

COLORADO DEPARTMENT OF REGULATORY AGENCIES  
OFFICE OF POLICY AND RESEARCH

# COLORADO MASSAGE PARLOR CODE

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2001 SUNSET REVIEW



# STATE OF COLORADO

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Bill Owens  
Governor

October 15, 2001

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed the evaluation of the Colorado Massage Parlor Code. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2001 Legislative Committees of Reference. The report is submitted pursuant to §24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

*"The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...*

*The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination...."*

The report discusses the question of whether there is a need for the regulation provided under Article 48.5 of Title 12, C.R.S. The report also discusses the effectiveness of the Massage Parlor Code and makes recommendations for statutory and administrative changes in the event this statute is continued by the General Assembly.

Sincerely,

M. Michael Cooke  
Executive Director

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## **Background**

### *The Sunset Process*

The Colorado Massage Parlor Code (Code) shall terminate on July 1, 2002 unless continued by the General Assembly. During the year prior to this date, it is the duty of the Department of Regulatory Agencies to conduct an analysis and evaluation of the Board pursuant to §24-34-104 (9)(b), C.R.S.

The purpose of this review is to determine whether the Code should be continued for the protection of the public. During this review, there must be a determination that there is still a need for the Code. DORA's findings and recommendations are submitted via this report to the Legislative Committee of Reference of the Colorado General Assembly. Statutory criteria used in sunset reviews may be found in Appendix A on page 9.

### *Methodology*

As part of this review, DORA staff reviewed the statute and relevant literature, contacted Colorado district attorneys, county and other local government officials. In addition, contact was made with professional associations representing massage therapists.

### *History of Regulation*

The purpose of Colorado's Massage Parlor Code (Article 48.5 of Title 12, C.R.S.) is to restrict prostitution in the guise of massage services. Prostitution is a class 3 misdemeanor in Colorado.<sup>1</sup> The net effect of the Massage Parlor Code is evident in the current dearth of such establishments in Colorado relative to their numbers before the General Assembly enacted the Code in 1977. In practical terms, the state statute empowers county and municipal governments to restrict such establishments according to local community standards. County governments rely on the state statute to license massage parlors in unincorporated areas of their respective counties.<sup>2</sup>

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<sup>1</sup> §18-7-201, C.R.S.

<sup>2</sup> *Sunset Review: Massage Parlor Code*, 1991, pp. 1-2.

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As an administrative branch of government, counties do not have a court system of their own. They possess no inherent legislative powers and may exercise only those delegated to them by the General Assembly. The basic organizational structure of all Colorado counties is the same, except for the home rule counties and the City and County of Denver, Pitkin County and Weld County. Denver is organized under a charter pursuant to article XX of the Colorado Constitution. Pitkin and Weld counties are organized pursuant to article XIV, section 16, of the Colorado Constitution and §30-11-501, et seq. C.R.S., which allow voters of a county to adopt a home rule charter establishing the organization and structure of county government, and pursuant to §30-35-101, et seq. C.R.S., which further implement constitutional provisions regarding home rule.<sup>3</sup>

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<sup>3</sup> Colorado Counties Inc., <http://www.ccionline.org/counties.htm#structure>

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## **Summary of Statute**

In its legislative declaration, the Colorado General Assembly notes the Colorado Massage Parlor Code is “an exercise of the police powers of the state for the protection of the economic and social welfare and the health, welfare, and safety of the people of this state.” It is noted further that the “licensing and regulation of massage parlors are matters of statewide concern; therefore, this article shall be applicable in every city, town, county, and city and county in this state.”<sup>4</sup>

The Colorado Massage Parlor Code defines “massage” as a method of treating the body for remedial or hygienic purposes, including but not limited to rubbing, stroking, kneading, or tapping with the hand or an instrument or both. A “massage therapist” under the Code means a person who has graduated from a massage therapy school accredited by the state entity responsible for approving private occupational schools, or from a school with comparable standing from another state with completion of at least five hundred hours of training in massage therapy. “Massage parlor” means an establishment providing massage, but excludes the above referenced schools, training rooms of recognized athletic teams, and licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is not a “massage parlor”. A “local licensing authority” means the governing body of a municipality or city and county, the board of county commissioners of a county, or any authority designated by municipal or county charter, municipal ordinance, or county resolution.<sup>5</sup>

