

Rose Jade, LMT
PO Box 2104
Newport, OR 97365
(541) 961-8423

Date: Feb. 11, 2013

Re: 2013 Senate Bill 387 (requires permit to operate massage facilities)

To: Senate Committee on Health Care and Human Services

Dear Chair Monnes-Anderson and members of the Committee:

I have been a licensed massage therapist since 2007. I am familiar with the Oregon State Board of Massage Therapists (the Board), the history of massage facility licensing in Oregon, and recent attempts by the Board to expand their jurisdiction over premises and facilities where massage is practiced. Last year Senator Bates, with the Massage Board's support, proposed to renew the Board's jurisdiction over facilities where massage is performed (2012 SB 1509). I and others made explicit objections to that bill, and ultimately, 2012 SB 1509 did not pass out of committee. Senator Bates is now back with a revised proposal (2013 SB 387), and I note that the Board has a separate Bill pertaining to the same subject matter (2013 SB 110), although there is little difference in the Bills (SB 387 delegates slightly more to the Board).

I have several objections to SB 387. While the Bill (like SB 110) appears to promise an increase in public safety, will likely serve primarily to increase Board revenues and expenditures and effect a *decrease* in public safety. This would come about by the Board promising the Legislature and consumers more than the Board can deliver. Increasing consumers' expectation of safety often results in consumers taking less precautionary steps on their own. Promising more safety without actually providing it is simply wrong.

The stated intent of the bill is well-taken (to "force closure" of "illicit facilities operat[ing] without licensed massage therapists, Borderline, January 2013, Attachment E; and to "help to combat the serious problem of human trafficking in Oregon" (Associated Bodywork & Massage Professionals email alert, Feb. 8, 2013, Attachment F). Who could argue against these goals? I join in the agenda but not in the proposed method, because of the real risk to public safety posed by this approach.

1) The Board has failed to explain on the record how it intends to overcome the major challenges to facility/premise licensing that were experienced and documented by the pre-1990 Massage Boards. In 1989, the Board requested the legislature relieve the Board from its *then* statutory duty to license massage facilities. See *Letter dated April 17, 1989, to Honorable Representative Bill Dwyer, Chairman, Sunset Review Committee, re 1989 HB 2325, Hearing date 4/10/1989, Exhibit G* (see Attachment A). Three of the reasons raised in 1989 by written testimony to the Legislature are relevant today.

a) "It is the board's position, as well as the Portland Police department's, that the business license is not useful for dealing with illegal businesses. It does not protect the public."

This honest admission from the 1987 Board merits close consideration. The current Board takes the position that requiring a facility license will be useful in dealing with illegal business (e.g., prostitution and the unlicensed practice of massage) and this bill will "protect" the public from those business. I would like the record to be clear as to how the Board thinks this Bill will reduce or eliminate prostitution or other forms of human trafficking ? In other words, why does the Board believe that human traffickers will lawfully respond to Board-issued citations or somehow otherwise circumvent civil injunctions or criminal prosecution?

Regarding the Medford facility (discussed last session) the Board cited the owner of the Medford facility and presumably issued a formal order substantiating the violation of advertising massage by unlicensed massage therapists (which qualifies as a Class A misdemeanor). The Board forwarded that information to the Jackson County D.A.'s office (see ORS 687.250(1)), which apparently declined to prosecute the matter. According to the Board (in a letter to me dated Feb. 29, 2012, Attachment D), *"This process has been followed in Eugene and Portland and each time the facility remains open."* The Board has also acknowledged that there are existing municipal codes that could be utilized to close down businesses, but the Board has apparently never utilized these or sought help/cooperation from city commissioners.

What exactly does the Board expect to happen differently if the Board cites facility operators (corporations or natural persons) for operating an unlicensed facility? Presumably, the Board will issue a formal order substantiating the violation and forward the paperwork to the local District Attorney.

