

Testimony of the Board of Massage Therapy

**Before the
House Committee on Consumer Protection and Commerce
Wednesday, June 24, 2020
10:00 a.m.
State Capitol, Conference Room 325**

**On the following measure:
S.B. 2878, H.D. 1, RELATING TO MASSAGE THERAPY**

WRITTEN TESTIMONY ONLY

Chair Takumi and Members of the Committee:

My name is Risé Doi, and I am the Executive Officer of the Board of Massage Therapy (Board). The Board supports this administration bill and requests an amendment to the effective date.

The purposes of this bill are to: (1) require the Board to adopt and enforce sanitation rules for massage therapy establishments; (2) repeal Hawaii Revised Statutes (HRS) section 452-19(a) in favor of existing statutes that already treat unlicensed activity as a misdemeanor; and (3) increase the minimum fine from \$100 to \$250 and the maximum fine from \$1,000 to \$2,000 for each violation.

In October 2018, Hawaii Administrative Rules section 11-11-4, which established sanitation rules for massage therapy establishments under the Department of Health, was repealed. Since this repeal, massage therapy establishments have not been required to comply with any sanitation requirements.

This bill will provide the Board with statutory authority to promulgate and enforce sanitation rules, including requiring massage therapists to operate in sanitary, licensed massage therapy establishments. This statutory authority is imperative as massage therapy establishments continue to reopen during the COVID-19 pandemic. In addition, the Board strongly supports the bill's increase of the minimum and maximum fine amounts for unlicensed activity violations. When the State's stay-at-home orders were in effect, the Board received numerous reports of unlicensed massage therapy activity and licensed massage therapy establishments unlawfully operating during the pandemic. The bill's increase in fines will deter unlicensed massage therapy activity,

especially during this unprecedented time, and notably, the increased maximum fine amount is consistent with the maximum fine for a misdemeanor in HRS section 706-640.

Lastly, the Department respectfully requests amending the effective date from July 1, 2050, to “upon approval.”

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill with an “upon approval” effective date.



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June 22, 2020

Aloha Chair Takumi, Vice Chair Ichiyama, and Members of the House Committee on Consumer Protection and Commerce:

My name is Olivia Nagashima and I am testifying in my role as the President of the American Massage Therapy Association – Hawaii Chapter. More than 8,000 state licensed massage therapists currently practice in Hawaii.

Our chapter **supports SB2878 HD1**, which requires the Board of Massage Therapy to adopt and enforce sanitation rules for massage establishments while increasing the minimum and maximum fines for violations.

Currently Hawaii law states that fines are from \$100 (minimum) up to \$1,000 (maximum) for each violation. This bill would make the minimum fine \$250, which is consistent with what RICO investigators currently charge per violation. We believe it is also important to increase the maximum fine for the most severe cases of blatant unlicensed activity, which includes solicitation or human trafficking. By increasing the maximum fine from \$1,000 to \$2,000, it is one step in the effort to deter these types of activities.

Thank you for the opportunity to submit testimony and we urge you to pass SB2878 HD1.

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SB 2878, HD1, RELATING TO MASSAGE THERAPY

JUNE 24, 2020 · HOUSE CONSUMER PROTECTION
AND COMMERCE COMMITTEE · CHAIR REP. ROY M.
TAKUMI

POSITION: Support.

RATIONALE: IMUAlliance supports SB 2878, HD1, relating to massage therapy, which requires the Board of Massage Therapy to adopt and enforce sanitation rules for massage establishments, repeals existing statutory language that classifies unlicensed activity as a petty misdemeanor in favor of existing statutes that treat unlicensed activity as a misdemeanor, and increases the minimum fine from \$100 to \$250 and the maximum fine from \$1,000 to \$2,000 for each violation of the massage therapy laws.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention (victim rescue) services to 150 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims and individuals at risk of sexual exploitation. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, many of the victims with whom we work are misidentified as so-called "voluntary

prostitutes” and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.

Sex trafficking is a profoundly violent crime. At least 23 percent of trafficking victims in Hawai‘i report being first exploited before turning 18, according to a recent report, with the average age of trafficked keiki’s initial exposure to exploitation being 11. Based on regular outreach and monitoring, we estimate that approximately 150 high-risk sex trafficking establishments operate in Hawai‘i. In a recent report conducted by the State Commission on the Status of Women, researchers from Arizona State University found that 1 in every 11 adult males living in our state buys sex online. When visitors are also counted, that number worsens to 1 in every 7 men walking the streets of our island home and a daily online sex buyer market of 18,614 for O‘ahu and a total sex buyer population for the island of 74,362, including both tourists and residents.

ASU’s findings are grim, but not surprising to local organizations that provide services to survivors of sex trafficking. IMUAlliance, for example, has trained volunteers to perform outreach to victims in high-risk locations, like strip clubs, massage parlors, and hostess bars. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home. With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent of victims report being repeatedly raped and 95 percent report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence. As one underage survivor told IMUAlliance prior to being rescued, “I can’t be raped. Only good girls can be raped. I’m a bad girl. If I *want* to be raped, I have to *earn* it.”

Accordingly, we support measures to advance our state’s ability to crack down on sexual slavery, including this measure’s effort to establish sanitation rules for massage therapy establishments and increase penalties for unlicensed massage activity. In our experience, storefront brothels often falsely operate and advertise themselves as massage parlors. According to the human trafficking organization Polaris Project, “more than 9,000 illicit massage businesses (IMBs) are open for business in the United States. Evidence suggests that many of the thousands of women

engaging in prostitution in IMBs are victims of human trafficking...these businesses are often organized into criminal networks with revenues of around \$2.5 billion a year.”

Victims who are exploited at IMBs are often recruited through fraudulent ads that misrepresent the pay and sexual nature of the jobs being advertised. Once ensnared in the IMB industry, victims work excessive hours, are paid less than minimum wage (or nothing), and are told that the poor pay, working conditions, and physically and emotionally abusive nature of their work is normal. If victims attempt to leave, they are threatened with arrest, deportation, or shame to their families. In many cases, they are beaten, physically assaulted, raped, or drugged to break their will to escape and maintain their silence.

While IMBs look like standalone businesses, the average illicit massage business connects to at least one other IMB—as well as non-massage venues such as nail salons, restaurants, grocery stores, and dry cleaners—to move women from states that are ports of entry, such as Hawai’i and California, to IMBs around the country. Overwhelmingly, these connected businesses are used to launder money earned from the IMBs. Such networks generally include shell companies that obscure the identities of the real trafficking profiteers.

Increasing penalties for unlicensed massage activity is, therefore, a step forward in our march to end sexual exploitation on our shores and deliver assistance to those in need. It’s a step we should take to ensure that slavery has no place in paradise.

SB-2878-HD-1

Submitted on: 6/22/2020 11:43:25 AM

Testimony for CPC on 6/24/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dawn Poiani	Individual	Oppose	No

Comments:

Massage therapist are already heavily regulated. Sanitation requirements are high and employers already check licensing. If the applying therapist commits fraud by submitting a fraudulent license to gain employment the employer should not be held liable at such a heavy penalty. This is an instance of the state over regulating.

SB-2878-HD-1

Submitted on: 6/23/2020 10:06:20 AM

Testimony for CPC on 6/24/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy	Individual	Support	No

Comments:

SB-2878-HD-1

Submitted on: 6/23/2020 3:00:49 PM

Testimony for CPC on 6/24/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rayne Kauhi	Individual	Support	No

Comments: