

**Report on the Study of the Need to Regulate Massage Therapists in Virginia**

**Board of Health Professions  
Department of Health Professions**

Board of Health Professions' Draft

September 1995

## **EXECUTIVE SUMMARY**

At the request of Delegate Robert L. Fisher, the Board of Health Professions was instructed by the Director of the Department of Health Professions to conduct a study into the need for state regulation of massage therapists in Virginia. To evaluate the need for regulation and to determine the appropriate degree, the Board used its formal criteria and application policies to govern its review (see Appendices A and B). These standards assess the degree of risk from unregulated practice, the costs and benefits of regulation, and the advantages and disadvantages of various alternatives to regulation aimed at protecting the public.

The practice of massage therapy involves the manipulation of soft tissue for the purpose of relieving muscular tension or pain, or both, and of reducing generalized stress (i.e., creating relaxation). The proliferation of massage therapy as a medically related practice is evident throughout the United States. Twenty states and the District of Columbia have currently regulated the practice and most have done so through licensure. Currently, there are schools throughout the country which provide education, training and practicum necessary to the safe practice of massage therapy. Eight proprietary schools exist in Virginia. (See Appendix C for locations and directors and Appendix D for sample curricula).

The field of massage therapy has evolved to the extent that there are fully established national associations (e.g., American Massage Therapy Association and Associated Bodywork and Massage Professionals) and a national board which provides testing and certification to individuals who complete a minimum of 500 educational hours in massage therapy and who receive successful test scores. Further, evidence of continuing education is required for continued certification.

Massage therapy does not involve invasive techniques, the use of pharmaceutical substances, or extensive diagnostic and therapeutic skills and, therefore, presents less risk of harm than do many regulated occupations. However, massage therapy is performed by independent practitioners, and it does involve the use of potentially harmful techniques. Harm to consumers may emanate from three distinct sources: unqualified practitioners, confusion on the part of the consumer of massage therapy with prostitution, and financial harm. The number of complaints related to massage therapy reported in regulated states

varies greatly (e.g., two in a six month period to twenty-five in a one year period). Types of complaints include but are not limited to actual harm or injury, inadequate sanitary conditions, fraud, and sexual misconduct.

The scope of practice of massage therapy is relatively narrow and it is distinguishable from that of other regulated occupations in Virginia. While certain techniques used and skills required in massage therapy coincide with those used by other regulated professions--most notably physical therapy and chiropractic medicine--neither comments from public hearings nor from other sources have revealed negative reaction related to scope of practice or professional infringement. In Virginia, some massage therapists work completely independently while others work closely with regulated practitioners such as chiropractors and physical therapists. The lack of resistance to massage therapy practice by these practitioners may reflect their comfort with supply and demand issues or reflect an established rapport between groups.

The degree of economic burden associated with regulation is usually determined by the degree of regulation adopted (see Appendix B). In general, the greater the threat to public health and safety, the greater the need to ensure compliance with laws and regulations, the greater the cost. **The Board determined that the possible threat to the public resulting from massage therapy did not warrant licensure. However, they advocated a lower level, statutory certification. The Board held that statutory certification of massage therapists would enable the consuming public to identify those practitioners who have demonstration minimal competency (e.g., through national testing and certification) and to appropriately discipline unprofessional or illegal conduct.**

There does not appear to be a shortage of qualified practitioners currently in Virginia and a sufficient number of Virginia schools to provide a continued supply of qualified massage therapists. Further, the Board noted the general trend that state regulation tends to attract **legitimate** practitioners. Many massage therapists have commented to the Board that there is currently a "patchwork" of separate and widely varying local ordinances they must meet to establish their qualifications to practice. This poses a real problem to the therapist who may wish to practice in more than one locality. The Board was concerned that this apparent barrier to

practice may ultimately result in a barrier to the consumer wishing access to massage therapy. **The Board deemed that statutory certification should mitigate negative effects of local regulation on market prices while helping to ensure consumer's access to safe massage.**

**Also when considering the cost of the state regulation of this group, the Board recommended that the administration of the certification program be directed to a currently existing health regulatory board such as the Board of Nursing or the Board of Medicine.** Given that there are approximately 1,500 practitioners in Virginia who would likely qualify for state certification, it was believed that the workload could be managed so that an existing board could easily oversee the decision-making (including the development of regulations) and that no more than the equivalent of one full time employee (FTE) would be required.