Section 12-48.5-104, C.R.S., sets out general licensing provisions. Upon receipt of an application for a license to operate a massage parlor, the local licensing authority is required to determine the boundaries of the neighborhood that will be affected. Before granting any license, the licensing authority must consider the reasonable requirements of the neighborhood, the desires of the inhabitants, and all other reasonable restrictions that may be imposed on the neighborhood. Licenses are valid for one year from the date of issuance. Existing licenses must be renewed upon timely application, and the local licensing authority may require a hearing after providing adequate notice of such hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

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<sup>4</sup> §12-48.5-102, C.R.S.

<sup>5</sup> §12-48.5-103, C.R.S.

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In general, licenses are not transferable and each business entity in a particular geographic location must have a separate license. No changes of location are permitted. Building plans must accompany an application, and in the case of a new building, an architect's drawing must also be submitted. Licenses must specify the date of issuance, the period that is covered, the name of the licensee, and the premises that are licensed. Licenses must be conspicuously placed at all times in the massage parlor premises.

Section 12-48.5-105, C.R.S., governs licensing procedures. Local licensing authorities must prepare and supply forms to applicants that generate appropriate information, including the name and address of the applicant and any other office holders. Before granting a license, the local licensing authority may inspect the premises and investigate the fitness of the applicant and any employees, including checking criminal history records. Prior to commencing work in a licensed establishment, every person must obtain an identity card from a law enforcement agency of competent jurisdiction and must carry such identity card on his person at all times while on the premises. The local licensing authority may refuse to grant a license if in its opinion the character of the applicant would likely result in a violation of the Code, or if the needs of the neighborhood are being met by other operators. If a particular applicant has been denied a license for a specific location he must wait two years before re-applying for a license.

Section 12-48.5-110, C.R.S., delineates unlawful acts under the Code. These include:

- Operating a massage parlor without a license;
- Working in a massage parlor without carrying a valid identity card;
- Obtaining massage services by misrepresentation of age;
- Permitting or providing massage services to a person under 18 years of age, unless such a person is under a doctor's or parent's care or oversight;
- Permitting any person under 18 years of age to be employed in a massage parlor;
- Failure to display a printed card with the required age warning.

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Local peace officers are empowered to enforce the provisions of the Massage Parlor Code, including the power to arrest and the authority to issue summons for violations of the Code.<sup>6</sup>

Although the Massage Parlor Code has statewide application, local jurisdictions may put the question of prohibiting massage parlors to their voters, provided that fifteen percent or more of the registered electors of a political subdivision sign a petition to this end. In addition, the question cannot be submitted more than once in any four-year period. The Code is intended to provide minimum licensing standards, but nothing prevents local governments from enacting ordinances or resolutions requiring more stringent standards.

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<sup>6</sup> §12-48.5-112, C.R.S.



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## **Analysis and Recommendations**

### **Recommendation 1 - Continue the functions of the Massage Parlor Code until 2015.**

The primary determination that the Department of Regulatory Agencies is charged with making is whether continuation of the Code is warranted.<sup>7</sup> We begin by noting that the 1991 Sunset Review of the Massage Parlor Code stated that:

County Commissioners, District Attorneys, City Attorneys and other officials voiced strong support for the continuation of the Massage Parlor Code. They cited the plethora of massage parlors located in various Colorado cities prior to the passage of the state law. The massage parlors were actually fronts for prostitution and brought with them the types of crime, including violent crime, that one reasonably associates with illegal practices like prostitution.<sup>8</sup>

