

**Virginia Board of Nursing  
Massage Therapy Advisory Board**

Friday, December 15, 2023, at 10:00 A.M.  
Department of Health Professions  
9960 Mayland Drive, Suite 201  
Henrico, VA 23233  
Training Room 1

**Agenda**

- I. Call to Order: Dawn Hogue, L.M.T., Vice Chair
- II. Establishment of a Quorum
- III. Announcements
  - New Advisory Board Member: Annie Lively, L.M.T.
  - Ms. Peterson is re-appointed for a second term.
  - Candis Stoll started on July 10, 2023, full-time Senior Licensing and Discipline Specialist LRC
  - Andrea Lewis started on June 19, 2023, part-time Licensing Specialist for Massage Therapy
- IV. Old Business
  - Review and approval of minutes from November 9, 2022, meeting.
  - IMpact Model Legislation Update: Ms. Bargdill
- V. Public Comment/Open Forum
- VI. New Business
  - Election of Officers: Ms. Hogue
  - January to June 2024 Informal Conference/2024 Formal Hearing Schedule: Ms. Bargdill
  - Environmental Scan: All Advisory Board Members share current trends and issues in the massage therapy education and practice environment.
- VII. Reports
  - L.M.T. Licensure Report: Ms. Bargdill
  - L.M.T. Discipline Case Report: Ms. Bargdill
  - 2023 FSMTB Massage Board Executive Summit, April 27-28, 2023, Denver, CO: Ms. Bargdill
  - 2023 FSMTB Annual Meeting, September 28-30, 2023, San Diego, CA: Ms. Hogue

*Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.*

VIII. Information Only (No Action Required)

- FSMTB Annual Report, October 2023
- Combatting Massage Licensing Fraud: How Traffickers Exploit Gaps in Education Oversight
- Commonwealth of Virginia, the Commission on Human Trafficking Prevention and Survivor Support Final Report, January 9, 2023
- Department of Education Revokes 150% Rule for Title IV Funding Eligibility, October 2023, and Fact Sheet

IX. Discussion for Future Meetings

X. Adjournment of Meeting

**VIRGINIA BOARD OF NURSING  
MASSAGE THERAPY ADVISORY BOARD  
MINUTES**

**Wednesday, November 9, 2022**

- TIME AND PLACE:** The meeting of the of the Massage Therapy Advisory Board convened at 10:00 a.m. in Board Room 3, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia.
- PRESIDING:** Shawnté Peterson, L.M.T., Chair
- MEMBERS PRESENT:** Erin Claire Osborn Osiol, M.S.W., L.M.T.  
María Mercedes Olivieri, L.M.T.
- MEMBERS ABSENT:** Dawn Hogue, L.M.T.  
P. Lisa Speller, R.N., B.S.N., M.S., Citizen Member
- STAFF PARTICIPATING:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., F.R.E., Executive Director  
Cathy Hanchey, Senior Licensing/Discipline Specialist
- OTHERS PARTICIPATING:** None
- PUBLIC PARTICIPATING:** Becky Bowers-Lanier, American Massage Therapy Association-VA Chapter
- ESTABLISHMENT OF A QUORUM:** Ms. Peterson welcomed attendees and asked Ms. Hanchey to take a roll call of Massage Therapy Advisory Board Members present. With three (3) members present, a quorum was established.
- Staff and public attendees were identified.
- ANNOUNCEMENTS:** Ms. Douglas announced that Lisa Speller was appointed as a Citizen Board Member and that Arne Owens was appointed as the Department of Health Professions' Director to replace Dr. David Brown. Christina Bargdill, Board of Nursing Deputy Executive Director for the Medication Aide, Nurse Aide and Massage Therapy, was unable to attend the meeting.
- OLD BUSINESS:** An overview was done of the minutes from the last Massage Therapy Advisory Board meeting held on December 1, 2021. Ms. Olivieri moved that the minutes from the December 1, 2021, be corrected on page 2 under "New Business" to reflect the proper spelling of "acclamation." The motion was seconded by Ms. Osiol and carried unanimously.
- PUBLIC COMMENT:** Ms. Peterson opened the meeting for public comment at 10:08 a.m. No one appeared for public comment.

## NEW BUSINESS:

Ms. Peterson announced that according to the By-laws, the Chair and Vice-Chair are eligible to continue serving for one consecutive year. Ms. Peterson is currently serving as Chair, and Ms. Hogue is serving as Vice-Chair. Both are willing to serve a one-year term.

Ms. Olivieri moved to nominate Ms. Peterson to continue to serve as Chair. The motion was seconded by Ms. Osiol and carried unanimously.

Ms. Olivieri moved to nominate Ms. Hogue to continue to serve as Vice-Chair. The motion was seconded by Ms. Osiol and carried unanimously.

Ms. Douglas reviewed the Formal Hearing schedule for January – December 2023, as well as Informal Conferences scheduled for January – June 2023. Ms. Hogue will serve for Informal Conferences on February 6, 2023; Ms. Osiol will serve for Informal Conferences on April 17, 2023, and, Ms. Peterson will serve for Informal Conferences on June 15, 2023. Advisory Board members will provide their availability for Formal Hearings for 2023.

Ms. Douglas initiated discussion concerning the Sanction Reference Points Instruction Manual that was adopted October 13, 2022. All changes recommended by the Massage Therapy Advisory Board were accepted.

Ms. Douglas addressed the development of the Interstate Massage Therapy Compact. Both Ms. Douglas and Ms. Hogue served on the Technical Assistance Group, and a copy of the draft Compact was provided for discussion. Specific discussion focused on Article 4 – Multistate License Requirements under Paragraphs A and E and Article 9 – Data System. Adoption of the Compact would require a legislative mandate. The Federation of State Massage Therapy Boards (FSMTB) anticipates the language to be final by Summer 2023.

Comments related to current trends and issues in the massage therapy education and practice environments included discussions surrounding workforce issues (availability of jobs but limited hiring) and closure of programs and decreased enrollment.

## REPORTS:

Ms. Hanchey reported on the general decline of massage therapy disciplinary cases from 2021 levels, noting that case types are comparable to those from 2021. Statistical reports provided are available in the Agenda materials.

Ms. Hanchey presented information concerning licensure of LMTs. Initial applications and current active licensees are still down, but we are seeing some increase in applications and have several months before the end of the year. This decline continues to be attributed to the impact of COVID-19. The decrease in active LMTs may also be attributed to the impact of COVID-19. Statistical reports provided are available in the Agenda materials.

Ms. Hanchey also presented verbal reports on both the FSMTB 2022 Member Board Executive Summit in Clearwater FL, attended by Christina Bargdill and the Annual Meeting conducted in Charlotte, NC, attended by Ms. Hanchey. Topics of interest

included Responding to Illicit Massage Businesses, Member Reports that noted a general increase in requirements for clock hours or desire to deregulate the profession, Sexual Misconduct Allegations Within Massage Therapy, and Massage Education and the role of FSMTB in Testing.

**INFORMATION ONLY:** FSMTB released “A Toolkit for Identifying Human trafficking and Fraud in Higher Education.

The Massage Therapy Advisory Board discussed Executive Order Number Seven (7) Establishing the Commission on Human Trafficking Prevention and Survivor Support and recent contact from the Commission to the Board of Nursing.

**DISCUSSION OF FUTURE MEETINGS:** Board staff will coordinate with the Massage Therapy Advisory Board on Massage Therapy members on availability for a meeting in late-October/early-November 2023.

**ADJOURNMENT:** The meeting was adjourned at 11:28 a.m.

---

Jay Douglas, MSM, RN, CSAC, FRE  
Executive Director

DRAFT



## **Interstate Message Compact Model Legislation**

*This project is funded by the Department of Defense.*

*The following language must be enacted into law by a state to officially join the Interstate Message Compact.*

*No substantive changes should be made to the model language. Any substantive changes may jeopardize the enacting state's participation in the Compact.*

*The Council of State Governments National Center for Interstate Compacts reviews state compact legislation to ensure consistency with the model language. Please direct inquiries to Jessica Thomas at [JThomas@csg.org](mailto:JThomas@csg.org).*

1 **INTERSTATE MASSAGE COMPACT**

2 **ARTICLE 1- PURPOSE**

3 The purpose of this Compact is to reduce the burdens on State governments and to facilitate  
4 the interstate practice and regulation of Massage Therapy with the goal of improving public  
5 access to, and the safety of, Massage Therapy Services. Through this Compact, the Member  
6 States seek to establish a regulatory framework which provides for a new multistate licensing  
7 program. Through this additional licensing pathway, the Member States seek to provide  
8 increased value and mobility to licensed massage therapists in the Member States, while  
9 ensuring the provision of safe, competent, and reliable services to the public.

10 This Compact is designed to achieve the following objectives, and the Member States hereby  
11 ratify the same intentions by subscribing hereto:

- 12 A. Increase public access to Massage Therapy Services by providing for a multistate  
13 licensing pathway;
- 14 B. Enhance the Member States’ ability to protect the public’s health and safety;
- 15 C. Enhance the Member States’ ability to prevent human trafficking and licensure fraud;
- 16 D. Encourage the cooperation of Member States in regulating the multistate Practice of  
17 Massage Therapy;
- 18 E. Support relocating military members and their spouses;
- 19 F. Facilitate and enhance the exchange of licensure, investigative, and disciplinary  
20 information between the Member States;
- 21 G. Create an Interstate Commission that will exist to implement and administer the  
22 Compact;
- 23 H. Allow a Member State to hold a Licensee accountable, even where that Licensee  
24 holds a Multistate License;
- 25 I. Create a streamlined pathway for Licensees to practice in Member States, thus  
26 increasing the mobility of duly licensed massage therapists; and
- 27 J. Serve the needs of licensed massage therapists and the public receiving their services;  
28 however,
- 29 K. Nothing in this Compact is intended to prevent a State from enforcing its own laws  
30 regarding the Practice of Massage Therapy.

31 **ARTICLE 2- DEFINITIONS**

- 42 As used in this Compact, except as otherwise provided and subject to clarification by the  
43 Rules of the Commission, the following definitions shall govern the terms herein:
- 44 A. “Active Military Member” - any person with full-time duty status in the armed forces of the  
45 United States, including members of the National Guard and Reserve.  
46
- 47 B. “Adverse Action” - any administrative, civil, equitable, or criminal action permitted by a  
48 Member State’s laws which is imposed by a Licensing Authority or other regulatory body  
49 against a Licensee, including actions against an individual’s Authorization to Practice such as  
50 revocation, suspension, probation, surrender in lieu of discipline, monitoring of the Licensee,  
51 limitation of the Licensee’s practice, or any other Encumbrance on licensure affecting an  
52 individual’s ability to practice Massage Therapy, including the issuance of a cease and desist  
53 order.  
54
- 55 C. “Alternative Program” - a non-disciplinary monitoring or prosecutorial diversion program  
56 approved by a Member State’s Licensing Authority.  
57
- 58 D. “Authorization to Practice” - a legal authorization by a Remote State pursuant to a Multistate  
59 License permitting the Practice of Massage Therapy in that Remote State, which shall be  
60 subject to the enforcement jurisdiction of the Licensing Authority in that Remote State.  
61
- 62 E. “Background Check” - the submission of an applicant’s criminal history record information,  
63 as further defined in 28 C.F.R. § 20.3(d), as amended from the Federal Bureau of  
64 Investigation and the agency responsible for retaining State criminal records in the  
65 applicant’s Home State.  
66
- 67 F. “Charter Member States” - Member States who have enacted legislation to adopt this  
68 Compact where such legislation predates the effective date of this Compact as defined in  
69 Article 12.  
70
- 71 G. “Commission” - the government agency whose membership consists of all States that have  
72 enacted this Compact, which is known as the Interstate Massage Compact Commission, as  
73 defined in Article 8, and which shall operate as an instrumentality of the Member States.  
74
- 75 H. “Continuing Competence” - a requirement, as a condition of license renewal, to provide  
76 evidence of participation in, and completion of, educational or professional activities that  
77 maintain, improve, or enhance Massage Therapy fitness to practice.  
78
- 79 I. “Current Significant Investigative Information” - Investigative Information that a Licensing  
80 Authority, after an inquiry or investigation that complies with a Member State’s due process  
81 requirements, has reason to believe is not groundless and, if proved true, would indicate a  
82 violation of that State’s laws regarding the Practice of Massage Therapy.  
83
- 84 J. “Data System” - a repository of information about Licensees who hold Multistate Licenses,  
85 which may include but is not limited to license status, Investigative Information, and Adverse  
86 Actions.



- 87
- 88 K. “Disqualifying Event” - any event which shall disqualify an individual from holding a  
89 Multistate License under this Compact, which the Commission may by Rule specify.  
90
- 91 L. “Encumbrance” - a revocation or suspension of, or any limitation or condition on, the full  
92 and unrestricted Practice of Massage Therapy by a Licensing Authority.  
93
- 94 M. “Executive Committee” - a group of delegates elected or appointed to act on behalf of, and  
95 within the powers granted to them by, the Commission.  
96
- 97 N. “Home State” - means the Member State which is a Licensee’s primary state of residence  
98 where the Licensee holds an active Single-State License.  
99
- 100 O. “Investigative Information” - information, records, or documents received or generated by a  
101 Licensing Authority pursuant to an investigation or other inquiry.  
102
- 103 P. “Licensing Authority” - a State’s regulatory body responsible for issuing Massage Therapy  
104 licenses or otherwise overseeing the Practice of Massage Therapy in that State.  
105
- 106 Q. “Licensee” - an individual who currently holds a license from a Member State to fully  
107 practice Massage Therapy, whose license is not a student, provisional, temporary, inactive, or  
108 other similar status.  
109
- 110 R. “Massage Therapy”, “Massage Therapy Services”, and the “Practice of Massage Therapy” -  
111 the care and services provided by a Licensee as set forth in the Member State’s statutes and  
112 regulations in the State where the services are being provided.  
113
- 114 S. “Member State” - any State that has adopted this Compact.  
115
- 116 T. “Multistate License” - a license that consists of Authorizations to Practice Massage Therapy  
117 in all Remote States pursuant to this Compact, which shall be subject to the enforcement  
118 jurisdiction of the Licensing Authority in a Licensee’s Home State.  
119
- 120 U. “National Licensing Examination” - A national examination developed by a national  
121 association of Massage Therapy regulatory boards, as defined by Commission Rule, that is  
122 derived from a practice analysis and is consistent with generally accepted psychometric  
123 principles of fairness, validity and reliability, and is administered under secure and  
124 confidential examination protocols.  
125
- 126 V. “Remote State” - any Member State, other than the Licensee’s Home State.  
127
- 128 W. “Rule” - any opinion or regulation promulgated by the Commission under this Compact,  
129 which shall have the force of law.  
130
- 131 X. “Single-State License” - a current, valid authorization issued by a Member State’s Licensing  
132 Authority allowing an individual to fully practice Massage Therapy, that is not a restricted,

133 student, provisional, temporary, or inactive practice authorization and authorizes practice  
134 only within the issuing State.

135  
136 Y. "State" - a state, territory, possession of the United States, or the District of Columbia.  
137

### 138 **ARTICLE 3- MEMBER STATE REQUIREMENTS**

139 A. To be eligible to join this Compact, and to maintain eligibility as a Member State, a State  
140 must:

- 141
- 142 1. License and regulate the Practice of Massage Therapy;
- 143
- 144 2. Have a mechanism or entity in place to receive and investigate complaints from the  
145 public, regulatory or law enforcement agencies, or the Commission about Licensees  
146 practicing in that State;
- 147
- 148 3. Accept passage of a National Licensing Examination as a criterion for Massage Therapy  
149 licensure in that State;
- 150
- 151 4. Require that Licensees satisfy educational requirements prior to being licensed to provide  
152 Massage Therapy Services to the public in that State;
- 153
- 154 5. Implement procedures for requiring the Background Check of applicants for a Multistate  
155 License, and for the reporting of any Disqualifying Events, including but not limited to  
156 obtaining and submitting, for each Licensee holding a Multistate License and each  
157 applicant for a Multistate License, fingerprint or other biometric-based information to the  
158 Federal Bureau of Investigation for Background Checks; receiving the results of the  
159 Federal Bureau of Investigation record search on Background Checks and considering the  
160 results of such a Background Check in making licensure decisions;
- 161
- 162 6. Have Continuing Competence requirements as a condition for license renewal;
- 163
- 164 7. Participate in the Data System, including through the use of unique identifying numbers  
165 as described herein;
- 166
- 167 8. Notify the Commission and other Member States, in compliance with the terms of the  
168 Compact and Rules of the Commission, of any disciplinary action taken by the State  
169 against a Licensee practicing under a Multistate License in that State, or of the existence  
170 of Investigative Information or Current Significant Investigative Information regarding a  
171 Licensee practicing in that State pursuant to a Multistate License;
- 172
- 173 9. Comply with the Rules of the Commission;
- 174
- 175 10. Accept Licensees with valid Multistate Licenses from other Member States as established  
176 herein;
- 177

- 178 B. Individuals not residing in a Member State shall continue to be able to apply for a Member  
179 State's Single-State License as provided under the laws of each Member State. However, the  
180 Single-State License granted to those individuals shall not be recognized as granting a  
181 Multistate License for Massage Therapy in any other Member State;  
182
- 183 C. Nothing in this Compact shall affect the requirements established by a Member State for the  
184 issuance of a Single-State License; and  
185
- 186 D. A Multistate License issued to a Licensee shall be recognized by each Remote State as an  
187 Authorization to Practice Massage Therapy in each Remote State.

188 **ARTICLE 4- MULTISTATE LICENSE REQUIREMENTS**

- 189 A. To qualify for a Multistate License under this Compact, and to maintain eligibility for such a  
190 license, an applicant must:  
191
- 192 1. Hold an active Single-State License to practice Massage Therapy in the applicant's Home  
193 State;  
194
  - 195 2. Have completed at least six hundred and twenty-five (625) clock hours of Massage  
196 Therapy education or the substantial equivalent which the Commission may approve by  
197 Rule.  
198
  - 199 3. Have passed a National Licensing Examination or the substantial equivalent which the  
200 Commission may approve by Rule.  
201
  - 202 4. Submit to a Background Check;  
203
  - 204 5. Have not been convicted or found guilty, or have entered into an agreed disposition, of a  
205 felony offense under applicable State or federal criminal law, within five (5) years prior  
206 to the date of their application, where such a time period shall not include any time  
207 served for the offense, and provided that the applicant has completed any and all  
208 requirements arising as a result of any such offense;  
209
  - 210 6. Have not been convicted or found guilty, or have entered into an agreed disposition, of a  
211 misdemeanor offense related to the Practice of Massage Therapy under applicable State  
212 or federal criminal law, within two (2) years prior to the date of their application where  
213 such a time period shall not include any time served for the offense, and provided that the  
214 applicant has completed any and all requirements arising as a result of any such offense;  
215
  - 216 7. Have not been convicted or found guilty, or have entered into an agreed disposition, of  
217 any offense, whether a misdemeanor or a felony, under State or federal law, at any time,  
218 relating to any of the following:  
219
    - 220 a. Kidnapping;
    - 221 b. Human trafficking;
    - 222 c. Human smuggling;
    - d. Sexual battery, sexual assault, or any related offenses; or

- 223 e. Any other category of offense which the Commission may by Rule designate.  
224
- 225 8. Have not previously held a Massage Therapy license which was revoked by, or  
226 surrendered in lieu of discipline to an applicable Licensing Authority;  
227
- 228 9. Have no history of any Adverse Action on any occupational or professional license  
229 within two (2) years prior to the date of their application; and  
230
- 231 10. Pay all required fees.  
232
- 233 B. A Multistate License granted pursuant to this Compact may be effective for a definite period  
234 of time concurrent with the renewal of the Home State license.  
235
- 236 C. A Licensee practicing in a Member State is subject to all scope of practice laws governing  
237 Massage Therapy Services in that State.  
238
- 239 D. The Practice of Massage Therapy under a Multistate License granted pursuant to this  
240 Compact will subject the Licensee to the jurisdiction of the Licensing Authority, the courts,  
241 and the laws of the Member State in which the Massage Therapy Services are provided.

242 **ARTICLE 5- AUTHORITY OF INTERSTATE MASSAGE COMPACT COMMISSION**  
243 **AND MEMBER STATE LICENSING AUTHORITIES**

- 244 A. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit,  
245 restrict, or in any way reduce the ability of a Member State to enact and enforce laws,  
246 regulations, or other rules related to the Practice of Massage Therapy in that State, where  
247 those laws, regulations, or other rules are not inconsistent with the provisions of this  
248 Compact.  
249
- 250 B. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit,  
251 restrict, or in any way reduce the ability of a Member State to take Adverse Action against a  
252 Licensee's Single-State License to practice Massage Therapy in that State.  
253
- 254 C. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit,  
255 restrict, or in any way reduce the ability of a Remote State to take Adverse Action against a  
256 Licensee's Authorization to Practice in that State.  
257
- 258 D. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit,  
259 restrict, or in any way reduce the ability of a Licensee's Home State to take Adverse Action  
260 against a Licensee's Multistate License based upon information provided by a Remote State.  
261
- 262 E. Insofar as practical, a Member State's Licensing Authority shall cooperate with the  
263 Commission and with each entity exercising independent regulatory authority over the  
264 Practice of Massage Therapy according to the provisions of this Compact.

265 **ARTICLE 6- ADVERSE ACTIONS**

- 266 A. A Licensee’s Home State shall have exclusive power to impose an Adverse Action against a  
267 Licensee’s Multistate License issued by the Home State.  
268
- 269 B. A Home State may take Adverse Action on a Multistate License based on the Investigative  
270 Information, Current Significant Investigative Information, or Adverse Action of a Remote  
271 State.  
272
- 273 C. A Home State shall retain authority to complete any pending investigations of a Licensee  
274 practicing under a Multistate License who changes their Home State during the course of  
275 such an investigation. The Licensing Authority shall also be empowered to report the results  
276 of such an investigation to the Commission through the Data System as described herein.  
277
- 278 D. Any Member State may investigate actual or alleged violations of the scope of practice laws  
279 in any other Member State for a massage therapist who holds a Multistate License.  
280
- 281 E. A Remote State shall have the authority to:  
282
- 283 1. Take Adverse Actions against a Licensee’s Authorization to Practice;  
284
  - 285 2. Issue cease and desist orders or impose an Encumbrance on a Licensee’s Authorization to  
286 Practice in that State.  
287
  - 288 3. Issue subpoenas for both hearings and investigations that require the attendance and  
289 testimony of witnesses, as well as the production of evidence. Subpoenas issued by a  
290 Licensing Authority in a Member State for the attendance and testimony of witnesses or  
291 the production of evidence from another Member State shall be enforced in the latter  
292 State by any court of competent jurisdiction, according to the practice and procedure of  
293 that court applicable to subpoenas issued in proceedings before it. The issuing Licensing  
294 Authority shall pay any witness fees, travel expenses, mileage, and other fees required by  
295 the service statutes of the State in which the witnesses or evidence are located.  
296
  - 297 4. If otherwise permitted by State law, recover from the affected Licensee the costs of  
298 investigations and disposition of cases resulting from any Adverse Action taken against  
299 that Licensee.  
300
  - 301 5. Take Adverse Action against the Licensee’s Authorization to Practice in that State based  
302 on the factual findings of another Member State.  
303
- 304 F. If an Adverse Action is taken by the Home State against a Licensee’s Multistate License or  
305 Single-State License to practice in the Home State, the Licensee’s Authorization to Practice  
306 in all other Member States shall be deactivated until all Encumbrances have been removed  
307 from such license. All Home State disciplinary orders that impose an Adverse Action against  
308 a Licensee shall include a statement that the Massage Therapist’s Authorization to Practice is  
309 deactivated in all Member States during the pendency of the order.  
310

311 G. If Adverse Action is taken by a Remote State against a Licensee’s Authorization to Practice,  
312 that Adverse Action applies to all Authorizations to Practice in all Remote States. A Licensee  
313 whose Authorization to Practice in a Remote State is removed for a specified period of time  
314 is not eligible to apply for a new Multistate License in any other State until the specific time  
315 for removal of the Authorization to Practice has passed and all encumbrance requirements  
316 are satisfied.

317  
318 H. Nothing in this Compact shall override a Member State’s authority to accept a Licensee’s  
319 participation in an Alternative Program in lieu of Adverse Action. A Licensee’s Multistate  
320 License shall be suspended for the duration of the Licensee’s participation in any Alternative  
321 Program.

322  
323 I. Joint Investigations

324  
325 1. In addition to the authority granted to a Member State by its respective scope of practice  
326 laws or other applicable State law, a Member State may participate with other Member  
327 States in joint investigations of Licensees.

328  
329 2. Member States shall share any investigative, litigation, or compliance materials in  
330 furtherance of any joint or individual investigation initiated under the Compact.

331 **ARTICLE 7- ACTIVE MILITARY MEMBER AND THEIR SPOUSES**

332 Active Military Member, or their spouses, shall designate a Home State where the individual has  
333 a current license to practice Massage Therapy in good standing. The individual may retain their  
334 Home State designation during any period of service when that individual or their spouse is on  
335 active duty assignment.

336 **ARTICLE 8- ESTABLISHMENT AND OPERATION OF INTERSTATE MASSAGE**  
337 **COMPACT COMMISSION**

338 A. The Compact Member States hereby create and establish a joint government agency whose  
339 membership consists of all Member States that have enacted the Compact known as the  
340 Interstate Massage Compact Commission. The Commission is an instrumentality of the  
341 Compact States acting jointly and not an instrumentality of any one State. The Commission  
342 shall come into existence on or after the effective date of the Compact as set forth in Article  
343 12.

344 B. Membership, Voting, and Meetings

345 1. Each Member State shall have and be limited to one (1) delegate selected by that Member  
346 State’s State Licensing Authority.

347 2. The delegate shall be the primary administrative officer of the State Licensing Authority  
348 or their designee.

349 3. The Commission shall by Rule or bylaw establish a term of office for delegates and may  
350 by Rule or bylaw establish term limits.

- 351 4. The Commission may recommend removal or suspension of any delegate from office.
- 352 5. A Member State's State Licensing Authority shall fill any vacancy of its delegate  
353 occurring on the Commission within 60 days of the vacancy.
- 354 6. Each delegate shall be entitled to one vote on all matters that are voted on by the  
355 Commission.
- 356 7. The Commission shall meet at least once during each calendar year. Additional meetings  
357 may be held as set forth in the bylaws. The Commission may meet by  
358 telecommunication, video conference or other similar electronic means.
- 359 C. The Commission shall have the following powers:
- 360 1. Establish the fiscal year of the Commission;
- 361 2. Establish code of conduct and conflict of interest policies;
- 362 3. Adopt Rules and bylaws;
- 363 4. Maintain its financial records in accordance with the bylaws;
- 364 5. Meet and take such actions as are consistent with the provisions of this Compact, the  
365 Commission's Rules, and the bylaws;
- 366 6. Initiate and conclude legal proceedings or actions in the name of the Commission,  
367 provided that the standing of any State Licensing Authority to sue or be sued under  
368 applicable law shall not be affected;
- 369 7. Maintain and certify records and information provided to a Member State as the  
370 authenticated business records of the Commission, and designate an agent to do so on the  
371 Commission's behalf;
- 372 8. Purchase and maintain insurance and bonds;
- 373 9. Borrow, accept, or contract for services of personnel, including, but not limited to,  
374 employees of a Member State;
- 375 10. Conduct an annual financial review;
- 376 11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such  
377 individuals appropriate authority to carry out the purposes of the Compact, and establish  
378 the Commission's personnel policies and programs relating to conflicts of interest,  
379 qualifications of personnel, and other related personnel matters;
- 380 12. Assess and collect fees;
- 381 13. Accept any and all appropriate gifts, donations, grants of money, other sources of  
382 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of

- 383 the same; provided that at all times the Commission shall avoid any appearance of  
384 impropriety or conflict of interest;
- 385 14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed,  
386 or any undivided interest therein;
- 387 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
388 property real, personal, or mixed;
- 389 16. Establish a budget and make expenditures;
- 390 17. Borrow money;
- 391 18. Appoint committees, including standing committees, composed of members, State  
392 regulators, State legislators or their representatives, and consumer representatives, and  
393 such other interested persons as may be designated in this Compact and the bylaws;
- 394 19. Accept and transmit complaints from the public, regulatory or law enforcement agencies,  
395 or the Commission, to the relevant Member State(s) regarding potential misconduct of  
396 Licensees;
- 397 20. Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the  
398 Commission as provided in the Commission's bylaws;
- 399 21. Establish and elect an Executive Committee, including a chair and a vice chair;
- 400 22. Adopt and provide to the Member States an annual report.
- 401 23. Determine whether a State's adopted language is materially different from the model  
402 Compact language such that the State would not qualify for participation in the Compact;  
403 and
- 404 24. Perform such other functions as may be necessary or appropriate to achieve the purposes  
405 of this Compact.

406 D. The Executive Committee

- 407 1. The Executive Committee shall have the power to act on behalf of the Commission  
408 according to the terms of this Compact. The powers, duties, and responsibilities of the  
409 Executive Committee shall include:
- 410 a. Overseeing the day-to-day activities of the administration of the Compact including  
411 compliance with the provisions of the Compact, the Commission's Rules and bylaws,  
412 and other such duties as deemed necessary;
- 413 b. Recommending to the Commission changes to the Rules or bylaws, changes to this  
414 Compact legislation, fees charged to Compact Member States, fees charged to  
415 Licensees, and other fees;



- 416 c. Ensuring Compact administration services are appropriately provided, including by  
417 contract;
- 418 d. Preparing and recommending the budget;
- 419 e. Maintaining financial records on behalf of the Commission;
- 420 f. Monitoring Compact compliance of Member States and providing compliance reports  
421 to the Commission;
- 422 g. Establishing additional committees as necessary;
- 423 h. Exercise the powers and duties of the Commission during the interim between  
424 Commission meetings, except for adopting or amending Rules, adopting or amending  
425 bylaws, and exercising any other powers and duties expressly reserved to the  
426 Commission by Rule or bylaw; and
- 427 i. Other duties as provided in the Rules or bylaws of the Commission.
- 428 2. The Executive Committee shall be composed of seven voting members and up to two ex-  
429 officio members as follows:
- 430 a. The chair and vice chair of the Commission and any other members of the  
431 Commission who serve on the Executive Committee shall be voting members of the  
432 Executive Committee; and
- 433 b. Other than the chair, vice-chair, secretary and treasurer, the Commission shall elect  
434 three voting members from the current membership of the Commission.
- 435 c. The Commission may elect ex-officio, nonvoting members as necessary as follows:
- 436 i. One ex-officio member who is a representative of the national association of State  
437 Massage Therapy regulatory boards
- 438 ii. One ex-officio member as specified in the Commission's bylaws.
- 439 3. The Commission may remove any member of the Executive Committee as provided in  
440 the Commission's bylaws.
- 441 4. The Executive Committee shall meet at least annually.
- 442 a. Executive Committee meetings shall be open to the public, except that the Executive  
443 Committee may meet in a closed, non-public session of a public meeting when  
444 dealing with any of the matters covered under subsection F.4.
- 445 b. The Executive Committee shall give five business days advance notice of its public  
446 meetings, posted on its website and as determined to provide notice to persons with  
447 an interest in the public matters the Executive Committee intends to address at those  
448 meetings.

- 449 5. The Executive Committee may hold an emergency meeting when acting for the  
450 Commission to:
- 451 a. Meet an imminent threat to public health, safety, or welfare;
  - 452 b. Prevent a loss of Commission or Participating State funds; or
  - 453 c. Protect public health and safety.
- 454 E. The Commission shall adopt and provide to the Member States an annual report.
- 455 F. Meetings of the Commission
- 456 1. All meetings of the Commission that are not closed pursuant to this subsection shall be  
457 open to the public. Notice of public meetings shall be posted on the Commission's  
458 website at least thirty (30) days prior to the public meeting.
  - 459
  - 460 2. Notwithstanding subsection F.1 of this Article, the Commission may convene an  
461 emergency public meeting by providing at least twenty-four (24) hours prior notice on  
462 the Commission's website, and any other means as provided in the Commission's Rules,  
463 for any of the reasons it may dispense with notice of proposed rulemaking under Article  
464 10.L. The Commission's legal counsel shall certify the that one of the reasons justifying  
465 an emergency public meeting has been met.
  - 466
  - 467 3. Notice of all Commission meetings shall provide the time, date, and location of the  
468 meeting, and if the meeting is to be held or accessible via telecommunication, video  
469 conference, or other electronic means, the notice shall include the mechanism for access  
470 to the meeting.
  - 471 4. The Commission may convene in a closed, non-public meeting for the Commission to  
472 discuss:
  - 473 a. Non-compliance of a Member State with its obligations under the Compact;
  - 474 b. The employment, compensation, discipline or other matters, practices or procedures  
475 related to specific employees or other matters related to the Commission's internal  
476 personnel practices and procedures;
  - 477 c. Current or threatened discipline of a Licensee by the Commission or by a Member  
478 State's Licensing Authority;
  - 479 d. Current, threatened, or reasonably anticipated litigation;
  - 480 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real  
481 estate;
  - 482 f. Accusing any person of a crime or formally censuring any person;

- 483 g. Trade secrets or commercial or financial information that is privileged or  
484 confidential;
- 485 h. Information of a personal nature where disclosure would constitute a clearly  
486 unwarranted invasion of personal privacy;
- 487 i. Investigative records compiled for law enforcement purposes;
- 488 j. Information related to any investigative reports prepared by or on behalf of or for use  
489 of the Commission or other committee charged with responsibility of investigation or  
490 determination of compliance issues pursuant to the Compact;
- 491 k. Legal advice;
- 492 l. Matters specifically exempted from disclosure to the public by federal or Member  
493 State law; or
- 494 m. Other matters as promulgated by the Commission by Rule.
- 495 5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the  
496 meeting will be closed and reference each relevant exempting provision, and such  
497 reference shall be recorded in the minutes.
- 498 6. The Commission shall keep minutes that fully and clearly describe all matters discussed  
499 in a meeting and shall provide a full and accurate summary of actions taken, and the  
500 reasons therefore, including a description of the views expressed. All documents  
501 considered in connection with an action shall be identified in such minutes. All minutes  
502 and documents of a closed meeting shall remain under seal, subject to release only by a  
503 majority vote of the Commission or order of a court of competent jurisdiction.

504 G. Financing of the Commission

- 505 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its  
506 establishment, organization, and ongoing activities.
- 507 2. The Commission may accept any and all appropriate sources of revenue, donations, and  
508 grants of money, equipment, supplies, materials, and services.
- 509 3. The Commission may levy on and collect an annual assessment from each Member State  
510 and impose fees on Licensees of Member States to whom it grants a Multistate License to  
511 cover the cost of the operations and activities of the Commission and its staff, which must  
512 be in a total amount sufficient to cover its annual budget as approved each year for which  
513 revenue is not provided by other sources. The aggregate annual assessment amount for  
514 Member States shall be allocated based upon a formula that the Commission shall  
515 promulgate by Rule.

516 4. The Commission shall not incur obligations of any kind prior to securing the funds  
517 adequate to meet the same; nor shall the Commission pledge the credit of any Member  
518 States, except by and with the authority of the Member State.

519 5. The Commission shall keep accurate accounts of all receipts and disbursements. The  
520 receipts and disbursements of the Commission shall be subject to the financial review and  
521 accounting procedures established under its bylaws. All receipts and disbursements of  
522 funds handled by the Commission shall be subject to an annual financial review by a  
523 certified or licensed public accountant, and the report of the financial review shall be  
524 included in and become part of the annual report of the Commission.

#### 525 H. Qualified Immunity, Defense, and Indemnification

526 1. The members, officers, executive director, employees and representatives of the  
527 Commission shall be immune from suit and liability, both personally and in their official  
528 capacity, for any claim for damage to or loss of property or personal injury or other civil  
529 liability caused by or arising out of any actual or alleged act, error, or omission that  
530 occurred, or that the person against whom the claim is made had a reasonable basis for  
531 believing occurred within the scope of Commission employment, duties or  
532 responsibilities; provided that nothing in this paragraph shall be construed to protect any  
533 such person from suit or liability for any damage, loss, injury, or liability caused by the  
534 intentional or willful or wanton misconduct of that person. The procurement of insurance  
535 of any type by the Commission shall not in any way compromise or limit the immunity  
536 granted hereunder.

537 2. The Commission shall defend any member, officer, executive director, employee, and  
538 representative of the Commission in any civil action seeking to impose liability arising  
539 out of any actual or alleged act, error, or omission that occurred within the scope of  
540 Commission employment, duties, or responsibilities, or as determined by the  
541 Commission that the person against whom the claim is made had a reasonable basis for  
542 believing occurred within the scope of Commission employment, duties, or  
543 responsibilities; provided that nothing herein shall be construed to prohibit that person  
544 from retaining their own counsel at their own expense; and provided further, that the  
545 actual or alleged act, error, or omission did not result from that person's intentional or  
546 willful or wanton misconduct.

547 3. The Commission shall indemnify and hold harmless any member, officer, executive  
548 director, employee, and representative of the Commission for the amount of any  
549 settlement or judgment obtained against that person arising out of any actual or alleged  
550 act, error, or omission that occurred within the scope of Commission employment, duties,  
551 or responsibilities, or that such person had a reasonable basis for believing occurred  
552 within the scope of Commission employment, duties, or responsibilities, provided that the  
553 actual or alleged act, error, or omission did not result from the intentional or willful or  
554 wanton misconduct of that person.

555 4. Nothing herein shall be construed as a limitation on the liability of any Licensee for  
556 professional malpractice or misconduct, which shall be governed solely by any other  
557 applicable State laws.

558 5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member  
559 State's State action immunity or State action affirmative defense with respect to antitrust  
560 claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or  
561 anticompetitive law or regulation.

562 6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the  
563 Member States or by the Commission.

#### 564 **ARTICLE 9- DATA SYSTEM**

565 A. The Commission shall provide for the development, maintenance, operation, and utilization  
566 of a coordinated database and reporting system.

567 B. The Commission shall assign each applicant for a Multistate License a unique identifier, as  
568 determined by the Rules of the Commission.

569 C. Notwithstanding any other provision of State law to the contrary, a Member State shall  
570 submit a uniform data set to the Data System on all individuals to whom this Compact is  
571 applicable as required by the Rules of the Commission, including:

572 1. Identifying information;

573 2. Licensure data;

574 3. Adverse Actions against a license and information related thereto;

575 4. Non-confidential information related to Alternative Program participation, the beginning  
576 and ending dates of such participation, and other information related to such  
577 participation;

578 5. Any denial of application for licensure, and the reason(s) for such denial (excluding the  
579 reporting of any criminal history record information where prohibited by law);

580 6. The existence of Investigative Information;

581 7. The existence presence of Current Significant Investigative Information; and

582 8. Other information that may facilitate the administration of this Compact or the protection  
583 of the public, as determined by the Rules of the Commission.

584 D. The records and information provided to a Member State pursuant to this Compact or  
585 through the Data System, when certified by the Commission or an agent thereof, shall  
586 constitute the authenticated business records of the Commission, and shall be entitled to any  
587 associated hearsay exception in any relevant judicial, quasi-judicial or administrative

- 588 proceedings in a Member State.
- 589 E. The existence of Current Significant Investigative Information and the existence of  
590 Investigative Information pertaining to a Licensee in any Member State will only be available  
591 to other Member States.
- 592 F. It is the responsibility of the Member States to report any Adverse Action against a Licensee  
593 who holds a Multistate License and to monitor the database to determine whether Adverse  
594 Action has been taken against such a Licensee or License applicant. Adverse Action  
595 information pertaining to a Licensee or License applicant in any Member State will be  
596 available to any other Member State.
- 597 G. Member States contributing information to the Data System may designate information that  
598 may not be shared with the public without the express permission of the contributing State.
- 599 H. Any information submitted to the Data System that is subsequently expunged pursuant to  
600 federal law or the laws of the Member State contributing the information shall be removed  
601 from the Data System.

602 **ARTICLE 10- RULEMAKING**

- 603 A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently  
604 implement and administer the purposes and provisions of the Compact. A Rule shall be  
605 invalid and have no force or effect only if a court of competent jurisdiction holds that the  
606 Rule is invalid because the Commission exercised its rulemaking authority in a manner that  
607 is beyond the scope and purposes of the Compact, or the powers granted hereunder, or based  
608 upon another applicable standard of review.
- 609 B. The Rules of the Commission shall have the force of law in each Member State, provided  
610 however that where the Rules of the Commission conflict with the laws of the Member State  
611 that establish the Member State's scope of practice as held by a court of competent  
612 jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the  
613 conflict.
- 614 C. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in  
615 this article and the Rules adopted thereunder. Rules shall become binding as of the date  
616 specified by the Commission for each Rule.
- 617 D. If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by  
618 enactment of a statute or resolution in the same manner used to adopt the Compact within  
619 four (4) years of the date of adoption of the Rule, then such Rule shall have no further force  
620 and effect in any Member State or to any State applying to participate in the Compact.
- 621 E. Rules shall be adopted at a regular or special meeting of the Commission.
- 622 F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow  
623 persons to provide oral and written comments, data, facts, opinions, and arguments.

624 G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in  
625 advance of the meeting at which the Commission will hold a public hearing on the proposed  
626 Rule, the Commission shall provide a Notice of Proposed Rulemaking:

- 627 1. On the website of the Commission or other publicly accessible platform;
- 628 2. To persons who have requested notice of the Commission's notices of proposed  
629 rulemaking, and
- 630 3. In such other way(s) as the Commission may by Rule specify.

631 H. The Notice of Proposed Rulemaking shall include:

- 632 1. The time, date, and location of the public hearing at which the Commission will hear  
633 public comments on the proposed Rule and, if different, the time, date, and location of  
634 the meeting where the Commission will consider and vote on the proposed Rule;
- 635 2. If the hearing is held via telecommunication, video conference, or other electronic means,  
636 the Commission shall include the mechanism for access to the hearing in the Notice of  
637 Proposed Rulemaking;
- 638 3. The text of the proposed Rule and the reason therefor;
- 639 4. A request for comments on the proposed Rule from any interested person; and
- 640 5. The manner in which interested persons may submit written comments.

641 I. All hearings will be recorded. A copy of the recording and all written comments and  
642 documents received by the Commission in response to the proposed Rule shall be available  
643 to the public.

644 J. Nothing in this article shall be construed as requiring a separate hearing on each Rule. Rules  
645 may be grouped for the convenience of the Commission at hearings required by this article.

646 K. The Commission shall, by majority vote of all Commissioners, take final action on the  
647 proposed Rule based on the Rulemaking record.

- 648 1. The Commission may adopt changes to the proposed Rule provided the changes do not  
649 enlarge the original purpose of the proposed Rule.
- 650 2. The Commission shall provide an explanation of the reasons for substantive changes  
651 made to the proposed Rule as well as reasons for substantive changes not made that were  
652 recommended by commenters.
- 653 3. The Commission shall determine a reasonable effective date for the Rule. Except for an  
654 emergency as provided in subsection L, the effective date of the Rule shall be no sooner  
655 than thirty (30) days after the Commission issuing the notice that it adopted or amended  
656 the Rule.

657 L. Upon determination that an emergency exists, the Commission may consider and adopt an  
658 emergency Rule with 24 hours notice, provided that the usual Rulemaking procedures  
659 provided in the Compact and in this article shall be retroactively applied to the Rule as soon  
660 as reasonably possible, in no event later than ninety (90) days after the effective date of the  
661 Rule. For the purposes of this provision, an emergency Rule is one that must be adopted  
662 immediately to:

- 663 1. Meet an imminent threat to public health, safety, or welfare;
- 664 2. Prevent a loss of Commission or Member State funds;
- 665 3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule;  
666 or
- 667 4. Protect public health and safety.

668 M. The Commission or an authorized committee of the Commission may direct revisions to a  
669 previously adopted Rule for purposes of correcting typographical errors, errors in format,  
670 errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on  
671 the website of the Commission. The revision shall be subject to challenge by any person for a  
672 period of thirty (30) days after posting. The revision may be challenged only on grounds that  
673 the revision results in a material change to a Rule. A challenge shall be made in writing and  
674 delivered to the Commission prior to the end of the notice period. If no challenge is made,  
675 the revision will take effect without further action. If the revision is challenged, the revision  
676 may not take effect without the approval of the Commission.

677 N. No Member State's rulemaking requirements shall apply under this Compact.

## 678 **ARTICLE 11- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

### 679 **A. Oversight**

- 680 1. The executive and judicial branches of State government in each Member State shall  
681 enforce this Compact and take all actions necessary and appropriate to implement the  
682 Compact.
- 683 2. Venue is proper and judicial proceedings by or against the Commission shall be brought  
684 solely and exclusively in a court of competent jurisdiction where the principal office of  
685 the Commission is located. The Commission may waive venue and jurisdictional  
686 defenses to the extent it adopts or consents to participate in alternative dispute resolution  
687 proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any  
688 action against a Licensee for professional malpractice, misconduct or any such similar  
689 matter.
- 690 3. The Commission shall be entitled to receive service of process in any proceeding  
691 regarding the enforcement or interpretation of the Compact and shall have standing to  
692 intervene in such a proceeding for all purposes. Failure to provide the Commission  
693 service of process shall render a judgment or order void as to the Commission, this



694 Compact, or promulgated Rules.

695 B. Default, Technical Assistance, and Termination

696 1. If the Commission determines that a Member State has defaulted in the performance of  
697 its obligations or responsibilities under this Compact or the promulgated Rules, the  
698 Commission shall provide written notice to the defaulting State. The notice of default  
699 shall describe the default, the proposed means of curing the default, and any other action  
700 that the Commission may take, and shall offer training and specific technical assistance  
701 regarding the default.

702 2. The Commission shall provide a copy of the notice of default to the other Member States.  
703

704 C. If a State in default fails to cure the default, the defaulting State may be terminated from the  
705 Compact upon an affirmative vote of a majority of the delegates of the Member States, and  
706 all rights, privileges and benefits conferred on that State by this Compact may be terminated  
707 on the effective date of termination. A cure of the default does not relieve the offending State  
708 of obligations or liabilities incurred during the period of default.

709 D. Termination of membership in the Compact shall be imposed only after all other means of  
710 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be  
711 given by the Commission to the governor, the majority and minority leaders of the defaulting  
712 State's legislature, the defaulting State's State Licensing Authority and each of the Member  
713 States' State Licensing Authority.

714 E. A State that has been terminated is responsible for all assessments, obligations, and liabilities  
715 incurred through the effective date of termination, including obligations that extend beyond  
716 the effective date of termination.

717 F. Upon the termination of a State's membership from this Compact, that State shall  
718 immediately provide notice to all Licensees who hold a Multistate License within that State  
719 of such termination. The terminated State shall continue to recognize all licenses granted  
720 pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of  
721 said notice of termination.

722 G. The Commission shall not bear any costs related to a State that is found to be in default or  
723 that has been terminated from the Compact, unless agreed upon in writing between the  
724 Commission and the defaulting State.

725 H. The defaulting State may appeal the action of the Commission by petitioning the U.S.  
726 District Court for the District of Columbia or the federal district where the Commission has  
727 its principal offices. The prevailing party shall be awarded all costs of such litigation,  
728 including reasonable attorney's fees.

729 I. Dispute Resolution

730 1. Upon request by a Member State, the Commission shall attempt to resolve disputes  
731 related to the Compact that arise among Member States and between Member and non-

732 Member States.

733 2. The Commission shall promulgate a Rule providing for both mediation and binding  
734 dispute resolution for disputes as appropriate.

735 J. Enforcement

736 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions  
737 of this Compact and the Commission's Rules.

738 2. By majority vote as provided by Commission Rule, the Commission may initiate legal  
739 action against a Member State in default in the United States District Court for the  
740 District of Columbia or the federal district where the Commission has its principal offices  
741 to enforce compliance with the provisions of the Compact and its promulgated Rules. The  
742 relief sought may include both injunctive relief and damages. In the event judicial  
743 enforcement is necessary, the prevailing party shall be awarded all costs of such  
744 litigation, including reasonable attorney's fees. The remedies herein shall not be the  
745 exclusive remedies of the Commission. The Commission may pursue any other remedies  
746 available under federal or the defaulting Member State's law.

747 3. A Member State may initiate legal action against the Commission in the U.S. District  
748 Court for the District of Columbia or the federal district where the Commission has its  
749 principal offices to enforce compliance with the provisions of the Compact and its  
750 promulgated Rules. The relief sought may include both injunctive relief and damages. In  
751 the event judicial enforcement is necessary, the prevailing party shall be awarded all costs  
752 of such litigation, including reasonable attorney's fees.