## **BACKGROUND**

This report is in response to a request from Delegate Robert L. Fisher for a study into the need for the state's regulation of the practice of massage therapy in the Commonwealth of Virginia. The methodological basis of this study is guided by the evaluative and application criteria adopted by the Virginia Board of Health Professions in 1991 (see Appendices A and B). These standards are in keeping with regulatory principles established in Virginia law and are accepted in the national community of regulators. The aim of these standards is to assist decision makers in recommending the least governmental restriction possible consistent with the public's protection.

## **STUDY SCOPE AND METHODOLOGY**

The general scope of this study is twofold: (1) to review the competencies and standards of practice of massage therapists established within the Commonwealth and in other jurisdictions in the United States and (2) to determine the costs and benefits of regulating this occupation.

The following questions served as the outline for the study:

- 1. Is there identifiable and proximate risk of harm to consumers that would warrant regulatory intervention?**
- 2. Does the practice of massage therapy require specialized education, training and continuing education? If so, is assurance of such education and training necessary to public safety?**
- 3. Does the practice of massage therapy require independent judgment?**
- 4. Do massage therapists practice autonomously?**
- 5. Is the scope of practice distinguishable (in spite of overlapping skills and functions) from other, currently regulated, health care occupations?**
- 6. If massage therapy becomes regulated, can the economic costs associated with practitioner supply and demand issues and regulatory administration be justified? Are the direct and indirect costs to the public reasonable given the benefit?**
- 7. Are there other alternatives to regulation of massage therapy that would adequately address public safety issues?**
- 8. Provided that regulation is deemed necessary, what is the least restrictive level of regulation that is consistent with public safety?**

And the data to answer the questions were obtained from the following sources:

-a review of the relevant policy literature;

- telephone and personal interviews with key individuals (e.g., representatives of health regulatory boards in states where massage therapy is currently regulated, independent individuals who were involved in research and other activities related to regulation in states where massage therapy regulation exists, persons in key positions in massage therapy national and state associations, educators in the field of massage therapy, and individual massage therapists);
- a public hearing on the relevant issues; and
- a review of materials submitted by states where regulation currently exists.

## **QUESTIONS AND ANSWERS**

### **1. Is there identifiable and proximate risk of harm to consumers that would warrant regulatory intervention?**

The practice of massage therapy involves the manual manipulation of soft tissue for the relief of muscular tension or pain, or both, and of reducing generalized stress. Various amounts of manual pressure are used according to the level of massage required.

Physical and emotional harm to consumers emanates primarily, but not exclusively, from the practice of massage therapy by untrained or undertrained individuals. In addition, the lack of regulation and title protection of massage therapists may result in harm to consumers who unknowingly seek massage services through establishments where massage is practiced in combination with prostitution. Economic harm can accrue to consumers as a result of actual injury or simply because the administration of massage services is performed by untrained or undertrained practitioners. In the latter case, the consumer pays market prices for services of individuals who are not fully skilled and knowledgeable.

#### **(a) Potential for Harm Created by Un- or Undertrained Practitioners**

In instances where massage therapists are practicing with less than adequate skills and knowledge, injury may result from: 1) the use of massage therapy in instances where massage is contraindicated, 2) the improper use of accepted techniques, and 3) the failure to observe and access problems which should be referred to and evaluated by a more qualified health care practitioner.

Primary contraindications include but are not limited to: phlebitis and thrombosis, infectious diseases, congestive heart failure, some types of cancer, inflamed, infected tissue, hemorrhage, heavy tissue damage, and recent fractures or sprains. If a therapist is limited in his ability to recognize signs and symptoms of contraindications, he may exacerbate the

conditions and severely harm individuals receiving massage. For example, massage may dislodge a clot causing a stroke or heart attack.

With regard to improper use of techniques, many examples may be cited. However, one which is commonly recognized by well-trained practitioners of massage therapy is the loss of consciousness created by simultaneous bilateral massage in the occipital region of the neck. Adequately skilled practitioners who have knowledge of relevant anatomy and physiology can avoid such occurrences.

