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# ILLICIT MASSAGE BUSINESSES

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CPM Project



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## **Problem Statement**

Human trafficking, prostitution and other illicit behaviors are becoming heavily associated with massage practices. It is undeniable that human trafficking is prevalent and that its impact on massage therapy is sizable. This is in part a perception problem, but it is largely based on reality due to the fact that illicit businesses (IBs) use massage therapy as a front for their illegal activity<sup>1</sup>. My office has received several telephonic complaints regarding suspicions of unlicensed practice within the massage industry, but the suspicions of human trafficking and prostitution have been steady buzz words for the past three to four years. The South Carolina Department of Labor, Licensing and Regulation is the administrative arm for professional and occupational licensing. This agency is the first line of defense for public protection. One of my first duties as an administrator in 2014 was to sign cease and desist orders that were going to be hand-delivered to persons under police surveillance for prostitution. The LLR inspector accompanied the Greenville County Sherriff's officers on their sting operation and when the bust was made, for prostitution, the LLR investigator was able to serve the offending parties.

The mission of the South Carolina Department of Labor, Licensing and Regulation (LLR) is, to promote the health, safety and economic well-being of the public through regulation, licensing, enforcement, training and education<sup>2</sup>. As an agency we license and regulate over 40 different professions. Massage/Bodywork Therapy is within the agency's regulatory authority; however, it seems that an important component of massage licensing is missing. LLR does not license the establishments, just the therapists. Presently, there is not any governmental oversight in South Carolina, to ensure that the brick-and-mortar building is meeting all local building code requirements, nor are there any requirements in place to ensure enforcement of state/federal

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<sup>1</sup> FSMTB Human Trafficking Task Force Report, Executive Summary, 2017

<sup>2</sup> LLR Website

workplace safety rules. The massage establishments, if not regulated by another entity, potentially pose huge problems for the safety and well-being of the public as anyone would be able to say that they own or work in a massage business, but the reality is there could be illicit behaviors being performed. This project was chosen because LLR is a complaint-based agency. Therefore when we receive phone calls or emails regarding potential misconduct we refer to the statutes and regulations to determine if we have jurisdiction. I personally receive telephone inquiries from local agencies (city and county) and local law enforcement wanting to know the specific laws for massage establishments and I have to explain that LLR does not regulate establishments only the individuals. These inquiries mainly come because they are suspicions of prostitution or human trafficking.

## **Data Collection**

The goal for the data collection is to prove that the perceptions about the illicit behavior is real and it is time to begin having real conversations about the necessity for oversight of massage establishments. Massage therapy is a front for illicit behavior and business practices such as human trafficking and prostitution. Trafficking related to massage parlors accounted for 2,949 cases – second in prevalence only to trafficking in escort services<sup>3</sup>. In 2015 several states attended the Annual Massage Therapy Meeting facilitated by the Federation of State Massage Therapy Boards (FSMTB) where the delegate assembly passed a resolution for the Federation to unite against human trafficking. According to a study completed by Polaris, there are 46 states that have some form of regulation or industry standards for massage therapists. However, there are only 12 of the 50 states that regulate the business operations and there are four (4) of the five

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<sup>3</sup> <https://polarisproject.org/sites/default/files/Executive%20Summary%20-%20Human%20Trafficking%20in%20Illicit%20Massage%20Businesses.pdf> –Pg 2