The intent of the Massage Parlor Code should not be confused with the legitimate purposes of therapeutic massage. Massage therapy enjoys wide acceptance. According to the American Massage Therapy Association (AMTA), an increasing number of research studies show that massage therapy reduces heart rate, lowers blood pressure, increases blood circulation and lymph flow, relaxes muscles, improves range of motion, and increases endorphins (brain chemicals that may enhance medical treatment). The *Denver Post* reported in late 2000 that an estimated 72 percent of Colorado residents have used or considered using alternative medical therapies. Massage therapy is one such option. Several of Colorado's largest health plans, including Aetna U.S. Healthcare, PacifiCare Health Systems, and Cigna Healthcare, offer substantial discounts and access to massage therapists.<sup>9</sup> Massage therapy is specifically exempted from the Massage Parlor Code.

At least two other statutory provisions combat prostitution and related offenses. The existing prohibition against prostitution may be invoked, or zoning provisions enforced where applicable or enacted to curb such activities. Section 18-7-201, C.R.S.,

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<sup>7</sup> §12.48.5-119, C.R.S. repeals the article. The article is repealed, effective July 1, 2002. Prior to such repeal, the licensing functions of the local licensing authorities must be reviewed as provided for in section 24-34-104, C.R.S.

<sup>8</sup> *Sunset Review: Massage Parlor Code*, 1991, p. 1.

<sup>9</sup> *Denver Post*, October 20, 2000, "HMOs Go Beyond Typical Treatment", p. 1A, p. 17A.

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prohibits prostitution, which may be said to be the exchange of sexual favors for money or other thing of value. Furthermore, offering seclusion, shelter, or otherwise keeping a place of prostitution is against Colorado law.<sup>10</sup> At first blush, it would appear that enforcement of these provisions would discourage prostitution. However, without addressing the problem of having to prove that a sexual act occurred in exchange for money, the main drawback of these prohibitions is that enforcement can only occur after the occurrence of an illegal act. On the other hand, the Massage Parlor Code is proactive since it discourages establishments that do not meet community standards from taking hold in the first place.

Along the same lines, local zoning provisions are not as effective as the Massage Parlor Code. The Code allows a local licensing authority to deny a license to an applicant who, for example, has been convicted of prostitution. The licensing authority is unlikely to obtain this type of information through the zoning process, and probably could not deny a business license based on such information even if it were known.

In connection with the present review, we solicited input of Colorado Counties, Inc., the Colorado District Attorneys' Council, and the Colorado Municipal League. The latter organization responded in general support of the status quo. We also contacted the Denver Regional Council of Governments, which did not have an official position on the Code. Several massage therapy organizations provided us with input, such as the National Certification Board for Therapeutic Massage and Bodywork, the Colorado School of Healing Arts, and the Colorado Massage Network. Most of the comments were in general support of the existing regulatory framework, informational in nature, or dealt with matters beyond the scope of this review. A typical comment from the Associated Bodywork and Massage Professionals notes:

The code (and the massage therapist's exemption to it) has proved to be tremendously helpful to legitimate massage therapists and has alleviated the humiliation and demeaning procedures involved in the "massage parlor" application process.<sup>11</sup>

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<sup>10</sup> §18-7-204, C.R.S.

<sup>11</sup> Correspondence reproduced in Appendix C.

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In sum, the balance of the evidence points to general support for maintaining the Massage Parlor Code as the most effective means of restricting prostitution, while allowing the practice of legitimate massage therapies. Moreover, there appears to be no significant opposition to the continuance of the Code.

In conclusion, the Massage Parlor Code accomplishes the General Assembly's original policy objective and therefore Article 48.5 of Title 12, C.R.S. should be continued until 2015.

***Recommendation 2 - Amend §12-48.5-108, C.R.S., to make it internally consistent and to account for case law.***

To be internally consistent and to account for case law, §12-48.5-108, C.R.S., should be amended. The proposed language clarifies that it is the moral character of licensees that is of state concern. Furthermore, "reputation" is deleted since it is unconstitutionally vague and cannot suffice as a standard of conduct given that it merely denotes an "opinion of the community".<sup>12</sup> Consequently, the following changes should be enacted:

(c) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good MORAL character ~~and reputation~~ satisfactory to the local licensing authority;

(e) Any person unless he is, with respect to his MORAL character, AND record, ~~and reputation,~~ satisfactory to the local licensing authority.