An inability to observe and assess problems which should properly be referred to more qualified health care providers may also potentially result in harm to clients. For example, persons presenting with low back pain may inaccurately attribute such pain to a recent injury rather than more serious pathology such as lumbar tumors. If untrained or undertrained massage practitioners continue to treat unresponsive pain rather than to recommend further evaluation by a physician or other practitioner of the healing arts, needless harm or, indeed, loss of life may result. Because massage therapists frequently work independently and are conceivably the first resource consumers seek for relief of certain types of pain, their knowledge and skills in the practice of massage as well as their adequate assessment skills are required for consumer safety.

The potential for harm from massage therapy is well recognized and well documented; however, the states that currently regulate massage therapists report relatively few injury complaints. For example, the State of Washington received 43 complaints during 1994. Of these, only one involved substandard care. Others involved practicing without a license (16), advertising (4), excessive or unauthorized charges (1), practicing beyond the legal scope (1), sexual misconduct (10), aiding unlicensed persons (4), fee disputes (3), and dishonesty/fraud (4). Other states responding (Oregon, New Hampshire, Connecticut, and Maine) with information on complaints responded similarly indicating little complaint of consumer injury.

#### **(b) Potential for Harm Created by Lack of Consistent Regulation**

Currently in the state of Virginia, massage therapists are typically placed under the jurisdiction of the police department of individual localities. In some jurisdictions, when one wants to practice massage therapy, he or she must undergo a good deal of scrutiny before a permit is extended. The degree of scrutiny varies across jurisdictions. What is required for practice and what is allowed to be practice may vary dramatically across county or city lines. For example, some jurisdictions allow practitioners to massage members of the opposite sex,

while others forbid such practice. Some require a certain level of education be demonstrated while others require only a business permit fee. Nonetheless, all persons providing massage are frequently assumed to be associated with prostitution and placed in the position of establishing legitimacy. Unfortunately, some individuals practice legitimate therapy while others do not.

The Board noted that the absence of a consistently applied standard for the qualifications of legitimate massage therapists across jurisdictions poses a hazard to consumers and to legitimate practitioners across the state. Without such a standard, the average consumer cannot readily distinguish legitimate practitioners from those who practice prostitution as an adjunct to massage, for example. Virginia consumers have sometimes been assaulted when they unknowingly sought massage services from establishments which provide both massage and sexual services. Conversely, there is anecdotal evidence in Virginia that legitimate therapists have been assaulted by clients who desired both massage and sexual services. The only legitimate recourse currently available to these individuals is that of reporting such assaults to the police. However, out of fear of embarrassment, some individuals do not report these violations.

The Board believes that localities should be able to maintain their authority, to ward off and punish illegitimate practice through their respective Commonwealth Attorney's offices. However, to the degree possible, the consumer must be afforded a statewide standard by which to judge the legitimacy of massage therapists.

**(c) Potential for Economic Harm**

The most obvious form of economic harm associated with massage therapy is that which results from actual injury to a consumer. He may incur the direct costs associated with the cure of the injury as well as lost wages. Currently, it is difficult for Virginia's massage therapists to acquire liability insurance, in part because massage therapy is not state regulated. As such, it may be difficult for aggrieved consumers of legitimate practitioners to collect payment for injury.

Another form of economic injury is more subtle because it is related to the inconsistency of skill level among even legitimate practitioners. In the absence of uniform regulation, massage therapists currently practice across Virginia, without consistent requirements for practice and enforcement by local jurisdictions. A given jurisdiction may require no evidence of education (e.g., Middlesex County has no ordinance for the regulation of massage therapy) while others may require graduation from a massage therapy program with a



specified number of educational hours in order to practice massage therapy (e.g., Gloucester County requires graduation from a foundation course requiring 200 hours).

In most states where statutory regulation exists, fulfillment of at least 500 hours of approved education and national certification is required. In Virginia, many practitioners currently meet these standards or they have sufficient experience in lieu of having met these standards. However, others do not. Barring direct inquiry, and presuming honesty on the part of the practitioner, consumers have no practical means of determining the extent of preparation of a practitioner. Therefore, he or she pays the market price for massage therapy regardless of the practitioner's qualification level.

**2. Does the practice of massage therapy require specialized education, training and continuing education? If so, is assurance of such education and training necessary to public safety?**

Given the potential for harm, the safe practice of massage therapy requires specific education, training and skill development. At this writing, there are eight schools in Virginia which are certified to operate by the proprietary division of the Virginia Department of Education (see Appendix C).

