

# California Massage Therapy Council

## **Board Members**

Mark Dixon, CMT, Chair, Appointed by American Massage Therapy Association, California Chapter  
Ronald Bates, Ph.D., Vice-Chair, Appointed by League of California Cities  
Allison Budlong, Secretary, Appointed by California Association of Private Postsecondary Schools  
Michael Marylander, Treasurer, Massage Business Owner, Appointed by Board  
Guy Fuson, Appointed by California State Association of Counties  
Richard Lee, Appointed by the Director of the Department of Consumer Affairs  
Dixie Wall, L.Ac., CMT, Appointed by American Massage Council  
Stephanie Powell, Ph.D., Appointed by Journey Out, Anti-Human Trafficking Organization  
Jeff Forman, Ph.D., Appointed by the Office of the Chancellor of the California Community Colleges  
Heather Forshey, Public Health Official, Appointed by San Mateo County Department of Health  
Chief Sandra Spagnoli, Appointed by California Police Chiefs Association  
Michael Callagy, Esq., Appointed by Board  
Shana Faber, Esq., Assistant City Attorney, Appointed by Board

## **Executive Staff**

Ahmos Netanel, Chief Executive Officer  
Beverly May, Director of Governmental Affairs

Additional copies of this report can be obtained from [www.camtc.org](http://www.camtc.org)

Sunset Review Report Prepared by:  
California Massage Therapy Council  
One Capitol Mall, Suite 800  
Sacramento, CA 95814  
Telephone: (916) 669-5336  
Fax: (916) 669-5337

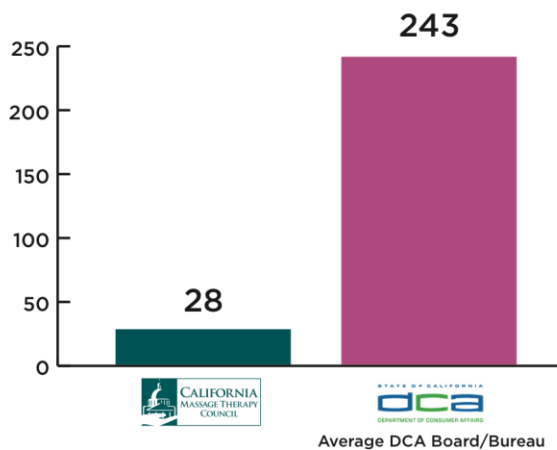
### ***Executive Summary***

The following is a brief summary of some of the California Massage Therapy Council's ("CAMTC") activities since the Massage Therapy Act went into effect on January 1, 2015.

Target **performance measures** for disciplinary actions were established by CAMTC in 2015 to ensure that enforcement activities are directly aligned with CAMTC's mission of protecting the public. As part of the process of establishing CAMTC's performance targets, staff calculated the Department of Consumer Affairs' ("DCA") aggregate average by combining the most recently reported results of 36 DCA Boards and Bureaus and dividing this number by the number of Boards and Bureaus with reported data in each category. The juxtaposition of CAMTC's most recently reported quarter (3<sup>rd</sup> 2015) to the aggregate average for DCA's Boards and Bureaus clearly demonstrates that CAMTC makes more efficient and effective use of its resources:

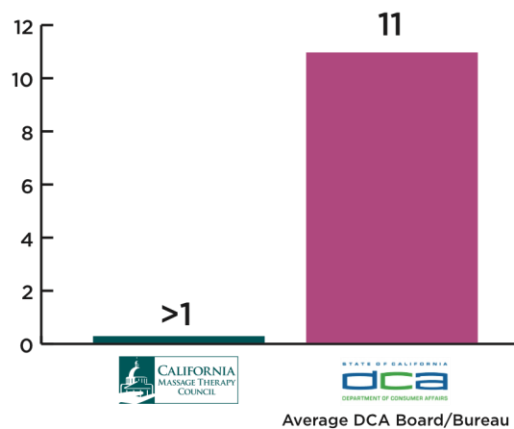
### Average Monthly Complaint Volume

3RD QUARTER 2015



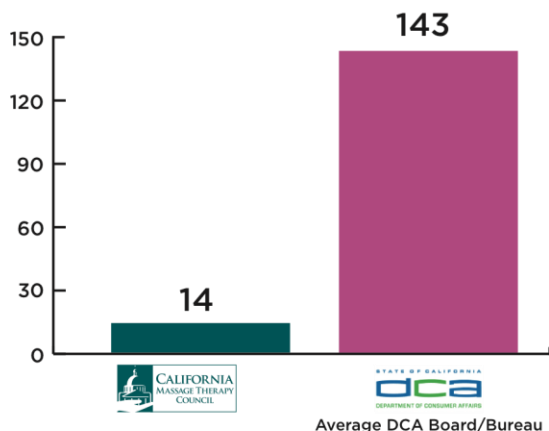
### Average Number of Days From Complaint Intake To Assignment

3RD QUARTER 2015



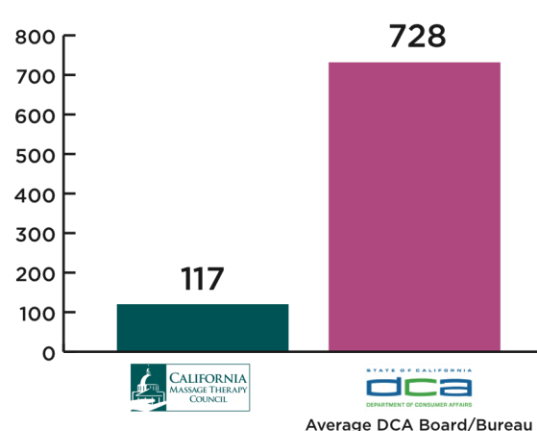
### Average Number of Days To Closure of Complaints That Don't Result in Formal Discipline

3RD QUARTER 2015



### Average Number of Days To Complete Formal Discipline Against Certificate Holders

3RD QUARTER 2015



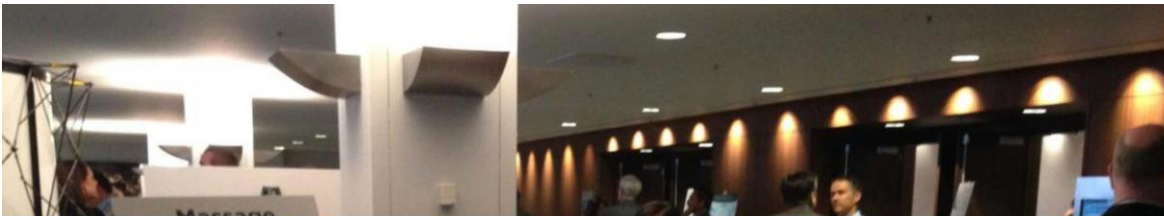
CAMTC's Disciplinary Performance Measures for the second and third quarter of calendar year 2015 are posted publicly on CAMTC's website. (Section 13, Attachment 1.)

Since its inception in 2009, CAMTC has worked closely with local **law enforcement** agencies. Strengthening the collaboration with the law enforcement community was one of CAMTC's top priorities in 2015. On April 2, 2015, CAMTC sent a letter to the

California Police Chiefs Association (“Cal Chiefs”) regarding no-cost CAMTC training for law enforcement agencies. (Section 13, Attachment 2.) Cal Chiefs forwarded this communication to all its members, which resulted in considerable interest in the training (the training is offered free of charge and all costs associated with the development and delivery of the training are covered exclusively by CAMTC). During the month of October, 2015, CAMTC embarked on a new statewide outreach initiative to local law enforcement agencies offering to strengthen collaboration by implementing a three prong approach: 1. Coordination of enforcement protocols; 2. Escalation of information sharing; and 3. No-cost training for law enforcement. CAMTC’s CEO sent correspondence to 356 police chiefs and 58 sheriffs, as well as letters to the Presidents of the Cal Chiefs and the California State Sheriffs’ Association. (Section 13, Attachment 3, Sample letter to Local Law Enforcement Officials; Attachment 4, letters to Cal Chiefs and Sheriffs.) As of November 24, 2015, CAMTC received 76 responses. Staff set up numerous meetings throughout the state to discuss coordination of enforcements protocols and increased information sharing. Staff is continuing to schedule additional training sessions. Since 2014, CAMTC has trained 487 law enforcement and local government officials from 193 different agencies (these agencies include local government agencies that regulate massage in addition to law enforcement agencies). In their feedback, attendees indicated that they found the information provided to be invaluable. In addition to providing tools and protocols, these sessions help to further reinforce the ongoing partnership between CAMTC and law enforcement. CAMTC’s CEO is scheduled to present to Cal Chiefs’ 31 member Board on December 4, 2015 in Walnut Creek. Staff also engaged in a preliminary dialogue with the California State Sheriffs’ Association, which offered to highlight CAMTC’s outreach through a weekly email to all sheriffs.

Improving relationships with **local government** agencies, especially with cities and counties that grapple with the proliferation of illicit massage establishments, and offering help in the accurate implementation of the Massage Therapy Act, is also one of CAMTC’s top priorities. On January 28-30, 2015, CAMTC attended the League of California Cities (“League”), City Managers Department Meeting in San Francisco as a

Gold Sponsor. There were 473 registered attendants. Prior to the meeting CAMTC's CEO sent a letter to all registered city managers inviting them to meet during the conference. (Section 13, Attachment 5.) In an effort to engage the League's leadership in a direct dialog, CAMTC's CEO also reached out to the League's Executive Director and suggested a meeting, which he graciously accepted. (Section 13, Attachment 6.) The two have met privately three times in 2015 for constructive and frank conversations. However, agreement has not been reached on all issues and discussions will continue. During the City Managers Meeting, CAMTC was recognized during several of the general sessions, as well as in the program and sponsors' sign. (See pictures below). Our well-positioned information table was visited frequently. (See Section 13, Attachment 7, and pictures below.) Staff was somewhat surprised that the majority of city managers we talked to stated that they had no significant issues with massage. One of the breakout sessions "EMERGING TRENDS: ELECTRONIC CIGARETTES, MEDICAL MARIJUANA & MASSAGE PARLORS - ROLES IN REGULATION" was introduced by the moderator as "the vice hour." The majority of attendees' questions focused on electronic cigarettes and marijuana.



CAMTC staff manned the table at the statewide 2015 City Managers Department Meeting.



Sponsors slide (above) and sign (below) from the 2015 City Managers Department Meeting.



CAMTC submitted proposals for the League's City Attorneys Department Spring Conference on May 6-8 in Monterey and for the Annual Conference Sept 30-Oct 2 in San Jose. (Section 13, Attachments 8 and 9.) Neither proposal was accepted. During the month of October 2015, CAMTC initiated a new statewide outreach effort to local government. CAMTC's CEO sent letters to 470 city managers, 53 county managers and to the Executive Director of the California State Association of Counties ("CSAC"). (Section 13, Attachment 10, sample letters to city and county managers; Attachment 11, sample responses from city and county managers; and Attachment 12, email to CSAC.) Numerous meetings with local government officials have already taken place and many more meetings are in the process of being scheduled. CSAC and CAMTC's staff are also in the process of setting up a meeting. On November 20, 2015, a 10 participant joint meeting of CAMTC and the League took place in Sacramento. The goal of the meeting was to establish a constructive working relationship between the two organizations and provide both parties with a chance to communicate openly.

CAMTC would like to note that while it has been focusing on improving communications with law enforcement agencies and local government agencies that regulate massage as a whole, it has engaged in significant communications with these entities since CAMTC's inception in 2009. CAMTC has sent more than 1.2 million email messages to local agencies since inception, notifying these entities when an applicant applies for certification or re-certification, when CAMTC takes disciplinary action against a certificate holder, and when a certificate holder notifies CAMTC that they have changed their work address. CAMTC also held conference calls every two to three weeks from early 2009 through 2011 with city and county staff, including permit staff, law enforcement and city attorneys, to help formulate early protocols and policies for denial and disciplinary action with local government input.

In October of 2015, CAMTC reached out to **certificate holders** in order to gather feedback regarding their experience with the implementation of the Massage Therapy Act. (Section 13, Attachment 13.) As of November 19, 2015, more than 700 responses

were received and are in the process of being compiled, so that they may be submitted to the Legislature and CAMTC's board of directors ("BOD"). While this open-ended request for input focused on the Massage Therapy Act, a general brief survey will also be sent to certificate holders in December 2015.

The **School Approval** program has been fully implemented. All schools that submitted a complete application by May 1, 2015 for school approval, and are qualified, are scheduled to be inspected by December 31, 2015.

CAMTC has initiated discussions with the Bureau of Private Postsecondary Education ("**BPPE**") in order to develop a Memorandum of Understanding with BPPE. CAMTC is in the process of drafting the agreement and is expected to submit it to BPPE for their review before the end of the year.

As a **self-funded private nonprofit corporation** and certification body, CAMTC certifies qualified massage professionals, and ensures full compliance with, and execution of, the requirements of the Massage Therapy Act. CAMTC's paramount objectives are to enable consumers and local governments to more easily identify certified massage professionals, provide for consistent statewide certification and oversight of CAMTC certified massage professionals, ensure that massage schools approved by CAMTC provide a high level of training, and assist local governments and law enforcement in meeting their duty to maintain the highest standards of conduct in massage establishments by vetting and disciplining certificate holders.

CAMTC actively promotes collaboration with local governments, law enforcement, nonprofit stakeholders, the massage industry, and massage professionals and strives to work together with all interested parties to improve communication and share information in order to further increase the value of statewide certification, and the seamless implementation of the Massage Therapy Act.



**Protection of the public** has always been, and continues to be, the highest priority for CAMTC in exercising its certification and disciplinary authority, and all other functions it implements.

## ***History and Function of CAMTC***

**Provide a short explanation of the history and function of CAMTC. Describe the occupations/professions that are certified and/or regulated by the CAMTC (Practice Acts vs. Title Acts). Please include history/purpose for existence.**

Protection of the public has been the highest priority for the California Massage Therapy Council (“CAMTC”) since it was established in 2009. CAMTC is a private nonprofit corporation that carries out the responsibilities and duties set forth in chapter 10.5. of Division 2 of the Business and Professions Code (Massage Therapy Act), a title act. CAMTC implements a voluntary statewide certification program for massage professionals and massage schools. Massage professionals who are certified by CAMTC may provide massage for compensation in any California city or county without being required to obtain a local permit to practice their profession.

CAMTC was named and incorporated in 2009 by the initiative of private individuals. Not being part of California State government, CAMTC has never used any taxpayer monies, State funds or other public funding. In order to launch its operations, CAMTC raised \$184,410 in loan commitments from five private sources. All loans were fully repaid (principal and interest) by February 17, 2010. Unlike professional licensing Boards, CAMTC has never relied on any State agency infrastructure, administrative, logistical, technical or legal support.

CAMTC went through its first Sunset Review in 2014, at which time its statute was reorganized and significantly revised by AB 1147. On January 1 of 2015, the statutory changes authorized by AB 1147 became effective. Due to the fact that the new statute has been operative less than a year, the true impact of all of the statutory changes may

not yet be apparent. In September of 2015 the existing 20-member BOD was replaced. The new BOD consists of 13 members, seven of whom are local government officials, three are representatives of the therapeutic massage profession, one represents an “anti-human trafficking” organization, one was appointed by the Office of the Chancellor of the California Community Colleges and one was appointed by the California Association of Private Postsecondary Schools. There are no advisory bodies required by statute.

Since 2010, there have been numerous amendments to the law, the most significant of which has been AB 1147. The statutory amendments have accomplished many things, such as, clarifying the applicability of the law to charter cities, raising educational and disciplinary standards, imposing a prohibition on defining and/or regulating massage establishments as adult entertainment, and expanding the land use authority of cities and counties.

## ***Makeup and Function of the Board of Directors and Committees***

***Please describe the makeup of the board of directors or any advisory body required by law. Please explain any changes to the composition of the board or advisory body (statutorily or through bylaws). (2014 – September of 2015)***

### **1. Describe the make-up and functions of each of the CAMTC’s committees, if applicable, (cf., Section 12, Attachment B).**

Currently there are two committees of the BOD (defined as committees which may have the authority of the BOD on particular issues):

#### **A. Executive Committee**

This committee consists of the elected officers of the BOD and has the authority to review and recommend changes to the bylaws and to other operating policies to the BOD. The Executive Committee also has the authority delegated to it by the BOD, if any. Because all CAMTC BOD members are so committed and enthusiastic, the

Executive Committee does not currently play a strong role in the governance of the organization – i.e. all decisions are made by the full BOD.

### **B. Audit Committee**

This committee is charged with oversight of financial reporting and disclosures. The committee interfaces with the auditing firm and the Chief Executive Officer and makes recommendations to the BOD as to the approval of the annual audit report. It also files the organization's tax returns. From January 1, 2014 through noon on September 15, 2015, this committee was comprised of two BOD members. On September 15, 2015 at noon the BOD members changed, and one member is no longer on the BOD. The BOD will appoint new members to this committee at the February 2016 BOD meeting.

### **Changes to the Composition of the Board of Directors**

AB 1147 reduced the number of BOD members from 20 to 13, as of noon, September 15, 2015. It also changed the composition of the BOD by generally reducing the number of appointments made by professional massage associations and increasing the number of appointments made by entities that represent local government.

Under the old 20-member BOD, the following organizations had appointment authority:

1. Two appointees for each Professional Society, Association, or other Entity comprised of massage professionals, established since 2000, with a dues paying membership of at least 1,000 California individuals, with bylaws that require members to comply with a code of ethics (four organizations met this definition – totaling 8 appointments);
  2. California Association of Private Postsecondary Schools;
  3. League of California Cities;
  4. California State Association of Counties;
  5. Director of the Department of Consumer Affairs;
  6. Office of the Chancellor of the California Community Colleges (Appointee may not be a part of any massage therapy certificate or degree program);
- and

7. Other appointments as determined by the BOD.

Under the new 13-member BOD, the following organizations now have appointment authority:

1. League of California Cities;
2. California Police Chiefs Association;
3. California State Association of Counties;
4. Anti-Human Trafficking Organization selected by CAMTC;
5. Office of the Chancellor of the California Community Colleges;
6. Director of the Department of Consumer Affairs (Appointee to be a member of the public);
7. California Association of Private Postsecondary Schools;
8. American Massage Therapy Association, California Chapter (Appointee must be a California resident, practicing massage for at least three years, and certified by CAMTC);
9. Public Health Official representing a city, county, or city and county, or state health department (city, county, or city and county, or state health department chosen by CAMTC, and appointee chosen by that entity);
10. One rotating seat for a Professional Society, Association, or other Entity comprised of massage professionals, established since 2000, with a dues paying membership of at least 1,000 California individuals, with bylaws that require members to comply with a code of ethics (Currently American Massage Council). Appointee must be a California resident, practicing massage for at least three years, and certified by CAMTC;
11. Appointed by CAMTC's BOD. Appointee must be a California licensed attorney, practicing for at least three years, representing a California city at the time of appointment;
12. Appointed by CAMTC's BOD. Appointee must represent a massage business that has been operating in California for at least three years; and
13. Appointed by CAMTC's BOD. Appointee must have knowledge of the massage industry or bring needed expertise to the operation of CAMTC.

## ***BOD Attendance***

<b>Table 1a. Attendance - Board Members</b>			
Mark Dixon, Board Chair			
Date Appointed:	January 14, 2010		
Date Reappointed:	September 15, 2015		
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Ronald Bates, Vice Chair			
Date Appointed:	September 15, 2015		
Date Reappointed:			
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
Keith Grant, Vice Chair			
Date Appointed:	November 19, 2009		
Date Reappointed:	February 13, 2013		
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes

Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Michael Marylander, Treasurer			
Date Appointed:	January 14, 2010		
Date Reappointed:	September 15, 2015		
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	No
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	No
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Allison Budlong, Secretary			
Date Appointed:	December 11, 2014		
Date Reappointed:	September 15, 2015		
Date Expires:	September 19, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	No
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes

Roberta Rolnick, Secretary			
Date Appointed:	February 19, 2009		
Date Reappointed:	March 26, 2015		
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
William Armour, Board Member			
Date Appointed:	February 11, 2010		
Date Reappointed:	May 9, 2013		
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	No
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	No
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	No
	January 28	Teleconference	No
	January 07	Teleconference	Yes
Michael Callagy, Board Member			
Date Appointed:	March 15, 2011		
Date Reappointed:	September 15, 2015		
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>



Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Judi Calvert, Board Member			
Date Appointed:	January 14, 2010		
Date Reappointed:	January 14, 2013		
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	No
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	No
	June 05	Los Angeles	No
	April 15	Los Angeles	Yes
	January 28	Teleconference	No
	January 07	Teleconference	Yes
Ben Drillings, Board Member			
Date Appointed:	February 19, 2009		
Date Reappointed:	February 15, 2012		
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	No
	June 11	Los Angeles	Yes
	March 26	Los Angeles	No
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes

	October 01	Redondo Beach	No
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	No
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Nancy Eichler Binn, Board Member			
Date Appointed:	September 15, 2015		
Date Reappointed:			
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
Shana Faber, Board member			
Date Appointed:	September 15, 2015		
Date Reappointed:			
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
Jeff Forman, Board Member			
Date Appointed:	September 30, 2014		
Date Reappointed:	September 15, 2015		
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
Heather Forshey, Board member			
Date Appointed:	September 15, 2015		
Date Reappointed:			
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes

Guy Fuson, Board Member			
Date Appointed:	January 18, 2011		
Date Reappointed:	September 15, 2015		
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Audit Committee 2015	June 09	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	No
	September 30	Redondo Beach	No
	June 25	Los Angeles	No
	June 05	Los Angeles	No
	April 15	Los Angeles	Yes
	January 28	Teleconference	No
	January 07	Teleconference	Yes
Richard Lee, Board member			
Date Appointed:	September 15, 2015		
Date Reappointed:			
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
Elna Leonardo, Board Member			
Date Appointed:	December 7, 2011		
Date Reappointed:	March 26, 2015		
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Audit Committee 2015	June 09	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes

	June 05	Los Angeles	Yes
	April 15	Los Angeles	No
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Christian Pezza, Board Member			
Date Appointed:	February 15, 2012		
Date Reappointed:			
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Jean Robinson, Board Member			
Date Appointed:	February 19, 2012		
Date Reappointed:			
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes

Marcy Schaubeck, Board Member			
Date Appointed:	February 13, 2013		
Date Reappointed:			
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	No
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	No
	January 07	Teleconference	No
Michael Sinel, Board Member			
Date Appointed:	May 9, 2013		
Date Reappointed:			
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	No
	June 11	Los Angeles	No
	March 26	Los Angeles	No
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	No
	June 05	Los Angeles	No
	April 15	Los Angeles	No
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Joe Bob Smith, Board Member			
Date Appointed:	February 11, 2010		
Date Reappointed:	February 15, 2012		
Date Resigned	December 1, 2014		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>

Board Meetings 2014	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Richard Lee, Board member			
Date Appointed:	September 15, 2015		
Date Reappointed:			
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
Carolyn Tseng, Board Member			
Date Appointed:	April 15, 2013		
Date Reappointed:			
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	No
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	No
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	No
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Deborah Tuck, Board Member			
Date Appointed:	March 15, 2011		
Date Reappointed:	February 15, 2012		
Date Expired:	September 14, 2015		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes

Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	Yes
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes
Dixie Wall, Board Member			
Date Appointed:	December 15, 2009		
Date Reappointed:	September 15, 2015		
Date Expires:	September 15, 2019		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meetings 2015	September 15	Los Angeles	Yes
	September 14	Los Angeles	Yes
	June 11	Los Angeles	Yes
	March 26	Los Angeles	Yes
	February 17	Teleconference	Yes
Board Meetings 2014	December 11	Los Angeles	Yes
	October 01	Redondo Beach	Yes
	September 30	Redondo Beach	Yes
	June 25	Los Angeles	Yes
	June 05	Los Angeles	No
	April 15	Los Angeles	Yes
	January 28	Teleconference	Yes
	January 07	Teleconference	Yes

\*Data is through 9/30/2015

## Current BOD Member Roster

Table 1b. Current BOD Member Roster					
Member Name	Date First Appointed	Date Re-Appointed	Date Term Expires	Appointing Authority	Profession
Ronald Bates	9/15/2015	-	9/15/2019	League of California Cities	League of California Cities Senior Advisor
Allison Budlong	12/11/2014	9/15/2015	9/15/2019	California Association of Private Postsecondary Schools (CAPPS)	Student and Alumni Services Manager (National Holistic Institute)
Michael Callagy	3/15/2011	9/15/2015	9/15/2019	CAMTC Board	Deputy County Manager (San Mateo County)
Mark Dixon	1/14/2010	9/15/2015	9/15/2019	American Massage Therapy Association (AMTA-CA)	CMT, BCTMB, Massage Professional
Shana Faber	9/15/2015	-	9/15/2019	CAMTC Board	Municipal Law Attorney
Jeff Forman	9/30/2014	9/15/2015	9/15/2019	California Community Colleges Chancellor's Office	Retired Director Massage Therapy Program (DeAnza Community College)
Heather Forshey	9/15/2015	-	9/15/2019	San Mateo Department of Health	Director of Environmental Health (San Mateo County)
Guy Fuson	1/18/2011	9/15/2015	9/15/2019	California State Association of Counties (CSAC)	Business License Manager (Sacramento County)
Richard Lee	9/15/2015	-	9/15/2019	Department of Consumer Affairs (DCA)	Acting Director of Environmental Health (San Francisco Dept of Public Health)
Michael Marylander	1/14/2010	9/15/2015	9/15/2019	CAMTC Board	Massage Business Owner (12 locations)
Stephanie Powell	11/11/2015	-	9/15/2019	Journey Out	Executive Director (Journey Out)
Sandra Spagnoli	9/15/2015	-	9/15/2019	California Police Chiefs Association	Chief of Police (City of San Leandro)
Dixie Wall	12/15/2009	9/15/2015	9/19/2019	American Massage Council (AMC)	CMT, Licensed Acupuncturist



**2. In the past two years, was CAMTC unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations? Explain any quorum requirements, if applicable.**

In the past two years, the BOD was able to hold all meetings with sufficient quorum.

