



CALIFORNIA
MASSAGE THERAPY COUNCIL

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Example 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 CAMTC¹.

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.

¹ 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. 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 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 three cities within the county have not followed suit. Fees for the registration of massage establishments range from none 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 ten 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 makes a strong case for why they rejected these alternatives, after a study of choices made by other cities and careful analysis of the options. 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.

Fresno City

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. In 2015- October 2016 36 illicit establishments were closed.

* <http://www.eastbayexpress.com/oakland/oakland-city-council-takes-stand-against-sex-workers/Content?oid=4563294&showFullText=true>