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<sup>12</sup> R & F Enters., Inc. v. Board of County Comm'rs, 199 Colo. 137, 606 P.2d 64 (1980).

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## **Appendix A - Sunset Statutory Evaluation Criteria**

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action; and
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

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**Appendix B –  
Massage Parlor  
Code**

12-48.5-101. Short title. This article shall be known and may be cited as the "Colorado Massage Parlor Code".

12-48.5-102. Legislative declaration. (1) The general assembly hereby declares that this article shall be deemed an exercise of the police powers of the state for the protection of the economic and social welfare and the health, welfare, and safety of the people of this state.

(2) The general assembly further declares that the licensing and regulation of massage parlors are matters of statewide concern; therefore, this article shall be applicable in every city, town, county, and city and county in this state.

12-48.5-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "License" means a grant to a licensee to operate a massage parlor.

(2) "Licensed premises" means the premises specified in an approved application for a license under this article which are owned or in the possession of the licensee and within which such licensee is authorized to carry on the practice of massage.

(3) "Local licensing authority" means the governing body of a municipality or city and county, the board of county commissioners of a county, or any authority designated by municipal or county charter, municipal ordinance, or county resolution.

(4) "Location" means a particular parcel of land that may be identified by an address or by other descriptive means.

(5) "Massage" means a method of treating the body for remedial or hygienic purposes, including but not limited to rubbing, stroking, kneading, or tapping with the hand or an instrument or both.

(6) "Massage parlor" means an establishment providing massage, but it does not include training rooms of public and private schools accredited by the state board of education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams, and licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is not a massage parlor. For purposes of this subsection (6), "massage therapist" means a person who has graduated from a massage therapy school accredited by the state educational board or division charged with the

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responsibility of approving private occupational schools, or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least five hundred hours of training in massage therapy. For the purposes of this subsection (6), a massage therapy school may include an equivalency program approved by the state educational board or division charged with the responsibility of approving private occupational schools.

(7) "Person" means a natural person, partnership, association, company, corporation, organization, or managing agent, servant, officer, or employee of any of them.

(8) "Premises" means a distinct and definite location which may include a building, a part of a building, a room, or any other definite area contiguous thereto.

12-48.5-104. Licensing - general provisions. (1) All licenses granted pursuant to the provisions of this article shall be valid for a period of one year from the date of their issuance unless revoked or suspended pursuant to section 12-48.5-107.

(2) Application for the renewal of an existing license shall be made to the local licensing authority not less than forty-five days prior to the date of expiration. The local licensing authority may cause a hearing on the application for renewal to be held. No such renewal hearing shall be held by the local licensing authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

(3) Upon receipt of an application for a license to operate a massage parlor, the local licensing authority shall, at its next regular meeting, set the boundaries of the neighborhood to be considered pursuant to subsection (4) of this section in determining whether or not to grant said license. At such time the applicant or any other interested party may attend and present evidence regarding said boundaries.

(4) Before granting any license, the local licensing authority shall consider, except where this article specifically provides otherwise, the reasonable requirements of the neighborhood, the desires of the inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions which are or may be placed on the neighborhood by the local licensing authority.

(5) Each license issued under this article is separate and distinct, and no person shall exercise any of the privileges

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granted under any license other than that which he holds. A separate license shall be issued for each specific business or business entity and each geographical location.

(6) No license granted under the provisions of this article shall be transferable as to ownership except as provided in subsection (9) of this section.

(7) No changes of location for licensed premises shall be allowed.

(8) When a license has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license.