### ***Major Changes Since Last Sunset Review***

**3. Describe any major changes to CAMTC since the last Sunset Review, including:**

- **Internal changes (i.e. reorganization, relocation, change in leadership, strategic planning)**
- **All legislation sponsored by CAMTC and affecting the CAMTC since the last Sunset review**
- **Any changes to bylaws approved by the board of directors since the last Sunset review.**

### **Internal Changes**

#### **Educational Standards Division**

Since the last Sunset review, CAMTC has been working diligently to transform its current system from focusing on un-approving schools to actively approving schools that provide education for CAMTC certification. In November of 2014, the Educational Standards Division (“ESD”) was created and a Division Director was hired. The ESD Division Director’s first task was to draft the Proposed Policies and Procedures for Approval of Schools. These proposed procedures were shared publically so that interested parties could provide feedback. (Section 13, Attachment 14.a. – 14.c.) The Policies and Procedures for Approval of Schools have gone through multiple amendments, and reflect the input of many interested parties. (Section 13, Attachments 15.a. – 15.c.) The Division Director also hired staff and developed an application for school approval. (The Application for School Approval can be found here: [https://www.camtc.org/FormDownloads/massage\\_school\\_approval\\_application.pdf](https://www.camtc.org/FormDownloads/massage_school_approval_application.pdf).) Applications for school approval were posted on April 1, 2014, and to date 112 schools

have applied for CAMTC approval. The ESD is now focused on inspecting schools, reviewing information submitted, and making initial determinations as to whether schools meet the requirements for approval. ESD will soon be hiring hearing officers to hear proposed denials/ discipline.

### **Strategic Priorities**

AB 1147 directed CAMTC, local government agencies, law enforcement agencies, massage professionals, and the massage industry to work together to improve communication and share information to improve the value of certification and implement the provisions of the Massage Therapy Act. CAMTC has taken this direction seriously, and in 2015 it has been focused on working with cities, counties, local government, and law enforcement agencies to meet the objectives of AB 1147. (Section 13, Attachments 2, 3, 4, 5, 10, and 12.) CAMTC has been providing no cost training to law enforcement and local government agencies with the responsibility for regulating massage. (Section 13, Attachments 2 and 10.) To date, CAMTC has provided training to 193 local agencies. It has also prepared and distributed a number of documents to help local government agencies and certificate holders understand the changes in the law. (Section 13, Attachment 16 – Government Agency handout; Attachment 17 – Certificate Holder handout, emailed to all Certificate Holders.) These documents are on CAMTC's website so that they are available to members of the public. (These documents can be found here - Government Agency handout: [https://www.camtc.org/FormDownloads/summary\\_of\\_changes\\_for\\_local\\_govt.pdf](https://www.camtc.org/FormDownloads/summary_of_changes_for_local_govt.pdf); Certificate Holder handout: [https://www.camtc.org/FormDownloads/law\\_change\\_summary\\_2015.pdf](https://www.camtc.org/FormDownloads/law_change_summary_2015.pdf).) They have also been distributed at the California Municipal Revenue and Tax Association, Division I and Division IV conferences and at the CMRTA Annual Conference in October of 2015.

Additionally, day-to-day communications with law enforcement agencies and local government agencies that regulate massage are continual and on-going. Since 2009, CAMTC has regularly notified these entities: 1) when an applicant has applied for

certification or re-certification and has stated that they lived or worked in their jurisdiction in the past 10 years; 2) when disciplinary action is taken by CAMTC against a certificate holder (suspension, imposition of discipline, or revocation); and 3) when a certificate holder notifies CAMTC of a new work address. Communication with local agencies is massively robust, and CAMTC estimates that it has sent more than 1.2 million email messages to local government agencies that regulate massage and to local law enforcement agencies since its inception in 2009.

CAMTC's BOD approved the following strategic priorities for 2015:

**1. Establish Disciplinary Performance Measures** - To ensure that CAMTC's enforcement activities are directly aligned with CAMTC's mission of protecting the public, it is essential that CAMTC develop verifiable disciplinary goals. Such performance measures should be an easy-to-understand, transparent system of accountability. It must demonstrate that CAMTC is making and will continue to make the most efficient and effective use of its resources. Once established, these measures will be posted publicly on a quarterly basis.

**2. Law Enforcement** – Strengthen the collaboration with local law enforcement agencies and other enforcement agencies.

**3. Local Government** - Improve relationships with cities and counties, especially those that grapple with proliferation of illicit massage parlors. Offer help with the accurate implementation of the Massage Therapy Act.

**4. Certificate Holders** - Gather feedback from certificate holders regarding their experience with the implementation of the Massage Therapy Act. Conduct general surveys of certificate holders.

**5. Swift Discipline** – Maximize the speed by which CAMTC revokes and/or disciplines certificate holders.

**6. School Approvals** – Fully implement CAMTC’s school approval program and inspect all schools wishing to be approved by CAMTC.

**7. BPPE MOU** – Initiate the development of a Memorandum of Understanding with the Bureau of Private Postsecondary Education.

**8. Foreign Language** – Conduct a study that examines the feasibility and possible protocols of providing an approved exam in at least one foreign language.

## **Board Changes**

AB 1147 restructured CAMTC’s BOD. Please see Tables 1.a. and 1.b. of this report for a complete breakdown of current and past BOD composition. At noon on September 15, 2015, CAMTC’s BOD transitioned from a 20 member BOD to a 13 member BOD. Under the old BOD structure, there were 8 seats representing members of professional massage entities, while under the new BOD structure, only 2 seats remain, one of which rotates every four years among the qualifying appointing entities. New appointments were added for an anti-human trafficking organization, a local public health official, a California attorney representing a California city, a massage business operator, and an individual with knowledge of the massage industry or who has needed expertise.

On September 15, 2015, the new BOD elected the following new officers: Chair – Mark Dixon; Vice-Chair – Ron Bates; Secretary - Alison Budlong; and Treasurer – Michael Marylander.

## **Legislation**

CAMTC has sponsored no legislation since the last Sunset review.

The Sunset bill, AB 1147, made significant changes to Business and Professions Code section 460, Business and Professions Code sections 4600-4620, and Government Code section 51034, effective as of January 1, 2015. AB 1147 completely re-wrote CAMTC’s law and only the most significant changes are summarized here. It clarified

that CAMTC is authorized to certify and take action against individuals who request or obtain certification, and cities and counties are free to regulate massage businesses subject to certain conditions and requirements set forth in the law. It stated its intent that local governments impose and enforce only “reasonable and necessary fees and regulations,” in keeping with existing law and being mindful to protect the needs of legitimate business owners and massage professionals, especially sole providers. The bill also informed local government, law enforcement, nonprofit stakeholders, massage professionals and the massage industry that it intends all of the parties to work together to improve communication, information sharing, and collaborate in the implementation of the Massage Therapy Act and develop a model ordinance.

AB 1147 also changed education requirements by removing the 250-hour certification tier, adding the requirement for 100 hours of education in core curriculum subjects for the 500-hour certification tier, and adding the requirement for passage of a CAMTC approved exam. The bill also added additional articulated bases for denial and discipline, including but not limited to the following: 1) engaging in sexual activity on the premises of a massage establishment; 2) engaging in sexual activity while providing a massage for compensation; 3) engaging in sexually suggestive advertising related to massage; or 4) being inappropriately dressed while engaging in massage or visible to clients in a massage business. The bill changed the evidentiary requirements for discipline of a certificate holder and further clarified the requirements for approval of massage schools whose education is used for CAMTC certification.

AB 1147 also removed the then existing exemption for businesses that used only CAMTC certified individuals to provide massage for compensation from the imposition of local ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, and zoning requirements that were not uniformly applied to other professions. While it removed this exemption, it defined particular actions local jurisdictions are prohibited from engaging in. The bill specifically prohibits local jurisdictions from:

- Defining or regulating any massage establishment as adult entertainment, regardless of whether the establishment is using CAMTC certified individuals to provide massage for compensation or not;
- Requiring any massage establishment to have windows or walls that don't extend from floor to ceiling or have other internal physical structures that interfere with a client's reasonable expectation of privacy;
- Requiring client draping that goes beyond the covering of genitalia and female breasts, or mandates that the client wear special clothing;
- Not allowing a massage establishment to lock its external doors if the establishment is a business entity owned by one individual with one or no employees or independent contractors;
- Requiring massage establishments to post any notices in an area that may be viewed by clients that contains explicit language describing sexual acts, mentions genitalia, or specific contraception devices;
- Imposing a requirement that a CAMTC certificate holder take any test, medical exam, background check, or comply with educational requirements beyond what is required for CAMTC certification;
- Imposing a dress code requirement on a CAMTC certificate holder while that person is engaged in the practice of massage or visible to clients in a massage establishment in excess of the following:
  - Attire that is transparent, see-through, or substantially exposes the person's undergarments;
  - Swim attire if not providing a water-based massage modality approved by the council;
  - In a manner that exposes breasts, buttocks, or genitals;
  - In a manner that violates Penal Code section 314 (indecent exposure); or
  - In a manner that is otherwise deemed by CAMTC to constitute unprofessional attire based on the custom and practice of the massage profession in California.
- Not allowing a CAMTC certificate holder to perform massage for compensation on the gluteal muscles, not allowing specific massage techniques recognized by

CAMTC as legitimate, or imposing any other specific restriction on professional practice beyond those set forth in CAMTC's statute as a basis for denial or discipline.

AB 1147 further clarified that cities and counties are specifically prohibited from imposing a requirement that a CAMTC certificate holder obtain any other license, permit, certificate, or other authorization to provide massage for compensation. (Gove. Code §51034(c)(8).) Additionally, Business and Professions Code section 460(a) was amended to clarify that the provision, which generally provides that no city or county shall prohibit a person or group of persons from engaging in their business, occupation, or profession, or any portion of that business, occupation, or profession, applies to certificate holders. Business and Professions Code section 460(b) was also amended to clarify that no city or county shall prohibit a certificate holder from engaging in any act or performing any procedure that falls within their professionally recognized scope of practice. Business and Professions Code section 460(c), which states that the section, not be construed to prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a healing arts professional licensed under Division 2 (commencing with section 500) or licensed or certified by an entity established under this code or a person or group of persons described in subdivision(a),

was also amended to clarify its applicability to certificate holders. Business and Professions Code section 460(d), which provides that, "nothing in this section shall prohibit a city, county, or city and county from levying a business tax solely for revenue purposes, nor any city or county from levying a license tax solely for the purpose of covering the cost of regulation," remained unchanged. The overall impact of these legislative changes is to clearly place the authority to regulate a certified individual within CAMTC's jurisdiction, and place the authority to regulate the business within the jurisdiction of the local entity pursuant to the restrictions outlined in the bill.

## **Changes to Bylaws**

CAMTC's bylaws were amended twice during the period from January 1, 2014 through September 30, 2015. (Section 13, Attachment 18.a. and 18.b.) The first amendment during that time period was in June of 2014. (Section 13, Attachment 18.a.) The amendment made at that time was to Article V of the Bylaws and related to the "Attendance" provision for the BOD. That provision originally stated that any director missing three consecutive meetings would automatically lose his/her seat, unless the BOD voted to waive the provision. That seemed like a reasonable requirement at the time the original provision was implemented, because generally there were only 4-6 meetings per year. However, occasionally, CAMTC was authorized to call "special meetings" on less than 10 days notice (on as little as 48 hours notice). The BOD realized it was unfair to count "short notice" meetings against a director for purposes of the Attendance section in the bylaws. Thus, the section was amended so that attendance at "special" or "emergency" meetings on less than 10 days notice would not count against a director for purposes of the automatic removal section.

The only other amendments to the bylaws during the relevant time period were made on September 14, 2015. (Section 13, Attachment 18.b.) The amendments made in September of 2015 were primarily for the purpose of bringing the bylaws into compliance with the portions of the new Massage Therapy Act that would go into effect on September 15, 2015 regarding BOD composition, and to update the purposes sections of the bylaws to align with the new Act. Some additional amendments were made to delete certain sections of the bylaws that, while consistent with California Nonprofit Public Benefit Corporation Law, were not consistent with the provisions of the Bagley-Keene Open Meeting Act with which CAMTC must comply.

### **4. Describe any major studies conducted by the CAMTC.**

CAMTC has not conducted any major studies.



## ***National Associations***

**5. List the status of all national associations to which the CAMTC belongs.**

- **Does the CAMTC's membership include voting privileges?**
- **List committees, workshops, working groups, task forces, etc. on which CAMTC participates.**
- **How many meetings did CAMTC representative(s) attend? When and where?**
- **If the CAMTC is using a national exam, how is the CAMTC involved in its development, scoring, analysis, and administration?**

CAMTC currently belongs to the following national associations:

### **Federation of State Massage Therapy Boards ("FSMTB")**

CAMTC is a member and has voting rights at the Annual Conference. CAMTC's Chair serves as the Delegate to the Annual Conference. In addition to CAMTC's Chair, in 2014 both the CEO and the Director of Governmental Affairs attended the annual conference in Tucson, Arizona. In 2015, CAMTC's Chair attended the annual conference with the Director of Educational Standards in Albuquerque, New Mexico. From May of 2013 through April of 2014, a CAMTC BOD member and the Vice Chair were on the Professional Development Activity Standards Task Force. The purpose of the task force was to frame standards for professional development activities other than the ethics classes, which were to be provided directly by FSMTB.

### **International Spa Association**

CAMTC is a member of this association, but does not have voting rights on policy issues. CAMTC's CEO attended the annual meeting in Las Vegas on October 13 – 14, 2014.

CAMTC also participates in the following taskforces related to human trafficking issues, though these are not membership organizations or national associations:

### **San Francisco Coalition Against Human Trafficking (“SFCaHT”)**

CAMTC’s Director of Governmental Affairs has participated in this countywide taskforce since inception. SFCaHT meets quarterly in San Francisco.

### **Stanislaus County Human Exploitation and Recovery Taskforce (“HEART”)**

CAMTC’s Director of Governmental Affairs has also participated in this countywide taskforce since inception. HEART currently meets every two months in Modesto, hosted by the District Attorney, but met monthly until this year.

### **Polaris Project**

CAMTC’s Director of Governmental Affairs has been an active participant in the current massage initiative organized by the Polaris Project. In 2015 the Director of Governmental Affairs attended two meetings at Polaris’ headquarters in Washington, DC.

### **Use of National Exams**

For applications received on or after January 1 of 2015, CAMTC requires passage of a CAMTC approved exam for certification. The following exams have been approved by CAMTC: the Massage and Bodywork Licensing Examination (“MBLEx”); the National Certification Examination for Therapeutic Massage and Bodywork (“NCETMB”) and the National Certification Examination for Therapeutic Massage (“NCETM”) if taken prior to February of 2015; and the Board Certification Examination for Therapeutic Massage and Bodywork (“BCETMB”). CAMTC is not now, and has never been, involved in the development, scoring, analysis, or administration of any of these exams.

## Section 2 –

### Performance Measures and Customer Satisfaction Surveys

#### ***Performance Measures***

**6. Provide each quarterly and annual performance measure report for the CAMTC. If no current report is available, please explain the goals to establish such a report.**

CAMTC established average performance targets for its disciplinary program on July 15, 2015. Please see CAMTC's response to Question number 29 in this Sunset Report for a discussion of the process used to establish these average performance targets and the results. All data reported is through September of 2015. CAMTC therefore has quarterly performance measures for the second and third quarters of calendar year 2015. Attached hereto, in Section 13, Attachment 1, please find the performance metrics report for the second and third quarters of calendar year 2015.

#### ***Customer Satisfaction Surveys***

**7. If available, explain the results of any customer satisfaction surveys conducted.**

CAMTC asks that complaints against applicants or certificate holders be submitted through a link on its website, located here: [complaints@camtc.org](mailto:complaints@camtc.org). For every complaint that is received, CAMTC sends an automatic email message with a link to a customer satisfaction survey. The survey is located here: <https://www.surveymonkey.com/s/camtcsurvey2014>

The survey has been utilized since June of 2014. It contains the following eight questions:

1. How did you contact CAMTC?
2. The Complaint link was easy to use. (Yes or No)

3. I received an acknowledgement of my complaint in a timely manner. (Yes or No)
4. I Found the Frequently Asked Questions (FAQs) helpful. (Yes or No)
5. Was your complaint regarding a massage establishment and/or business practice? (Yes or No)
6. Was your complaint regarding a CAMTC certified massage professional? (Yes or No)
7. If you answered yes to question #6, were you provided with a CAMTC contact person to obtain updates? (Yes or No)
8. Do you think the information you provided will assist CAMTC in protecting the public? (Yes or No)

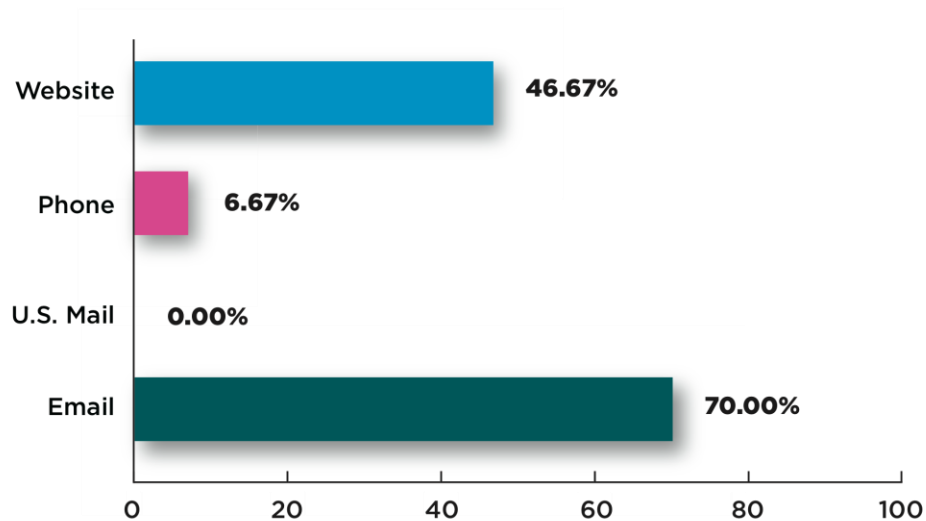
Multiple responses are allowed to each question. As of November 4, 2015, 30 responses to the nine questions have been received. Please find a summary of the responses to the survey following this discussion. Please also note, in relation to Question Number 7 of the survey, if CAMTC receives a complaint that is not actionable (since it is not against an applicant or certificate holder or is an issue CAMTC does not regulate), it does not assign a CAMTC contact person for “updates,” since there is nothing to update. Instead, CAMTC sends an email notifying the person who filed the complaint that their complaint is not actionable by CAMTC. For all actionable complaints, CAMTC immediately assigns a contact person for obtaining updates.

### QUESTION 1

## HOW DID YOU CONTACT CAMTC?

Answered: 30 Skipped: 0

Answer Option	Response Percent	Response Count
Website	46.67%	14
Phone	6.67%	2
U.S. Mail	0%	0
Email	70.00%	21



Note: Some respondents contacted CAMTC via more than one category.

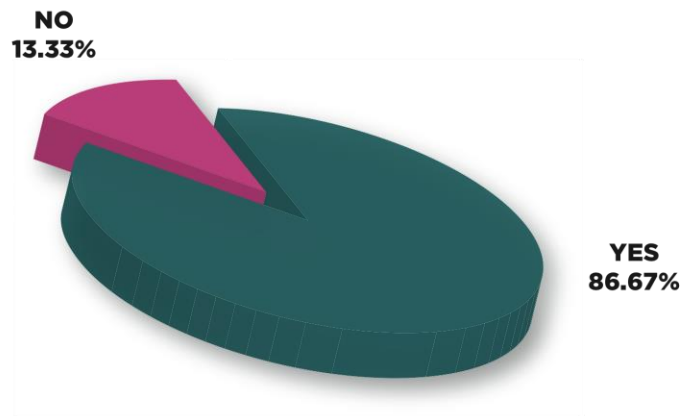


## QUESTION 2

# THE COMPLAINT LINK WAS EASY TO USE

Answered: 30 Skipped: 0

Answer Option	Response Percent	Response Count
Yes	86.67%	26
No	13.33%	4

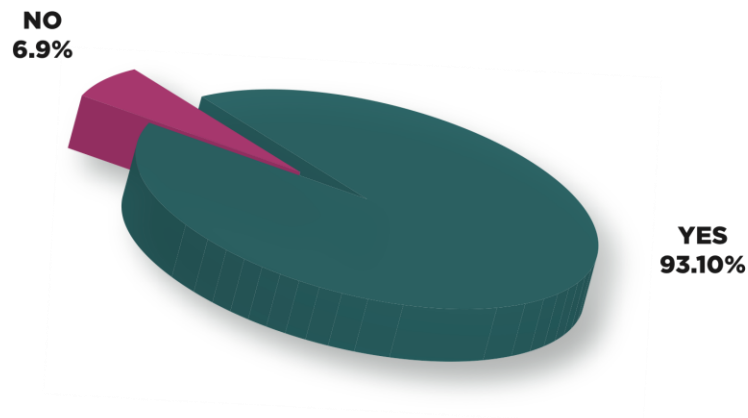


### QUESTION 3

## I RECEIVED AN ACKNOWLEDGEMENT OF MY COMPLAINT IN A TIMELY MANNER

Answered: 29 Skipped: 1

Answer Option	Response Percent	Response Count
Yes	93.10%	27
No	6.9%	2



#### QUESTION 4

### I FOUND THE FREQUENTLY ASKED QUESTIONS (FAQs) HELPFUL

Answered: 22   Skipped: 8

Answer Option	Response Percent	Response Count
Yes	54.55%	12
No	45.45%	10

NO

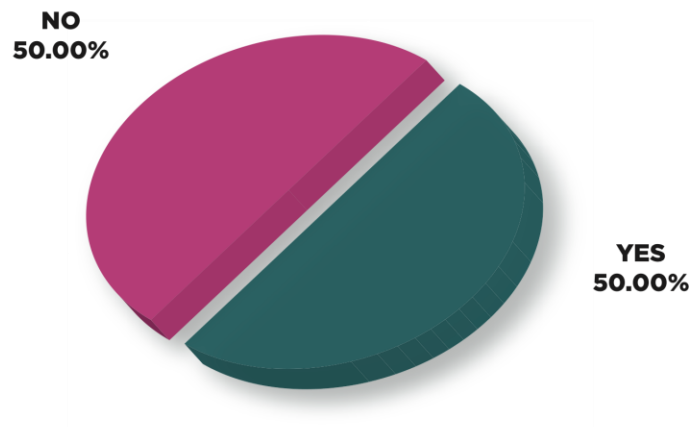


### QUESTION 5

## WAS YOUR COMPLAINT REGARDING A MESSAGE ESTABLISHMENT AND/OR BUSINESS PRACTICE?

Answered: 30 Skipped: 0

Answer Option	Response Percent	Response Count
Yes (IF YOU ANSWERED YES...)*	50.00%	15
No	50.00%	15



**\*Note: Complete question for a "Yes" response was as follows:**

Yes (IF YOU ANSWERED YES) Proceed to the bottom and hit the DONE button.

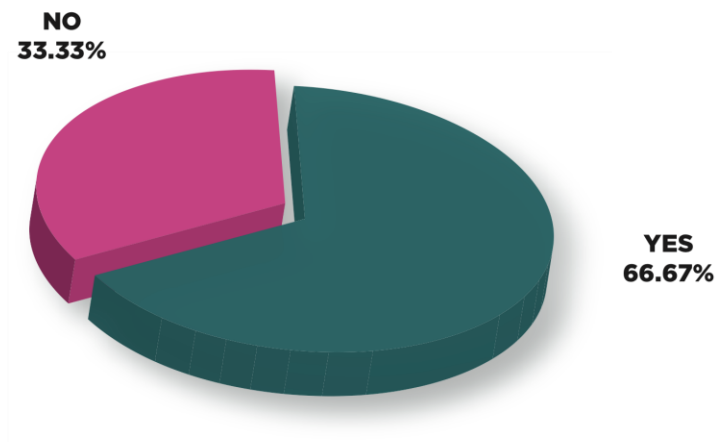


#### QUESTION 6

### WAS YOUR COMPLAINT REGARDING A CAMTC CERTIFIED MASSAGE PROFESSIONAL?

Answered: 27 Skipped: 3

Answer Option	Response Percent	Response Count
Yes	66.67%	18
No (IF YOU ANSWERED NO...)*	33.33%	9



**\*Note: Complete question for a "No" response was as follows:**

No (IF YOU ANSWERED NO - THE PERSON IS NOT CAMTC CERTIFIED) Proceed to the bottom and hit the DONE button.



**QUESTION 7**

**IF YOU ANSWERED YES TO QUESTION #6  
WERE YOU PROVIDED WITH A CAMTC  
CONTACT PERSON TO OBTAIN UPDATES?**

Answered: 16 Skipped: 14

Answer Option	Response Percent	Response Count
Yes	18.75%	3
No	81.25%	13

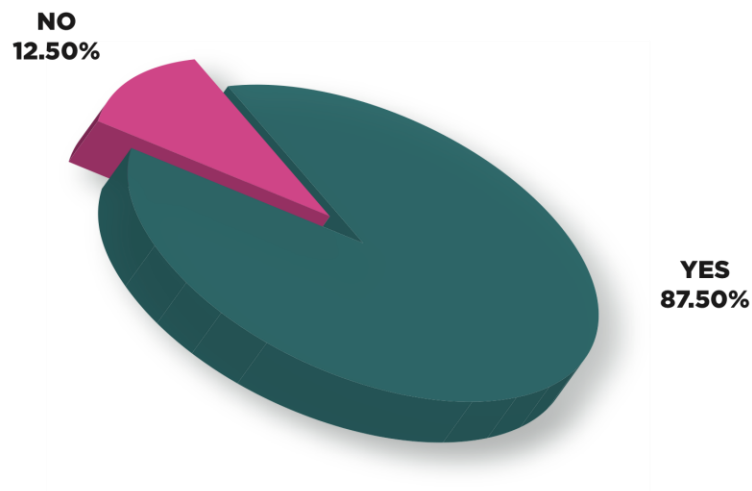


**QUESTION 8**

**DO YOU THINK THE INFORMATION YOU  
PROVIDED WILL ASSIST CAMTC IN  
PROTECTING THE PUBLIC?**

Answered: 24 Skipped: 6

Answer Option	Response Percent	Response Count
Yes	87.50%	21
No	12.50%	3



## ***Fiscal Issues***

**8. Describe CAMTC's current reserve level, spending, and if a statutory reserve level exists.**

### **Current Reserve Level and Spending**

As of October 31, 2015 CAMTC's reserve level was equal to 10.5 months of current operating budget.

### **Statutory Reserve Level**

There is no statutory reserve level.

**9. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the CAMTC.**

Even though the preliminary 2016 budget shows a deficit, it is projected that the final 2016 budget will show a modest surplus. No fee increase or reduction is anticipated.

## ***CAMTC Fund Condition***

<b>Table 2. Fund Condition</b>		
(Dollars in Thousands)	<b>2014</b>	<b>1/1/2015 - 9/30/2015</b>
Beginning Balance	\$1,829,917	\$3,195,772
Cash In/Revenue	\$4,779,307	\$3,023,677
<b>Total Cash</b>	<b>\$6,609,223</b>	<b>\$6,219,448</b>
Expenditures (Cash)	\$3,413,451	\$2,908,806
<b>Fund Balance</b>	<b>\$3,195,772</b>	<b>\$3,310,642</b>
<b>Months in Reserve</b>	<b>11</b>	<b>10</b>

**10. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the CAMTC in each program area. Expenditures by each component do not need to be broken out by personnel expenditures and other expenditures.**

For amount of expenditures by program component, please see Table 3 below. In 2014, 48.7% of expenditures were for individual denials (applicants) and discipline (certificate holders). In the first nine months of 2015, that number dipped slightly to 46%. In 2014, the rest of the expenditures were for administrative costs, both Advocacy and Management Group (“AMG”) and non-AMG. For the first nine months of 2015, these costs were similar, with the new Educational Standards Division accounting for 4.8% of total expenditures.

## ***Expenditures by Program Component***

<b>Table 3. Expenditures By Program Component</b>		
	<b>2014</b>	<b>1/1/2015 - 9/30/2015</b>
Individual Denials and Discipline (PSD & Legal)*	\$1,702,692	\$1,320,266
Educational Standards Division (Schools)	-	\$138,629
Administration (AMG)	\$891,203	\$686,140
Administration (non-AMG)	\$903,511	\$727,366
<b>TOTALS</b>	<b>\$3,497,406</b>	<b>\$2,872,401</b>
* Includes a portion of AMG, database development and maintenance, executive staff, and legal.		



**11. Describe certificate re-certification cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code, California Code of Regulations, or bylaw citation) for each fee charged by CAMTC.**

CAMTC has only been in operation since 2009 and its fees for certification and re-certification have not changed since inception. CAMTC's authority to set fees is provided in Business and Professions Code section 4602(i), which states that the BOD "shall establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties." The BOD reviews the certification and re-certification fees annually. Fees for an initial application for certification and for a re-certification application (each of which results in certification for a two year time period) have been set at \$150 (\$75 a year). Business and Professions Code section 4602(i) further provides that the fee for certification and re-certification shall not exceed \$300. Additionally, Business and Professions Code sections 4602(k) and (l) state that notice must be given at least 90 days before a BOD meeting where a vote on a proposal to increase the fees will occur and, if the fees are increased, affected applicants and certificate holders must be notified by email within 14 days of the BOD's action.

On January 18, 2011, the BOD established a \$75 late fee for re-certification applications received after their certificate expiration date, with the provision that if an application for re-certification is received 180 days or more after the expiration of a certificate, the applicant has to re-apply as a new applicant. This means they have to meet the current requirements for certification, including the new education requirements and passage of a CAMTC approved exam. On September 13, 2012, the BOD replaced the \$75 late fee with a sliding fee scale. This sliding fee scale is still in place. The sliding fee scale is as follows:

Applications for re-certification received or postmarked:

1-10 days after expiration -	\$25
11-29 days after expiration -	\$40
30-180 days after expiration -	\$90

On September 15, 2011, the BOD established a fee for oral hearings and consideration of written statements for all applicant proposed denials and certificate holder discipline. The initial fee for an oral hearing was \$95 and the fee for consideration of a written statement was \$65. Fee waivers were granted for indigent individuals who were able to prove that they were unable to pay the hearing or consideration fees. (Section 13, Attachment 19.) On September 13, 2012, the fees were raised to \$135 for an oral hearing and \$90 for consideration of a written statement and have not changed since that time.

## Fee Schedule and Revenue

Table 4. Fee Schedule and Revenue					
		(Dollars in Thousands)			
FEE TYPE	Current Fee Amount	2014 Cash Revenue	2015 Cash Revenue*	TOTAL FEES BY TYPE	% of Total Revenue
Application Fees	\$150	\$2,111	\$857	\$2,968	38.2%
Recertification Fees	\$150	\$2,518	\$1,865	\$4,383	56.4%
Recertification Late Fees		\$119	\$128	\$247	3.2%
1-10 days	\$25				
11-29 days	\$40				
30-179 days	\$90				
Upgrade/Miscellaneous Fees		\$4	\$74	\$78	1.0%
Upgrade	\$30				
ID Replacement	\$15				
Certificate Replacement	\$15				
Name Change (New ID & Certificate)	\$30				
Hearing Fees		\$24	\$24	\$48	0.6%
Written Hearing	\$90				
Oral Hearing	\$135				
Returned Check Fees	\$25	\$1	\$1	\$2	0.0%
School Application Fees	\$750		\$25	\$25	0.3%
School Background Check Fees	\$41		\$17	\$17	0.2%
<b>TOTALS</b>		<b>\$4,777</b>	<b>\$2,991</b>	<b>\$7,768</b>	<b>100.0%</b>
*2015 data is through 9/30/2015					
Table 4 does not include other income such as interest and career opportunity mailings.					

## ***Staffing Issues***

### **12. Describe any staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.**

The BOD does not have issues with staffing of CAMTC employees. CAMTC is unusual in that it has both its own employees and a contract management firm, AMG, that provides services. CAMTC employees hold all executive positions (CEO, Director of Governmental Affairs, Director of PSD, and Director of ESD) and generally administer the denial and disciplinary program against individuals (PSD and Legal) and administer the program related to the approval and un-approval of schools (ESD). AMG generally provides administrative services. AMG administers the day-to-day operations of the program, such as: 1) processing applications for certification, re-certification and school approvals; 2) processing payments; 3) providing telephonic and email customer support; 4) maintaining the database and documents; and 5) printing and issuing certificates and ID cards. AMG also employs staff that provides administrative support to the PSD and ESD. For more information about AMG, please see Section 3, response to Question 14 of this Sunset Report. AMG hires the staff that they have dedicated to CAMTC's account.

Additionally, CAMTC works with an outside law firm that provides general counsel and special counsel services related to denial, disciplinary, school, litigation, and other matters, much like the Attorney General's Office provides these services to Boards and Bureaus. CAMTC also employs three staff attorneys and three paralegals that work exclusively on denial and disciplinary matters against individuals and schools under the direction of special counsel. Please see the Organization Chart for 2015 for the division of tasks. (Section 13, Attachment 27.b.) Neither AMG nor CAMTC has had significant turnover and staff retention is excellent. The CEO, Director of Governmental Affairs, Director of PSD, and Director of ESD have not changed since their hire dates. Currently CAMTC is planning to hire one additional staff attorney and is considering hiring a part-time paralegal.

**13. Describe the CAMTC's staff development efforts and how much is spent annually on staff development.**

CAMTC holds annual in-person trainings for the PSD and Legal departments, conducted by Special Counsel. Additional telephonic and in-person trainings are also conducted on an as needed basis. In 2014, the annual training introduced PSD and Legal staff to the changes mandated by AB 1147 and the implementation of the revised Procedures for Denial of Certification or Discipline/Revocation ("Denial Procedures") and Criteria for Proof of Rehabilitation. (Section 13, Attachments 20.a. and 21.) Due to the significant changes in the law and procedures, this was a two-day training session.

In December of 2015, PSD will hold a one-day in person meeting for all PSD and Legal staff, again conducted by Special Counsel. In 2015 Special Counsel also provided a one-day in-person training session to the PSD staff responsible for background investigations, and provided a separate one-day in-person training session to PSD investigators and staff counsel focused on the drafting of declarations. A new staff attorney was hired in May of 2015 and has undergone extensive training provided by Special Counsel. Special Counsel also regularly interacts with AMG staff to provide training on legal issues to those that provide support to the PSD. PSD staff has also conducted additional informal trainings as needed with AMG staff to ensure the most efficient coordination of responsibilities. As an entity operating in a changing legal landscape, it is imperative that CAMTC employees and those working on CAMTC matters be continually brought up to speed on the implementation of the law and best practices for sharing information with local law enforcement agencies and local government agencies that regulate massage.

PSD management works with their employees to identify those who are interested in expansion of their roles. Whenever possible, PSD will offer opportunities to move its staff into new positions with additional responsibilities.

The newly formed ESD began operating in 2015. The Director, staff of inspectors, and associated AMG support staff underwent two days of in-person training with Special Counsel in April. In June, the ESD Director and the PSD's Chief of Investigations provided a one-day in-person training session for the school inspectors.

With the school inspection and approval program being implemented for the first time this year, the Director of ESD has participated in several of the initial inspections for additional monitoring and training of his staff.

The total cost for all training for 2014 and the nine months ending September 30, 2015 was \$37,087.

**14. Please explain any outside consulting contracts for staff services, administrative or other services.**

AMG provides CAMTC with administrative services, such as: 1) processing applications for certification, re-certification and school approvals; 2) processing payments; 3) providing telephonic and email customer support; 4) maintaining the database, secure sites, and documents; and 5) printing and issuing certificates and ID cards. AMG also employs staff that provides administrative support to the PSD and ESD. AMG's bookkeeper processes and issues checks to CAMTC staff and BOD members for expense reimbursement requests. AMG contracts with a payroll service for payment of CAMTC employees' payroll.

Currently there are 18 full time AMG employees who work exclusively on CAMTC's account. Three other AMG employees, such as the bookkeeper and IT staff, provide services to CAMTC on a part-time as needed basis.

CAMTC contracts with Risetime, a company based in Chicago, Illinois for support and maintenance of the website currently in use by CAMTC, on an hourly as needed basis. Risetime makes modifications to CAMTC's website. CAMTC also contracts with Creative Computer Services ("CCS"), a California based company, for website hosting,

website maintenance, development of online re-certification tools, as well as internal user interfaces. CCS is paid on an hourly as needed basis.

CAMTC engages the law firm of Jill S. England, Attorney at Law, in Sacramento, California, for legal services. The firm provides General Counsel services; Special Counsel services related to denial and disciplinary matters for individuals, school un-approval and school disciplinary matters, and litigation matters; and specialized legal services related to other matters such as zoning and land use in relation to legislation. The firm bills monthly on an hourly basis.

CAMTC contracts with Pacific Project Management (“PPM”) for management and oversight of the implementation of the new database. PPM has worked to develop the business and technical requirements and system flow diagrams for the new database. In September this contract was extended so that PPM can assist in the remaining work cycles.

CAMTC contracts with inLumon to develop and create the new database and document management system. This new system will allow applicants to complete applications online, allow CAMTC to manage and provide secure access to documents in a cohesive fashion, and allow for a significant improvement in data and document management and tracking. InLumon will also verify and transfer the records from the existing database system to the new system. The project will occur in three phases with, a tentative “Go Live” date of June 1, 2016, and final completion of the project expected later that month. InLumon is based in Reno, Nevada. Please see CAMTC’s response to Question # 56 of this report for further discussion of the new database and document management system, referred to as the Certification and Application Management System (“CAMS”).

CAMTC contracts with RBW Communications on a part time basis. RBW monitors media related to CAMTC and maintains relationships with the media to ensure that reporters contact CAMTC for information on stories that relate to the regulation of

massage professionals in California. RBW will also contact the media to correct misinformation.

This year CAMTC contracted with TalentWise to perform background checks for school owners, administrators, and instructors of those schools that apply for CAMTC approval. These background checks report on Criminal Database Searches, Nationwide Sex Offender Registry, and Credential Verification.



## ***Certification Targets***

**15. What are the CAMTC's targets/expectations for its certification program? Is the CAMTC meeting those expectations? If not, what is CAMTC doing to improve performance?**

CAMTC's goal is to process complete applications, with no outstanding issues, within 30 days of the application becoming complete. CAMTC is meeting this goal. The current timeframe for processing complete applications with no education or background issues is 15 days.

CAMTC received an overwhelming amount of applications at the end of 2014, due to the fact that the requirements for certification were changing as of January 1 of 2015. On January 1, 2015, CAMTC removed its Certified Massage Practitioner (250 hour) tier for certification, which meant that all applications received in 2015 were required to have 500 hours of education from CAMTC approved schools. (Bus. & Prof. Code §4604.1(a).) Additionally, of those 500 hours, 100 hours were required to be in core curriculum requirements (anatomy and physiology, contraindications, business and ethics, and health and hygiene). (Bus. & Prof. Code §4604(a)(1)(A).) Applications received on or after January 1 of 2015 were also required to show passage of a CAMTC approved exam. (Bus. & Prof. Code §4604(a)(3).) Many applicants rushed to complete 250 hours of massage education and submit applications to CAMTC before the requirements for certification changed. Due to the flood of applications received at the end of the year, CAMTC was experiencing significant processing delays at the beginning of 2015. It notified applicants of this issue by placing the following notification on its website:

**Massage professionals please note:** We continue to receive a large number of applications for certification, so please expect the process to take approximately

ninety (90) days for COMPLETE applications that have no background or educational issues. A [complete application](#) includes a signed and dated application on which complete, true, and accurate answers to all of the questions have been provided, as well as payment, passport photo, copy of government issued ID, original transcripts sent directly from school(s), exam proof sent directly from examining board, and live scan fingerprinting results have been received. Applications with issues, including but not limited to those received from applicants with criminal convictions, civil or administrative citations or where local action has been taken against the applicant, complaints have been made in relation to an applicant's professional conduct, or those with education issues can take a significantly longer period of time. You can check on the status of your application [here](#). We appreciate your patience.

In order to address this issue, CAMTC authorized overtime and additional AMG staff members were assigned to CAMTC matters to help process applications. This issue was largely resolved by March 31, 2015. Currently, CAMTC processing times are in line with expectations.

## ***Application and Certification Processing Times***

**16. Describe any increase or decrease in the CAMTC's average time to process applications and/or issue certificates. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the CAMTC to address them? What are the performance barriers and what improvement plans are in place? What has the CAMTC done and what is the CAMTC going to do to address any performance issues, i.e., process efficiencies, regulations, legislation?**

### **Complete Applications With No Educational, Criminal, or Background Issues**

The average time needed to issue certificates depends largely on the receipt of the items required for certification and if there are any outstanding educational, criminal, or background issues which are, for the most part, outside of CAMTC's control. CAMTC bases its application processing statistics from the date that an application is considered complete. A complete application is one for which CAMTC has received a signed, dated, and completed application form that includes all required attachments, the application fee, livescan results from the DOJ and FBI, official transcripts received directly from an approved school or schools, test results from a CAMTC approved exam received directly from the testing organization, and information from the local agencies

in the cities and counties where the applicant has stated that they have lived or worked in the past 10 years (or the two week time to receive this information has elapsed). Currently, the average processing time for complete applications with no education, criminal, or background issues is 15 days.

### **Applications With Education, Background, and other Issues**

Applicants with “complete applications” as described above, but who have submitted a transcript from a school (or schools) where they are required to provide additional proof of adequate education (beyond just a transcript), are grouped together and sent education only Proposed Denial Letters. Those students that apply to CAMTC with education from a school that is moving through the school un-approval process, as described in the School Un-approval Procedures (Section 13, Attachment 22.a., 22.b.), are held until a final decision is made in regards to the un-approval of the school. If the BOD decides to un-approve the school, all of the applicants with education from that school who apply before or within 90 days of the posting of the school as un-approved on CAMTC’s website, are sent Proposed Denial Letters. If the school is ultimately not un-approved, then the held applicants are all processed. This can result in longer applicant processing timelines while a school moves through the un-approval process and the applications are held. The holding of applications for schools in the un-approval process is an integral part of that process, and there is no way to shorten timelines for these applicants.

Likewise, applicants with background issues are sent to PSD for review, and move through the process described in the response to Question 32 of this Sunset Report. As described, CAMTC makes its best efforts to identify applicants with easily cleared issues and move them quickly through the PSD review process. CAMTC believes that its efforts can be seen in the fact that applicants with educational or background issues are processed on average within 100 days of a complete application.

## **Pending Applications**

CAMTC is currently receiving a low volume of applications due to the fact that the requirements for certification changed on January 1 of 2015. Currently, there are no backlogs for pending applications. CAMTC is processing applications and issuing certificates for complete applications with no background or education issues in an appropriate amount of time.

## **Performance Barriers**

CAMTC is currently working with a database provider to create a new database and document management system. Please see the response to Question 56 for a discussion of this new system. This system will allow CAMTC to better manage its data and documents, and will eliminate the current need for manual tracking of data that was not built into the current system. For example, CAMTC is currently manually tracking the data requested in Business and Professions Code section 4620(a)(4) so that it may report this information back to the Legislature on June 1, 2016. CAMTC's current database is not equipped to manage and track the information requested in an electronic fashion.

### **17. How many certificates does the CAMTC issue each year? How many re-certifications does the CAMTC issue each year?**

Please see Tables 6 and 7 for this information for 2014 and the first nine months of 2015.

## Certification Population for 2014 through September 2015

Table 6. Certification Population			
		2014	2015*
CMT Certified Massage Therapist	Active	38729	42734
	Inactive	13989	13996
CMP Certified Massage Practitioner	Active	6151	7532
	Inactive	2086	2087
CCMP Conditional Certified Massage Practitioner	Active	48	31
	Inactive	525	525
<b>**Corrections - Additional Inactive</b>		1203	1203
*2015 data is through 9/30/2015			

\*\*In the past, inactive certificates for revoked certificate holders and denied re-certification applicants were not counted as “inactive” in the database. Instead, the old certificate number was removed from the database, and a new certificate number was issued if the person was eventually re-certified (this has changed, and now the same certificate number would be used in this situation). This policy has changed, and as of 2013 the old certificate numbers are no longer removed, and can now be counted as “inactive” in the database. The *Corrections – Additional Inactive* number was added to the data’s totals in order to correct the discrepancy and count the inactive certificate numbers that were previously removed from the database.

## Total Certification Data

Table 7. Total Certification Data				
	Application Type	Received in the Year Noted	Approved in the Year Noted	Effective Date of Denial in the Year Noted
2014	CMT Certification	12,319	8,589	434
	CMT Re-certification	14,438	15,165	
	CMP Certification	3,013	1,524	
	CMP Re-certification	2,280	2,724	
	CCMP Certification	0	4	
	CCMP Re-certification	23	73	
2015*	CMT Certification	2,171	4,010	158
	CMT Re-certification	11,252	11,374	
	CMP Certification	0	1,368	
	CMP Re-certification	1,667	1,739	
	CCMP Certification	0	0	
	CCMP Re-certification	5	5	
Total Applications and Applications for Re-certification Received January 1, 2014 - September 30, 2015				47,168
Total Applications and Applications for Re-certification Closed (Approved/Denied) January 1, 2014 - September 30, 2015				47,167
Total Applications Purged January 1, 2014 - September 30, 2015**				127
Total Applications and Applications for Re-certification Pending to Date				2,563
Of Pending Total Application and Applications for Re-certification incomplete to Date				1,944
Of Pending Total Applications and Applications for Re-certification in Process to Date				170
New Certificates Issued in 2014				10,119
Re-certification's Approved in 2014				18,035
New Certificates Issued in 2015				5,378
Re-certification's Approved in 2015				13,172
Average number of days to approve applications with no background or education issues (from date file is complete)				15
Average number of days to approve applications with background or education issues (from date file is complete)				100
*2015 data is through 9/30/2015				
**Incomplete applications are purged after one year				

## ***Information Verification and Requirements***

### **18. How does CAMTC verify information provided by the applicant?**

- a. What process does the CAMTC use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?**
- b. Does the CAMTC fingerprint all applicants?**
- c. Have all current certificate holders been fingerprinted? If not, explain.**
- d. Is there a national databank relating to disciplinary actions? Does the CAMTC check the national databank prior to issuing a certificate? Renewing a certificate?**
- e. Does the CAMTC require primary source documentation?**

### **Process to check prior criminal, disciplinary actions, and unlawful acts of the applicant.**

Pursuant to Business and Professions Code section 4606, all applicants must be fingerprinted and must comply with live scan requirements using CAMTC's ORI number, so that reports on State and Federal level convictions and arrests are sent directly to CAMTC. This has been a statutory requirement since the enabling law became effective, so every applicant (and therefore certificate holder) has submitted fingerprints. Once someone has applied for CAMTC certification, CAMTC continues to receive subsequent arrest notifications from the DOJ and FBI, unless and until CAMTC sends a "no longer interested" notification. In this manner, CAMTC is continually updated on applicant and certificate holder State and Federal level convictions and arrests.

CAMTC also communicates with local cities, counties, and law enforcement agencies to gather information about local disciplinary actions taken against an applicant or certificate holder applying for certification or re-certification. Once an application for certification or re-certification is received, e-mail notices are sent to each city, county, and law enforcement agency where the applicant has reported that they have lived or worked within the past ten years. Email communication with cities, counties, and law enforcement agencies related to applicants and certificate holders is continuous and on-going, with more than 1.2 million email messages sent from CAMTC to local agencies

since inception. On average, ten email messages are sent for each applicant for certification or re-certification to the cities, counties, and law enforcement agencies where the applicant has lived or worked in the past ten years, each time they apply for certification or re-certification.

Because certificate holders must apply for re-certification every two years, cities, counties, and law enforcement agencies are contacted about each person at least every two years. A minimum of two weeks is provided for local law enforcement and local government staff to submit information related to each applicant. Information received is reviewed and, when warranted, investigated to determine if a violation of CAMTC's statute has occurred. The receipt of this information from local jurisdictions is critical. The DOJ and FBI reports are limited to criminal arrests and convictions and do not include administrative citations or civil actions related to a local massage or business permit, as these are commonly civil, not criminal, matters. Additionally, local municipal code violations don't always show up on the DOJ, since in many cases these violations don't require fingerprinting, so there is no DOJ reporting. Local jurisdictions may also provide evidence that an applicant or certificate holder has engaged in conduct that violates CAMTC's statute. Since the implementation of AB 1147, CAMTC has received more reporting from local cities, counties, and law enforcement agencies and hopes that this cooperation will continue to increase in the future.

CAMTC receives information about applicants and certificate holders through its complaint link. CAMTC also receives information from out-of-state massage boards in relation to discipline against massage professionals. This information is thoroughly reviewed before applicants are certified or certificate holders are re-certified.

### **Fingerprinting of Applicants**

This has been a statutory requirement since the enabling law became effective, so every applicant has submitted fingerprints.



## **Fingerprinting of Certificate Holders**

This has been a statutory requirement since the enabling law became effective, so every certificate holder has submitted fingerprints.

## **National Databank**

Currently there is no functional national databank related to disciplinary actions against massage professionals. While one is currently in development, it is not operational at this time, and therefore the exact manner in which it will operate and the quality of the data it will provide is not known.

## **Primary Source Documentation**

CAMTC does require primary source documentation. CAMTC requires that open schools directly submit transcripts to CAMTC, and will not accept transcripts submitted by students. For schools that have closed, and no independent verification of education exists, CAMTC accepts compelling evidence of attendance and graduation submitted by the applicant. Information submitted by an applicant is assessed by staff. Applicants may also be required to pass an interview with a CAMTC curriculum expert who has many years of expertise in the profession.

Test scores from CAMTC approved exams (NCETMB, NCETM, BCETMB and MBLEx) are also sent directly to CAMTC. If an exam has been taken prior to submission of an application for certification and is being used as part of the application, CAMTC staff will verify the score with the testing provider.

**19. Describe the CAMTC's legal requirement and process for out-of-state and out-of-country applicants to obtain certification.**

## ***Out of State Applicants***

Business and Professions Code section 4604(a)(6) provides:

The council may issue a certificate to an applicant who meets the qualifications of this chapter if he or she and holds a current and valid registration, certification, or license from any other state whose licensure requirements meet or exceed those defined within this chapter. If an applicant has received education at a school that is not approved by the council, the council shall have the discretion to give credit for comparable academic work completed by an applicant in a program outside of California.

When CAMTC receives an application from an applicant that is licensed, registered, or certified in another state, it first assesses whether the license is from a state that meets or exceeds the educational requirements in CAMTC's statute. CAMTC's statute changed in 2015, and now requires 500 hours of education (or credit unit equivalent), with 100 of those 500 hours comprised of instruction in core curriculum subjects (anatomy and physiology, contraindications, health and hygiene, and business and ethics). (Bus. & Prof. Code §4604(a)(1)(A).) For applicants who hold valid licenses from these states, the state license is considered to meet the educational requirements in CAMTC's statute. These applicants are still assessed to determine whether they meet the other background requirements in the statute. They must still pass CAMTC's background check. CAMTC is currently reviewing the requirements for licensure in other states to determine which state's requirements for licensure meet or exceed the educational requirements in CAMTC's statute.

For applicants who have licenses from states that do not meet or exceed the educational requirements in CAMTC's statute, or have education completed in other states, their education is considered on a case-by-case basis. CAMTC has the statutory authority to give credit for comparable work completed outside of California. CAMTC has experts that assess out of state transcripts and determine the credit that should be given for each transcript and whether it meets CAMTC's educational requirements, including the core curriculum requirements.

## ***Out of Country Applicants***

CAMTC does not have the legal authority to accept or evaluate licenses from other countries. Instead, CAMTC evaluates the education received from out of country schools by having the applicant send their transcripts to a foreign evaluation service approved by the BOD. Currently there are two approved foreign evaluation services that translate and assess massage transcripts. CAMTC accepts translated and evaluated transcripts from the evaluation service, and that document is reviewed to determine compliance with the educational standards in CAMTC's statute. Please see CAMTC's policy on Foreign Transcripts. (Section 13, Attachment 23.)

### **20. Does the CAMTC send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.**

CAMTC does send No Longer Interested notifications electronically to the DOJ on a regular and ongoing basis. There is currently a backlog due to the fact that the DOJ does not allow CAMTC to send these notices in batches. Instead, CAMTC must send one email for each individual for which a "No Longer Interested" notification is required. The new database system in development will send these notices automatically on a weekly basis, so there will be no backlog once the new system is implemented.

## ***Examinations***

### **21. Describe the examinations required for certification. Is a national examination used? Is a California specific examination required?**

CAMTC has approved and recognizes three psychometrically developed national exams, though only two of the exams are available for individuals taking an exam on or after February 15, 2015. The examinations currently approved by CAMTC's BOD are the MBLEx (offered by FSMTB), the NCETMB and the NCETM if taken before February 1, 2015, and the BCETMB (which are offered by NCBTMB). The FSMTB and NCBTMB each contract with Pearson VUE to deliver and score their exams.

**22. What are pass rates for first time vs. retakes in the past 4 fiscal years? If information is available.**

This information is not available to CAMTC since it does not administer the exam(s).

**23. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.**

CAMTC does not believe that existing statutes are hindering the efficient and effective processing of applicants. CAMTC's statute provides it with the ability to process applications in both an efficient and effective manner. The information sharing with local agencies codified in CAMTC's statute provides it with the ability to effectively evaluate a significant amount of information. CAMTC's broad statutory authority for denials and discipline also affords it ample opportunity to effectively assess applicants and discipline certificate holders when necessary.

## ***School Approvals***

**24. Describe the legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the CAMTC work with BPPE in the school approval process?**

CAMTC's school approval process is a system in transition. Under the current process, which has been in existence since 2012, schools are generally considered to be "approved" by CAMTC unless and until they are un-approved by CAMTC. (Section 13, Attachments 22.a., 22.b.) However, this passive approval system is changing. As of July 1, 2016, CAMTC will only be accepting education from schools that it has actively approved. (Section 13, Attachment 15.c.)

Pursuant to Business and Professions Code section 4604(a)(2)(B), in order for an applicant to gain certification as a Massage Therapist, all 500 hours of their education must be from "schools approved by the council." The BOD determined that "schools approved by the council" means a school that meets the definition of an "approved school" as defined by Business and Professions Code section 4601(a). This means

that in order for CAMTC to accept education from a specific school, the school must have been approved by one of the organizations listed in this provision of the statute (generally BPPE) and not been un-approved by CAMTC. Under CAMTC's current process, a school is therefore considered to be "approved" by CAMTC as long as it has been approved by one of the entities listed in 4601(a) and has not been un-approved by CAMTC. This is the process that CAMTC has been implementing since 2012. In 2015 CAMTC began creating a process to actively approve massage schools for CAMTC certification, pursuant to Business and Professions Code section 4615(b).

On February 17, 2015, the BOD approved the first Policies and Procedures for Approval of Schools (hereafter "School Approval Procedures"). (Section 13, Attachment 15.a.) These procedures were finalized after the input of many interested parties. (Section 13, Attachment 14.a.-14.c.) The School Approval Procedures have been modified a number of times since this initial document was approved. (Section 13, Attachments 15.a. – 15.c.) The School Approval Procedures address various topics, including but not limited to, minimum standard for training and curriculum, facility requirements, student-teacher ratios, clinical practice requirements, security measures for transcripts, attendance, and accreditation requirements. 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. (Section 13, Attachment 14.a. and 24.) 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 cut off date. (Section 13, Attachment 24.) The ESD is currently reviewing submitted materials and performing site visits for all 112 schools that have applied for CAMTC approval.

### **BPPE Role In School Approvals And Relationship with CAMTC**

For schools that need BPPE approval in order to meet the requirements of Business and Professions Code section 4601(a), they must receive this approval as a prerequisite before applying for CAMTC approval. The ESD Division Director and the

Director of Governmental Affairs have met with BPPE leadership about each organization's respective roles. BPPE provides CAMTC with information related to BPPE school approval status, dates, and additional details as available. CAMTC assists BPPE with information regarding certification requirements and schools CAMTC has un-approved. The two organizations are working on a Memo of Understanding to further increase communications.

**25. How many schools are approved by CAMTC? How often are approved schools reviewed? Can the CAMTC remove its approval of a school?**

Because CAMTC's approval process is new, no schools have received CAMTC approval yet. CAMTC has received 112 applications since April 1, 2015, and is currently reviewing submitted materials and performing site visits for all applied schools. CAMTC anticipates completing this process by July 1, 2016, at which point CAMTC will only accept education from CAMTC approved schools. Until then, CAMTC continues to accept education from schools approved by BPPE or other agencies listed in Business and Professions Code section 4601(a) which are not otherwise un-approved by CAMTC.

CAMTC approved schools will have to seek re-approval every two years. Approved schools must inform CAMTC of all changes related to school name, location, massage curriculum, ownership, administration, and massage faculty as they occur. Additionally, CAMTC can and will perform unscheduled site visits to all approved schools. Schools may have their school approval revoked, suspended, or otherwise acted against, including the imposition of probationary conditions, at any time upon violation of CAMTC's School Approval Procedures. (Section 13, Attachment 15.c.)

**26. What are the CAMTC's legal requirements regarding approval of international schools?**

CAMTC does not actively approve international schools. Instead, education received from international schools is sent to a foreign evaluation service approved by the BOD. CAMTC accepts the evaluated transcript from the evaluation service and that document

is reviewed to determine compliance with the educational standards in CAMTC's statute. Please see CAMTC's Policy on Foreign Transcripts. (Section 13, Attachment 23.)

**27. Please describe the number of schools approved, disapproved or re-approved.**

Under the current un-approval process, CAMTC has un-approved 62 schools since 2009, and has identified and listed 7 other schools for which students must provide additional proof of adequate education (beyond a transcript and diploma) when applying for certification. 14 of the 62 un-approved schools have been un-approved since the last Sunset review. CAMTC continues to investigate and un-approve schools that have violated its Procedures for Un-approval, and will continue to do so until July 1, 2016, at which time it will transition to only accepting education from CAMTC approved schools. (Section 13, Attachments 15.c., 22.b.) CAMTC has not re-approved any schools that have been un-approved, though it has lifted probationary conditions for some schools. CAMTC also does not recognize a number of schools because they fail to meet the definition of an approved school in Business and Professions Code section 4601(a) in that they do not have a massage program that is approved by BPPE or another listed organization.

Under the new School Approval Procedures, ESD is in the process of reviewing all 112 schools that have applied for CAMTC approval. To date, no schools have been officially approved by CAMTC, and official CAMTC school approvals will not be issued before January 1 of 2016. CAMTC anticipates that review of all 112 schools that have applied for CAMTC approval will be completed by July 1, 2016.

## ***Continuing Education/Competency Requirements***

**28. Describe the CAMTC's continuing education/competency requirements, if any. Describe any changes made by CAMTC since the last review.**

- a. How does the CAMTC verify CE or other competency requirements?**
- b. Does the CAMTC conduct CE audits of certificate holders? Describe the CAMTC's policy on CE audits?**
- c. What are the consequences for failing a CE audit?**
- d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?**
- e. What is the CAMTC's course approval policy?**
- f. Who approves CE providers? Who approves CE courses? If the CAMTC approves them, what is the CAMTC application review process?**
- g. How many applications for CE providers and CE courses were received? How many were approved?**
- h. Does the CAMTC audit CE providers? If so, describe the CAMTC policy and process.**
- i. Describe the CAMTC's effort, if any, to review its CE policy for purposes of moving toward performance based assessments of the certificate holder's continuing competence.**

There is no continuing education requirement. There have therefore been no changes made since the last Sunset review.



## ***Enforcement Program Performance Targets***

**29. What are the CAMTC's performance targets/expectations for its enforcement program? Is the CAMTC meeting those expectations? If not, what is the CAMTC doing to improve performance?**

In 2015, CAMTC engaged in a project to establish performance targets for its program. Since there are no other programs exactly like CAMTC to review for comparison value, CAMTC decided to review existing DCA programs to get a sense of what targets those programs were setting and achieving. While this data was not directly on point, we hoped it would serve as a jumping off point. CAMTC surveyed 36 DCA boards and bureaus and calculated an average for each measure. For the 36 boards and bureaus researched, the following aggregate averages were found for Q2 fiscal year 2014-2015:

- DCA Boards and Bureaus Aggregate Average – PM1 - Volume of complaints per month, on average: 243;
- DCA Boards and Bureaus Aggregate Average – PM2 - Intake, target average was 11 days, actual average: 11 days;
- DCA Boards and Bureaus Aggregate Average – PM3 - Intake and Investigation (does not include cases resulting in formal discipline), target average was 204 days, actual average was: 153 days (this number does not include numbers for the Medical and Physician Assistant boards, as they did not report due to Breeze);
- DCA Boards and Bureaus Aggregate Average – PM4 - Imposition of Formal Discipline, target average was 540 days, actual average was: 728 days (this number does not include information from the Medical, Physician Assistant, and Nursing boards as they did not report due to Breeze).

After reviewing this information, CAMTC established the following performance targets for its program on July 15, 2015:

- PM2 – Intake Target Average- (Average cycle time from complaint receipt to the date the complaint was assigned to an investigator) - 9 days;
- PM 3 - Intake and Investigation Target Average (Average cycle time from complaint receipt to closure of the investigative process. Does not include cases forwarded for formal discipline) –180 days; and
- PM 4 - Formal Discipline Target Average (Average number of days to complete the entire enforcement process for cases resulting in formal discipline.) – 480 days.

Having never calculated these numbers before, CAMTC was not sure what its data would look like, but believed from anecdotal information that it had been performing in a highly efficient and cost effective manner.

Since these performance targets are newly established, CAMTC only has performance metrics data for the second and third quarters of calendar year 2015. This preliminary data shows that CAMTC is exceeding expectations and performing at an exceptionally high level. (Section 13, Attachment 1.).

In the second and third quarters of calendar year 2015, CAMTC is significantly out performing its targets. Please see the following data for the second and third quarters of calendar year 2015:

- PM1.1 – Volume of Complaints against Certificate Holders<sup>1</sup>
  - Second Quarter 2015 – PM1 – total complaints against certificate holders – 26 on average a month.
  - Third Quarter 2015 – PM1 – total complaints against certificate holders – 28 on average a month.

---

<sup>1</sup> Total Complaints (PM1), Complaints Against Certificate Holders (PM1.1), and Complaints Against Certificate Holders submitted by Law Enforcement Agencies (PM1.2) are all tracked. (Please see Section 13, Attachment 1, and Table 9.d. for this data.)

- PM2 – Intake Target Average - (Average cycle time from complaint receipt to the date the complaint was assigned to an investigator) - 9 days;  
Actual Average
  - Second Quarter 2015 - PM2 – 0 days (complaints are immediately assigned)
  - Third Quarter 2015 – PM2 – 0 days (complaints are immediately assigned)
- PM3 - Intake and Investigation Target Average - (Average cycle time from complaint receipt to closure of the investigative process. Does not include cases forwarded for formal discipline) –180 days;  
Actual Average
  - Second Quarter 2015 – PM3 – 12 days
  - Third Quarter 2015 – PM3 – 14 days
- PM4 - Formal Discipline Target Average (Average number of days to complete the entire enforcement process for cases resulting in formal discipline against certificate holders) – 480 days  
Actual Average
  - Second Quarter 2015 – PM4 – 189 days
  - Third Quarter 2015 – PM4 – 117 days

CAMTC believes that its high level of performance is based on its statutory authority, legal standards, and the design of its program. Its program is designed in such a manner that it can take action quickly and work in an efficient and cost effective manner, as is borne out by the data.

**30. If performance targets/expectations for CAMTC’s enforcement program are not established, please explain when, and if, CAMTC expects to establish such performance guidelines.**

Performance targets have been established. Please see discussion in response to Question 29 to this report, above.

## ***Trends in Enforcement Data***

**31. Explain trends in enforcement data and the CAMTC's efforts to address any increase in volume, timeframes, ratio of closure to pending, or other challenges. What are performance barriers? What improvement plans are in place? What has the CAMTC done and what is the CAMTC going to do to address these issues, i.e. process efficiencies, bylaws, legislation?**

CAMTC defines "enforcement" as action against certificate holders, and does not include denial of applicants.

### **Suspensions**

Since the last Sunset review, CAMTC has seen a significant increase in the number of suspensions overall, and more specifically in the number of suspensions based on evidence. CAMTC had 188 total suspensions in the first nine months of 2015. This is a huge increase from the last Sunset review, when CAMTC had 55 suspensions in the first nine months of 2013, and only 52 suspensions in the entire year for 2012. The total number of suspensions more than tripled from 2013 to 2015.

CAMTC has two different specific statutory provisions that allow for immediate suspension of the certificates of certificate holders, Business and Professions Code sections 4610(f) and 4610(g). While CAMTC's law changed on January 1 of 2015, these provisions existed in CAMTC's law before those changes.

### **Suspensions Based on Operation of Law (4610(f))**

CAMTC is required to immediately suspend the certificate of a certificate holder if it receives notice that the individual has been arrested and charges have been filed for violation of Penal Code section 647(b) – Prostitution, or for another act punishable as a sexually related crime. (Bus. & Prof. Code §4610(f).) CAMTC refers to these suspensions as "suspensions based on operation of law." Under this suspension provision, CAMTC has no discretion. It must suspend the certificate when it receives notice that the charges described above have been filed.

CAMTC receives Subsequent Arrest Notices from the California Department of Justice (“DOJ”) and the Federal Bureau of Investigations (“FBI”), which notifies it when an applicant or certificate holder has been arrested or convicted, however the operative event for suspending under this provision is the filing of criminal charges. There is no automated reporting for the filing of criminal charges. In order to get this information PSD employees are required to continually check with every court or local jurisdiction where a certificate holder has been arrested to see if charges have been filed. This is a very time-and-staff-resource intensive process. Cooperation from local law enforcement agencies who notify CAMTC when charges have been filed against a certificate holder helps to expedite this process. If CAMTC has no notice that a certificate holder has been arrested (some arrests do not get reported to the DOJ, so no Subsequent Arrest Notice is generated), or that charges have been filed against a certificate holder, it can’t suspend based on this provision.

### **Suspensions Based on Evidence (4610(g))**

Pursuant to Business and Professions Code section 4610(g), CAMTC may immediately suspend the certificate of a certificate holder if it “determines that a certificate holder has committed an act punishable as a sexually related crime or a felony that is substantially related to the qualifications, functions, or duties of a certificate holder.” This is a discretionary suspension provision. CAMTC has the discretion to determine whether it will suspend under this provision. CAMTC refers to suspensions under this provision as “suspensions based on evidence.” CAMTC may suspend certificate holders under both suspension provisions if the statutory requirements for both provisions are met.

In June of 2014, CAMTC began a pilot program related to suspensions under this statutory provision. At that time, CAMTC was required to have clear and convincing evidence in order to suspend based on evidence. CAMTC began imposing suspensions based on evidence only in those cases where there was evidence that a certificate holder sexually assaulted a victim while providing a massage. This decision was made with the knowledge that the majority of cases meeting the criteria under Business and Professions Code section 4610(g) were cases of prostitution type

conduct, not sexual assaults. Because this provision allows a certificate holder to request a hearing on the suspension, and CAMTC is required to provide that hearing within 30 days of the request, CAMTC was not sure whether its staff and hearing schedule could accommodate the increased volume and workload from suspension hearings in such a short time frame. (Bus. & Prof. Code §4610(g)(2).) It therefore made the decision to institute its pilot program against only the worst offenders in order to better protect the public. In 2014, ten people were suspended based on evidence.

On January 1, 2015, CAMTC's law changed and the legal standard for suspensions based on evidence was lowered from clear and convincing evidence to a preponderance of the evidence. In February of 2015, CAMTC assessed the information from its pilot program and determined that it believed that it could handle the extra hearing volume and staff workload created by pursuing all suspensions based on evidence in cases where the statutory requirements were met. It therefore made the policy decision at that time to proceed with suspensions based on evidence in all cases where it was warranted (both sexual assaults and prostitution type conduct). This policy decision has resulted in CAMTC suspending 91 certificates in the first nine months of 2015 based on evidence.

In order to suspend under this provision of law, CAMTC must have evidence that a certificate holder committed an act punishable as a sexually related crime or a related felony. This is therefore a conduct-based violation. CAMTC generally relies on declarations of conduct from victims or law enforcement for this evidence. CAMTC has seen an increase in cooperation from law enforcement, which has directly resulted in more declarations received. Contacts from police departments and local agencies have grown by 50% since September of 2014. These declarations are used for suspensions based on evidence in addition to being used for applicant denials and certificate holder discipline. This has contributed to the large number of suspensions under this provision of law. With more cooperation from law enforcement, CAMTC believes that this trend will continue and it will see more certificates suspended based on evidence.

## **Sexual Assaults**

Complaints related to sexual assaults (and the suspensions and revocations that flow from those complaints) continued to increase at a steady pace, though the overall number remains low. CAMTC believes that this increase is not due to an increase in incidents, but is instead related to more reporting by victims, employers, and agencies to CAMTC as CAMTC becomes more well-known. This voluntary reporting by local agencies is a direct result of the in-person training PSD's Director provides to police departments and local government agencies that regulate massage, as well as the personal connection provided by PSD employees. CAMTC expects this trend to continue as PSD employees cement relationships, CAMTC's education efforts continue, and the information sharing with local agencies continues to increase.

## **Increase in Complexity of Cases**

CAMTC has continued to see an increase in the complexity of cases against certificate holders. Due to the fact that CAMTC's authority to discipline certificate holders based on conduct violations increased in 2015, and its evidentiary standard was lowered from clear and convincing evidence to a preponderance of the evidence, CAMTC has seen an increase in conduct based cases. (Bus. & Prof. Code §§4609, 4610(e).) For example, in 2015 CAMTC gained the legal authority to discipline certificate holders for engaging in sexually suggestive advertising, engaging in sexual activity of any kind on the premises of a massage establishment, and violating specific dress code provisions, among other things. The investigation, information and evidence gathering, and review of cases for conduct-based violations is much more complex and time consuming than those cases based on related criminal convictions. For example, if a certificate holder has a related criminal conviction (such as rape, sexual battery, sexual assault, or prostitution), that is a relatively easy and straightforward basis on which to revoke a certificate, since the record of the conviction is conclusive evidence of the crime. (Bus. & Prof. Code §4609(a)(9).) CAMTC regularly receives Subsequent Arrest Notifications from the DOJ and FBI, which notifies it of certificate holder convictions, so CAMTC has a "record" of all California and Federal convictions. However, for conduct-based cases, PSD employees may have to interview witnesses, gather evidence from the internet or

advertisements, obtain documents from local authorities, review reports, and generally perform a full blown investigation. These cases can be quite resource intensive, depending on the specific facts of the case.

## ***Performance Barriers***

In the past CAMTC has been hampered by the lack of cooperation from local law enforcement agencies. Much of the evidence needed to build a case against a certificate holder comes directly from local agencies. For example, Business and Professions Code section 4609(a)(8) allows CAMTC to revoke a certificate if the certificate holder receives an administrative citation, and a certified copy of the citation is conclusive evidence that disciplinary action has been taken against the certificate holder. But if the local agency won't provide CAMTC with a copy of the administrative citation, then CAMTC doesn't have the evidence it needs to take action on that basis. Since the last Sunset review this situation has improved. More law enforcement agencies and local government agencies that regulate massage are cooperating with CAMTC. This increase in cooperation and information sharing has resulted in an increase in certificate holder discipline based on conduct-based violations. CAMTC expects this trend to continue as more cooperation is received from local agencies. While we have come a long way, there is still a long way to go. Many local jurisdictions are incredibly helpful and easily share information like the law authorizes (Bus. & Prof. Code §4614(b)), while others (most notably one of the largest jurisdictions in the State) still refuse to provide any information to CAMTC. CAMTC has encountered resistance to information sharing from some cities, and has been told by a local government employee in one jurisdiction that League staff directed this person to not provide CAMTC with officer declarations. We are working with cities to overcome their resistance and we are hopeful that this will change in the future.

CAMTC is continuing to review its processes to create efficiencies wherever it can, including creating a new database to more effectively manage documents and information. CAMTC is also evaluating whether more staff needs to be hired to more effectively handle workflow. It is currently planning on hiring one additional staff



attorney and possibly hiring an additional part-time paralegal to handle the increase in work volumes and to shorten enforcement timelines.

## ***Improvement Plans and Plans To Address Issues***

As we move into the future, CAMTC plans to continue to provide no-cost training to local law enforcement agencies and agencies that regulate massage. These efforts help educate law enforcement agencies and local governmental agencies about CAMTC's statute and processes and how all parties can work together to achieve our mutual goals. From 2014 to date, CAMTC's Professional Standards Division ("PSD") Director has provided no cost training to 193 local agencies. CAMTC will continue to reach out to local agencies and share information with them.

Since the last Sunset review, CAMTC has hired one additional staff attorney, so there are now three staff attorneys working exclusively on applicant and certificate holder denial and disciplinary matters. A part-time paralegal is also now working full-time in order to address additional workload. CAMTC is currently planning on hiring an additional staff attorney and possibly an additional part-time paralegal. CAMTC is also currently in the process of moving to a new database to more efficiently manage its data and documents.

## ***Denial and Disciplinary Process***

### **32. Please explain CAMTC's enforcement program and disciplinary review.**

CAMTC's general process for applicant denials and certificate holder discipline based on background issues is essentially the same. (Section 13, Attachment 25.) CAMTC does consider "enforcement" and "discipline" to be taking action against certificate holders, not applicants. CAMTC denies applications and disciplines certificate holders. For this discussion however, CAMTC will describe both the denial and disciplinary process in an effort to fully inform the Committee about CAMTC's program. CAMTC's program is unique in that certificate holders are only certified for a two-year period.

After the two-year certification period expires, certificate holders become applicants for re-certification and are required to complete an application for re-certification and put through another background check before they can be re-certified (this background check does not require submitting new fingerprints as CAMTC continues to receive DOJ and FBI updates on expired certificate holders seeking re-certification). Former certificate holders seeking re-certification are considered to be “applicants” before they are re-certified. CAMTC does not “renew” certificates.

Applications for certification or re-certification are processed by AMG. (Section 13, Attachment 26.) AMG first ensures that an application is complete before it can be substantively reviewed. A complete application is one for which the payment has been received, all portions of the application have been filled out, all required documents and attachments have been received, the application has been signed, DOJ and FBI results have been received, official transcripts have been received directly from the school(s), information from the local government officials in the cities and counties where the applicant has lived or worked in the past 10 years has been received (or the two week time period to receive such information has passed), and proof of passage of a CAMTC approved exam has been received.

### **Applications With Educational Issues**

Since 2012, CAMTC’s process for applicants with “complete applications” as described above, but who have submitted a transcript from a school (or schools) where they are required to provide additional proof of adequate education (beyond just a transcript), has been to have AMG group these individuals together and have them sent to PSD and reviewed once every month or every other month. If after review a decision is made by PSD to propose denial of the group, a proposed denial letter is promptly sent to each applicant. In June of 2015 this process was changed to allow for faster processing of applicants in this situation. (Section 13, Attachment 20.b.)

The Denial Procedures were amended to allow the BOD to make the decision to propose denial of all applicants at the same time it makes a decision to un-approve a

school. So if the BOD decides to un-approve a school, as part of that decision it also decides that all applicants from that school whose applications are received before or within 90 days of the school being listed as an un-approved school on CAMTC's website, must provide additional proof of adequate education. These applicants are sent a proposed denial letter based on education, and are referred to as "education only" denials. The June amendment to the Denial Procedures removed the need to have these individuals considered by PSD after the BOD had already made a decision to un-approve the school. By removing this additional step, and having the BOD make the decision to propose denial of these applicants at the same time it makes the decision to un-approve a school, it is shortening the time applicants have to wait to get their proposed denial letters based on education. These applicants have historically been given approximately 90 days to provide additional proof of adequate education, with a hearing date set for approximately 120 days from the date of the letter. If there is room on the hearing calendar to schedule an earlier education hearing date, CAMTC will shorten these time lines. These applicants are sent to the Legal Department and follow the same process and procedures from this point on, which are described below, as all other denials.

### **Proposed Denials and Proposed Revocations/Discipline Based on Background Issues**

When a complete application or application for re-certification is received and there is information indicating that the person might have violated a provision of CAMTC's statute, or information is received regarding a certificate holder indicating that the person might have violated a provision of CAMTC's statute, AMG sends that person to PSD<sup>2</sup> for review.

---

<sup>2</sup> For the organizational chart, and as a practical matter, the Hearing Officers have been placed under the Legal Division. (Please see Section 13, Attachments 27.a. and b. – Organizational Charts.) The Hearing Officers engage in a specialized task that is very different than the activities the other PSD employees engage in. The Hearing Officers do not perform investigations or make proposed denial/disciplinary decisions like the other PSD Investigators do. In order to avoid confusion, the PSD employees who are not hearing officers will generally be referred to as "PSD" in this discussion and the Hearing Officers will be referred to as the "Hearing Officers," though technically all are employees of the PSD.

PSD is then charged with the task of reviewing information, performing investigations and gathering evidence related to applicants and certificate holders when warranted, and eventually making proposed decisions to deny applications and discipline certificate holders. PSD meets by telephone conference every Monday (Tuesday if Monday is a holiday) to consider applicants and certificate holders under review. Special meetings are added when needed to accommodate high volume. PSD also meets at least once a month on Wednesdays by telephone conference to consider applicants and certificate holders with issues that can easily be cleared (Minimal Review Cases) and non-actionable complaints. Between these meetings, PSD employees are busy performing investigations and gathering information and evidence related to the individuals under review. All information and evidence gathered in relation to an applicant or certificate holder is uploaded to a secure site so that all PSD employees can access and review it. PSD reviews this information prior to each Monday meeting where the individual will be considered. Individuals may be considered at multiple Monday meetings as the investigation related to their matter proceeds. The investigators report back on their investigations to the rest of the PSD employees at the Monday meetings. At these Monday teleconference meetings, PSD employees discuss cases, evidence, whether further investigation is needed or the investigation is complete, and the Chief of Investigations assigns tasks to specific PSD employees. Future dates are also assigned to each applicant or certificate holder under review for further discussion at another Monday meeting.

Once an investigation is completed, an individual will be considered by PSD at a final Monday meeting where a determination is made on how to proceed. If the PSD does not believe that there is sufficient evidence to take action against an applicant or certificate holder, a decision is made to approve an applicant or take no action against a certificate holder. In these cases, that person is sent back to AMG and processed accordingly (applicants are certified or re-certified and no action is taken against certificate holders). However if, on the other hand, a majority of PSD employees determines that there is sufficient evidence to propose to take action against an applicant or certificate holder, a proposed decision to deny the application or discipline

the certificate holder is made (discipline includes revocation, suspension for an identified period of time not to exceed one year, and/or imposition of probationary terms not to exceed one year). In making its decision to propose denial of an application or impose discipline on a certificate holder, PSD makes factual and legal findings, including identifying the Denial Procedures provisions that it believes the individual has violated. It also determines the appropriate level of discipline: revocation, suspension for a set period of time, and/or imposition of probationary conditions. Decisions to propose to deny applications or discipline certificate holders must be made by a majority of PSD employees. It takes a minimum of two employees to make a decision in any specific case, though in most cases four PSD employees make decisions. Most decisions are unanimous.

In accordance with the Massage Therapy Act and the Denial Procedures, when PSD makes a proposed decision to deny an applicant or discipline a certificate holder, a letter must be sent to that individual notifying them that CAMTC is proposing to take action against them and informing them of the legal and factual basis for the proposed action (Proposed Denial Letter “PDL” or Proposed Revocation/Discipline Letter “PRL”). PSD refers individuals it has decided should receive a PDL or PRL to the Legal Department so that the PDL or PRL can be drafted. After this referral, PSD is no longer involved in the process, as the investigation and proposed decision to deny or discipline has been made. The PDL or PRL identifies the factual and legal basis for the proposed action and the provisions of the Denial Procedures that the PSD believes have been violated. (Section 13, Attachment 28.) Accompanying every letter is a copy of the Denial Procedures. (Section 13, Attachment 20.b.) If the proposed denial or discipline is based on a declaration, that declaration(s) is also sent to the applicant or certificate holder with the PDL or PRL. It is important to note that at this point, the action is only proposed. Before a proposed action becomes final and effective against an individual, they are given notice and an opportunity to be heard. (Bus. & Prof. Code §4610(e).)

In the letter sent to the applicant or certificate holder proposing to take action against them, the individual is notified that they have:

- the right to request, in writing (email preferred), an oral telephonic hearing or consideration of a written statement (their choice);
- the date of the hearing (approximately 30 days from the date the letter is mailed, though the law only requires 15 days);
- the effective date of the denial or discipline (generally 21 days from the date of the hearing, though the law only requires 5 days);
- the last day to request a fee waiver;
- the last day to request an oral hearing or consideration of a written statement;
- the last day to submit documents; and
- the last day to pay the hearing fee and the amount of the hearing fee (\$90 for consideration of a written statement and \$135 for an oral hearing).

If the individual fails to respond to the letter, fails to timely request an oral hearing or consideration of a written statement in writing, or fails to pay the hearing fee in a timely manner, they are automatically denied or disciplined on the effective date noted in the letter.

If an individual timely requests an oral telephonic hearing or consideration of a written statement (we consider either to be a “hearing” and will refer to them generally using this term in this discussion), they are then scheduled for their hearing at a specific time slot on their hearing date. Each person’s matter is heard and considered by the Hearing Officers on their hearing date by telephone conference. Hearings are generally held on Thursdays. The Hearing Officers are located all over the state, and the ability to consider each matter by telephone conference allows CAMTC the opportunity to have each matter considered by the most qualified individuals without being limited by geographic area. The Hearing Officers are the individuals who make the decision to uphold the proposed denial or discipline, determine that the proposed denial or discipline not be imposed, or determine that other disciplinary measures are more appropriate. Decisions are required to be made by a majority, and there must be a minimum of two Hearing Officers to make a decision in each particular case, though generally there are three or more Hearing Officers on each matter. Most decisions are unanimous. The Hearing Officers review and consider all of the evidence and

documents already submitted related to each particular matter prior to the hearing date. Applicants and certificate holders are not limited in the number or type of documents or evidence that they may submit prior to a hearing, though each piece of evidence submitted is given appropriate weight. In the past the Hearing Officers have considered evidence and documents that have ranged from legal briefs submitted by attorneys and declarations of certificate holders, to music notes and illegible scribbles and drawings.

If the Hearing Officers make a decision to approve an application or not impose discipline against a certificate holder, the individual is notified of that decision. AMG is also notified so that they may process the individual appropriately (certify an applicant or take no action against a certificate holder). If the Hearing Officers make a decision to uphold the proposed denial or discipline, or impose different discipline than originally proposed, the individual is sent a letter notifying them of that decision, the factual and legal basis for the denial or imposition of discipline, the final and effective date of the denial or discipline, and that they must wait two years from the effective date of the denial or discipline before reapplying for certification. (Section 13, Attachment 29, Sample Redacted Final Decision Letter.) AMG is also notified of this outcome so that the applicant or certificate holder's file may be marked accordingly. The decision at this point is final, and there is no further review through CAMTC. This process is similar to the process used by cities and counties to deny or revoke local permits.

### **33. Please explain any fees related to enforcement activities.**

In accordance with Business and Professions Code section 4602(i), the BOD is authorized to “establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties.” On September 15, 2011, the BOD established a fee for oral hearings and consideration of written statements. The initial fee for an oral hearing was \$95 and the fee for consideration of a written statement was \$65. On September 13, 2012, the fees were raised to \$135 for an oral hearing and \$90 for consideration of a written statement. These fees have remained unchanged since that time. Fee waivers are granted for indigent individuals who are able to prove that

they are unable to pay the hearing fees. (Section 13, Attachment 19.) CAMTC uses the same financial guidelines to determine indigence that California courts do.



## Enforcement Statistics

CAMTC considers “enforcement” to be action against certificate holders, not applicants, however it has included data about both applicants and certificate holders in some of the following tables in order to match the data provided during the last Sunset review.

<b>Table 9a. Enforcement Statistics – Applications and Applications for Re-certification</b>									
	Sent to PSD for Review** (includes App. and Re-cert)	Cleared by PSD (includes App. and Re-cert) (in year noted)	Background Issue Proposed Denial (letter sent in year noted)	Education Only Proposed Denial (letter sent in year noted)	Oral hearing/ written stmtnt (in year noted)	Pending ***	Approved (in year noted)	Denied (in year noted)	Prob. terms or Susp. Imposed
2014 Applicants	1,648	1,409	287	156	84/102	0	21	434	23
2015* Applicants	1,288	1,167	123	773	38/46	715	19	158	8
<p>*2015 is through 9/30/2015</p> <p>Please note, applicants sent proposed denial letters in one year, may have their outcomes become final and effective in a later year, or may have their hearing occur in a later year.</p> <p>**Does not include applicants with “education only” issues.</p> <p>*** Pending means that a proposed denial letter has been sent but the applicant is still in process in that the final outcome for the matter has not yet occurred as of 9/30/15. The majority of those “pending” have been sent an “education only” proposed denial letter.</p>									

<b>Table 9b. Enforcement Statistics - Certificate Holder Revocation and Discipline</b>									
	Sent to PSD for Review	Cleared by PSD (in year noted)	Perm. Revo.	Proposed Revo./ Discipline (letter sent in year noted)	Oral hearings / Written Statements (occurred in year noted)	Pending **	No Action (in year noted)	Revoked (in year noted)	Prob. terms or Susp. Imposed (in year noted)
2014 Certificate Holders	945	820	14	94	31/22	0	0	81	8
2015* Certificate Holders	724	556	22	82	17/23	27	1	55	9
<p>*2015 is through 9/30/2015</p> <p>** Pending means that a proposed revocation/discipline letter has been sent but the certificate holder is still in process in that the final outcome for the matter has not yet occurred as of 9/30/15.</p>									

<b>Table 9c. Enforcement Statistics - Certificate Holder Suspensions</b>							
	Suspensions based on operation of law (4610(f)) (suspended in year noted)	Reinstatements/ lifting of suspension (4610(f)) (in year noted)	Suspensions based on evidence (4610(g)) (suspended in year noted)	Oral hearings / Written Statements (4610(g)) (occurred in year noted)	Pending** (4610(g))	Suspension lifted after hearing (4610(g)) (in year noted)	Suspension upheld after hearing (4610(g)) (in year noted)
2014 Certificate Holders	122	53	10	4/0	0	2	2
2015* Certificate Holders	97	45	91	33/4	1	4	32
<p>*2015 is through 9/30/2015</p> <p>** Pending means that a certificate holder has requested an oral hearing or consideration of a written statement for their suspension based on evidence, but the individual is still in process in that no final outcome has occurred as of 9/30/15.</p>							

<b>Table 9d. Enforcement Statistics - Complaints</b>			
	Total Complaints Received – ALL**	Complaints Against Certificate Holders	Complaints Against Certificate Holders submitted by Law Enforcement Agencies
Total received 1/1/15 – 9/30/15	322	207	142
2015* monthly average	35.77	23	15.77
<p>*2015 data is through 9/30/2015. CAMTC began tracking these numbers in 2015, and therefore it does not have reliable data for 2014, so 2014 numbers have not been included.</p> <p>** "Total complaints" includes all complaints received, including those that were not against CAMTC applicants or certificate holders.</p>			

## **Enforcement Aging**

Please see the response to Question 29 of this report, where performance metrics are discussed. CAMTC is more than exceeding its performance targets and is providing swift discipline to certificate holders (189 days on average in the second quarter of 2015 and 117 days on average in the third quarter of 2015). (Section 13, Attachment 1.)

Please also note, CAMTC certificate holders are only certified for a two-year time period. This means that in no case can CAMTC take longer than two years to discipline a certificate holder, as it loses its jurisdiction over a certificate holder once the certificate has expired.

### **34. What do overall statistics show as to increases or decreases in disciplinary action since last review?**

The overall statistics show a significant increase in disciplinary action since the last Sunset review. In 2012 CAMTC sent only 49 proposed revocation/discipline letters to certificate holders, in the first nine months of 2013 CAMTC sent 42 proposed revocation/discipline letters to certificate holders, in 2014 CAMTC sent 94 proposed revocation/discipline letters to certificate holders, and in the first nine months of 2015 CAMTC sent 82 proposed revocation/discipline letters to certificate holders. These numbers show a continual and steady increase in the number of proposed revocation/discipline letters sent to certificate holders. Additionally, the number of permanent revocation letters sent increased from 14 in 2014 to 22 in the first nine months of 2015. As previously discussed, suspensions have skyrocketed, increasing from only 52 in 2012, to 188 in the first nine months of 2015.

## ***Case Prioritization***

### **35. How are cases prioritized? What is the CAMTC's complaint prioritization policy?**

CAMTC has a robust process for identifying and quickly clearing applicants and certificate holders with easily cleared issues, and sending all others on to review at a regular PSD Monday meeting.

## **In-House Clearance**

Applicants and certificate holders sent by AMG to PSD for review are first reviewed on a weekly basis to determine if they qualify for in-house clearance or not. Those cases that can be quickly cleared after review by a PSD employee are, and these individuals are then sent back to AMG for further processing (certification or re-certification if an applicant, or no action if a certificate holder). (Section 13, Attachment 25.) Cases that qualify for in-house clearance are generally those with commonly occurring criminal convictions that on their face are not substantially related to the qualifications, functions, or duties of a certificate holder, such as convictions for check fraud, DUIs, vandalism, and petty theft. This in-house clearing process allows for the quick processing of applicants and certificate holders, as they are not waiting in line to be reviewed by PSD behind more complicated and resource intensive cases. Those cases that don't meet the qualifications for in-house clearance are then sorted into two separate categories (minimal review cases and other cases) and prioritized in the manner discussed below. Those cases that appear to need minimal review for clearance, but can't be cleared through the in-house clearance process, are sent to a Minimal Review Cases meeting, held at least once a month on Wednesday. The other cases are sent to a regular PSD Monday meeting. The vast majority of cases are sent directly to PSD for review at a regular Monday meeting after moving through the in-house clearance process.

## **Minimal Review Cases**

Meetings to consider Minimal Review Cases are held on Wednesdays, at least once a month. At these meetings PSD employees consider applicants and certificate holders who have issues that PSD believes can easily be cleared but don't meet the qualifications for in-house clearance. Issues that are reviewed at these meetings include, but are not limited to, non-criminal issues such as: 1) a complaint that a certificate holder smells like cigarettes; 2) a citation by a city for too many garage sales in a calendar year; 3) a complaint about the price charged for a massage; or 4) a complaint that a 60 minute massage only lasted 58 minutes. They may also include things like reported but unrelated and uncommon criminal convictions, such as a

certificate holder conviction for poaching salmon. The issues reviewed are generally unrelated to the qualifications, functions, or duties of a certificate holder, or are non-actionable, but still need to be reviewed and considered by the PSD. The majority of people considered at a Minimal Review Cases meeting are cleared and sent to AMG for processing (applicants are certified or re-certified and no action is taken against certificate holders). The very small number of people who are not cleared after review are sent to a regular PSD Monday meeting for review.

These Minimal Review Cases meetings are staffed by a minimum of two PSD employees who make a unanimous decision on whether the issue can be cleared or further review is required. This is again done in an effort to quickly clear individuals who can be, so that they are not waiting in line to be heard behind the more complicated cases.

### **Denial and Disciplinary Cases**

PSD addresses and investigates both applicants and certificate holders. Disciplinary cases against certificate holders are prioritized first, and cases of allegations of sexual assault by certificate holders are given top priority. All efforts are made to quickly obtain sufficient evidence to suspend these individuals based on evidence in as short a time frame as possible. (Bus. & Prof. Code §4610(g)). CAMTC can act very quickly in these situations, and in some cases has suspended a certificate holder merely days after a victim's declaration was received. CAMTC's mission is to protect the public, and it takes this mission seriously. Its focus is on certificate holders to ensure that they are not harming the public while providing services pursuant to their CAMTC certificate. CAMTC's next certificate holder priority is to suspend all others based on evidence. This suspension is the first line of defense and may occur before CAMTC has completed its full investigation of a case. In the vast majority of cases, it will later move to revoke the certificate of that same certificate holder. Certificate holder revocations/imposition of discipline are the next priority. It is important to note that the bases for revocation/discipline of a certificate encompass many more violations beyond the limited basis of what can be used to suspend a certificate based on evidence.

CAMTC next prioritizes cases against applicants for re-certification. CAMTC understands that applicants for re-certification are current or past certificate holders and their ability to work may be impacted by the time it takes to investigate and make a proposed decision on a matter. Cases of alleged sexual assault against applicants seeking re-certification are also given top priority, with other issues given second priority.

Cases against applicants seeking certification are the third priority. CAMTC again prioritizes cases of alleged sexual assault at the top of this category.

## ***Complaint Prioritization Policy***

CAMTC makes its best effort to quickly address all complaints received. When a complaint is received through CAMTC's complaint link, an email is automatically sent letting the person know that the complaint has been received. When complaints come in they are immediately sent to the PSD Chief of Investigations for initial review and task assignment. Immediate review by the Chief of Investigations allows CAMTC to quickly identify and assess high-risk cases so that action can be taken as quickly as possible. In situations where it is warranted, such as suspensions based on operation of law, action may be immediately taken.

Under the normal process, complaints against applicants and certificate holders received during the week are considered to be high priority and are addressed at the Monday meeting for the following week. So, for example, if a complaint comes in on a Wednesday, it will be addressed at a PSD meeting on the following Monday. CAMTC's complaint volume is fairly low, so both applicants and certificate holders can easily be considered on the Monday following the date a complaint came in. These cases are prioritized in the manner discussed above.

Complaints that are non-actionable are identified and reviewed once a month at a PSD meeting held just to address these complaints. The majority of these complaints are against individuals or entities that are not applicants or certificate holders, though some may be non-actionable issues such as complaints about a Groupon.

### **Suspensions Based on Operation of Law**

The process for suspensions based on operation of law are not addressed above, as that process occurs outside of the normal PSD process. (Bus. & Prof. Code §4610(f).) When CAMTC receives notice that a certificate holder has been arrested and charges have been filed for Penal Code section 647(b) - Prostitution or an act punishable as a sexually related crime, their certificate is immediately suspended. Since the law only requires the receipt of notice, not review by PSD, these suspensions based on operation of law happen quite quickly, normally within a few days of receiving notice.

**36. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the CAMTC actions taken against a certificate holder. Are there problems with the CAMTC receiving the required reports? If so, what could be done to correct the problems?**

CAMTC is not subject to any mandatory reporting requirements, nor are other entities required to report information to CAMTC. CAMTC does receive Subsequent Arrest Notifications from the DOJ and FBI. It might be helpful to require local governmental agencies that regulate massage to report the issuance of administrative or civil citations and disciplinary action taken against applicants or certificate holders at the time the action occurs.

**37. Does the CAMTC operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is CAMTC's policy on statute of limitations?**

CAMTC does not operate within a statute of limitations. No cases are lost due to statute of limitations issues and there is no BOD policy on statute of limitations.

**38. Describe the CAMTC's efforts, if any, to address uncertified activity and the underground economy.**

CAMTC has no jurisdiction over uncertified activity. Its authority is limited in statute to applicants and certificate holders. As a voluntary certification organization, it does not fully occupy the field. CAMTC does send cease and desist letters to individuals who are using terms reserved for CAMTC certificate holders in their advertising. In regards to the underground economy, on a positive note, CAMTC has brought many thousands of massage professionals into the open, obtaining CAMTC certification and business licenses as professionals for the first time.

CAMTC has worked with the Employment Development Department, the Department of Industrial Relations, the Department of Homeland Security, and local law enforcement agencies in preparation for joint operations with law enforcement.

### ***Cite and Fine***

**39. How is cite and fine used? What types of violations are the basis for citation and fine? If no cite and fine authority is available, please state, "no cite and fine authority."**

**40. What are the 5 most common violations for which citations are issued?**

CAMTC does not have cite and fine authority.



## ***Cost Recovery and Restitution***

**Describe the CAMTC's efforts to obtain cost recovery. Discuss any changes from the last review.**

**41. Are there cases for which the CAMTC does not seek cost recovery? Why?**

**42. Describe the CAMTC's efforts to obtain restitution for individual consumers, any formal or informal CAMTC restitution policy, and the types of restitution that the CAMTC attempts to collect, i.e. monetary, services, etc. Describe the situation in which the CAMTC may seek restitution from the certificate [sic] to a harmed consumer.**

CAMTC does not have the legal authority to engage in cost recovery or restitution and therefore does not engage in these activities.

## ***Public Information Policies***

**43. How does the CAMTC use the internet to keep the public informed of CAMTC activities? Does the CAMTC post meeting materials online? When are they posted? How long do they remain on the website? When are draft meeting minutes posted online? When does the CAMTC post final meeting minutes? How long do meeting minutes remain available online?**

CAMTC posts notices on its website related to issues of certificate holder and applicant concern on an as needed basis. For example, it lists schools on its website when they are un-approved. Please see the list of un-approved schools, which can be found at <https://www.camtc.org/Schools.aspx> and scroll down. In 2014 CAMTC began providing notice on its website regarding the upcoming changes to its law, effective on January 1, 2015. (Please see the homepage at <https://www.camtc.org/Default.aspx> under Announcements.) These changes included the elimination of the Certified Massage Practitioner (250 hour) certification tier and the requirement for passage of a CAMTC approved exam, as updated at <https://www.camtc.org/MassageProfessionals.aspx>. CAMTC's website also provides access to PDF copies of documents explaining in detail the impact of the changes in the law on certificate holders and local government. (Government agency document:

[https://www.camtc.org/FormDownloads/summary\\_of\\_changes\\_for\\_local\\_govt.pdf](https://www.camtc.org/FormDownloads/summary_of_changes_for_local_govt.pdf);

Certificate holder document:

[https://www.camtc.org/FormDownloads/law\\_change\\_summary\\_2015.pdf](https://www.camtc.org/FormDownloads/law_change_summary_2015.pdf); also attached to this report in Section 13, as Attachments 16 and 17.)

Pursuant to Business and Professions Code section 4602(j) and the rules of the Bagley-Keene Open Meeting Act, CAMTC also posts notices and agendas of all meetings 10 days in advance at <https://www.camtc.org/Meetings.aspx>. All meetings are open to the public. Prior to every vote on each issue listed on the agenda, time is provided for public comment. Additionally, public comment is also allowed for issues not on the agenda

and suggestions for future meetings. Board Packets are emailed upon request to each requesting party once they have been distributed to the Board. Final meeting minutes are posted on CAMTC's website within fourteen days of being approved. Final minutes remain on the website indefinitely. Draft minutes are not posted.

**44. Does the CAMTC webcast its meetings? What is the CAMTC's plan to webcast future CAMTC and committee meetings? How long do webcast meetings remain available online?**

CAMTC does not webcast its meetings and currently has no plans to do so, as the cost is prohibitively expensive. For example, in 2014 Northwestern University provided webcasting rates ranging from \$5,500 - \$6,640 per day, not including travel time or expenses. CAMTC does not want to have to increase fees to cover these additional costs.

CAMTC currently audio records its meetings and posts those recordings to its website. The audio recordings of CAMTC BOD meetings can be found at <https://www.camtc.org/Meetings.aspx>. CAMTC's BOD meetings are open to the public; agendas, dates and location of meetings are posted on the website at least ten days in advance; there is always an opportunity for public comment at meetings; and meeting minutes and votes on issues are posted on its website.

**45. Does the CAMTC establish an annual meeting calendar, and post it on the CAMTC's web site?**

Yes, CAMTC has had this policy since November 18, 2015.

**46. Does the CAMTC post accusations and disciplinary actions?**

CAMTC is not a State agency. CAMTC is a private nonprofit corporation with its own denial and disciplinary process. CAMTC's denial and disciplinary process does not result in the creation of accusations, and therefore there are no accusations to be posted on its website. CAMTC is unique in that its statute provides for significant

information sharing with law enforcement agencies and local governmental agencies that regulate massage. For this reason, CAMTC has two separate websites that share different information with law enforcement agencies and local government agencies than is shared with members of the public.