(5) U.S. territories that have laws in place<sup>4</sup>. That equates to only 24 percent of the states and 80 percent of the US territories that regulate massage businesses. (See Tables 1 and 2) In a 2017 report from the National Human Trafficking Hotline, the organization ranked the 100 most populous cities in the United States for Human Trafficking. Columbia, SC did not make the list; however, there were neighboring cities that did. They are as follows: Atlanta, GA (ranked #7 for number of substantive phone calls and number of cases); Charlotte, NC (ranked #23 for the number of substantive phone calls and #29 for the number of cases); Raleigh, NC (ranked #36 for the number of substantive phone calls and #52 for cases); Durham, NC (ranked #72 for the number of substantive phone calls and #72 for cases); Greensboro (ranked #73 for the number of substantive phone calls and #68 for cases) and lastly Winston-Salem (ranked #86 for the number of substantive phone calls and #90 for cases)<sup>5</sup>. In 2014, I signed 10 cease and desist (C&D) documents for persons advertising that they were massage therapists working in a massage establishment who arrested for prostitution. In 2015, there were three disciplinary actions taken against those who were arrested for prostitution and/or sexual assault in a massage establishment. In 2016, there were five (5) disciplinary actions take for arrests regarding prostitution and/or other misconduct all of which were conducted in massage establishments. In 2017, there were six (6) disciplinary actions related to arrests regarding prostitution and/or other misconduct in a massage establishment. One case was so egregious that the Panel revoked the license of the massage therapist for 10 years, but nothing was done regarding the establishment because there is no statutory oversight. Just recently, within the past four months, a well-known chain of massage establishments has been in the national news for having over 180 people complain about being violated while obtaining a massage.

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<sup>4</sup> <https://polarisproject.org/sites/default/files/Full%20Report%20-%20Human%20Trafficking%20in%20Illicit%20Massage%20Businesses.pdf> -Pg 52

<sup>5</sup> <https://humantraffickinghotline.org/resources/ranking-100-most-populous-us-cities> pages 1-6

Table 1

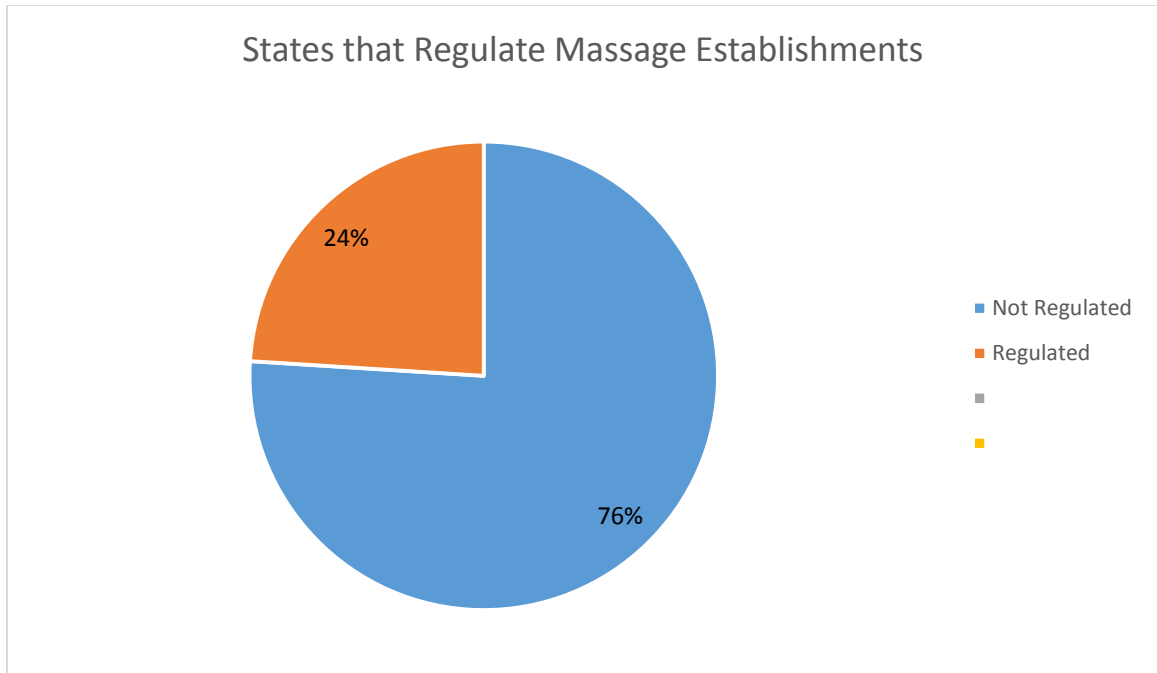
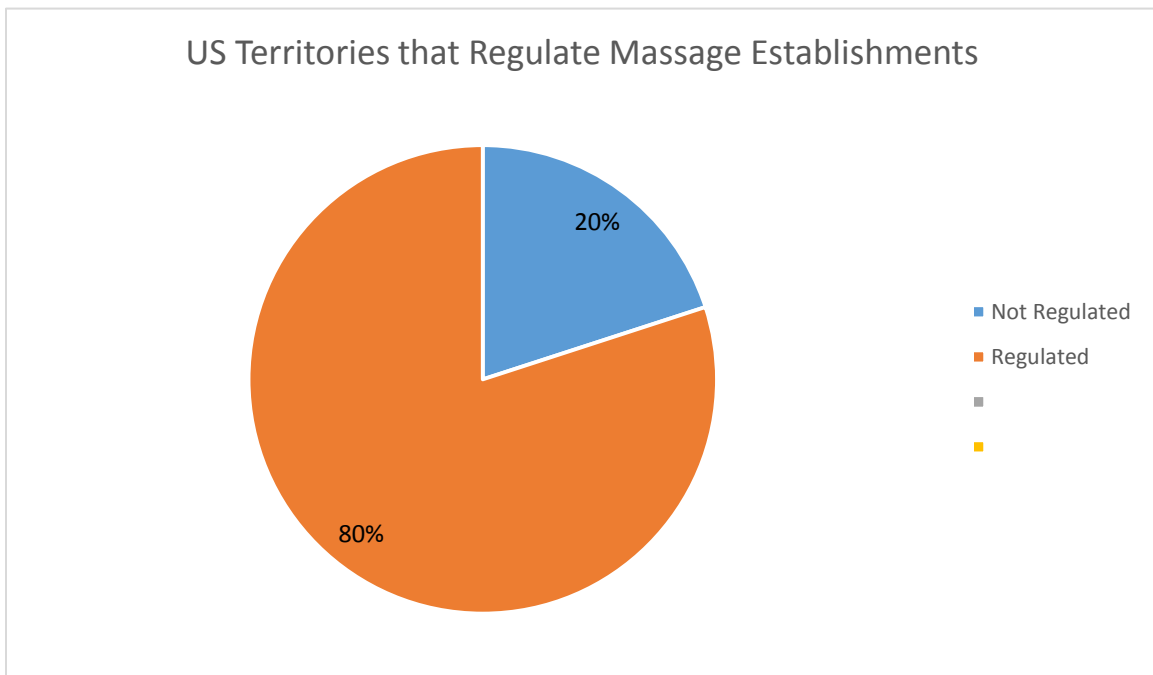