753 4. No individual or entity other than a Member State may enforce this Compact against the  
754 Commission.

755 **ARTICLE 12- EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT**

756 A. The Compact shall come into effect on the date on which the Compact statute is enacted  
757 into law in the seventh Member State.

758 1. On or after the effective date of the Compact, the Commission shall convene and  
759 review the enactment of each of the Charter Member States to determine if the  
760 statute enacted by each such Charter Member State is materially different than the  
761 model Compact statute.

762 a. A Charter Member State whose enactment is found to be materially different from  
763 the model Compact statute shall be entitled to the default process set forth in  
764 Article 11.

765 b. If any Member State is later found to be in default, or is terminated or withdraws  
766 from the Compact, the Commission shall remain in existence and the Compact  
767 shall remain in effect even if the number of Member States should be less than  
768 seven (7).

769 2. Member States enacting the Compact subsequent to the Charter Member States shall  
770 be subject to the process set forth in Article 8.C.23 to determine if their enactments  
771 are materially different from the model Compact statute and whether they qualify for  
772 participation in the Compact.

773 3. All actions taken for the benefit of the Commission or in furtherance of the purposes of  
774 the administration of the Compact prior to the effective date of the Compact or the  
775 Commission coming into existence shall be considered to be actions of the  
776 Commission unless specifically repudiated by the Commission.

777 4. Any State that joins the Compact shall be subject to the Commission's Rules and  
778 bylaws as they exist on the date on which the Compact becomes law in that State.  
779 Any Rule that has been previously adopted by the Commission shall have the full  
780 force and effect of law on the day the Compact becomes law in that State.

781  
782 B. Any Member State may withdraw from this Compact by enacting a statute repealing that  
783 State's enactment of the Compact.

784 1. A Member State's withdrawal shall not take effect until one hundred eighty (180)  
785 days after enactment of the repealing statute.

786 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's  
787 Licensing Authority to comply with the investigative and Adverse Action reporting  
788 requirements of this Compact prior to the effective date of withdrawal.

789 3. Upon the enactment of a statute withdrawing from this Compact, a State shall  
790 immediately provide notice of such withdrawal to all Licensees within that State.  
791 Notwithstanding any subsequent statutory enactment to the contrary, such  
792 withdrawing State shall continue to recognize all licenses granted pursuant to this  
793 Compact for a minimum of 180 days after the date of such notice of withdrawal.  
794

795 C. Nothing contained in this Compact shall be construed to invalidate or prevent any  
796 licensure agreement or other cooperative arrangement between a Member State and a  
797 non-Member State that does not conflict with the provisions of this Compact.  
798

799 D. This Compact may be amended by the Member States. No amendment to this Compact  
800 shall become effective and binding upon any Member State until it is enacted into the  
801 laws of all Member States.

## 802 **ARTICLE 13. CONSTRUCTION AND SEVERABILITY**

803 A. This Compact and the Commission's rulemaking authority shall be liberally construed so as  
804 to effectuate the purposes, and the implementation and administration of the Compact.  
805 Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall  
806 not be construed to limit the Commission's rulemaking authority solely for those purposes.

807 B. The provisions of this Compact shall be severable and if any phrase, clause, sentence or  
808 provision of this Compact is held by a court of competent jurisdiction to be contrary to the

809 constitution of any Member State, a State seeking participation in the Compact, or of the  
810 United States, or the applicability thereof to any government, agency, person or circumstance  
811 is held to be unconstitutional by a court of competent jurisdiction, the validity of the  
812 remainder of this Compact and the applicability thereof to any other government, agency,  
813 person or circumstance shall not be affected thereby.

814 C. Notwithstanding subsection B of this article, the Commission may deny a State's  
815 participation in the Compact or, in accordance with the requirements of Article 11.B,  
816 terminate a Member State's participation in the Compact, if it determines that a constitutional  
817 requirement of a Member State is a material departure from the Compact. Otherwise, if this  
818 Compact shall be held to be contrary to the constitution of any Member State, the Compact  
819 shall remain in full force and effect as to the remaining Member States and in full force and  
820 effect as to the Member State affected as to all severable matters.

821 **ARTICLE 14. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS**

822 Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State  
823 that is not inconsistent with the Compact.

824 Any laws, statutes, regulations, or other legal requirements in a Member State in conflict  
825 with the Compact are superseded to the extent of the conflict.

826 All permissible agreements between the Commission and the Member States are binding in  
827 accordance with their terms.

## **BYLAWS**

### **THE ADVISORY BOARD ON MASSAGE THERAPY VIRGINIA BOARD OF NURSING**

#### **Article I - Members of the Advisory Board**

The appointments and limitations of service of the members shall be in accordance with Section 54.1-3029.1 of the Code of Virginia.

#### **Article II - Officers**

Section 1. Titles of Officers - The officers of the advisory board shall consist of a chairman and a vice-chairman elected by the advisory board. The Deputy Executive Director of the Board of Nursing shall serve in an advisory capacity.

Section 2. Terms of Office - The chairman and the vice-chairman shall serve for a one-year term and may not serve for more than two consecutive terms in each office. The election of officers shall take place at the first meeting after July 1, and officers shall assume their duties immediately thereafter.

Section 3. Duties of Officers.

a. Chairman

- (1) The chairman shall preside at all meetings when present, make such suggestions as he may deem calculated to promote and facilitate its work, and discharge all other duties pertaining by law or by resolution of the advisory board. The chairman shall preserve order and conduct all proceedings according to and by parliamentary rules and demand conformity thereto on the part of the members.
- (2) The chairman shall appoint members of all committees as needed.
- (3) The chairman shall act as liaison between the advisory board and the Board of Nursing on matters pertaining to certification, discipline, legislation and regulation of massage therapy.

b. Vice-Chairman

The vice-chairman shall preside at meetings in the absence of the chairman and shall take over the other duties of the chairman as may be made necessary by the absence of the chairman.

### **Article III - Meetings**

Section 1. There shall be at least one meeting each year in order to elect the chairman and vice-chairman and to conduct such business as may be deemed necessary by the advisory board.

Section 2. Quorum - Three members shall constitute a quorum for transacting business.

Section 3. Order of the Agenda - The order of the agenda may be changed at any meeting by a majority vote.

### **Article IV - Amendments**

Amendments to these bylaws may be proposed by presenting the amendments in writing to all advisory board members prior to any scheduled advisory board meeting. If the proposed amendment receives a majority vote of the members present at that regular meeting, it shall be presented for consideration and vote to the Board of Nursing at its next regular meeting.

**Massage Advisory Board Members**

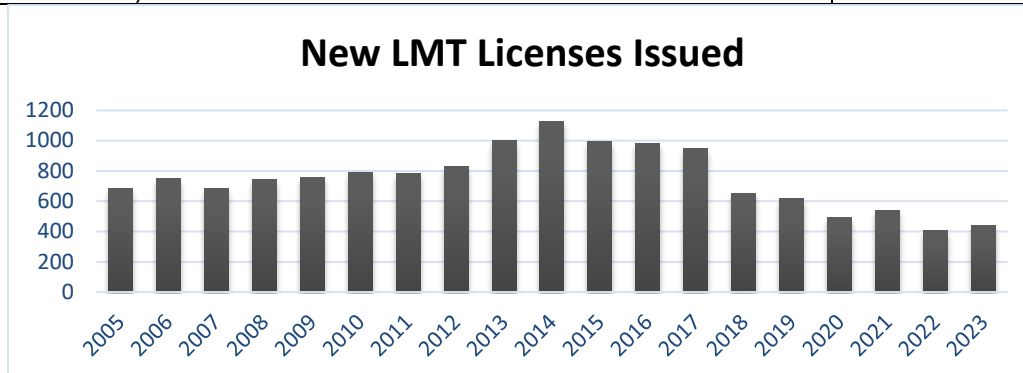
(Revised December 5, 2023)

| <b><u>NAME:</u></b>  | <b><u>TERM EXPIRES:</u></b> |
|--|-----------------------------|
| Dawn M. Hogue, MA, LMT, Vice Chair, Virginia Beach           | 2024                        |
| María Mercedes Olivieri, LMT, Burke                          | 2024                        |
| P. Lisabeth Speller, RN, BSN, MS, Citizen Member, Glen Allen | 2025                        |
| Ann Lively, MSW, LMT, Richmond                               | 2027                        |
| Shawnté Peterson, LMT, Chair, Chesapeake                     | 2027                        |