On its public “verify certification” website, CAMTC only shares information about certificate holder discipline when the matter has reached a resolution. So, for example, CAMTC posts information about suspensions and revocations on its public “verify certification” website when they are imposed. It does not post information about proposed imposition of discipline. Nor does it post information on applicant denials.

Due to the information sharing provisions in CAMTC’s law, and the agreement of applicants and certificate holders to share information with law enforcement agencies and local government agencies that regulate massage, CAMTC does share significantly more information on its secure law enforcement website. On this secure website, the new database will note when a proposed denial or disciplinary letter has been sent to an applicant or certificate holder. This letter serves the same purpose as an accusation, in that it notifies the applicant or certificate holder that CAMTC is proposing to take action against them. CAMTC’s current database does not support the ability of those accessing the secure local agency website to get a copy of the proposed denial or disciplinary letter, but they are regularly provided to law enforcement agencies and local government agencies that regulate massage upon request. When a proposed denial or disciplinary matter is resolved, CAMTC notifies the applicant or certificate holder by sending a final decision letter. CAMTC also notes the outcome of the proposed action against certificate holders on its law enforcement website and public website. Denial of applications is noted on the local agency website, but is not noted on the public website. While these final decision letters cannot be accessed using the secure law enforcement website, they are also regularly provided upon request.

**47. What information does the CAMTC provide to the public regarding its certificate holders (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?**

Members of the public can access a certificate holder or former certificate holder's information on CAMTC's website using the "verify certification" link at <https://www.camtc.org/VerifyCertification.aspx>. The "verify certification" website allows a member of the public to search by any of the following criteria: certificate number; city of residence; last name; or first name. Only one of these search criteria is needed in order to return information. So for example, if a member of the public wanted to know if their therapist, "Sarah," was certified, they could run a search of all certified individuals with that first name. The "verify certification" website provides the following information for each certified or formerly certified individual: name; certificate number; certificate type (conditionally certified massage practitioner, certified massage practitioner, or certified massage therapist); effective date of certification; date certification expires; city; and status (active, suspended, revoked, permanently revoked, expired, or expired while suspended).

**48. What methods are used by CAMTC to provide consumer outreach and education?**

CAMTC uses the following methods to provide consumer outreach and education:

- ☐ Website;
- ☐ Brochures;
- ☐ Press interviews; and
- ☐ Participation at massage and other health fairs.

Please see a brochure for consumers. (Section 13, Attachment 30.) CAMTC's website has a link to verify whether an individual is certified and the status of the certification at <https://www.camtc.org/VerifyCertification.aspx>. There is also a link to submit complaints against CAMTC certificate holders at <https://www.camtc.org/complaints.aspx>.

In the past CAMTC has also provided information and complimentary chair massage by certificate holders at community health fairs.

**49. Please identify and explain the location of CAMTC's headquarters.**

CAMTC is unique in that it has both its own employees and uses a management firm, AMG, to provide application processing and some administrative services. CAMTC's principal place of business is located at One Capitol Mall, Suite 800, in the city of Sacramento, California. This is also the address where all of its mail is received. These are the offices of AMG. All CAMTC employees work out of their own locations, at various places around the State. For example, the CEO, Division Director for the PSD, and Division Director for the ESD are all located in southern California, while the Director of Governmental Affairs and all three Staff Attorneys are located in Northern California.

## ***Online Practice Issues***

**50. Discuss the prevalence of online practice and whether there are issues with unlicensed activity.**

Massage is a hands-on profession that cannot be practiced online. Since certification is voluntary, uncertified activity is not an issue. CAMTC does send cease and desist letters to those improperly using titles reserved for certificate holders in their online materials.

**51. Discuss any applicable authority to regulate online resources related to the practice of massage therapy.**

Massage therapy cannot be practiced online, therefore this question is not applicable to CAMTC.

## ***Workforce Development and Job Creation***

### **52. What actions has the CAMTC taken in terms of workforce development?**

CAMTC has developed a system that allows employers to send employment offers to CAMTC certificate holders in a specific geographic area without CAMTC releasing the personal information of its certificate holders to those potential employers. Upon request, CAMTC sends out postcards with employment offers. These are fully paid for by the employer, after CAMTC review and approval of the content. Certificate holders are offered the opportunity to opt out of receiving these mailings. The employer can choose one or more targeted zip codes to receive these postcards.

### **53. Describe any assessment the CAMTC has conducted on the impact of certification delays.**

The statutory changes that became effective on January 1, 2015 from AB 1147 and the last Sunset review, which eliminated the CMP (250 hour) certification tier and imposed the requirement for passage of a CAMTC approved exam, had a tremendous impact on the number of applications that CAMTC received in the last months of 2014. Many students rushed to graduate from massage schools in 2014 with only 250 hours of education and quickly applied to CAMTC in order to avoid the new requirements. The overwhelming number of applications received resulted in a backlog that took several months to work through. In 2015 CAMTC has seen a significant reduction in the number of new applications, and at this time there is no delay in the processing of complete applications with no background issues. Applications for re-certification are simpler and are generally processed without delay.



**54. Describe the CAMTC's efforts to work with schools to inform potential certificate holders of the certification requirements and process.**

CAMTC has worked hard to inform schools about changes to the certification requirements. CAMTC mailed two separate information packets to over 600 school and school-related addresses on file in January and March of 2015. (Section 13, Attachments 14.a.- 14.c. and 24.) These packets included information on current and future changes to certification in order to best prepare students. CAMTC also worked with American Massage Therapy Association, Associated Bodywork and Massage Professionals, California Association of Private Postsecondary Schools, California Massage School Association, and Independent Massage School Association of California to properly inform their school members. In addition, CAMTC has met and remained in communication with the Bureau of Private Postsecondary Education about CAMTC requirements, so that CAMTC may verify that massage programs applying for approval with the organization also comply with State laws and regulations. CAMTC maintains on its website a poster and brochure specifically for schools that can be downloaded for their use. (<https://www.camtc.org/Schools.aspx>.)

Through the new school approval process, CAMTC approved schools must include information about CAMTC certification in their catalogs and curriculum. CAMTC school inspectors verify this as part of the approval process and build relationships with the schools to better clarify and update schools about CAMTC requirements.

By early 2016, CAMTC plans to contact all schools teaching massage in California that are either BPPE approved or are community colleges and that have not yet applied for CAMTC approval. CAMTC will remind them that as of July 1, 2016, transcripts from schools that are not CAMTC approved will not be accepted for certification. We encourage these schools to make their current and future students aware of this fact.

**55. Provide any workforce development data collected by CAMTC, such as:**

**a. Workforce shortages.**

CAMTC currently does not collect such data.

**b. Successful training programs.**

Through the new CAMTC school approval process, CAMTC is collecting data on numbers of reported graduates, as well as passing rates for the MBLEx exam, which applicants must pass for certification. Schools that consistently fall below the national passing rate for the MBLEx may lose their CAMTC school approval. (Section 13, Attachment 15.c.)

## ***Current Issues***

**56. Describe the CAMTC’s current database system and describe any planned changes or updates.**

### **CAMTC’s Current Database System**

CAMTC’s current database was created at a time when it was operating under a significantly different statute. In September of 2009, when CAMTC began accepting the first applications for certification, it was not operating under current legislative mandates, which require the tracking of significant amounts of detailed data regarding applicants and certificate holders and a high level analysis of that data. It also did not have the statutory authority to approve massage schools that it now has. Additionally, the current volume of documents it needs to manage in relation to its program was not expected at that time. CAMTC’s needs have changed and are no longer compatible with its current system.

The current database structure is multi-tiered. That is, the underlying system is a relational Microsoft SQL database. Extracts from this database are performed to create files that are separate and apart from the actual database (for security reasons), which can then be accessed directly from various web pages in support of CAMTC’s business needs. These extracts allow PSD employees and Hearing Officers working from various physical locations to access information related to applicants and certificate holders under review. ESD employees are also provided with access to documents related to the review of schools that have requested CAMTC approval. In addition to CAMTC, local government agencies can access specific information about applicants and certificate holders in the “Local Agency” database. The public can also access information about certificate holders (such as certification status) through the “verify certification” link. Applicants and certificate holders can also access certain elements of

their own information for purposes of verifying and updating work and home locations, contact information, and status of applications.

While initially designed to meet CAMTC business needs, those needs, responses to Legislative mandates and requests by local agencies have quickly outgrown the capabilities of this multi-tiered approach. As CAMTC has taken on the additional responsibility for proactively approving massage schools, the new ESD has requirements that cannot be easily or rapidly met by this multi-tiered database structure. AMG, PSD, Legal, and ESD have developed a number of tools to help manage the application and certification process. However, many of these steps require manual processing not supported by the current system. Other steps are automated, but there are still issues with database connectivity that often times require outside intervention.

### **New Database and Document Management System**

In early 2015 CAMTC began to gather and analyze its business and technical requirements in order to determine both current and future needs. At the same time, CAMTC also began detailed discussions with a number of solution providers about existing certification systems that could be modified to meet CAMTC's needs.

In September of 2015 CAMTC engaged the services of inLumon to create a fully functional relational database. The new database will be an integrated document management and data system that will provide the ability for applicants and certificate holders to apply for certification and re-certification online with the ability to upload documents, allow AMG and CAMTC employees to more easily manage data and documents, and allow for the electronic data gathering and analysis that is required for Legislative mandates and the requests of local agencies. It will also allow the "verify certification" and "Local Agency" interfaces to be updated continually so that the information is not stale. This system will greatly improve the application and certification management processing as well as eliminate the need for the maintenance of information outside of the current system.

The new CAMS for CAMTC is a significant improvement in the following areas:

- the new system has been designed and optimized specifically for certification management, which will improve processing times for applicants, certificate holders, and schools;
- data will be encrypted when stored in the system's database, thus protecting all personal information;
- the new system will increase system stability, reliability, and availability;
- will improve computer processing capabilities and the functional design and flow of the system to improve management processing and the user experience;
- will improve the accuracy of data entered into the system by validating user-entered information (such as addresses, names, social security numbers, etc.);
- will improve the "Local Agency" access to information by improving search capabilities;
- will improve access to data by allowing viewing of up-to-date, real-time information by all parties;
- will improve query and reporting functionality;
- will improve communication with applicants and certificate holders by sending automatic email messages to inform them about the completion of tasks related to their applications or certificates;
- will include current industry 'best practices' security features;
- will improve user access verification techniques;
- will allow a QR Reader on any smartphone to scan the QR Code on a CAMTC Certificate Holder's ID Card and return results on that individual; and
- will be a customer configurable system so that CAMTC can make changes to the system when necessary to adapt to changing business needs or external requirements.

CAMTC currently anticipates that the new system will be up and running in June of 2016.

**57. Describe any plans to establish performance goals for certificate issuance and certificate discipline time frames. Discuss any issues with establishing such standards.**

CAMTC established average targets for its performance metrics on July 15, 2015. CAMTC is significantly out performing these target averages. (Section 13, Attachment 1.) The process used to initially establish these standards is described in response to Question 29 of this Sunset Report. CAMTC is unlike the Boards and Bureaus regulated by DCA and therefore the target averages for those programs are not generally applicable to CAMTC. After CAMTC has completed gathering data for 2015, and the fourth quarter average performance metrics data has been completed, staff will reassess its average performance target goals.

**58. Please describe any plans or need for statutory changes.**

AB 1147 completely revised CAMTC's law. Due to the multitude of revisions, there are some minor technical changes that need to be made in order to address some unintended consequences of the statutory changes.

**1. DEFINITION OF AN APPROVED SCHOOL**

Business and Professions Code section 4602(a)(2)(B) changed the language from the previous statute, which required that all hours of education be from "approved schools," to "schools approved by the council." This was a change with unintended consequences, as CAMTC's law clearly defines, in Business and Professions Code section 4601(a), what it means to be an "approved school," which requires approval by one of the listed entities in addition to approval by CAMTC. CAMTC has addressed this issue with a BOD policy decision, but requests that the language be returned back to the previous statutory language as follows:

Business and Professions Code section 4602(a)(2)(B): All of the 500 hours shall be from **approved** schools ~~approved by the council~~.

## 2. FIRST CLASS MAIL AS A WAY TO NOTIFY EMPLOYERS OF SUSPENSIONS BY OPERATION OF LAW

CAMTC's previous statute required that CAMTC notify the employers of certificate holders that were suspended based on an arrest with charges filed for 647(b) (prostitution), or an act punishable by a sexually related crime, by first class mail. Business and Professions Code section 4610(f)(1)(C) changed this provision to limit the notification of employers to email. Applicants fail to provide CAMTC with an email address for the vast majority of businesses (even though one is requested), and an email message is easily ignored. Since CAMTC's mission is to protect the public, CAMTC believes that this mission would be better served by changing this provision back to its previous language, which required notification of businesses where certificate holders provide massage for compensation by first class mail. Additionally, CAMTC requests one additional change to the language to broaden the scope of notification from "employers" to all massage businesses in order to address the industry practice of using independent contractors. CAMTC therefore requests that the provision be changed as follows:

Business and Professions Code section 4610(f)(1)(C): Provide notification of the suspension by email **or first class mail** to any **massage** establishment or employer, whether public or private, that the council has in its records as employing **a massage establishment where the certificate holder provides massage for compensation** ~~the certificate holder~~, within 10 business days.

## 3. MIRROR LANGUAGE FOR SUSPENSION HEARINGS WITH OTHER HEARING PROVISIONS IN THE LAW

Business and Professions Code section 4610(e)(4) states that when CAMTC is proposing to deny an application or impose discipline on a certificate holder, CAMTC is to provide "an opportunity for the applicant or certificate holder, to be heard, orally or in writing." However, in Business and Professions Code section 4610(g)(2), a provision allowing for suspension based on evidence, the language does not specify that a certificate holder has the opportunity to be heard "orally or in writing." Though CAMTC interprets this provision to provide for an oral hearing or consideration of a written

statement, clarification of this provision might better inform certificate holders. CAMTC therefore proposes that this provision be modified as follows:

Business and Professions Code section 4610(g)(2): A certificate holder whose certificate is suspended pursuant to this subdivision shall have the right to request, in writing, a hearing ***an oral hearing or consideration of a written statement*** to challenge the factual basis for the suspension. If the holder of the suspended certificate requests ***an oral hearing or consideration of a written statement*** on the suspension, the hearing ***oral hearing or consideration of a written statement*** shall be held within 30 calendar days after receipt of the request.

#### 4. FIX UNINTENDED CONSEQUENCE OF STATUORY CHANGE THAT REMOVED EXEMPTION TO POSTING HUMAN TRAFFICKING POSTERS

Prior to the passage of AB 1147 and the complete restructuring of the law applicable to CAMTC, Civil Code section 52.6 was added to the Code. This section required the public posting of human trafficking posters in massage establishments except for in those massage establishments where all providing services for compensation were CAMTC certified. (Civil Code §52.6(a)(12).) This Civil Code section therefore currently references a statutory provision that is no longer applicable since the law has been restructured, and the exclusion for businesses that use only CAMTC certified massage professionals to provide massage for compensation has been lost. This is an unintended consequence of the restructuring of CAMTC's statute. CAMTC is therefore requesting that this civil code section be modified to properly exclude businesses where everyone providing massage for compensation is CAMTC certified.

CAMTC therefore proposes that Civil Code section 52.6(a)(12) be modified as follows:

Businesses or establishments that offer massage or bodywork services for compensation and ~~are not described in paragraph (1) of subdivision (b) of Section 4612 of the Business and Professions Code~~ ***use or employ massage professionals who are not certified pursuant to Business and Professions Code section 4600 et. seq.***

CAMTC is also requesting that it be granted a five-year Sunset period.



**59. Please explain any important board of directors-related decisions which have occurred since the past Sunset review under the jurisdiction of the current board composition, including staff changes, contract negotiations or any other significant activity conducted prior to and after the change in the board of directors composition.**

#### **JANUARY 28, 2014**

At the January 28, 2014 BOD meeting, the BOD modified a previous BOD motion related to the acceptance of online education in order to provide a grace period for certificate holders who had completed online education prior to the BOD decision. The initial BOD decision related to online education was made at the December 5, 2013 meeting and stated the following:

As of December 5, 2013, CAMTC will not accept online or distant learning hours for the first 500 hours of education, except for the following:

For continuing education online-classes only:

- CAMTC will accept any online continuing education classes taken before January 2, 2014;
- CAMTC will accept any online continuing education classes paid for before January 2, 2013 (with proof of date of payment provided to CAMTC);
- CAMTC will accept any online continuing education classes where it is documented by CAMTC that CAMTC told the certificate holder before January 2, 2014 that they would accept online continuing education classes; and
- For those CCMP's expiring in December of 2013, January 2014 or February of 2014, CAMTC will accept all online continuing education classes before the CCMP's expiration date.

This previous BOD decision was modified to state the following:

For a 90-day notification period CAMTC will continue to accept online education or distant learning hours for the first 500 hours of education for CCMP's and those upgrading from CMP to CMT in order to allow for fair notification. After April 7, 2014, CAMTC will not accept online or distant learning hours for the first 500 hours of education. All online or distance learning classes must be completed by April 7, 2014.

### **APRIL 15, 2014**

On April 15, 2014, the BOD reviewed staff's proposed responses to the 20 issues raised during the Sunset process and agreed to accept staff's recommendations.

Additionally, the BOD made the following decisions at this meeting:

- Instruct staff to send a letter to the Legislature that encourages them to create legislation that cities and counties have the authority to require a local revocable registration of massage businesses with reasonable time, cost, and restriction caps.
- Instruct staff to consider receipt of a prior citation for operating/practicing without a local permit as a basis for denial or discipline when considering applicants and certificate holders.

### **JUNE 5, 2014**

#### **Special Meeting**

A special meeting was held to have the BOD consider proposed legislative changes to AB 1147, contained in the version of the bill dated April 23, 2014.

The BOD voted to accept changes to Business and Professions Code section 4601, Definitions:

(f) Massage Establishment and

(k) Operator

The BOD also voted to request the addition of the following definition:

(m) "Sole provider" means a massage business where the owner owns 100 percent of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active certificate issued in accordance with this chapter, and has no other employees or independent contractors.

The BOD also voted to support the following amendments to BOD composition and related issues:

- To recommend that the new BOD be seated on or after Sept. 1, 2015;
- To limit the BOD to 11 members with the following appointments:
  - 4 Government (CSAC, Cal. Chiefs, League of California Cities, and DCA)
  - 4 Massage Associations
  - 1 City Attorney Association
  - 2 Schools/Businesses;
- Provide for a transition period from the end of Business and Professions Code section 4612 to new statutory provisions returning authority to regulate massage businesses to cities and counties;
- Provide for information sharing with law enforcement and local government related to Registered Massage Establishments and applicants for registration; and
- Carry forward current language related to education and authority to investigate schools and conduct interviews.

The BOD voted to accept the language in the April 23<sup>rd</sup>, 2014 bill regarding:

- Fee limits;
- Legal right to work in the US;
- Reciprocity for Individuals Licensed in Other States;
- Operators
  - A. CAMTC approves education, providers, and programs

- B. Education is not to exceed 50 hours
- C. Sole providers issued Certificate upon request, payment of fee, and application (no additional education). If don't meet the definition of sole provider, operator's certificate immediately terminated;
- Background checks for all those working at CAMTC Registered Massage Establishments (5% or more owners, operators, and those working on the premises of registered establishments);
- Continuing education, with CAMTC to approve programs and providers;
- Provisions Related to Denial/Discipline;
- Provisions related to Certificate Holders; and
- Provisions applicable to CAMTC Registered Massage Establishments.

The BOD also voted to amend the provision related to the prohibition of breast massage to state that massage of the female breast is prohibited, with the exception that it may be provided with the written consent of the client and under supervision of a medical physician. The BOD also voted to request that the proposed Sunset date be changed from 2 years to 3 years.

## **JUNE 25, 2014**

On June 25, 2014, the BOD made the following significant decisions:

Request the following changes to AB 1147:

- That the new BOD be seated on September 15, 2015;
- That one BOD member be added to represent independent massage schools;
- That one BOD member be an appointee of the BOD who shall be an attorney licensed by the State Bar of California, and who has been practicing law for at least three years and who at the time of appointment represents a city in the State;

- That one BOD member be an appointee of the BOD who shall represent a massage business entity that has been operating in the State for at least three years; and
- That Business and Professions Code section 4609(a)(1)(E) be amended to state that providing massage of the female breast without the written consent of the person receiving the massage and referral by a licensed physician is prohibited.

The BOD also decided to amend the Bylaws to provide that special or emergency meetings held on less than 10 days' notice pursuant to Government Code section 11125.4 or 11125.5 do not count for purposes of automatic disqualification of BOD members that miss three consecutive meetings in a row.

### **SEPTEMBER 30, 2014**

On September 30, 2014, the BOD voted to adopt a Duty of Loyalty resolution. (Section 13, Attachment No. 33.) The BOD also voted to adopt the 2015 Strategic Priorities, previously referenced in this document in response to Question 3 of this report. These 2015 Strategic Priorities were further amended at later BOD meetings. The BOD also voted to authorize General Counsel and the CEO to develop contracts as needed in negotiations with candidates for a Director of Communications and Outreach position.

### **OCTOBER 1, 2014**

At the October 1, 2014 meeting, the BOD delegated authority to the Chair and General Counsel to explore, develop, and enter into an employment contract with CEO, Ahmos Netanel.

The BOD also decided to institute the following Standard Operating Procedure: When a change affecting the policies and procedures of the organization, or the qualifications or requirements for certificate holders, is suggested by a staff or BOD member, staff is required to include the information described below in the BOD packet to ensure BOD members are well prepared to discuss and vote on the issue. If a BOD member is

making the policy change request, staff may delegate the responsibility of information gathering to the BOD member.

Information provided to the BOD shall include:

- The language of the current policy and when the policy was adopted.
- A short description of why the policy should be changed.
- The language of related statutes that may have an impact on the decision.
- The fiscal impact the proposed change may have on CAMTC and certificate holders and applicants.
- Potential pros and cons if the new policy is adopted.
- The impact on current certificate holders and applicants.
- A suggested date for the change to be implemented.

The BOD further decided that the following change be implemented: When the BOD changes certification requirements or any policy directly impacting certificate holders or applicants, staff will update all relevant areas of the CAMTC website and email all certificate holders and/or applicants within 14 days after the BOD's decision. Any changes to certification requirements shall include a 90-day notification period prior to implementation, unless there is a concern for public safety or a date is otherwise specified in the motion.

The BOD also instructed staff to post approved open session minutes on the website within 14 days of the BOD meeting in which they are approved.

## **DECEMBER 11, 2014**

At the December 11, 2014 BOD meeting, the BOD made the following significant decisions:

- Approval of the CEO's employment contract through December 31, 2019;
- Approval of amendments to Procedures for Un-Approval of Schools, which harmonize these Procedures with the proposed Procedures for Approval of

Schools, so that it is clearly defined what the Procedures are for denial of an application for school approval or un-approval of a school that has been approved by CAMTC pursuant to the School Approval Procedures, (Section 13, Attachment 22.a.);

- Approval of amendments to the Procedures for Denial of Certification or Discipline/Revocation, effective January 1, 2015, which modify the Procedures to match the changes made in AB 1147 related to denials and discipline. (Section 13, Attachment 20.a.);
- Approval of amendments to the Criteria for Proof of Rehabilitation, effective January 1, 2015, which better inform applicants and certificate holders about relevant factors considered in relation to rehabilitation (Section 13, Attachment 21.);
- Adoption of the following water based modalities as water based modalities approved by CAMTC, so that swim wear may be worn when providing them or while visible to clients in a massage establishment:
  - Watsu Massage;
  - Vichy Showers;
  - Hydrotherapy;
  - Swiss Showers;
  - Scotch Hose;
  - Body Scrubs; and
  - Body Wraps.
- As of December 15, 2014, the BOD may treat applicants with education from schools that have lost BPPE approval, or been denied BPPE approval, as applicants from closed schools, and impose the policies and procedures related to closed schools, as long as the school's denial or loss of BPPE approval was not disciplinary in nature;
- As of January 1, 2015, the definition of schools "approved by the Council" shall mean the definition of an "approved school" as stated in Business and Professions Code section 4601(a);

- As of February 1, 2015, CAMTC's approved exams are the MBLEx, the BCTMB, and the two NCB exams, if the NCB exams were taken prior to February 1, 2015; and
- Change the listing of certificate holder's address on both the public and local agency websites as the city/ address of primary work location, instead of residence (which is currently what is listed).

## **FEBRUARY 17, 2015**

At the February 17, 2015, BOD meeting, the BOD made the following significant decisions:

- It amended the 2015 Strategic Priorities to focus on local government, certificate holders, swift discipline, school approvals, MOU with BPPE, and Foreign Language; and
- It adopted the first version of the Policies and Procedures for Approval of Schools. (Section 13, Attachment 15.a.)

## **MARCH 26, 2015**

At the March 26, 2015 BOD meeting, the BOD made the following significant decisions:

- Approval of the proposed amendments to the Procedures for Approval of Schools, which amended the provisions related to denial of an application and discipline of a CAMTC approved school (Section 13, Attachment 15.b.);
- Changes to the re-certification protocol as follows:
  - CAMTC to email and mail notifications to certificate holders to begin the re-certification process 90 days before expiration; and
  - Add a notice that only re-certifications that are received and approved at least 30 days before expiration, with no background issues, will have a new certificate and ID card by date of expiration;
- Approved amendments to Employee Handbook to comply with 2015 changes in California Labor Law; and
- Approved amendments to the 2015 Strategic Priorities, which added establishment of Enforcement Performance Measures to the list of priorities.