While schools vary somewhat in the content offered, they typically include a 200 hour program which provides the fundamental courses in anatomy and physiology and introduction to the various specialty areas of massage therapy (see Appendix D for sample curricula).

Currently, students may graduate having completed the 200 hour program or they may proceed through an additional 300 hour program which will make them eligible to apply for testing and possible national certification by the National Certification Board for Therapeutic Massage and Bodywork in Arlington, Virginia. This program is approved by the National Commission for Certifying Agencies, the accrediting arm of the National Organization for Competency Assurance (NOCA). (NOCA is universally recognized as a standard bearer in the professional regulation community.) Also, an individual who receives national certification must become recertified every four years through evidence of continued practice (i.e., at least 200 hours) and continuing education (i.e., at least 50 hours) or through reexamination.

Some states use national certification as their chief criterion for credentialing and reciprocity.

**3. & 4. Does the practice of massage therapy require independent judgment? Do massage therapists practice autonomously?**

While some massage therapists work in conjunction with other practitioners such as Physical Therapists or Chiropractors, most work independently. In most cases, they receive clients without referral from other health care providers.

As stated in the section describing the potential for harm, the autonomy of massage therapists and the fact that they are often the first to see a client presenting with pain necessitates that they be able to adequately observe and assess clients' conditions so that appropriate action can be taken (i.e., appropriate massage therapy is rendered or referral made).

**5. Is the scope of practice distinguishable from (in spite of overlapping skills and functions) other currently regulated health care occupations?**

Some knowledge and skills required in the practice of massage therapy do overlap with those of other health care occupations--most notably Physical Therapy and Chiropractic Medicine. However, other fundamental skills and techniques massage therapists routinely employ are not typically emphasized in the education and practice of physical therapists or chiropractors. In fact, massage therapists may be viewed by these professions as adjuncts to their practices. Currently in Virginia, some massage therapists work with physical therapists and other health care providers in a common setting or in a referral capacity.

At this writing, very little negative reaction on the part of practitioners of other health care professions in Virginia has been voiced in the response to the possibility of the state regulating massage therapists. While in other states where state regulation exists or is being sought, resistance by such practitioners has been formidable in many cases.

One explanation for the relative lack of resistance by other professions in Virginia may be that supply and demand and workload issues favor these other professions here. Massage is a time-consuming process; a typical therapeutic massage takes approximately 1 hour to complete. Practitioners of chiropractic or physical therapy may not choose to perform massage, choosing instead to spend their time more cost effectively with other more traditional interventions. The supply of those with whom massage therapists might compete may, then, be low. Massage therapists may not be infringing on their practice areas to any real degree.

An alternative explanation may rest with the idea that charges to consumers may be increased when massage therapy is performed in conjunction with other health care practitioners such as physical therapists or chiropractors. There is some evidence that, at least in some instances, third-party payment may be a factor which supports higher prices. In any case, practitioners from other health professions may simply be content with the additional income they receive from the services performed by massage therapists in their practices.

**6. If massage therapy becomes regulated, can the economic costs associated with practitioner supply and demand issues and regulatory administration be justified? Are the direct and indirect costs to the public reasonable given the benefit?**

Decisions that affect costs must be made in light of benefits that are being purchased. The following findings were considered:

1. Massage therapists currently practicing in Virginia have varying degrees of preparation. But,

the consumer has no practical means of determining the differences.

2. Massage therapy, when practiced by untrained or undertrained practitioners, can cause injury.
3. Current inconsistencies created by the varying local regulation of massage therapists in Virginia and the legal practice of untrained or undertrained massage therapists poses some risk of harm to the public that may be mitigated through the appropriate level of statutory regulation.
4. Massage therapists tend to practice autonomously. Thus their independent judgment is required. Appropriate education to provide them with the knowledge, technical skills, and assessment capabilities for safe practice is in the public's interest.
5. Currently, there is an ample supply of accredited schools in Virginia which are certified by the Department of Education.
6. The occupation of massage therapy is currently organized to the degree that national certification can be obtained through testing provided one has completed at least 500 hours of preparation in an approved school of massage therapy.
7. Recertification based on evidence of practice and continuing education or reexamination is required every four years. In regulated states, successful examination and national certification is typically used for credentialing and as a basis for granting reciprocity.
7. At this writing, 21 states and the District of Columbia regulate massage therapists (See Appendix E). Eighteen states and the District of Columbia regulate massage therapy through licensure. However, the Board noted that many decisions for licensure in these states were made in political climates where government regulation was in great demand, where fierce territorial battles were being fought among competing health care occupations, and/or where large numbers of massage therapists existed. This atmosphere does not appear to currently exist in Virginia.