Table 2



## **Data Analysis**

Based on the above data, there is a relationship between for illicit sexual behavior and massage therapy establishments. The offenders find it easy to hide their criminal activity because the profession does not have a lot of government oversight. The data reflects that more work must be done from the state level of regulation/enforcement. Although Columbia, South Carolina did not make the top 100 US cities for human trafficking, cities from neighboring states did. Complaints indicate the South Carolina has been affected as well. State government has made it too easy for illicit businesses to operate in plain sight. If there is no deterrent for illegal activity then it will grow and become a stain on the profession that will be hard to erase. It is not enough for states to regulate massage therapists. There must be some oversight of the facilities as well.

## **Implementation Plan**

Regulators in conjunction with law enforcement can change the perception and the reality of massage therapy practices. This means creating strong enforceable laws that the legislative body agrees upon. The first step is coming to the realization that opening the practice act is necessary and to come up with sound laws. Opening the Practice Act is a risky move as anyone who has been awaiting the opportunity to work their personal agenda into the practice act is a threat to positive improvements. However opening the practice act is necessary in order to accomplish significant change. The idea of establishment licensing must be brought to the attention of the Massage Panel for their support. The Panel must approve a task force made up of LLR personnel, massage therapists and massage associations' members to research the matter and to determine what should be in the Massage Practice Act for enforcement purposes. It is important to include massage therapists and massage associations as they should have buy-in concerning how their profession should be regulated. It would also make the transition easier

when trusted parties are a part of the process. The task force must review and vet possible wording from other state boards for plausible South Carolina legislation before a bill can be drafted. Task Force members and subsequently the Massage Panel must consider the following (this is not a comprehensive list):

1. Define what it means to be an establishment;
2. Determine if there will be announced or unannounced inspections (by LLR personnel);
3. What should the inspectors look for while inspecting establishments;
4. Define who will be the responsible party of an establishment because anyone can be an owner.
5. Determine if the ownership is transferrable or if that constitutes new licensure;
6. Determine if location changes constitute new licensure;
7. Determine if the massage business may be used as sleeping quarters; and
8. Determine the ramifications of disobeying the laws by developing resolution guidelines for punitive action.