## **JUNE 11, 2015**

At the June 11, 2015, BOD meeting, the BOD made the following significant decisions:

- The BOD approved proposed amendments to the 2015 Strategic Priorities, which added strengthening collaboration with Law Enforcement as an additional priority;
- The BOD approved the Mary Magdalene Project and the San Mateo County Health Department as appointing entities for appointments to the new CAMTC BOD;
- The BOD approved the proposed amendments to the Procedures for Approval of Schools. These amendments revised the provisions related to denial of applications and the imposition of discipline against approved schools (Section 13, Attachment 15. c.);
- The BOD approved the amendments to the Denial Procedures, which provides that when the BOD un-approves a school, it shall also propose to deny applicants with education from that school at the same time. (Section 13, Attachment 20.b.); and
- The BOD approved strategic priorities for 2016, which are as follows:
  - Continue CAMTC as a private, nonprofit organization administering voluntary massage certification programs.
  - In preparation for sunset review, to continue to meet the goals and priorities outlined by the Legislature in the AB 1147 process, in particular assisting local governments and law enforcement in meeting their duty to maintain the highest standards of conduct and safety in massage establishments by vetting and disciplining certificate holders, and improving communications with local government and law enforcement.
  - Continue to educate the public about the importance of positive massage as it relates to protecting the public.

## **September 14, 2015**

At the September 14, 2015, BOD meeting, the BOD made the following significant decisions:

- The BOD approved amendments to the Articles of Incorporation and Bylaws in order to match these documents with the provisions of AB 1147, specifically BOD composition plus a few other amendments that were recommended as clean-up items (Section 13, Attachments 32. and 18.b.) (please also see response to Question 3 for a further discussion of these changes);
- Approved amendments to the Procedures for Un-Approval of Schools, adding as a basis for denial or discipline failure to meet the definition of an approved school in Business and Professions Code section 4601(a) (Section 13, Attachment 22.b.); and
- Approved adding language to future agendas that allows the public to suggest agenda items for future agendas.

### **September 15, 2015**

At the September 15, 2015, BOD meeting, the BOD made the following significant decisions:

- The new BOD members were seated and the BOD elected three additional members per statute:
  - Shana Faber – Licensed City Attorney
  - Michael Marylander – Massage Business Owner
  - Mike Callagy – Public Protection Seat;
- The BOD amended the 2015 Strategic Priorities, Priority #2, by adding after “Strengthen the collaboration with local law enforcement” the phrase “and other enforcement agencies.”
- The BOD authorized the CEO to create a preliminary budget without allocating funds to Strategic Priority #3 from the 2016 Strategic Priorities, which was: “Continue to educate the public about the importance of positive massage as it relates to protecting the public.”

## ***Action and Response to Prior Sunset Issues***

Include the following:

1. Background information concerning the issue as it pertains to the CAMTC.
2. Short discussion of recommendations made by the Committees/Joint Committee during prior Sunset review.
3. What action the CAMTC took in response to the recommendation or findings made under prior Sunset review.
4. Any recommendations the CAMTC has for dealing with the issue, if appropriate.

During the prior Sunset review, twenty issues were raised, each of will be addressed here in turn. In most cases, CAMTC believes that these issues were properly addressed during the prior Sunset review and no further action is needed at this time. CAMTC therefore will only be providing a recommendation for dealing with a specific issue when it is appropriate.

**ISSUE #1: (RESERVES: LONG TERM FUND CONDITION.)** Should CAMTC be statutorily required to maintain a specific reserve?

**Staff Recommendation:** *While there is no current indication of financial difficulty, the Committees may wish to discuss whether or not CAMTC should be required by statute to maintain a minimum operating fund reserve, such as 3 or 6 months, similar to other Boards, Bureaus and Committees under the jurisdiction of the DCA.*

**Action:** During the last Sunset period, the Legislature did not impose a minimum operating fund reserve. CAMTC agrees with this decision. CAMTC does not believe that there needs to be a statutory requirement to maintain a minimum monetary reserve. CAMTC needs to have the financial flexibility to roll out new programs without having to unnecessarily raise fees. CAMTC receives funds in a cyclical manner due to the cycle of re-certifications and payment of fees for the two-year certification period. CAMTC

would not want to be in the position where it would have to raise fees in order to address a dip in its funding to satisfy a statutory minimum requirement, when that dip is based merely on the cycle of fee payments. The BOD has demonstrated a high level of fiscal acumen and it is important to give CAMTC the flexibility to have appropriate reserves at different times for different purposes.

**ISSUE #2: (LIMITS ON FEES.) Should the application and re-certification fees be capped in statute?**

**Staff Recommendation:** *The Committees may wish to discuss whether or not a statutory cap on certification and re-certification fees would help provide greater fee certainty for the profession in the future. In addition, CAMTC should update the Committees as to its standards, processes, and its calculation of the reasonable costs of certification and re-certification in order to ensure that fees are as low as is reasonably possible.*

**Action:** AB 1147 addressed this issue and capped the certification and re-certification fees at \$300 for a two-year certification period. (Bus. & Prof. Code §4602(i).) The fee for certification and re-certification has remained unchanged since inception. It is \$150 for two years (\$75 a year). AB 1147 also generally provided for 90-day advanced notice prior to a meeting of the BOD where a vote to increase the fee will take place. (Bus. & Prof. Code §4602(k).) AB 1147 further provided that after any approval for an increase in certification fees, within 14 days of the BOD's action, CAMTC must notify all certificate holders and affected applicants by email of the fee increase. (Bus. & Prof. Code §4602(l).)

**ISSUE #3: (FEE WAIVERS FOR ORAL HEARINGS.) Should CAMTC continue the practice of granting indigent fee waivers for oral hearings?**

**Staff Recommendation:** *The Committees may wish to discuss whether or not charging a fee for due process procedures is appropriate, and if so, how the fee amounts compare with other Boards and Bureaus under DCA.*

**Action:** During the prior Sunset period, the Legislature did not require changes to CAMTC's policy of charging fees for oral telephonic hearings and consideration of written statements, and the granting of fee waivers to indigent individuals. CAMTC agrees with this decision.

CAMTC fees for hearings are analogous to court filing fees. They are meant to cover a portion of the administrative costs for oral hearings and consideration of written statements. CAMTC believes that it is a matter of fundamental fairness to impose these fees only on those individuals that require these services. Business and Professions Code section 4602(i) provides that CAMTC "shall establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties." CAMTC currently charges \$90 for consideration of a written statement and \$135 for an oral hearing. These fees have remained the same since September 13, 2012. The cost to actually provide these services greatly exceeds the fees charged. These fees are directly related to the costs to provide oral hearings and consideration of written statements, including the costs to provide the telephone conferencing service, payment for the Hearing Officers' time, staff time to communicate with applicants, certificate holders, and their representatives, and assemble and upload documents in relation to each specific case, staff attorney time, etc.

CAMTC is not a Board or Bureau, so it does not have the statutory authority to engage in cost recovery for actions against applicants and certificate holders, like those entities do. Additionally, it does not have the statutory authority to impose administrative fines. For example, the Board of Barbering and Cosmetology has the statutory authority to assess administrative fines up to a total amount of \$5,000. They also have the statutory authority to recover the reasonable costs of investigation and adjudication of a case, and do generally seek cost recovery. CAMTC believes that the imposition of a small administrative fee for oral hearings and consideration of written statements is appropriate and reasonable, and the fee itself is directly related to the costs of providing those services.

CAMTC currently grants fee waivers to indigent individuals based on proof of income, using the same financial limits that California Superior Courts do. (Please see Section

13, Attachment 19, for the form of CAMTC's fee waiver.) CAMTC believes that granting these fee waivers is a matter of fundamental fairness. CAMTC would not want an indigent individual to be unable to have an oral hearing or consideration of a written statement due to a documented inability to pay.

**ISSUE #4: (CERTIFICATION TIERS.) Should CAMTC phase out the Massage Practitioner Certification Tier? Should all applicants for certification be required to obtain 500 hours of education at one or more approved schools in addition to the passage of an examination? Is there a need to reinstate a 'grandfathering' provision for those already in practice?**

**Staff Recommendation:** *The Committees may wish to discuss the possibility of requiring a Certified Massage Therapist to obtain 100 hours of instruction in anatomy and physiology, contraindications, health and hygiene, and business ethics within the currently required 500 hours, as is currently required for Certified Massage Practitioners.*

*The Committees may also wish to consider removing the second-tier pathway for certification as a Certified Massage Practitioner beginning January 1, 2015, and instead require all applicants for certification to complete 500 hours of Board-approved education and training, in addition to the completion of a Board-approved national examination.*

*Additionally, CAMTC should update the Committees on any need to continue or reinstate a grandfathering provision for those massage therapists who have already been in practice but did not obtain certification prior to 2013.*

**Action:** AB 1147 addressed these issues. AB 1147 added the 100-hour requirement for core curriculum in anatomy and physiology, contraindications, health and hygiene, and business ethics to the 500-hour Massage Therapist certification tier and phased out the Massage Practitioner (250 hour) tier of certification for applications received on or after January 1, 2015. (Bus. & Prof. Code §§4604(a)(2)(A), 4604.1(a).)

CAMTC does not believe that there needs to be a grandfathering tier for applicants that have been in practice but have not yet obtained certification. CAMTC certification is voluntary, therefore massage providers may practice their profession without CAMTC certification. Additionally, CAMTC's grandfathering provisions expired in 2013. CAMTC has received very few contacts from individuals wishing to be grandfathered into certification. There is no need to reinstate this provision.

**ISSUE #5: (NATIONAL PRACTITIONER DATA BANK.) Should CAMTC be required to seek out additional background information on certification applicants?**

**Staff Recommendation:** *The Committees may wish to discuss requiring CAMTC to query the NPDB as part of its vetting of applicants for certification. In addition, when the national MTLT is operational, the Committees may wish to consider requiring CAMTC to query the MTLT for applicants for certification as well.*

**Action:** During the prior Sunset period, the Legislature did not require CAMTC to query the National Practitioner Data Bank (“NPDB”). CAMTC agrees with this decision. Only licensed health care providers are required to report to the NPDB. Because the NPDB is limited to licensed health care providers, and most states don’t consider massage providers to be “licensed health care providers,” there is very little information in the NPDB related to massage providers. Even states, such as Missouri, which are mandated reporters to the NPDB (their law defines a massage provider as a health care provider), do not query the NPDB when reviewing applications for licensure as a massage professional. Additionally, it is very expensive to query the NPDB and CAMTC does not believe that it is appropriate to require applicants to pay for these queries when they are not likely to return relevant information.

CAMTC cannot currently address the issue of whether it should be required to query the national MTLT, since the national MTLT is still not operational at this time, and therefore the exact manner in which it will operate and the quality of the data it will provide is not known.

**ISSUE #6: (BUSINESS REGISTRATION.) Should CAMTC certify or regulate massage businesses or establishments?**

**Staff Recommendation:** *The Committees may wish to discuss the merits of registering massage businesses themselves, and may wish to inquire of CAMTC how it might implement a business registry, and what additional level of resources it might require, including fees for registrants.*

**Action:** This issue was addressed during the prior Sunset review. The Legislature decided not to provide CAMTC with the statutory authority to register massage establishments during that review. Some cities and counties opposed the proposal to have CAMTC provide voluntary certification/registration of massage establishments. CAMTC agrees with and supports the Legislature's previous decision on this issue at this time. However, CAMTC is open to working with the Committee to explore this issue, should it wish to.

**ISSUE #7: (BUSINESS OWNER AND OPERATOR REGISTRATION.) Should CAMTC certify or regulate massage business owners and/or operators?**

**Staff Recommendation:** *The Committees may wish to consider establishing a certificate program for an owner or operator of a massage business, and requiring a certificated owner/operator at the establishment as a prerequisite for preemption. The Committees may also wish to inquire of CAMTC what level of education and training might be appropriate for an owner/operator certificate. Finally, the Committees may wish to clarify the ownership requirements related to the background check so that they apply to all non-owner operators.*

**Action:** This issue was addressed during the prior Sunset review. The Legislature decided not to provide CAMTC with the statutory authority to certify massage business owners and/or operators during that review. CAMTC agrees with and supports the Legislature's previous decision on this issue at this time. However, CAMTC is open to working with the Committee to explore this issue, should it wish to.

**ISSUE #8: (CERTIFICATE FRAUD). How does CAMTC prevent the creation of fraudulent certificates? What steps does CAMTC take to ensure the integrity of legitimate certificates and identification cards?**

**Staff Recommendation:** *CAMTC should update the Committees as to how it ensures the safety and integrity of the certification process and the certification material, including identification cards. In addition, the Committees may wish to inquire of CAMTC as to whether or not current penalties for forgery or fraud are sufficient to deter wrongdoing.*



**Action:** During the prior Sunset period, the Legislature did not change the penalties for forgery or fraud. CAMTC does not believe that any change to address these issues is necessary.

CAMTC takes great efforts to ensure that its certificates and ID cards cannot be easily duplicated. Certificates are created using a special proprietary ink that looks significantly different if it is copied. Additionally, all certificates have a distinctive watermark that would not appear on a copy. Special proprietary colored paper with a distinctive background design is also used for original certificates. These features ensure that color copies will not look the same as originals. CAMTC ID cards also have a special watermark and are printed on a distinctive special grade of plastic. CAMTC ensures the safety of the certificate and ID card materials by keeping all of the supplies in a locked cabinet behind two locked doors, with two video cameras recording the entrance to the room and any activity taking place in the room 24 hours a day, seven days a week. Only the supervisor and the Operations Manager have keys to the door to the locked room and the locked cabinet. The printer and assistant printer are the only staff people who know how to print the certificates and ID cards, and are the only staff people who print the certificates and ID cards.

CAMTC staff has seen very few instances of fraudulent certificates or ID cards. For the ones they have seen, the fact that the certificates or ID cards were fraudulent was readily apparent. The fact that status as a certificate holder can be verified online helps to curtail this potential problem.

**ISSUE #9:** (APPLICANTS WITH BACKGROUND ISSUES.) What is the current processing time for applicants with criminal records or background check issues? How does CAMTC ensure that applicants with background issues are qualified for certification?

**Staff Recommendation:** *CAMTC should clarify for the Committees its policies and procedures for reviewing criminal and background cases and clearly identify the criteria for granting, denying or revoking certification for individuals with background and criminal issues. In addition, CAMTC should update the Committees as to where the Professional Standards Division is physically located and how it conducts its operations.*

**Action:** Please see responses to Questions 32 and 49, Table 6, of the Sunset report and Section 13, Attachment 20.b. for this information.

**ISSUE #10: (APPLICATION PROCESSING AND LOCAL GOVERNMENT PARTICIPATION.)** CAMTC relies on background reports and notifications from local law enforcement and local government agencies as part of the application process. Is CAMTC receiving the necessary information in a timely manner? Is there an undue delay in application processing times? How can information sharing be improved?

**Staff Recommendation:** *The Committees may wish to inquire of CAMTC as to what efforts it has made to improve its information collection from local governments. CAMTC should update the Committees about its procedures for tracking its effectiveness in communications with local government, and explain its plans, if any, to collect better data on the effectiveness of those communications. It should also address which local entities with large numbers of applicants have been the most, and the least, responsive to its inquiries. The Committees may also wish to inquire of representatives from local government and law enforcement as to the effect of CAMTC's outreach efforts, and what kinds of information local jurisdictions need most from CAMTC. Finally, the Committees may wish to inquire of all parties how information sharing between CAMTC and local agencies can be improved.*

**Action:** Please see the Executive Summary, responses to Question 3 – Strategic Priorities, Question 18, and Question 31 – Performance Barriers, in this Sunset report for this information.

**ISSUE #11: (CERTIFICATE REOVCATION, SUSPENSION OR DENIAL).** CAMTC has broad authority to deny an applicant and revoke or suspend a certificate. What is CAMTC's process for denying, suspending or revoking an application or certification of someone who has received serious administrative or civil violations? Why are the Board's enforcement timeframes increasing? Should CAMTC have a goal to complete the enforcement process? Does CAMTC have reason to believe there are substantial numbers of certificate holders with unknown or unidentified background issues?

**Staff Recommendation:** *The Committees may wish to inquire of stakeholders how best to expand the legal authorization for local government and law enforcement, including the addition of CAMTC to the CADOJ's Authorized Agency list if need be, to share arrest*

*information or declarations of misconduct by certificate holders or applicants in order to expedite CAMTC's disciplinary and review process.*

*The Committees may also wish to discuss expanding the definition of unprofessional conduct to include behaviors such as gender discrimination in accepting clients and advertising in "adult" media or sexually explicit forums.*

*The Committees may also wish to explore requiring CAMTC to abide by a designated timeframe for completing enforcement actions.*

**Action:** Many of these issues have been addressed by AB 1147. The definition for unprofessional conduct was expanded in Business and Professions Code section 4609 and additional conduct based violations were added. As discussed during the last Sunset review, the CA DOJ's "Authorized Agency" list is no longer maintained by that agency, and has not been maintained since 2009, so CAMTC cannot be added to this defunct list. During the last Sunset review, the Legislature did not require the imposition of enforcement timelines, and CAMTC agrees with this decision. Additionally, please see section 5 of the Sunset report and Tables 9.a. – 9.d. for this information.

**ISSUE #12: (WEB SITE CONTENT.) How can CAMTC provide more information to practitioners and the public via its web site?**

**Staff Recommendation:** *CAMTC should immediately update its list of Approved examinations and past meeting minutes on its Web site. Additionally, CAMTC should add biographical and appointment related data for its Board members to its Web site, or explain to the Committees why it does not. CAMTC should also post online a fuller explanation of its operational procedures.*

**Action:** CAMTC lists and has listed CAMTC approved exams and meeting minutes on its website. The list of approved exams can be found at <https://www.camtc.org/FormDownloads/CAMTCApplicationFlatForm.pdf> (Question 22 on the Application) and meeting minutes can be found at <https://www.camtc.org/Meetings.aspx> (please click on each month to find the approved meeting minutes from that month). In April of 2014, CAMTC's BOD voted to add

biographical and appointment related data for its BOD members to its website. This information can be found at: <https://www.camtc.org/Board.aspx>

**ISSUE #13: (WEBCASTING BOARD MEETINGS.) Should CAMTC make its Board meetings available on the Internet?**

**Staff Recommendation:** *The Committees may wish to explore requiring CAMTC to record or webcast its meetings to increase transparency and ensure that stakeholders, schools, law enforcement, and local government entities across the State are able to view and participate in Board meetings. All approved meeting minutes should be posted to CAMTC's Web site to ensure that all recorded votes and meeting information is accessible and identifiable to the general public.*

**Action:** During the past Sunset review, the Legislature did not require CAMTC to webcast its meetings. CAMTC agrees with this decision. Staff has looked into the cost to webcast meetings and it is prohibitively expensive. CAMTC does not want to have to increase fees to cover these additional costs.

CAMTC currently audio records its meetings and posts those recordings to its website. The audio recordings of CAMTC BOD meetings can be found at <https://www.camtc.org/Meetings.aspx>. CAMTC's BOD meetings are open to the public; agendas, dates and location of meetings are posted on the website at least ten days in advance; there is always an opportunity for public comment at meetings; and meeting minutes and votes on issues are posted on its website.

**ISSUE #14: (CUSTOMER SATISFACTION SURVEYS.) What are CAMTC's plans for an effective customer satisfaction survey?**

**Staff Recommendation:** *CAMTC should update the Committees on its plan to utilize customer satisfaction surveys beyond 2014 and explain how the survey will be conducted and how the outcomes will be assessed. More importantly, CAMTC should explain to the Committees its understanding of who their "customers" are, and discuss whether stakeholders such as local governments or law enforcement would be included in those surveys.*

**Action:** CAMTC is funded only by payments from applicants and certificate holders, so technically they are our customers. CAMTC has requested feedback from certificate holders regarding the new law – please see Section 13, Attachment 13 of this Sunset report, which was emailed to each certificate holder. The results of this request will be shared with the Legislature when they have been compiled. CAMTC has received more than 700 responses to this request. Additionally, CAMTC will be sending out a general survey by the end of the year. CAMTC’s mission is to protect the public by vetting massage professionals pursuant to state law. CAMTC also considers local government, schools, law enforcement, business owners and others as our stakeholders. Their input is important to us and information from these parties comes into CAMTC in a different way. Our primary focus has been to protect the public; for this reason we have conducted a survey of those posting complaints on our complaint link. Please see the response to Question 7 in this Sunset Report.

**ISSUE #15: (SALARY STANDARDS.)** What are CAMTC's salary standards for staff? How does CAMTC's salary standards compare to other boards, bureaus and committees under the purview of the DCA? How can CAMTC's salary standards be more transparent?

**Staff Recommendation:** *CAMTC should provide aggregate compensation totals (salary and bonuses) for its entire staff, as well as breakdowns for benefits including health care and retirement, and explain its guidelines for awarding bonuses. CAMTC should explain why it has a COO position listed but not filled, and how that situation impacts the work of the CEO. It should also provide a more detailed accounting of its payments for legal fees and contracting with AMG.*

**Action:** This issue was addressed during the previous Sunset review. Additionally, please see the response to Question 14 of the Sunset report. For purposes of transparency, compensation policies are posted on our website at <https://www.camtc.org/Compensation.aspx>

The COO originally hired by CAMTC resigned and the CEO has been able to successfully integrate the COO’s duties into his workload. That is why the COO

position has not been filled. It has been more cost effective so far to have the CEO take on the COO's duties.

CAMTC is unusual in that it has both its own employees and a contract management firm (AMG) that provides services. CAMTC employees hold all executive positions (CEO, Director of Governmental Affairs, Director of PSD, and Director of ESD), and generally administer the denial and disciplinary program against individuals (PSD, Hearing Officers, and Legal Department) and administer the program related to the approval and un-approval of schools (ESD).

AMG generally provides administrative services. AMG administers the day-to-day operations of the program, such as: processing applications for certification, re-certification and school approvals; processing payments; providing telephonic and email customer support; maintaining the database and documents; and printing and issuing certificates and ID cards. AMG also employs staff that provides administrative support to the PSD and ESD. For more information about AMG, please see section 3, response to question 14 of the Sunset Report.

Additionally, CAMTC works with an outside law firm, Jill S. England, Attorney at Law, that provides General Counsel services, Special Counsel services, and specialized legal services related to other matters such as zoning and land use issues.

Approximately 90% of the legal fees paid to the outside law firm is for denial and disciplinary work such as: applicant denials; complaints; certificate suspensions, revocations and other discipline; representing CAMTC in civil litigation; responding to subpoenas and document requests; and school issues. The outside law firm bills monthly on an hourly basis. CAMTC also employs three staff attorneys and three paralegals that work exclusively on denial and disciplinary matters against individuals and schools under the direction of outside counsel. Please see the Organization Chart for 2015 for the division of tasks. (Section 13, Attachments 27.a. and 27.b.)

**ISSUE #16: (SCHOOL APPROVAL.)** Should CAMTC more thoroughly investigate schools prior to granting approval, and if so, what standards should it use? Is CAMTC fully using its existing authority to approve schools, or does its authority need to be expanded or clarified?

**Staff Recommendation:** *The Committees may wish to inquire of CAMTC as to why it has chosen to engage in a complaint-driven form of school review rather than a proactive and more complete approval process. If CAMTC were given more explicit direction to proactively review and approve massage schools, it should provide a forecast of the additional time and staff requirements needed to develop more robust standards and inspect all relevant schools.*

*Additionally, CAMTC should update the Committees on its current working relationship with BPPE and any active efforts to improve coordination. The Committees may wish to explore amending current statute to clarify that the approval of a school by BPPE is contingent upon approval of a program by CAMTC.*

**Action:** This issue was addressed by AB 1147. In 2015, CAMTC began the process of proactively approving schools. Please see response to Questions 24 through 27 of the Sunset report for more detail on this issue.

**ISSUE #17: (BOARD MEMBER COMPOSITION AND STANDING COMMITTEES.)** Should CAMTC change the composition or structure of its Board, or impose additional requirements on members?

**Staff Recommendation:** *The Committees may wish to discuss the merits of restructuring CAMTC's Board to more closely reflect other healing arts boards under the jurisdiction of DCA in the following ways: reducing the total number of Board members to 15 or less; placing the appointment powers with the Governor, the Speaker of the Assembly, the Speaker Pro Tempore or the Senate Rules Committee; requiring a substantial number or even a majority of public members; instituting rigorous Board member training; requiring local government and law enforcement representatives among the Board members; and imposing a California residency requirement on all Board members.*

*In addition, given the high level of interest from local governments and law enforcement in the regulation of the massage therapy industry, as well as questions about the effectiveness of communications between CAMTC and those stakeholders, the Committees may wish to consider requiring the creation of a local government or law enforcement advisory committee to help ensure proper communications between the Board and stakeholders.*



**Action:** AB 1147 changed the composition of CAMTC's BOD as of noon on September 15, 2015. (Bus. & Prof. Code §4602(g).) Due to the significant changes in BOD composition, there is a much higher percentage of representatives from local government/ law enforcement on the new BOD. The BOD will consider reinstatement of a local government/ law enforcement agency advisory committee.