Despite the Board's explanation in its January 2013 newsletter (Attachment E) sent to licensees, that passage of this Bill "would provide the board with the statutory authority to...ultimately force closure of the facility," there is *nothing* in this Bill that explicitly allows the Board to "force closure" of a facility. Under ORS 687.061, a facility operator would become "*subject to disciplinary action and civil penalty by the board, injunction and criminal prosecution.*" Presumably, any *injunction* would be issued by a Circuit Court Judge, not the Board, and only after a hearing. In the Circuit Court proceeding, the Board would be represented by retained counsel, probably an Assistant Attorney General. Enforcement of any injunction would presumably be left up to local law enforcement agents. And this is assuming that the identity of the facility operator or address of the facility hasn't changed, which is doubtful.

The Board has not provided any information to its licensees that any law enforcement agency currently believes that this Bill will be useful for dealing with illegal business or will protect the public from illegal businesses.

b) "The board does not have the funds...to investigate for noncompliance..."

This was the urgent message sent to the Legislature by the Massage Board in 1989. Oregon's population has grown tremendously in the past 26 years, as has the practice of massage. If the idea of increasing public safety through mandatory facility licensing is followed through on, this Bill will create an enormous increase in workload for the Board. There will be immediate increased revenue for the Board from law-abiding facility operators who choose to obey the statute, but no increase in public safety *per se*.

In Feb. 2012 I wrote the Board asking "*What does the Board have now, in terms of budget and staffing, and in light of the increase in Oregon population [compared to 1989], use of the internet, and texting, that would allow it to overcome the hurdles and challenges faced by pre-1990 Boards in enforcing business/premise/facility permits/licenses?*" (Attachment C).

I have not received any enforcement budget or staffing information from the Board. Oregon is a very large state. As an LMT, I object to footing the bill for a scheme that promises to improve public safety but in reality increases the Boards revenues without actually improving public safety.

It would be useful to hear from the Board how many facilities they estimate there to be, and what percentage they estimate will voluntarily comply if this Bill should pass and *become effective upon passage* (per its emergency clause) -- versus how many facilities they will need to investigate, issue citations to, and expend funds to prosecute?

c) "Only 40% of the practicing massage technicians who have a business have a required business license...The results are a large percentage of licensees operating without a required business license. It is unfair to those who are complying."

Again, a frank admission from the 1989 Board. Has human nature changed dramatically for the better since 1989? From discussion in prior legislative sessions, it appears that the current Board's investigation and enforcement activities are triggered by someone filing a formal complaint about a person or facility. I would like to Board to share on the record how it intends to *fairly* enforce facility licensing throughout our large State, in light of its current infrastructure and budget and the challenges experienced by previous Boards. Many law-abiding facility operators -- who receive knowledge of the licensing requirement -- will pay the facility licensing fee. But -- assuming past experience holds true -- many will not, on the assumption that they won't get caught for *not* paying it.

2. Based on previous legislative sessions, there seems to be three "public safety" issues raised by the Board: a) prostitution/human trafficking; b) poor facility sanitation; and c) the unlicensed practice of massage. This Bill will not do away with any of these.

a) This Bill is not likely to deter prostitution/human trafficking.

There are already multiple statutes and codes in existence prohibiting prostitution and human trafficking. Prostitution is primarily a criminal law enforcement issue. It is already a crime in Oregon to operate or profit from prostitution. I don't understand why this Board continues to insist that enlarging its jurisdiction will somehow eradicate a serious human trafficking problem that historically has challenged efforts put forth by county, state and federal law enforcement across the nation.

Last session, the Board shared with you a scenario in southern Oregon, where a person was allegedly running a massage facility where the people doing the massage were allegedly unlicensed (I say "alleged" because I am not aware of any final judgments relating to this case) and one client was allegedly sexually accosted or assaulted. The Board shared its frustration that multiple Board investigations and citations of the business operator for violation of ORS 687.021(2)(a) and (b) had no meaningful effect: the business in southern Oregon continued to operate, apparently despite an additional and separate active investigation by local law enforcement agents.

After the public hearing last year on SB 1509, I wrote the Board and asked them 5 questions related to their stated needs and goals for facility licensing. In part, I asked if they had (i) exhausted all of the alternative remedies currently available for shutting down a nuisance business, and (ii) what else they would have done had they been given regulatory oversight and civil jurisdiction over massage facilities? (Attachment C).

With regard to (i) the Board answered (Attachment D) that "there are municipal codes in each jurisdiction that would allow the municipalities to close the facilities." With regard to (ii), the Board did not give me any examples of what else they would have done if their jurisdiction had been expanded.

Expanding the Board's jurisdiction is not going to effect an increase in public safety unless there is a meaningful commitment from county District Attorneys to prosecute criminally-minded persons who ignore the statutes, Board's subpoenas and fines, or a local court's civil injunctions. In light of the devastating cuts that have been made to law enforcement and court budgets, it seems very, very unlikely (and understandably so) that D.A.s will prioritize the investigations and prosecutions that the Board refers to it.

Without support from law enforcement, the Board will be faced with the same challenges that consistently defeated previous Boards from fairly and effectively enforcing facility licensing in our large state.

b) This bill is not likely to increase the cleanliness of massage facilities. Currently, LMTs are fully responsible for the immediate environment in which massage is provided, regardless of who "owns" or "operates" the massage facility premise. There are no exceptions. In previous sessions, the Board has shared that the Board has received a few complaints from LMTs (presumably current or former employees of salons or spas) over how the massage facility operator was maintaining the premise, or regarding the quality of linen supplies, etc. These LMTs no doubt felt conflicted over needing to spend more of their own money and time to improve sanitation, or quitting their job because of public safety and legal concerns. There have also been a few customer complaints. Passage of this bill will not make these problems go away. Responsible facility operators and LMTs *already* provide clean facilities and linens. Irresponsible operators and irresponsible massage therapists (licensed or unlicensed) will continue to cut corners to increase their profits even if this Bill passes. Investigating a poor sanitation case is time consuming and very hard to prove (ask the Board for their success rate on this). Again, there are municipal codes that could be used to tackle these issues.

A better use of Board resources for improving public safety would be to promote a public education campaign encouraging customers to ask to see the LMT's license, and to do a "walk through" before getting on the table.

c) This bill is not likely to decrease the unlicensed practice of massage.

Responsible facility operators *already* only hire licensed LMTs, and all LMTs are mandatory reporters of the unlicensed practice of massage.

Irresponsible and/or criminally-minded facility operators typically ignore or easily circumvent regulatory and law enforcement agencies, including the Massage Board. They hire unlicensed practitioners -- often paid off the books -- who are notoriously "hard to catch." The Board has repeatedly gone on record that they have a very hard time currently holding unscrupulous people accountable, and great difficulty recouping their attorney fees and legal costs from those who *are* successfully prosecuted by the Board for violations.

3) The Bill likely delegation of law making power to the Board may be unconstitutional.

(a) Section 2(2) [p. 2 L 39-42] , gives the Board broad **power to "exempt by rule a type of massage facility from the prohibition in subsection (1)(b) of this section if the board finds that requiring a permit for that type of facility is not necessary to regulate the practice of massage therapy or to protect the health and safety of the public."**

This broad delegation of power may violate the state constitutional requirement for separation of powers.

The Board -- in existence over 50 years -- presumably currently fully possesses the knowledge of what "type" of facility does not "need" to be regulated by the Board. Presumably this includes medical facilities operated by licensed medical professionals,

facilities wholly controlled by solo-practitioner LMTs, and private residences when serving as "outcall locations." I ask that the Board candidly and publicly discuss with the Legislature on the record what other types of facilities the Board anticipates as eligible for this exemption, allow for timely and meaningful legislative oversight, and explicitly add these exemptions to the Bill so legislators aren't caught off guard post-session.

(b). Section 8, p. 6 L 25-28, delegating to the Board **the additional power to establish "safety" related "standards" and "requirements" for facilities**, via rulemaking. There is no statutory definition of "safety" as it pertains to the practice of massage, it is a very broad term, and given the stated agenda behind this bill, e.g., to fight human trafficking, etc., **such rules could conflict head-on with constitutional rights, criminal law operations, or otherwise unduly burden LMTs, facility operators, and clients alike**. For example, under this provision the Board via rulemaking arguably could:

- forbid advertising on the internet
- forbid accepting outcall appointments in certain neighborhoods
- forbid accepting payment by cash
- forbid the practice of massage during certain hours
- require/forbid particular clothing to be worn by the LMT or facility "operator"

Again, particularly in light of the emergency clause, I ask that the Board candidly and publicly discuss with the Legislature on the record what additional "standards" and "requirements" the Board anticipates as being necessary for massage facilities, and to amend the bill with those "standards" and "requirements" in statutory language to allow for timely and meaningful public input and legislative oversight.

4) There should be a clear statutory exemption to protect the right of Oregonians, and tourists visiting Oregon, to receive licensed massage in their private residences, without having to first obtain a "facility permit" for their residence.

This definition and whether to exempt private residences is too important to be left to agency rule-making. It needs to be protected by statute. For instance, for home health and hospice patients -- typically patients who are fully home bound -- the only way they can receive massage therapy at all is through what is referred to as "an outcall service location" where the client is located and to which the LMT travels. Outcall service locations include private houses, apartments, hotel rooms, campgrounds, tents, etc.

To be consistent, the definition of "Massage facility" (Section 1, (5)(a); pg 1, lines 27-28) would likely need to be amended to include the operation of an outcall service. E.g., "Massage facility" means a facility where a person engages in **or provides for the practice of massage, including the operation of an outcall service.**"

5) There should be a clear statutory exemption to protect solo-practicing LMTs -- who operate and control their own commercial massage premises, and where no other LMTs practice massage -- from having to pay twice for Board oversight and regulation.

Since this type of LMT is already fully accountable to the Board, there is no rational reason to require him or her to additionally pay for a facility permit.

6) The proposed language of this Bill is unclear in several sections.

(a) The current wording of Section 2(b), [p. 2 L 29-31], exempting the LMT from needing to obtain a facility operating permit if "the person is an individual massage therapist who is working out of the individual's home" is confusing, does not provide adequate notice, and thus it is unclear how this is related to public safety.

There is no statutory definition of what the Board means by "working out of the individual's home." The current wording doesn't even require the therapist to be licensed. Does this mean the therapist is *only* working out of the therapist's home? Or is working out of the home part-time enough to exempt you from having to get a license for another site? Does the therapist have to be practicing *massage* at the home or is any type of "work" sufficient?

If the Board is intending to exempt a residential premise where only *resident licensed* massage therapists practice massage, then the Board should simply exempt such residential premises from the proposed definition of "massage facility" (add exemption on p. 2 after L 1). I would fully support this exemption.

(b) The wording that restricts the advertising of massage, set forth in Section 2(c) [p. 2 L 32-33] is also unclear. "A person may not...(c) Advertise that the person engages in the practice of massage unless..."

I would suggest it be broken into two distinct prohibitions, and be changed to "A person may not...(c) Advertise that the person engages in the practice of massage unless the person practicing massage is licensed under ORS 687.051" and then add a separate section (d) Advertise that massage is provided at or by the facility unless the facility holds a permit..."

(c) The wording used in Section 4(2) [p. 3 L 24] "...may provide massage therapy..." is imprecise.

I would suggest it be changed to "...may provide **the practice of** massage ~~therapy~~..." There is no definition of "massage therapy" yet there is a definition of the "practice of massage."

7). With regards to p. 3 L 27, why should the relocation of a permitted facility require an "inspection and approval" prior to "authorization" for the relocation, when the grant of an initial permit does not requires an on-site inspection and approval? What is the point here?

8). With regards to p. 5 L 7-12, 21, etc., do other regulatory boards have this type of broad jurisdiction over natural persons who are business owners?

9). Is it the intent of the Bill to make facility operators akin to health professionals with the same responsibilities as other mandatory reporters?

10). And what about instances where the permit holder is not a natural person but a corporation, and one or more non-LMT "managers" or "employees" or "operators" (for lack of a better term) "has a physical or mental condition" or "is habitually intemperate" or engages in "unprofessional or dishonorably conduct" such that the Board finds they, via their role at the facility, pose a risk to public health or safety? How does the Board propose to obtain self-reporting from and/or jurisdiction over the offending manager/employee/operator?

In summary, I believe this Bill will not increase public safety. Instead, it will decrease public safety by promising what it can't deliver and thereby encouraging LMTs and consumers to let their guard down -- instead of encouraging them to be more careful. It will also create a huge workload for a very small board, and I predict it will have very little positive, lasting effect on any of the tough issues and types of people it is aimed at. Prior Boards have tried facility licensing for similar reasons and threw up their hands in frustration and exhaustion. The current Board has not presented enough fact-based testimony to explain how they expect to succeed where the previous Boards could not.

Thank you for considering my comments.


Rose Jade, LMT, MSW, JD

Attachments (6 pages total):

A: one page: Letter dated **April 7, 1989** by the Oregon Board of Massage Therapists, to the 1989 Sunset Review Committee, regarding SB 108 in support of deleting the current massage business license.

B: one page: Emailed correspondence dated **Jan. 30, 2012**, from Oregon Board of Massage Therapists, to Rose Jade.

C: one page: Emailed correspondence dated **Feb. 9, 2012**, from Rose Jade to the Oregon Board of Massage Therapists (asking five questions).

D: two pages: Letter dated **Feb. 29, 2012**, from the Oregon Board of Massage Therapists, to Rose Jade (answering five questions).

E: one page: copy of the Oregon Board of Massage Therapist's newsletter sent to licensees: Borderline, **January 2013**, page 1, outlining OBMT's 2013 Legislative Concepts.

F: one page: copy of email alert sent by Associated Bodywork & Massage Professionals, **Feb. 8, 2013**, outlining ABMP's support of SB 387.



Oregon Board of Massage Technicians

908 STATE OFFICE BUILDING, PORTLAND, OREGON 97201 PHONE (503) 229-5160

April 7, 1989

Honorable Representative Bill Dwyer
Chairman, Sunset Review Committee
H473 State Capitol
Salem, Oregon 97310

STATE
FILE #
L. # 6
BILL HB 2325 DATE 4-10-89
Vicky Williams
PAGE 5

Dear Representative Dwyer:

The Board of Massage Technicians would like to bring Senate Bill 108 to your attention. Senate Bill 108 deletes the massage business license.

House Bill 2325, which is in your committee, contains language that would require a license for "fixed sites or locations" only.

It is the board's position, as well as the Portland Police department's, that the business license is not useful for dealing with illegal businesses. It does not protect the public. Criminal convictions must be obtained before a license can be suspended or revoked.

Only 40% of the practicing massage technicians who have a business have a required business license. The board does not have the funds nor the authority to investigate for noncompliance. The results are a large percentage of licensees operating without a required business license. It is unfair to those who are complying.

Massage is the only health-related profession to require a state business license and an accompanying sanitary inspection.

A summary of SB 108 includes the following: deletion of the massage business license; creation of an inactive license; and licensing by indorsement only after a practical examination. A copy of SB 108 is enclosed for your convenience.

Senate Bill 108 is supported by the associations and the massage community.

Sincerely,

Vicky A. Williams
Vicky A. Williams
Executive Secretary

Enclosure
CC: Committee Members

Jade 387
re 2013 SB 108
Attachment A

Starred
 Sent Mail
 Drafts
 All Mail
 Spam (306)
 Trash
 Contacts
 Labels
 Personal
 Receipts
 Travel
 Work
 Edit labels

Expand all Print New window

LC58 re licensing of facilities Inbox

R Jade
Christine A. West
R Jade
Kate Coffey <Kate.Coffey@state.or.us>

Fri, Jan 13, 2012 at 9:22 AM
 Thu, Jan 26, 2012 at 10:49 AM
Sat, Jan 28, 2012 at 8:38 AM
 Mon, Jan 30, 2012 at 8:05 AM

To: R Jade <rjalate@gmail.com>
Cc: "Christine A. West" <Christine.West@state.or.us>, "davidfredricksonlmt@gmail.com" <davidfredricksonlmt@gmail.com>

Reply | Reply to all | Forward | Print | Delete | Show original

Rose - Thank you for your email as it is full of good ideas and we will ensure that we post all relevant bills onto the website. I believe Christine has previously sent you a copy of SB 1509 that was filed last week.

I would like to explain the background of this proposed bill and what the intent is of the bill. The board has requested that Senator Bates modify this bill to include the attached language, as it is not the boards intent to add another license to LMT's. The board already has statutory authority over Licensed Massage Therapists. We are attempting to get statutory authority for those businesses that are hiring unlicensed massage practitioners. We believe the proposed amendment will provide that clarity.

In June 2011 the board received a complaint of a business that was offering massage for \$26. The board investigated the complaint and cited the person for unlicensed practice and the business owner for advertising. In July a citizen went to the same establishment and received a massage from an unlicensed person and was sexually accosted at the facility. She filed a police report and a complaint with us. We once again cited the owner for advertising and the practitioner fled to California. In September we investigated the facility again, as they are still in operation, and cited a practitioner for unlicensed practice. In December we investigated the facility again, as they are still in operation, and cited a practitioner for unlicensed practice. The board has no statutory authority of facilities and we keep citing these young women, who speak minimal English, have no idea that they are supposed to be licensed because they come from California. The board needs authority to cite the owner of the establishment. The intent of the bill is to provide the board with the authority to cite facility owner. The board has been working with Senator Bates because his constituent, the lady who was sexually accosted, wrote both the Senator and the board.

I know that you have a legal background and would greatly appreciate you reviewing the amendment and providing your feedback. The Attorney General's office thought it would be best to utilize the rule making process to exempt groups of LMT's. There is much to be worked out in the rule making portion as some questions arise regarding corporations as many LMT's are incorporated. That is why the board requested that it be in rule instead of statute.

Please call me as I would greatly appreciate discussing this bill with you and receiving your input.

Respectfully,

Kate Coffey
Executive Director
Oregon Board of Massage Therapists
748 Hawthorne Ave. NE
Salem, OR 97301-4465
503-365-8657 ext. 304

Jade 387
re 2013 SB 1509
Attachment 2



Savoy Jade <rjalate@gmail.com>

SB 1509

1 message

R Jade <rjalate@gmail.com>**Thu, Feb 9, 2012 at 11:48 AM**

To: Kate Coffey <kate.coffey@state.or.us>

I've not seen or discussed with anyone any proposed amendments. Just want the record to be clear on that.

I would like the Board to answer 5 questions (probably not possible in the short time the Committee gave us):

1. If SB 1509 had passed in 2010, how would the Board's response to the Medford complaints differed? In other words, what would the Board have done? Pretend you have all the rules you need in place.
2. What does the Board have now, in terms of budget and staffing, and in light of the bigger Oregon population, the internet, and texting, that would it allow it to overcome the hurdles and challenges faced by pre-1990 Boards in enforcing business/premise/facility permits/licenses? I've heard nothing.
3. Did the Board cite any of the "non-English speaking unlic'd practitioners? If not, why not?
4. How much has the Board spend in the last 5 years on translators/interpreters? How much does it have budgeted for that now?
5. Is the Board positive that there aren't other entities with jurisdictions over business premises that could "do something" about this, without enlarging the Board's powers? E.g., nuisance laws, criminal prosecution for prostitution, etc. What efforts did the Board make in the Medford complaints to work with criminal or city code law enforcement?