(9) For any other transfer of ownership, application shall be made to the local licensing authority on forms prepared and furnished by the local licensing authority. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of section 12-48.5-108. The local licensing authority may cause a hearing on the application for transfer of ownership to be held. No such hearing shall be held by the local licensing authority until the notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing.

(10) The licenses provided pursuant to this article shall specify the date of issuance, the period which is covered, the name of the licensee, and the premises licensed. Said license shall be conspicuously placed at all times in the massage parlor thereby licensed.

12-48.5-105. Application to local licensing authority - issuance. (1) Application for a license under the provisions of this article shall be made to the local licensing authority on forms prepared and furnished by the local licensing authority which shall set forth such information as the local licensing authority may require to enable the authority to determine whether a license should be granted. Such information shall include the name and address of the applicant and, if a partnership, also the names and addresses of all the partners and, if a corporation, association, or other organization, also the names and addresses of the president, vice-president,

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secretary, and managing officer, together with all other information deemed necessary by the local licensing authority. Each application shall be verified by the oath or affirmation of such persons as the local licensing authority may prescribe.

(2) (a) Before granting any license for which application has been made, the local licensing authority or one or more of its inspectors may visit and inspect the premises or property in which the applicant proposes to conduct his business and investigate the fitness to conduct such business of any person or officers and directors of any corporation applying for a license. In investigating the fitness of any applicant, licensee, or employee or agent of the licensee or applicant, the local licensing authority may have access to criminal history record information furnished by criminal justice agencies subject to any restrictions imposed by such agencies. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his application for a license.

(b) As used in this subsection (2), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(3) No application to have a massage parlor at a particular location by or on behalf of the same person shall be received or acted upon concerning a location for which, within two years preceding, the local licensing authority has refused to approve a license on the ground, in whole or in part, that the licenses already granted for the particular locality were adequate for the reasonable requirements of the neighborhood and the desires of the inhabitants at the time of such refusal.



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(4) Every applicant, licensee, or agent or employee of said applicant or licensee shall, prior to commencing work in or upon the licensed premises, obtain an identity card from the law enforcement agency within the licensing jurisdiction in a form prescribed by the local licensing authority and shall carry said identity card at all times while in or upon the licensed premises.

12-48.5-106. Refusal of license by local licensing authority. The local licensing authority shall refuse a license if the premises on which the applicant proposes to conduct its business do not meet the requirements of this article, or if the character of the applicant or its officers or directors is such that violations of this article would be likely to result if a license were granted, or if, in its opinion, licenses already granted for the particular locality are adequate for the reasonable needs of the neighborhood.

12-48.5-107. Suspension and revocation. In addition to any other penalties prescribed by this article, the local licensing authority has the power, on its own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke any license issued by such authority for any violation by the licensee or by any of its agents, servants, or employees of the provisions of this article, or of any of the rules or regulations authorized pursuant to this article, or of any of the terms, conditions, or provisions of the license issued by such authority. In addition, the local licensing authority, in its discretion, may revoke or elect not to renew a license if it determines that the licensed premises have been inactive for at least three months or, in the case of a license approved for a facility which has not been constructed, such facility has not been constructed and placed in operation within one year of approval of the license application or construction of the facility has not been commenced within one year of such approval. The local licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing which the local licensing authority conducts.

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12-48.5-108. Persons prohibited as licensees. (1) No license provided by this article shall be issued to or held by:

(a) Any corporation, any of whose officers, directors, or stockholders holding over ten percent of the outstanding initial capital stock thereof are not of good moral character;

(b) Any partnership, association, or company, any of whose officers, or any of whose members holding more than ten percent interest therein, are not of good moral character;

(c) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the local licensing authority;

(d) Any sheriff, deputy sheriff, police officer, or prosecuting officer or any of the local licensing authority's inspectors or employees;

(e) Any person unless he is, with respect to his character, record, and reputation, satisfactory to the local licensing authority.