**ISSUE #18: (Metrics and Data Collection.)** How can CAMTC improve its performance measures for data collection and reporting?

**Staff Recommendation:** *CAMTC should update the Committees on how it intends to develop and maintain better performance metrics for the collection and dissemination of information about applicants and certificate holders, and its communications with key stakeholders such as local governments.*

**Action:** AB 1147 addressed this issue. Business and Professions Code section 4620 specifically requests very detailed information in relation to denials, discipline, complaints, and suspensions. CAMTC is also in the process of getting a new database that will allow it to more easily track, provide, and analyze the requested information. Additionally, please see response to Question 56 of the Sunset report.

**ISSUE #19: (PREEMPTION & PRACTICE RIGHTS.)** Should the preemption of local control granted in statute to massage businesses using only CAMTC-certified professionals be revised in order to strike a better balance between the needs of the massage profession for fairness and certainty, and the needs of local governments for autonomy and effective tools to fight crime?

**Staff Recommendation:** *The Committees may wish to discuss how the preemption language might be revised in order to return a greater degree of control to local governments in regulating massage businesses while maintaining the integrity of the statewide certification process and ensuring that massage professionals do not face undue burdens or discrimination in their practices.*



**Action:** AB 1147 addressed this issue. The previous “pre-emption” language in the statute was significantly revised and the authority to regulate massage businesses that only use CAMTC certified individuals to provide massage for compensation was removed from the law and returned to cities and counties with some exceptions in Government Code section 51034 and Business and Professions Code section 460. However, CAMTC has been receiving numerous reports from sole practitioners that the statutory changes in AB 1147 have been applied and interpreted by cities and counties in a manner that is harming them.

**ISSUE #20: (CONTINUED REGULATION BY CAMTC.)** Can CAMTC continue to effectively fulfill its mission of certifying massage professionals in California? Will CAMTC be able to fulfill its mission if new requirements, such as more frequent or thorough school inspections, are imposed? Given the previously noted suggestions for reform, should CAMTC be dissolved and the industry deregulated, should its responsibilities be transferred to a new board or bureau created under the purview of the DCA, or should CAMTC be permitted to continue operating in its current form?

**Staff Recommendation:** *The Committees may wish to discuss the relative merits of continuing the nonprofit model of regulation, deregulating the industry completely, or transitioning to a board or bureau overseen by DCA. Of course, the creation of a new board or bureau should be done only with the agreement of the Governor's Administration. If it is determined that the current nonprofit model remains desirable, CAMTC should be continued with a two-year extension of its sunset date so that the Legislature may review its progress in addressing the identified issues of concern.*

*The Committees may also wish to request that CAMTC provide it with an updated briefing to explain how it might implement the above recommendations, including expanded school inspection and approval, including estimates of both additional cost and time.*

**Action:** During the prior Sunset review, the Legislature addressed this issue and decided that CAMTC should be allowed to continue to operate in its current form. CAMTC agrees with this decision. AB 1147 also addressed this issue and both significantly revised CAMTC’s statute and provided for a two-year extension of the Sunset date. It also requested a “feasibility study of licensure for the massage profession, including a proposed scope of practice, legitimate techniques of massage, and related statutory recommendations.” (Bus. & Prof. Code §4620(a)(1).) In

accordance with the statute, this document will be provided to the Legislature on or before June 1, 2016.

In relation to CAMTC's new Educational Standards Division, which is actively approving schools for CAMTC certification, please see response to Questions 24 through 27 of the Sunset report.

### ***New Issues***

**This is the opportunity for the CAMTC to inform the Committees of solutions to issues identified by the CAMTC and by the Committees. Provide a short description of each of the outstanding issues, and the CAMTC's recommendation for action that could be taken by the CAMTC or by the Legislature to resolve these issues (i.e. policy direction, budget changes, and legislative changes) for each of the following:**

- 1. Issues that were raised under prior Sunset Review that have not been addressed.**
- 2. New issues that are identified by the CAMTC in this report.**
- 3. New issues not previously discussed in this report.**
- 4. New issues raised by the Committees.**

AB 1147's statutory changes became effective on January 1, 2015, less than a year ago. AB1147 completely re-wrote CAMTC's law and there has not yet been enough time for CAMTC to determine the true impact of all of the statutory changes. At this point in time, CAMTC is hard at work implementing the recent statutory changes and determining their impact and does not believe that any additional issues need to be addressed, aside from the minor technical issues raised in response to Question 58, and a five-year extension of the Sunset date.

### ***Professional Standards Division***

**Discuss the Professional Standards Division's oral hearing processes and procedures and the extent to which it was used, the outcomes of those who participate, the overall costs of the program compared with its successes.**

#### **Applicant Denials and Certificate Holder Discipline**

The hearing process is the same for both applicants and certificate holders. As previously discussed in the response to Question 32 of this report, PSD's process is to review applicants for certification and re-certification and certificate holders and make proposed denial and disciplinary decisions. The hearing process is implemented by the Legal Department. (Section 13, Attachments 25, 27.a., and 27.b.)

In accordance with the Massage Therapy Act and the Denial Procedures, when PSD makes a proposed decision to deny an applicant or discipline a certificate holder, a letter must be sent to that individual notifying them that CAMTC is proposing to take action against them and identifying the legal and factual basis for the proposed denial or disciplinary action. (Section 13, Attachment 28.) This letter identifies the Denial Procedures provisions that the PSD believes have been violated. Applicants and certificate holders are sent to the Legal Department so that this letter can be drafted. Accompanying every letter is a copy of the operative Denial Procedures. (Section 13, Attachment 20.b.) If the proposed denial or discipline is based on a declaration, that declaration(s) is also sent to the applicant or certificate holder. It is important to note that at this point, the action is only proposed. Before action is actually taken against an individual, they are given notice and the opportunity to be heard.

In the letter sent to the applicant or certificate holder proposing to take action against them, the individual is notified that they have:

- the right to request, in writing (email preferred), an oral telephonic hearing or consideration of a written statement (their choice);

- the date of the hearing (approximately 30 days from the date the letter is mailed, though the law only requires 15 days);
- the effective date of the denial or discipline (generally 21 days from the date of the hearing, though the law only requires 5 days);
- the last day to request a fee waiver;
- the last day to request an oral hearing or consideration of a written statement;
- the last day to submit documents; and
- the last day to pay the hearing fee and the amount of the hearing fee (\$90 for consideration of a written statement and \$135 for an oral hearing).

If the individual fails to respond to the letter, fails to timely request an oral hearing or consideration of a written statement in writing, or fails to pay the hearing fee in a timely manner they are automatically denied or disciplined on the effective date noted in the letter.

If an individual timely requests a hearing (oral telephonic or written) in writing, they are then scheduled for their hearing at a specific time slot on their hearing date (for example: 9:00 am, 10:00 am, etc.). Each person's matter is heard and considered by the Hearing Officers on their hearing date by telephone conference. To access the oral telephonic hearing, all individuals call into a conference line using a unique passcode for their hearing. The number of participants on each call is not limited, so multiple individuals (for example the certificate holder, their counsel, a translator, each Hearing Officer, etc.) may each call in individually from separate locations. CAMTC only requires that each person on the call identify himself or herself. Telephonic hearings are recorded by the telephone conference provider, and the recordings are kept for 30 days. Hearings are generally held on Thursdays.

Telephonic hearings are attended by at least one staff attorney, at least two Hearing Officers (though usually it is three), and one paralegal taking notes. The Hearing Officers are the individuals who make the decision to uphold the proposed denial or discipline, determine that the proposed denial or discipline not be imposed, or determine that other disciplinary measures are more appropriate. Decisions are required to be

made by a majority, and there must be a minimum of two Hearing Officers to make a decision in each particular case, though generally there are three or more Hearing Officers on each matter. Most decisions are unanimous. The Hearing Officers review and consider all of the evidence and documents related to each particular matter prior to the hearing date. Applicants and certificate holders are not limited by the number or type of documents, or any evidence that they may submit prior to a hearing; however the evidence submitted is given appropriate weight.

If a decision is made to approve an applicant, or take no action against a certificate holder, both the individual and AMG are notified of that decision. If a decision is made to uphold the proposed denial or discipline or impose a different discipline, the individual is sent a letter notifying them of that decision, the legal and factual basis of the denial or discipline, the final effective date of the denial or discipline, and the fact that they must wait two years from the effective date of denial or discipline before reapplying for certification. (Section 12, Attachment 29.) The decision at this point is final, and there is no further review through CAMTC.

### **Suspensions Based on Evidence (4610(g))**

Pursuant to Business and Professions Code section 4610(g)(2), if CAMTC suspends a certificate holder's certificate based on evidence, the certificate holder "has the right to request, in writing, a hearing to challenge the factual basis for the suspension." In this situation, "the hearing shall be held within 30 calendar days after receipt of the request." (Bus. and Prof. Code §4610(g)(2).) Certificate holders suspended under this provision are sent a letter notifying them of the suspension and the fact that they may request an oral telephonic hearing or consideration of a written statement. If a hearing is requested, the same process described above is followed. In the first nine months of 2015 CAMTC suspended 91 certificates under this provision. Of those 91 certificates suspended, 37 certificate holders requested hearings within that timeframe. Of those hearings, one case is pending, 4 suspensions were lifted, and 32 suspensions were upheld.

## **Overall Cost of Program Compared to its Success**

CAMTC's hearing process works very well and is quite cost effective. The Hearing Officers, staff attorneys, and paralegals each work from their own location and meet telephonically. Telephonic oral hearings and consideration of written statements allows CAMTC employees to work from different locations all over the state without the need to rent costly office space. It also benefits the organization by being able to hire highly qualified employees throughout the state of California without being limited to one geographic area. Before sending a proposed denial or proposed revocation/discipline letter, CAMTC makes sure that there is sufficient evidence (preponderance of the evidence) to take action against the individual. This results in a very high number of proposed denials and proposed certificate holder disciplines being upheld. (Please see Tables 9.a., 9.b., and 9.c.) Its process is simple, and provides for adequate due process while expending only necessary resources. CAMTC has dedicated staff attorneys, paralegals, and Hearing Officers that work exclusively on denial and disciplinary matters, which allows for an efficient process.

By all measures, CAMTC's program is quite successful. It is significantly out-performing its target averages for performance metrics. While its target average for PM4 - completion of formal discipline – which is measured for revocations/discipline from the date information is received which starts the action against a certificate holder to the date that the final decision letter notifying them of the outcome of their case is mailed - is 480 days, CAMTC is significantly out-performing this number. CAMTC's PM4 actual averages for the last two quarters were much lower, at 189 days and 117 days respectively. CAMTC's program is also economical, which can be attested to by the fact that it has not had to raise fees since inception in 2009.

### **1. What is the membership/makeup composition of the Professional Standards Division?**

As previously noted, for this discussion the Hearing Officers will be discussed separately from the other PSD employees. The PSD is staffed exclusively by CAMTC

employees. PSD does not have “members.” Those employees include the Division Director, the Chief of Investigations, the Senior Investigator, two other investigators, and a background investigator. One part-time paralegal works exclusively on PSD matters and the Senior Paralegal splits her time between PSD matters, ESD matters, and Legal matters.

There are four Hearing Officers that work exclusively as hearing officers on matters related to individual certification (denial and discipline). The Hearing Officers are CAMTC employees. There are three paralegals, who are also CAMTC employees, that work on denial and disciplinary matters. The senior paralegal provides hearing support and data tracking services. Two other paralegals work exclusively on matters related to the denial and disciplinary process, including but not limited to the following: 1) scheduling hearings; 2) communicating with applicants, certificate holders, and their counsel; 3) finalizing and mailing letters; 4) gathering and tracking data; and 5) taking notes during oral hearings, consideration of oral hearings, and consideration of written statements. Additionally, two AMG employees (PSD liaisons) work exclusively on denial and disciplinary matters, including uploading documents and communicating with PSD employees. Three staff attorneys also work exclusively on denial and disciplinary matters.

## **2. How many meetings held in 2014 and 2015 through September of 2015.**

PSD holds telephonic meetings every Monday (or Tuesday if Monday is a holiday). Special meetings are added when needed to accommodate high volume. PSD also holds meetings to consider Minimal Review Cases at least once a month. It also holds meetings approximately once a month to consider non-actionable complaints. The Minimal Review Cases meetings and the Non-Actionable Complaint meetings are always held on the same day. In 2014 and through September of 2015 PSD meetings were held on the following dates:



## 2014 PSD Meeting Dates

2014 PSD Mtg Dates	2014 PSD Special Mtg Dates (to accommodate high volume)	2014 Minimal Case Review and Non-Actionable Complaint Mtg Dates
01/06/14	2/26/14	01/08/14
01/13/14	03/19/14	02/05/14
01/20/14	03/26/14	03/12/14
01/27/14	06/25/14	04/16/14
02/03/14		05/14/14
02/10/14		06/18/14
02/18/14		07/23/14
02/24/14		08/27/14
03/03/14		09/24/14
03/10/14		10/15/14
03/17/14		10/29/14
03/24/14		11/19/14
03/31/14		12/17/14
04/07/14		
04/14/14		
04/21/14		
04/28/15		
05/05/14		
05/12/14		
05/19/14		
05/27/14		
06/02/14		
06/09/14		

06/16/14		
06/23/14		
06/30/14		
07/07/14		
07/14/14		
07/21/14		
07/28/14		
08/04/14		
08/11/14		
08/18/14		
08/25/14		
09/02/14		
09/08/14		
09/15/14		
09/22/14		
09/29/14		
10/06/14		
10/13/14		
10/20/14		
10/27/14		
11/03/14		
11/10/14		
11/17/14		
11/24/14		
12/01/14		
12/08/14		
12/15/14		
12/22/14		
12/29/14		

## ***January 1, 2015 through September 30, 2015***

### ***PSD Meeting Dates***

2015 PSD Mtg Dates	2015 PSD Special Mtg Dates (to accommodate high volume)	2015 Minimal Case Review and Non-Actionable Complaint Mtg Dates
01/05/15	02/11/15	01/14/15
01/12/15		02/04/15
01/19/15		02/25/15
01/26/15		03/18/15
02/02/15		04/08/15
02/09/15		04/29/15
02/17/15		05/20/15
02/23/15		06/24/15
03/02/15		07/15/15
03/09/15		07/29/15
03/16/15		08/12/15
03/23/15		09/02/15
03/30/15		09/23/15
04/06/15		
04/13/15		
04/20/15		
04/27/15		
05/04/15		
05/11/15		
05/18/15		
05/26/15		
06/01/15		

06/08/15		
06/22/15		
06/29/15		
07/06/15		
07/13/15		
07/20/15		
07/27/15		
08/03/15		
08/10/15		
08/17/15		
08/24/15		
08/31/15		
09/08/15		
09/14/15		
09/21/15		
09/28/15		

**3. Did the CAMTC have any difficulties with scheduling PSD meetings? If so, describe why and how the difficulties were addressed.**

The PSD did not have any difficulties with scheduling PSD meetings.

**4. How many cases (average) at each meeting?**

PSD averages review of 44 individuals at each regular Monday meeting, though the numbers go up and down depending on workload and recent complaints that need to be reviewed. PSD tries to limit individuals reviewed on Monday meetings to no more than 50 people per meeting, though in times of extreme volume these numbers are exceeded and have even gone as high as 75 people reviewed at a Monday meeting. On average, PSD reviews 63 individuals at each Minimal Review Cases meeting. It also averages approximately 13.5 complaints reviewed at each monthly Non-Actionable Complaints meeting. In 2014, PSD reviewed 1,648 applicants and 945 certificate holders, for a total of 2,593 individuals reviewed in that year, not including education only denials. In the first nine months of 2015, PSD reviewed 1,288 applicants and 724 certificate holders, for a total of 2,012 individuals reviewed, not including education only denials. (See Tables 9.a. and 9.b.)

**5. How many pending? Are there backlogs?**

As of September 25, 2015 there were 129 individuals waiting to be reviewed by PSD. This number is for applicants and certificate holders who will be initially considered either at a regular Monday meeting or a Wednesday Minimal Review Cases meeting. PSD's goal is to ensure that individuals are initially reviewed within 90 days of being sent to PSD by AMG. PSD is meeting this goal. Since 2014, CAMTC has been focusing on suspensions and discipline against certificate holders, and in accordance with the case prioritization policies previously discussed, certificate holders are receiving swift discipline. This can be seen by CAMTC's 2015 performance metrics numbers in relation to PM4. (Section 13, Attachment 1.) However, CAMTC is experiencing a backlog related to the completion of denial of applications. While denial

of applications is the lowest priority, CAMTC would like to process these cases in a faster timeframe, which is why it is proposing to hire an additional staff attorney.

#### **6. Provide statistics on PSD actions/outcomes.**

Please see Tables 9a., 9b., and 9c. for this data. Additionally, please see Table 11 below for combined data on the total number of hearings.

<b>Table 11. Oral Hearings/Consideration of Written Statements</b>		
	<b>2014</b>	<b>1/1/15 – 9/30/15</b>
Oral Hearings (All)	119	88
Written Statements (All)	124	73
Total of both combined per year	243	161

### ***Examples of Effective Local Massage Regulation***

**Please provide some examples of cities or counties that provide a good approach to abating illicit activities under the guise of massage while respecting the profession of therapeutic massage.**

Over time numerous cities and counties have been developing best practices in the effective regulation of massage establishments. There are a number of factors that may be considered in determining whether a city or county is effectively reducing the number of illicit so-called “massage” establishments while complying with the intent of the 2014 Massage Therapy Act. Business and Professions Code section 4600.5 (c) states:

It is the intent of the Legislature that local governments impose and enforce only reasonable and necessary fees and regulations, in keeping with the requirements of existing law and being mindful of the need to protect legitimate business owners and massage professionals, particularly sole providers, during the transition period after this act becomes law and thereafter for the sake of developing a healthy and vibrant local economy.

The following are three components that CAMTC observes in the most successful jurisdictions.

- First of all, and of most importance, is that the jurisdiction makes a commitment to adequate enforcement of their own municipal codes, as well as state laws relating both specifically to the profession, and to criminal violations in general.
- Second is having a well-constructed municipal code that maximizes the ability to discipline or close illicit establishments easily and cost effectively, using administrative citations or penal codes, with violators paying for enforcement through the imposition of fines. Many of the cities and counties with the most effective regulations have drafted them with input from the local community of massage therapists and business owners to minimize unintended consequences that harm the legitimate profession.
- The third factor that may influence the success of fair and effective local regulation of massage establishments depends on how dynamic the sharing of information with CAMTC is. Whether a city or county ordinance requires CAMTC certification is not as important as whether the jurisdiction commits to cooperation with CAMTC in terms of sharing police reports and citation/ municipal code violation information related to applicants and certificate holders. While Business and Professions Code section 4614 requires that CAMTC "shall" provide information concerning an applicant or a certificate holder upon the request of a local agency, these same local jurisdictions are authorized, but not mandated, to share information with CAMTC. While certainly the level of cooperation from local agencies has increased significantly with the implementation of AB 1147, not all jurisdictions have committed to robust systems for information sharing with CAMTC.

It should be noted that according to a study of California DOJ figures, since 2005 there has been a 28% reduction in the number of arrests for prostitution in California. (Please see full story here: <http://www.eastbayexpress.com/oakland/oakland-city-council-takes-stand-against-sex-workers/Content?oid=4563294&showFullText=true>.) Yet at the same

time, the pressure from the public to abate a perceived proliferation of illicit establishments has increased. With a frequent lack of arrests, filing of charges, and convictions for sexual crimes, CAMTC's authority to take action against applicants and certificate holders for conduct-based violations becomes even more important. Such evidence is most often obtained in the form of officer declarations, which can only be obtained with the cooperation of local law enforcement personnel.

### **San Mateo County**

San Mateo County, with a population of 747,373, has established a target of being the first urban county with no illicit massage establishments. In 2012, San Mateo County passed an ordinance requiring revocable registrations for massage establishments and amended it in 2014 to prohibit the opening, within one year, of a new massage establishment in the same location where one had been closed for illegal activity.

San Mateo County has encouraged all cities within the county to adopt similar ordinances. San Mateo County also conducts, at county expense, any hearings to close or otherwise discipline violating establishments. Thus far, only two cities within the county have not followed suit. Fees for the registration of massage establishments range from zero dollars to several hundred dollars for non-certified owners. Background checks are imposed on non-certified owners only. Health and safety inspections are charged at reasonable fees for cost recovery.

The County has closed 11 illicit establishments in the unincorporated county since 2012, most having been in operation for fifteen years or more. As the cities within the county have directed resources towards enforcement, they too are successfully abating illicit "parlors." The County has chosen not to use land use restrictions, such as making massage a conditional use, as a mechanism to achieve their goal. This may be the most welcoming county for the legitimate profession in terms of reasonable regulations and fees while reducing the number of problem establishments that harm both the profession and the community.



## **San Rafael**

San Rafael, population 57,713, was the first city to enact an ordinance with revocable registrations for massage establishments in 2010, shifting its enforcement program from criminal to civil administrative. However, the city did not have the resources for enforcement until it contracted with an outside firm for code enforcement in June of 2014. In 2015 the city extended the contract and updated its municipal code. After a brief and controversial moratorium, the city chose not to impose conditional use or distance limitations on massage establishments. The staff report made a strong case for why they rejected these alternatives, after a study of choices made by other cities and careful analysis of the options. (Section 12, Attachment 31.) For many years San Rafael has had a very engaged Massage Ordinance Advisory Committee (“MOAC”) of local massage therapists. As of this writing, San Rafael has also closed 11 illicit establishments and has one in suspended status. Annual fees range from \$62.50 per year for a certified sole proprietor to \$175 per year for a non-certified owner (\$350 the first year). Like San Mateo county and its cities, San Rafael has been very pro-active in sharing information with CAMTC and providing CAMTC with the evidence needed to suspend, deny, and discipline applicants and certificate holders.

## **Vacaville**

Vacaville, population 118,837, was one of the first cities to require certification in 2010, and this year updated their ordinance. Like San Rafael, city staff participated in the conference calls of CAMTC’s Public Policy and Local Government Committee in 2009-2011, which resulted in many of the policies and information sharing practices that CAMTC implemented from the start. So far the city has closed about 10 illicit establishments through diligent police work, robust information sharing, and an effective ordinance. This city is respectful and supportive of the role of professional massage in serving the public.

## **City of Fresno**

Fresno city has a population of 520,000. Their 2013 massage ordinance requires certification and a no fee registration of massage establishments. The code includes adequate grounds for suspension and revocation of the registration certificate, and imposes fines for administrative citations ranging from \$1,000-\$2,000.

## Section 13 – Attachments

CAMTC is providing the following materials in relation to its program.

1. Disciplinary Performance Metrics for Second and Third Quarters of 2015.
2. Letter sent to California Police Chiefs Association on April 2, 2015, and enclosed Flyer regarding no-cost training.
3. Sample letter sent to Local Law Enforcement Officials on October 12, 2015.
4. Letter sent to California Police Chiefs' Association on October 21, 2015, and letter sent to California State Sheriffs' Association on October 22, 2015.
5. Sample letter sent to City Managers on January 16, 2015.
6. Email message sent to League of California Cities on January 23, 2015, and response.
7. Flyer for League of Cities Managers Meeting.
8. Proposal for League of Cities Spring Conference.
9. Proposal for League of Cities Annual Conference.
10. Sample letters sent to City and County Managers on October 26, 2015 (2).
11. Sample responses from City and County Managers (2).
12. Email message sent to California State Association of Counties on October 30, 2015.
13. Email message sent to all Certificate Holders requesting feedback on the Massage Therapy Act, sent October 8, 2015 through October 12, 2015.
14. Documents related to the new ESD and Proposed Policies and Procedures for School Approval.
  - a. Letter to Schools from Director of ESD, dated January 13, 2015.
  - b. Proposed Policies and Procedures for Approval of Schools.
  - c. Select Education Related Business and Professions Code Provisions.

15. Policies and Procedures for Approval of Schools.
  - a. Procedures approved on February 17, 2015.
  - b. Amended Procedures, approved on March 26, 2015.
  - c. Amended Procedures, approved on June 11, 2015.
16. Local Government handout regarding AB 1147.
17. Certificate Holder handout regarding AB 1147.
18. Bylaws.
  - a. Amended Bylaws, approved June 25, 2014.
  - b. Amended Bylaws, approved September 14, 2015.
19. Form for Hearing Fee Waiver Request for Indigent Individuals.
20. Procedures for Denial of Certification or Discipline/Revocation
  - a. Amended Procedures, approved December 11, 2014.
  - b. Amended Procedures, approved June 11, 2015.
21. Rehabilitation Criteria, amended version approved December 11, 2014.
22. Procedures for Un-Approval of Schools
  - a. Amended Procedures, approved December 11, 2014.
  - b. Amended Procedures, approved September 14, 2015.
23. Policy on Foreign Transcripts.
24. Letter to Schools from Director of ESD, sent on March 13, 2015.
25. PSD/Legal Flowchart.
26. Flowchart for Application Processing.
27. Organizational Charts.
  - a. 2014.
  - b. 2015.
28. Redacted Sample Proposed Revocation Letter.

29. Redacted Sample Final Decision Letter.
30. Consumer Outreach Brochure.
31. San Rafael Staff Report.
32. Amended Articles of Incorporation, approved September 14, 2015.
33. Duty of Loyalty Resolution, adopted on September 30, 2014.