While the evidence appeared to support the need for statutory regulation so that some level of consistency may be obtained across the state, the Board also held that the degree of risk and level of benefit also had to be carefully weighed against the costs involved. To evaluate costs, the Board examined the following: a) the state's cost of regulating massage therapists, b) the costs of regulation that may be passed to the consuming public in the form of higher price of services, and c) other potential cost effects associated with consumer access and value received.

#### **a) The State's Cost of Regulating Massage Therapists**

The general public does not bear the cost of professional regulation through taxation. Further, the cost to the state for any form of regulation can be offset entirely by the fees charged to the members of the regulated group which would be reflected in consumer cost. Nonetheless, the aim of the Board was to maintain low fees to the practitioner so that neither he nor his client would be burdened with unnecessary regulatory costs either by direct fee charges or by pass through increased cost for services.

It is generally accepted that the more restrictive the level of regulation the greater are the associated expenses (e.g., for credentialing, enforcement, and disciplinary activities). Further, it is also generally accepted that when a regulated group is small in number, the fees to individual practitioners tend to be higher than when the group has many members. This is particularly so if no existing administrative structure is in place. It is estimated that there are approximately 1,500 massage therapists in Virginia. Of this number, approximately three-fourths are estimated to be currently practicing. The best information available with respect to numbers is obtained through association membership records. Precise documentation is not available, and membership figures may include distorting duplication as well as members who do not currently practice.

Given the relatively small number of practitioners, licensure through a separate Board of Massage Therapy would likely be cost-prohibitive to the practitioners. And given the general moderate risk to the public, these costs may be unjustified. The other regulatory extreme would be to simply register practitioners (without a concomitant assurance of therapists' qualifications). Even this would result in some costs (i.e., for maintaining the names and addresses of practitioners), but these costs would not be justified in that it would do little to ensure the minimal competency of practitioners. Therefore, the Board argued that statutory certification may be the most appropriate level of regulation because it allows for the protection of consumers and practitioners through standardization of qualifications and title protection and flexibility for local governments. The costs of regulating massage therapists through an existing health regulatory board, such as the Board of Nursing, was also deemed prudent because it should allow for a low to moderate fee while assuring practitioner quality.

#### **(b) Costs to the Consuming Public**

Currently, typical charges for therapeutic massage by independent massage therapists in Virginia range from \$40 to \$45 per hour and \$60 to \$65 per hour and one-half. Massage provided by those who practice in conjunction with other practitioners (e.g., chiropractors

and physical therapists) tend to charge greater amounts. There is some evidence that charges for massage therapy increase with the introduction of third-party payment.

As stated previously, the level of regulation chosen may affect the price paid by consumers for massage services. However, there is evidence which indicates that appropriate regulation may provide the benefit of greater public access to more highly qualified massage therapists and do so without significantly increasing the price for services. There is some evidence that appropriate regulation tends to attract more qualified practitioners while the absence of appropriate regulation may deter entry of such practitioners. Further, an increased supply of qualified practitioners to the market should offset the effect of restricting unqualified people from the market.

**(c) Cost Effects Associated with Access and Value**

As previously noted, there is significant variation in the level of preparation among those currently practicing massage therapy in Virginia. However, consumers currently pay basically the same price regardless of preparation. Further they have no assurance of the quality of service and the value received.

An appropriate level of statutory regulation such as certification should reduce the discrepancies among practitioners and thereby provide the consumer with greater assurance of a standard quality of care and measure of value of services.

**7. Are there other alternatives to regulation of massage therapy that would adequately address public safety issues?**

In the absence of state regulation, massage therapy is largely regulated through local ordinances and voluntary organizations.

Currently massage therapists practicing in Virginia are primarily controlled by local ordinances which vary greatly. Some localities provide fairly detailed requirements and restrictions (e.g., James City County) while others provide little or no guidance (e.g., Middlesex County). In many localities, accredited massage therapists must comply with ordinances created for massage parlors (e.g., Norfolk) while in other jurisdictions they do not (e.g., Hampton.) The lack of uniformity among localities creates potential for confusion to consumers.