Thanks,

Rose Jade

Jade
re 2013 SB 1509
Attachment C



Oregon

John A. Kitzhaber, MD, Governor

Board of Massage Therapists
748 Hawthorne Ave NE
Salem, OR 97301
Phone: (503) 365-8657
Fax: (503) 385-4465
www.oregon.gov/OBMT

February 29, 2012

Rose Jade
4025 NW Cherokee Lane
Newport, OR 97365

RE: Response to Questions

I have listed below the board's response to your questions submitted to the Oregon Board of Massage Therapists on February 9, 2012.

1. If SB 1509 had passed in 2010, how would the Board's response to the Medford complaints differ? In other words, what would the Board have done? Pretend you have all the rules you need in place.

After investigating multiple complaints and had SB 1509 been adopted, the violations issued would have been a Class A misdemeanor and the business owner could have been arrested and prosecuted.

2. What does the Board have now, in terms of budget and staffing, and in light of the bigger Oregon population, the internet, and testing, that would it allow it to overcome the hurdles and challenges faced by pre-a990 Boards in enforcing business/premise/facility permits/licenses?

There is limited documentation available from the 1990's that has assisted me in understanding why the board made the decision to remove facility licensing from ORS 687. I would assume, that there was not a need in the 1990's to have facilities licensing because facilities were hiring licensed massage therapists. The situation in 2012 lends a need to have facilities licensing because there are several documented cases where massage facilities are in business with no licensed massage therapists working in the business.

3. Did the Board cite any of the "non-English speaking unlicensed practitioners? If not, why not?
The board cites all individuals that we find in violation of unlicensed practice during board investigations.
4. How much has the Board spent in the last 5 years on translator/interpreters? How much does it have budgeted for that now?
In the past 5 years the board has not expended any funds for translation services. However, there was one contract investigator who was bilingual and he did use his bilingual skills during board investigations. The board does not have a budget category for translation services nor have we projected any budgeted expenditures for the 11-13 biennium for translation services.
5. Is the Board positive that there aren't other entities with jurisdictions over business premises that could "do something" about this, without enlarging the Board's powers? E.g., nuisance laws, criminal prosecution for prostitution, etc. What efforts did the Board make in the Medford complaints to work with the criminal or city code law enforcement?

Jade
re 2013 SB NW 387
Attachment D 89 102

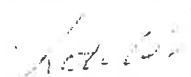
The Medford Police was brought in when a woman was sexually assaulted by an unlicensed practitioner. The facility quickly moved the practitioner back to California, after the confrontation by the client but before police arrived at the facility. Medford police has been provided the information on the unlicensed cases, informed that each violation is a Class A misdemeanor and asked for assistance. As of February 29, 2012 the facility is still open. We are hopeful that our workings with the Medford police will result in this facility being shut down.

This process has been followed in Eugene and Portland and each time the facility remains open.

I did not take the time to review all jurisdictions within Oregon; however, the few that I did review there are municipal codes in each jurisdiction that would allow the municipalities to close the facilities. However, the facilities remain open as of the date of this letter.

I appreciate your questions as they did cause us to strategically think about the outcomes and how we would work these situations. Please don't hesitate to contact me if you have any questions regarding our response.

Respectfully,



Kate Coffey
Executive Director

Jade
re 2013 SB 1101 387
Attachment D pg 2 of 2

BOARDERLINE

Oregon Board of Massage Therapists

January 2013

OBMT 2013 Legislative Concepts

For the 2013 Legislative Session the OBMT will have two legislative concepts, soon to be Senate and House bills.

Name Change & License Endorsements

Legislative Concept 796 would change the name of the board to State Board of Massage and Bodywork. The name change adds bodywork to the name of the board. In addition, this concept would allow the board to issue license endorsements for specialties that exceed the 500 hours of initial training for licensure.