The timeframe for such a venture may possibly take a few years depending on how specific the task force wants to be about the subject matter. The cost for the task force meeting would only cost LLR the per diem and mileage for each Panel member who may be on the task force. In order to cut down on costs, the meetings can be held by conference call or through some type of video conferencing. Those who are not Panel members would not receive any sort of per diem or reimbursement.

Potential obstacles would be having association members who are small business owners who refuse to see the big picture and/or who do not understand that continuing to not have establishment oversight will hurt their profession. The best way to combat this type of ideology



is to invite law enforcement and other stakeholders such as representatives from local government offices to find out their experiences and to listen to what they would need from state regulators. Another idea is to invite law enforcement and local government officials to speak to the business owners. It would also be helpful to have the support of the national organizations- Federation of State Massage Therapy Boards (FSMTB) and the National Certification Board for Therapeutic Massage Bodywork as they carry a lot of weight within the massage industry. Other potential obstacles are creating laws that are either over burdensome or too relaxed. This can cause the time and efforts put in by the task force and Panel members to be rejected by the legislature.

Potential resources are the state laws and regulations that govern the other state massage therapy boards. Additional resources include the statutes and regulations of the Cosmetology Board and Barber Examiners Board. These boards already have written statutory and regulatory language that has been approved by the legislature for establishment licensing. The proven template also works well for the city and county government offices as it gives them the leverage to withhold a business license until all criterion is met for state licensing.

Once the Panel has decided who will be on the task force, my office will work with the Panel chair and advice counsel to determine meeting dates to review and develop language for establishment licensing. All stakeholders will receive several emails regarding the subject matter and will be provided dates, times, and room locations for the meetings. After each task force meeting, the task force will be updated to review everything that the group has worked on. Also, updates will be given to the Panel members at their regularly scheduled Panel meetings so that everything is kept above board. During the Panel meetings the Panel will vote to accept or deny the recommendations of the task force.

Developing legislation is not a quick process. However we have had two task force meetings which resulted in discussions from stakeholders and the task force has begun drafting language that it wants to see enacted as law. If all goes well, the bill will be ready for legislation during the 2019 session. If approved, my request to the Massage Panel would be for an implementation date of 90 days after the bill is signed by the Governor. In the meantime, that will give me and my staff an opportunity to develop an establishment license credential in our licensing database. The functionalities must be tested.

### **Evaluation Method**

Presently the task force has had two meetings in the month of January. The first meeting was more of a discussion about how to disassociate human trafficking and prostitution from the massage profession. The task force received/reviewed documentation that I gathered from the FSMTB. Within that documentation it reflected that North Carolina passed legislation for establishment licensing in 2017 and this sparked more conversation in the right direction. The best way to determine if everything is flowing efficiently is by using meeting agendas and templates from other legislation. Moving forward the ultimate determining factor as to whether or not everything was successful is if the bill is approved as a law.

In order to determine how successful the new law will be as a deterrent for illicit businesses will be the number of phone calls we receive for complaints about suspicious activity that will result in inspections.

### **Summary and Recommendations**

According to the data, 76 percent of the United States are not regulating massage establishments. Therefore illicit businesses are able to operate in plain sight under the guise of

massage therapy and the local government offices have no other recourse but to allow them a business license because there is no direction from the State. It is my recommendation that the task force build upon what has already been established in our January meetings. This time, in our February meetings, focus on relevant inspection processes and safety/sanitation as the well-being of customers is important. Then, we must determine how they want the facility to be managed (licensed personnel versus unlicensed personnel). My recommendation to the task force and to the Panel is that it is easier to hold someone responsible that is under your authority. The Massage Panel should have within its laws that the manager of the establishment will be responsible for the establishment's daily operations as well as the safety and sanitation requirements. Then in the coming months focus on the resolution guidelines to fight against massage therapy being perceived as a sexually based or an illicit profession.