Those massage therapists who belong to established associations, such as the American Massage Therapists Association (AMTA) and Associated Bodywork and Massage Professionals (ABMP) and those who are nationally certified by the National

Certification Board for Therapeutic Massage and Bodywork (NCB), are regulated to the extent that actionable complaints against their members are properly reported and processed. These organizations have codes of ethics and grievance procedures complete with disciplinary mechanisms. For example, those members found in violation of the Code of Ethics of AMTA face the possibility of membership revocation. Violation of the Code of Ethics and/or policies of NCB may result in revocation or suspension of certification or other sanctions. Because the massage therapy associations process grievances at the national level, reliance is largely placed on state and local chapters to forward complaints. In the event that one wishes to submit a grievance to NCB, he must send the complaint in writing directly to the national headquarters.

However, not all those who practice massage therapy are association members. Membership and national certification are voluntary except in instances where state or local law specifies such membership or certification as a condition of practicing massage therapy. Unless such conditions exist, revocation of membership in organizations such as AMTA or loss of certification does not affect the right to continue practicing massage therapy and, therefore, may not be of serious consequence to the practitioner. With such individuals, in case of injury, the consumer may have no recourse other than through the civil courts.

### **8. What is the least restrictive level of regulation of massage therapy that would protect the public?**

As stated previously, the Board's contention was that statutory certification constitutes the least restrictive form of regulation consistent with the public's protection. A justified need has been demonstrated for: 1) a requirement for an educational standard and verification of adequate preparation prior to practice (the most cost-effective and reasonable may be those existing standards and credentials connoting national certification); 2) a means for the public to identify qualified practitioners (perhaps in the form of state title protection for those therapists who meet the standards); and 3) a mechanism through which consumers, massage therapists, and others may submit complaints in the event of substandard care or other unprofessional conduct.

### **Summary of Public Comment**

Fundamental to the Board's decision making was its review of the public's comment. Both written and oral comments were accepted.

### **Written Comment**

Written comment consisted of sixty-six letters. The origins are as follows:

- Students of massage therapy (2)
- Massage therapists practicing in Virginia (16)
- Clients or representatives of clients who have used massage therapy (26)
- Registered Somatic Therapist (1)
- Physical Therapists (3)
- Doctors of Osteopathy (1)
- Chiropractors (5)
- Registered Nurses (4)
- Nurse Midwives (1)
- Nurse Practitioners (1)
- Doctors of Dentistry (1)
- Medical Doctors (5)

All except two of the letters were in support of regulation and many expressed support of standard education and national certification. The consensus was that a standard skill level should be required established through minimal educational and training requirements since massage provided by untrained or undertrained practitioners has proven harmful.

One letter submitted by the Registered Somatic Therapist did not really oppose regulation of massage therapist. However, it indicated the difference between massage therapy and other forms of hands-on body work and expressed concern that regulation of the massage therapists should not affect the practice of the somatic therapists.

The second "opposition" letter was submitted by one of the physical therapists who is also a nationally certified massage therapist. It expressed strong opposition based on concern over the relatively small amount of education and training (as well as prerequisite education for same) required of massage therapists when compared to other practitioners who work with patients who present with muscle pain or tension under various circumstances.

### **Oral Comment**

Oral comment was received on August 15, 1995 at the Department of Health Professions. Only positive and neutral comment regarding state regulation of massage therapy was presented.

Speakers included massage therapists, a consumer advocate, a specialist in somatic movement, a massage therapy client and therapists from other health care occupations



involved in the rehabilitation of abuse victims.

The primary issues discussed were in favor of regulation of massage therapists and included:

- positive therapeutic effects of massage;
- lack of public understanding of the field and concomitant lack of knowledge of difference between legitimate massage therapy and that associated with prostitution;
- potential for harm especially if practiced by those who have no training or too little training;
- the lack of guidance to the public for purposes of distinguishing the difference among those with varying degrees of education and training;
- the alleged potential for regulation to decrease prostitution;
- scrutiny of legitimate massage therapists by law enforcement and the requirement of background investigations and periodic AIDS testing in some jurisdictions;
- curriculum provided for preparation of massage therapy practitioners;
- difficulties associated with acquisition of liability insurance by unregulated massage therapists;
- the difference in massage and somatic movement and the need to avoid regulation of the former to interfere with the practice of the latter;
- inconsistencies among municipal jurisdictions with respect to business licensing and requirements for practice of massage therapy;
- disagreement among practicing massage therapists regarding national certification and its benefits;
- barriers to entry into and exit from the Virginia market created by lack of regulation;
- ease of reciprocity for practitioners that regulation and national certification requirements could provide; and
- need for education of medical professionals on the alleged benefits of massage therapy.