12-48.5-109. License fees. (1) The following license fees shall be paid to the local licensing authority annually in advance:

(a) For the issuance of a new license, an amount to be set by the local licensing authority, but in no event to exceed three hundred fifty dollars;

(b) For each renewal of a license, an amount to be set by the local licensing authority, but in no event to exceed one hundred fifty dollars.

12-48.5-110. Unlawful acts. (1) It is unlawful for any person:

(a) To operate a massage parlor without holding a validly issued local license;

(b) To work in or upon the licensed premises of a massage parlor without obtaining and carrying a valid identity card pursuant to section 12-48.5-105 (4);

(c) To obtain the services provided in a massage parlor by misrepresentation of age or by any other method in any place where massage is practiced when such person is under eighteen years of age, unless such person is accompanied by his parent or has a physician's prescription for massage services;

(d) To allow the sale, giving, or procuring of any massage services to any person under the age of eighteen years, unless such person is accompanied by his parent or has a physician's prescription for massage services;

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(e) To permit any person under the age of eighteen years to be employed as an employee in a massage parlor. If any person who, in fact, is not eighteen years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article unless the person employing such person knew or should have known that said proof of age was fraudulent.

(f) To fail to display at all times in a prominent place on the licensed premises a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter a minimum of one-half inch in height, which shall read as follows:

**WARNING**

**IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS HE IS ACCOMPANIED BY HIS PARENT OR HAS A PHYSICIAN'S PRESCRIPTION FOR MASSAGE SERVICES.**

**IT IS ILLEGAL FOR ANY PERSON TO ALLOW A PERSON UNDER EIGHTEEN YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS HE IS ACCOMPANIED BY HIS PARENT OR HAS A PHYSICIAN'S PRESCRIPTION FOR MASSAGE SERVICES.**

**FINES OR IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS UNDER ARTICLE 48.5 OF TITLE 12, COLORADO REVISED STATUTES.**

12-48.5-111. Violations and penalty. (1) Any person violating any of the provisions of this article or any of the rules and regulations authorized and adopted pursuant thereto is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five thousand dollars for each offense, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. The court trying such offense may decree that any license theretofore issued under the provisions of this article or of any law relating to the operation of massage parlors where such offense was committed be suspended or revoked and may decree that no license for the operation of a massage parlor shall thereafter be issued to any such person for a period not to exceed five years.

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(2) The penalties provided in this section shall not be affected by the penalties provided in any other section of this article but shall be construed to be an addition to any other penalties.

(3) Any adult who causes a violation of the provisions of section 12-48.5-110 (1) (d) to (1) (f) may be proceeded against pursuant to section 18-6-701, C.R.S., for contributing to the delinquency of a minor.

12-48.5-112. Powers of peace officers, local licensing authority. The peace officers of the city, town, county, or city and county or the duly authorized representatives of the local licensing authority authorized to enforce the provisions of this article, while engaged in performing their duties and while acting under proper orders or regulations, shall have and exercise all the powers vested in peace officers of the state, including the power to arrest and the authority to issue summons for violations of the provisions of this article.

12-48.5-113. Building plans to accompany application. At the time of filing the application for the issuance of a license, the applicant shall file complete plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall, in addition to the plans and specifications for the interior, submit an architect's drawing of the building to be constructed.

12-48.5-114. Public notice - posting and publication. (1) Upon receipt of an application, except an application for renewal or for transfer of ownership, the local licensing authority shall schedule a public hearing upon the application not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the municipality or county in which the premises are located.

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(2) Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and, if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

(3) Notice given by publication shall contain the same information as that required for signs.

(4) If the building in which the massage parlor is to be operated is in existence at the time of the application, any sign posted as required in subsections (1) and (2) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(5) (a) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and cross-examine witnesses.

(b) As used in this subsection (5), "party in interest" includes the applicant, a resident of the neighborhood under consideration, or the owner or manager of a business located in the neighborhood under consideration.

(6) The local licensing authority, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

12-48.5-115. Results of investigation - decision of authorities.

