

Legislative Analysis



MASSAGE THERAPISTS: REVISE LOCAL AUTHORITY

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House Bill 5749 as introduced
Sponsor: Rep. Vincent Gregory
Committee: Health Policy

First Analysis (1-29-10)

BRIEF SUMMARY: The bill would allow municipalities to continue to regulate the practice of massage therapy within their own jurisdictions until a state license becomes available.

FISCAL IMPACT: There are no state costs related to House Bill 5749 as introduced. Local entities that maintain a licensing requirement for the extended period allowed by the bill will continue to bear any related costs.

THE APPARENT PROBLEM:

Before 2008, many municipalities regulated the practice of massage therapy under local ordinances. In 2008, legislation was enacted to create a uniform, statewide system of licensure for massage therapists. Public Act 471 requires a person to be licensed under the Public Health Code before engaging in the practice of massage therapy. The new act also prohibits local governmental units from establishing or maintaining licensure requirements for a person licensed under the state law.

Since enactment of PA 471, local governments have ceased regulating the practice of massage therapy. However, the Department of Community Health has not yet begun accepting applications for state licensure. Before the department can receive applications and issue licenses, departmental rules creating and implementing the licensing process must be developed and adopted. This process can take anywhere from 18 months to several years to complete.

As a result, many massage therapists, especially those who have graduated since PA 471 took effect, have found themselves trapped in a limbo of unintended consequences. Local governments can no longer regulate them via local ordinances, but are denying permits for new businesses because the therapists lack state licensure. Reportedly, the situation is preventing many trained and certified massage therapists from being able to earn a living in their chosen profession. Legislation has been offered to provide a fix for this conundrum.

THE CONTENT OF THE BILL:

Public Act 471 of 2008 added Part 179A (Massage Therapy) to the Public Health Code to prohibit a person from engaging in the practice of massage therapy or from using certain titles without being licensed under the health code, create the Michigan Board of Massage Therapy, establish minimum educational and experience standards for licensure,

and require continuing education courses as a condition for license renewal. Public Act 471 also prohibited, beginning on its effective date, a local unit of government from establishing or maintaining licensing requirements for a massage therapist licensed under Part 179A.

House Bill 5749 would amend the Public Health Code so that the restriction on local governments would not be triggered until one year after the certification of administrative rules to implement and administer Part 179A.

MCL 333.17967

ARGUMENTS:

For:

Each time legislation creates a new regulatory framework for a health care profession, there is lag time between when the new act goes into effect and when the licenses are actually issued. Usually this is not a problem because the profession typically has been one that was not regulated either at the state or local level. In the case of massage therapy, an older statute was repealed in the mid-1990s at the request of local governments who wanted to enact more substantive regulations via ordinances as a way of distinguishing between massage therapy practices and massage parlors.

The wording of the newer state law, meant to establish a uniform statewide system in place of a patchwork quilt of local ordinances, has created a temporary problem in which a practitioner of massage therapy cannot legally practice the craft until licensed by the state, but the state will not be able to license these individuals for months or years to come. Meanwhile, the new act also nullified those local laws which had been providing some regulation for the industry. House Bill 5749 would fix the problem by allowing local authorities to continue to regulate the practice of massage therapy in their jurisdictions until the state licensure process is up and running.

POSITIONS:

The Department of Community Health indicated support for the bill. (1-26-10)

Irene's Myomassology Institute indicated support for the bill. (1-26-10)

The Michigan Municipal League (MML) indicated neutrality. (1-26-10)

Blue Heron Academy has not yet taken a formal position on the bill. (1-26-10)

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