### **CONCLUSIONS**

Based on its review of the forgoing findings, the Board concluded the following:

- 1) There is some risk of physical and/or emotional harm to consumers receiving massage therapy. Untrained or undertrained practitioners may pose a greater threat, particularly if consumers cannot distinguish among practitioners of varying skill levels.
- 2) The practice of massage therapy requires independent judgment. Most massage therapists work autonomously with little or no supervision.
- 3) Education, training and skill development is necessary to the safe practice of massage therapy. Testing and national certification is available to massage therapists who have completed at least 500 hours of training through an approved program.

- 4) Alternatives to regulation of massage therapy (e.g., local ordinances) are currently in use. Inconsistency across jurisdictions creates more problem than solution. Control extended through massage therapy associations and the national certification board is of no consequence. As with any personal injury, civil recourse is available.
- 5) Massage therapy in the Commonwealth needs to be regulated at the state level to help achieve assurance of minimal competency across the state.
- 6) Knowledge and skills required in massage therapy do, to some extent, coincide with those of some other health care occupations (e.g., physical therapy). However, there has been very little resistance on the part of members of other occupations with respect to regulation of massage therapists.
- 7) Available evidence does not provide a ready means of performing precise and extensive cost/benefit analyses. However, given its current information concerning the costs and benefits associated with the various levels of regulation available, the Board has concluded that statutory certification is the most appropriate level for massage therapists.
8. To inhibit unnecessary costs to the state, practitioners, and consumers, the administration of the certification program should be through one of the existing health regulatory boards of the Department of Health Professions--perhaps the Board of Nursing.
9. Localities should maintain control of the business practices of massage therapists and should be allowed to protect against illegal activities such as prostitution.

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Griffith, Brenda, Massage Therapist (President, Virginia Chapter AMTA)  
Hacking, Sally, AMTA Legislative Consultant  
Hazelwood, Wesley, Massage Therapist (Peninsula Unit President, Virginia Chapter AMTA)  
Kleimen, Maureen, Director Fuller School of Massage Therapy  
Knaebel, Joanne, Massage Therapist (Legislative Co-Chairperson, Virginia Chapter AMTA)  
Logsdon, Denise, Massage Therapist (Immediate Past President and Legislative Co-Chairperson, Virginia Chapter AMTA)

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#### **IV. Correspondence and/or Discussion with Representatives from the Following State Boards:**

Connecticut, Hawaii, Iowa, Maine, Nebraska, New Hampshire, New Mexico, Oregon, Rhode Island, Texas, Washington

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## Appendix A

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### VIRGINIA BOARD OF HEALTH PROFESSIONS CRITERIA FOR EVALUATING THE NEED FOR REGULATION

Adopted October, 1991

#### **Criterion One: Risk for Harm to the Consumer**

The unregulated practice of the health occupation will harm or endanger the public health, safety or welfare. The harm is recognizable and not remote or dependent on tenuous argument. The harm results from: (a) practices inherent in the occupation, (b) characteristics of the clients served, (c) the setting or supervisory arrangements for the delivery of health services, or (d) from any combination of these factors.

#### **Criterion Two: Specialized Skills and Training**

The practice of the health occupation requires specialized education and training, and the public needs to have benefits by assurance of initial and continuing occupational competence.

#### **Criterion Three: Autonomous Practice**

The functions and responsibilities of the practitioner require independent judgment and the members of the occupational group practice autonomously.

#### **Criterion Four: Scope of Practice**

The scope of practice is distinguishable from other licensed, certified and registered occupations, in spite of possible overlapping of professional duties, methods of examination, instrumentation, or therapeutic modalities.

#### **Criterion Five: Economic Impact**

The economic costs to the public of regulating the occupational group are justified. These costs result from restriction of the supply of practitioner, and the cost of operation of regulatory boards and agencies.