(1) Not less than five days prior to the date of the hearing, the local licensing authority shall make known its findings based upon its investigation, in writing, to the applicant and other interested parties. The local licensing authority has authority to refuse to issue any license for good cause, subject to judicial review.

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(2) Before entering any decision approving or denying the application, the local licensing authority shall consider, except where this article specifically provides otherwise, the facts and evidence produced as a result of its investigation, including the reasonable requirements of the neighborhood for the license for which application has been made, the desires of the inhabitants, the number, type, and availability of other massage parlors located in or near the neighborhood under consideration, and any other pertinent matters affecting qualifications of the applicant for the conduct of the business proposed.

(3) Any decision of a local licensing authority approving or denying an application shall be in writing stating the reasons therefor and shall be made within thirty days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application.

(4) No license shall be issued by any local licensing authority after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the provisions of this article, and then only after inspection of the premises has been made by the licensing authority to determine that the applicant has complied with the architect's drawing and plans and specifications submitted upon application.

12-48.5-116. Restrictions for applications for new licenses. (1) No application for the issuance of any license authorized by this article shall be received or acted upon:

(a) If, within two years next preceding the date of the application, the local licensing authority has denied an application at the same location for the reason that the reasonable requirements of the neighborhood and the desires of the inhabitants were satisfied by the existing outlets;

(b) Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises or by virtue of the ownership thereof;

(c) For a location in an area where the operation of a massage parlor as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county.

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12-48.5-117. Local option. The application of this article shall be statewide unless any city, city and county, county, or incorporated town by a majority of the registered electors of any of them, voting at any regular election or special election called for that purpose in accordance with the election laws of this state or of the political subdivision concerned, decides against the right to operate massage parlors as provided by this article within its limits. Said local option question shall be submitted only upon a petition signed by not less than fifteen percent of the registered electors in said political subdivision; otherwise, the procedure with reference to the calling and holding of such election shall be substantially in accordance with the election laws of the state or of any of said local subdivisions. The expenses of such election shall be borne by the local subdivision in which said election is held. The question of the prohibition of the operation of massage parlors shall not be submitted to the voters more than once in any four-year period. If the question is passed in the election, licenses issued shall remain in effect but shall not be renewed after the effective date of prohibition according to the local option election.

12-48.5-118. Local government regulation. This article is intended to provide minimum standards for the licensing of massage parlors. Nothing in this article shall prohibit a local government from enacting an ordinance or resolution providing more stringent standards for such licensing, but such ordinance shall meet the minimum standards established by this article.

12-48.5-119. Repeal of article - review of functions. This article is repealed, effective July 1, 2002. Prior to such repeal, the licensing functions of the local licensing authorities shall be reviewed as provided for in section 24-34-104, C.R.S.

**Appendix C – Letter  
from Associated  
Bodywork and  
Massage  
Professionals**



January 24, 2001

Mr. Nondas Bellos  
1560 Broadway, Suite 1540  
Denver, CO 80202

Dear Mr. Bellos:

I recently received information that you are the research analyst from the Department of Regulatory Agencies working on the Sunset Review of the Colorado Massage Parlor Code.


Associated Bodywork and Massage Professionals (ABMP) is a professional membership association founded to provide massage and bodywork practitioners with valuable services and information. ABMP is devoted to promoting ethical practices, protecting the rights of practitioners, and educating the public as to the benefits of massage and bodywork. Our current membership is over 33,000. We currently have 1,871 active members in Colorado.

The members of ABMP believe the Massage Parlor Code should remain in affect. The code (and the massage therapist's exemption to it) has proved to be tremendously helpful to legitimate massage therapists and has alleviated the humiliation and demeaning procedures involved in the "massage parlor" application process.

Associated Bodywork and Massage Professionals and our Colorado membership encourage you to recommend preserving the Exemption of massage therapy from the Colorado Massage Parlor Code.

Please contact me at (800)458-2267, extension 626, if you have any questions or would like more information regarding massage therapy. Thank you for your kind consideration.

Sincerely,



Les Sweeney  
Executive Vice President