Legislative Concept 390 – Facilities Licensing

Legislative Concept 390 would provide statutory authority for the board to license massage facilities. Currently, the board only has authority over individual licensees. In the past 5 years the board has received several complaints that these illicit facilities operate without licensed massage therapists. The board has investigated several of these facilities and they are still in operation today. This legislation would provide the board with the statutory authority to issue citations to the facility owner and ultimately force closure of the facility.

In this issue:

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Fee Splitting & Massage Therapy	4
Demographics of Licensees	5

Earn Free Continuing Education Hours

Stay current & involved with the OBMT and benefit from it.

The Oregon Board of Massage Therapists holds meetings a minimum of six times per year. Topics covered in the public portions of these meetings include matters such as current legislative topics, budgeting issues, committee updates and policy review. Additionally, the Board discusses issues facing the massage profession both nationwide and locally.

These meetings are open to the public, who will have opportunities to address the Board with any comments they may have. Board meetings are audio taped and minutes are taken to record discussions so if you can't attend,

you can still remain current on the information by visiting the Board's web site at www.oregon.gov/OBMT.

If you would like to obtain free CE, in-person attendance at the meeting will earn you one contact hour for your presence.

The Board meeting schedule is always posted on the Board website. If you would like to receive announcements of upcoming meetings, you may request to be an "interested party." With proper planning you could attend 12 board meetings in one renewal cycle and get all of your required contact hours for free. The 2013 dates are provided to the right. Please check the Board web site and Notices for finalized dates.

2013 Board Meeting Dates

- 1/14/2013 - OBMT Office
9:00 AM - Board Room
- 3/11/2013 - OBMT Office
9:00 AM - Board Room
- 5/17-18/2013 - Location TBD
9:00 AM - Travelling
- 7/22/2013 - OBMT Office
9:00 AM - Board Room
- 9/23/2013 - OBMT Office
9:00 AM - Board Room
- 11/18/2013 - OBMT Office
9:00 AM - Board Room

*Meetings are subject to change

Jade
re 2013 SB 401
Attachment E



Savoy Jade <rjalate@gmail.com>

Massage Facilities Bill Set for Hearing

1 message

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Associated Bodywork & Massage Professionals

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OR Bill Would Require Permit for Operation of Massage Facilities

You may have seen the legislative update that we recently posted on www.abmp.com concerning **Oregon Senate Bill 387**. The bill has now been assigned to the state Senate Health Care and Human Services Committee, and is set for a public hearing before that Committee on **Monday, February 11, 2013**.

If passed, SB 387 would require that all "massage facilities," meaning any "facility where a person engages in the practice of massage," must obtain a massage facility permit from the Oregon Board of Massage Therapists in order to operate. This requirement would not apply to licensed massage schools or to individual massage therapists working out of their homes. To receive a permit, a facility would be required to submit a permit application and pay a fee, comply with the Board's health and safety requirements, and employ only licensed massage therapists, among other things. Facilities would be required to obtain Board approval before relocating the facility or transferring a permit. A permit would need to be renewed periodically, with payment of a renewal fee, prior to its expiration date. The bill also authorizes the Board to adopt rules establishing health, safety, and infection control requirements for massage facilities, as well as rules governing facility investigations. Massage facilities operating without a permit, or which violate any other requirements of the proposed law, would be subject to discipline and monetary penalties.

Although ABMP generally does not support establishment licensing, SB 378's fees and requirements are less onerous than those imposed by establishment laws in many other states. Further, the Oregon Board of Massage Therapists believes that the bill will help to combat the serious problem of human trafficking in Oregon by giving it the authority to discipline establishment owners operating illicit businesses under the guise of massage and assist in shutting those businesses down. For those reasons, ABMP supports SB 387. Click [here](#) to read the letter of support that ABMP has sent to the Senate Health Care and Human Services Committee.

Please call the Senate Health Care and Human Services Committee at 503-986-1286 to voice your support for SB 387. You may also attend the public Committee hearing at **3:00pm on Monday, February 11, 2013 in Room HR A of the Oregon State Capitol, 900 Court St. NE, Salem, Oregon 97301**.

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