#### **Criterion Six: Alternatives to Regulation**

There are no alternatives to State regulation of the occupation which adequately protect the public. Inspections and injunctions, disclosure requirements, and the strengthening of consumer protection laws and regulations are examples of methods of addressing the risk for public harm that do not require regulation of the occupation or profession.

#### **Criterion Seven: Least Restrictive Regulation**

When it is determined that the State regulation of the occupation or profession is necessary, the least restrictive level of occupational regulation consistent with public protection will be recommended to the Governor, the General Assembly and the Director of the Department of Health Professions.

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## Appendix B

### APPLICATION OF THE CRITERIA

In the process of evaluating the need for regulation, the Board's seven criteria are applied differently, depending upon the level of regulation which appears most appropriate for the occupational group. The following outline delineates the characteristics of licensure, certification, and registration and specifies the criteria applicable to each level.

#### LICENSURE

Licensure confers a monopoly upon a specific profession whose practice is well defined.

RISK: High potential, attributable to the nature of the practice.

SKILL & TRAINING: Highly specialized accredited post-secondary education required; clinical proficiency is certified by an accredited body.

AUTONOMY: Practices independently with a high degree of autonomy; little or no direct supervision.

SCOPE OF PRACTICE: Definable in enforceable legal terms.

COST: High

APPLICATION OF THE CRITERIA: When applying for licensure, the profession must demonstrate that Criteria 1 - 6 are met.

#### STATUTORY CERTIFICATION

Certification is also known as "title protection." No scope of practice is reserved to a particular group, but only those individuals who meet certification standards (defined in terms of education and minimum competencies which can be measured) may title or call themselves by the protected title.

RISK: Moderate potential, attributable to the nature of the practice, client vulnerability, or practice setting and level of supervision.

SKILL & TRAINING: Specialized; can be differentiated from ordinary work. Candidate must complete education or experience requirements that are certified by a recognized accrediting body.

AUTONOMY: Variable; some independent decision-making; majority of practice actions directed or supervised by others.

SCOPE OF PRACTICE: Definable, but not stipulated in law.

COST: Variable, depending upon level of restriction of supply of practitioners.

APPLICATION OF CRITERIA: When applying for statutory certification, a group must satisfy Criterion 1, 2, 4, 5, and 6.

### REGISTRATION

Registration requires only that an individual file his name, location, and possibly background information with the State. No entry standard is typically established for a registration program.

RISK: Low potential, but consumers need to know that redress is possible.

SKILL & TRAINING: Variable, but can be differentiated for ordinary work and labor.

AUTONOMY: Variable.

APPLICATION OF CRITERIA: When applying for registration, Criteria 1, 4, 5, and 6 must be met.

## Appendix C



**Appendix D**  
**Sample Curricula**

## Appendix E

### Regulation of Massage Therapy in the United States

- 1) Currently twenty states and the District of Columbia regulate massage therapy. Most of these regulate through licensure. (Tennessee is the most recently regulated state and the District of Columbia will follow). Exceptions:
  - Delaware has voluntary certification.
  - Maine offers voluntary registration with no educational evidence. Maine provides title protection for the massage practitioners using the title "Certified" which requires at least five hundred educational hours.
- 2) Most regulated states require at least 500 hours of education for credentialing. Two states---Oregon and Texas----require less than 500 classroom hours for massage therapists and these states require 330 and 360 hours respectively. Note:
  - Currently a bill is before the Oregon legislature to increase the required hours to 1,000.
- 3) The American Massage Therapy Association (AMTA) has 21,000 members. The organization promotes high educational and ethical standards for Massage Therapy and it developed the "Council of Schools." Many states are now using the national certification examination as a prerequisite for regulation of massage therapists for the purpose of reciprocity.
- 4) At this time, nine states (including Virginia) are involved in activity related to introduction of regulation or enhancement of current regulation of massage therapists.
- 5) Regulation of massage therapy has been in place for several years in many states (e.g., Oregon, 1959). While this study reveals little definitive information on history leading to regulation, many states introduced regulation during the highly regulated 1970s. Some states were reportedly responding, in part, to illegal practices within the massage industry and a need to create a distinction between legitimate therapists and those who were providing massage without benefit of proper training.
- 6) In many states, negative response to regulation was voiced by practitioners in related occupations (e.g., physical therapy.)

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