this bill] with its amendments. We remain concerned about students' ability to use their education from schools that have yet to be approved or denied by CAMTC. We would also like to point out that this is voluntary certification. That said, many cities are moving toward requiring CAMTC certification to practice in their jurisdictions, thereby negating the voluntary aspect of certification."

The **California Massage Therapy Council** writes in support, "CAMTC shares your intent to protect students and believes that the narrowing of the language of the bill accomplishes that task without being unduly burdensome."

ARGUMENTS IN OPPOSITION:

On behalf of the **City and County of San Francisco**, the San Francisco Department of Public Health (SFDPH) and the Department of the Status of Women (SFDOSW) write in opposition, "SFDPH has been enforcing the requirement of only accepting the 500 educational hours from CAMTC approved schools since it went into effect in July, 1 2016.

SFDPH has become concerned with documentation of these hours, specifically unapproved or potentially fraudulent schools. SFDPH has rejected two to three dozen applicants who have provided documentation from unapproved schools due to falsified documentation of the educational requirements.... Additionally, the Mayor's Task Force on Anti-Human Trafficking, Staffed by SFDOSW, has for several years focused on possible human trafficking occurring in businesses fronting as massage establishments. Permitting automatic approval of applicants from schools which have been unapproved would create greater avenues for human traffickers to use fraudulent documentation to obtain licenses for persons they traffick.

Rolling back these educational requirements, especially in light of current problematic practices and risks of human trafficking, raises serious concerns for the City and County of San Francisco."

REGISTERED SUPPORT:

Associated Bodywork and Massage
California Massage Therapy Council
1 Certified Massage Therapist

REGISTERED OPPOSITION:

City and County of San Francisco

Analysis Prepared by: Vincent Chee / B. & P. / (916) 319-3301