**STATISTICAL INFORMATION**

Number of new Massage Licenses **Issued** (Initial Applicants and Endorsements)

|                               |       |
|-------------------------------|-------|
| 2023 (Jan 1- <b>Sept 30</b> ) | 437   |
| 2022 (Jan 1- Dec 31)          | 503   |
| 2021 (Jan 1- Dec 31)          | 541   |
| 2020 (Jan 1- Dec 31)          | 494   |
| 2019 (Jan 1- Dec 31)          | 616   |
| 2018 (Jan 1- Dec 31)          | 796   |
| 2017 (Jan 1- Dec 31)          | 947   |
| 2016 (Jan 1- Dec 31)          | 984   |
| 2015 (Jan 1- Dec 31)          | 992   |
| 2014 (Jan 1- Dec 31)          | 1,126 |
| 2013 (Jan 1- Dec 31)          | 1,001 |
| 2012 (Jan 1- Dec 31)          | 827   |
| 2011 (Jan 1- Dec 31)          | 784   |
| 2010 (Jan 1- Dec 31)          | 790   |
| 2009 (Jan 1- Dec 31)          | 754   |
| 2008 (Jan 1- Dec 31)          | 744   |
| 2007 (Jan 1- Dec 31)          | 683   |
| 2006 (Jan 1- Dec 31)          | 748   |
| 2005 (Jan 1- Dec 31)          | 683   |



MBLEX was accepted as exam for certification in Virginia as of July 1, 2013

Total # of massage therapist **currently** active in Virginia as of **December 5, 2023: 8,160**

Online Massage Applications Received

|                                | By Application | By Endorsement | Total |
|--------------------------------|----------------|----------------|-------|
| 2023 (Jan 1 – <b>Sept 30</b> ) | 381            | 122            | 503   |
| 2022 (Jan 1 – Dec 31)          | 404            | 175            | 582   |
| 2021 (Jan 1 – Dec 31)          | 410            | 153            | 563   |
| 2020 (Jan 1 – Dec 31)          | 376            | 147            | 523   |
| 2019 (Jan 1 – Dec 31)          | 504            | 195            | 699   |
| 2018 (Jan 1 – Dec 31)          | 564            | 227            | 791   |
| 2017 (Jan 1 – Dec 31)          | 747            | 205            | 952   |
| 2016 (Jan 1 – Dec 31)          | 839            | 255            | 1,094 |
| 2015 (Jan 1 – Dec 31)          | 766            | 210            | 976   |
| 2014 (April 1 -Dec 31)         | 450            | 156            | 606   |

- The Virginia Board of Nursing started accepting massage applications online as of April 2014
- Implementation of Licensure for Massage Therapist effective January 1, 2017 (*from Certified Massage Therapist-CMT to Licensed Massage Therapist-LMT*)
- Pursuant to Virginia Code 54.1-3005.1, the Virginia Board of Nursing incorporated both state and federal criminal background checks as part of the application process for Massage Therapist effective January 1, 2017. This requirement applies to applicants by initial application, endorsement, and reinstatement.
- Effective April 16, 2020, the Board of Nursing no longer provides official verification for licensees wishing to obtain out-of-state licensure. Licensees are directed to License Lookup.
- Effective September 30, 2020, pursuant to Virginia Code 54.1-3029, the Virginia Board of Nursing clarified the requirement for applicants to have **completed** a massage therapy program that is at least 500 hours and requires a Board-approved English-proficiency exam for applicants educated outside of the United States.

| <b>LMT Total Count Payments Received</b>                 | <b>10/01/21 to 09/30/22</b> | <b>10/01/22 to 09/30/23</b> |
|--|-----------------------------|-----------------------------|
| New Applications (initial & endorsement- paper & online) | 599                         | 656                         |
| Duplicate License Request                                | 203                         | 218                         |
| Duplicate Wall Certificate Request                       | 43                          | 37                          |
| Verification Requests <sup>1</sup>                       |                             | 3                           |
| Reinstatement Applications after Discipline              | 1                           | 2                           |
| Reinstatement Applications                               | 50                          | 63                          |
| Renewals   | 3,590                       | 3,466                       |
| Late Renewals  | 311                         | 362                         |

<sup>1</sup> Effective April 16, 2020, requests for verification are directed to License Lookup. Fees received were money order payments.





# COMMONWEALTH of VIRGINIA

Arne W. Owens  
Director

Department of Health Professions  
Perimeter Center  
9960 Mayland Drive, Suite 300  
Henrico, Virginia 23233-1463

[www.dhp.virginia.gov](http://www.dhp.virginia.gov)  
PHONE (804) 367- 4400

| Case Category Report for Nursing—Cases Received Between: |                          |                          |
|--|--------------------------|--------------------------|
| Licensed Massage Therapist                               | 01/01/2022 to 12/31/2022 | 01/01/2023 to 11/01/2023 |
| 01 Inability to Safely Practice                          | 5                        | 3                        |
| 03 Abuse/Abandonment/Neglect                             | 3                        | 9                        |
| 05 Std of Care, Diagnosis/Treatment                      | 2                        | 2                        |
| 07 Std of Care, Malpractice Reports                      |                          | 2                        |
| 08 Std of Care, Exceeding Scope                          | 2                        | 2                        |
| 10 Inappropriate Relationship                            | 8                        | 12                       |
| 11 Unlicensed Activity                                   | 10                       | 13                       |
| 50 Criminal Activity                                     | 7                        | 4                        |
| 51 HPMP  |                          | 1                        |
| 53 Fraud, Non-Patient Care                               | 2                        | 45                       |
| 54 Business Practice Issues                              | 7                        | 6                        |
| 56 Compliance  | 3                        | 1                        |
| 59 Continuing Competency Req Not Met                     | 3                        | 10                       |
| 63 Reinstatement   | 4                        | 2                        |
| 64 Eligibility   | 10                       | 11                       |
| <b>Total</b>   | <b>66</b>                | <b>123</b>               |

## **Federation of State Massage Board (FSMTB) Executive Summit April 27-28, 2023**

Christina Bargdill, Deputy Director attended the FSMTB Executive Summit in Denver Colorado.

This year the summit was expanded to include an investigator and inspector track.

DHP Senior Investigator Kim Lynch also attended the Summit and took part in the joint sessions, as well as special sessions targeted at investigations and inspections of massage establishments.

A summary of all session topics and highlights is provided below.

**Dr. Debra Persinger, Executive Director of FSMTB, provided an executive summary covering the topics listed below:**

### Interstate Massage Compact (IMpact) Update

- Department of Defense grant funded process
- Released to states for consideration/adoption
- Bills have subsequently dropped in 5 states to date; Nevada is moving through the Senate; Seven states are necessary establish the compact
- The goal is for legislation to be finalized for introduction during the 2023 legislative sessions
- The compact increases educational requirements above minimum standards to be eligible for multi-state license
- FSMTB is convening a meeting of Executive Directors and legislators from each state to assist in the state review and decision making process
- View model language at [www.massagecompact.org](http://www.massagecompact.org)

### Regulatory Activity

- In North Carolina an exemption for licensure to practice reflexology has passed house and senate; this is concerning to the Board as the definition of massage therapy applies to the practice of reflexology and the stance of stakeholders is that reflexology is massage
- Arizona's Board of Massage Therapy may cease to exist on June 30, 2023 with the expiration of sunset provisions in legislation; there is currently no plan for moving forward
- New York proposed senate Bill 5964 does not require an individual to be a US citizen or to provide any identifying information to obtain a license to practice a health profession; this would to all health professions, not just to massage therapy
- South Carolina is in the rule making process for establishment licensing
- West Virginia has passed an establishment licensing bill

### Interagency Collaboration

- FSMTB, PearsonVue, Department of Homeland Security, Department of Justice, Department of State, Office of the US Attorney General, FBI and Customs Agents are all working together to develop a national strategy to combat human trafficking with a shared understanding of what constitutes an illegitimate massage business (IMB) or a Sexually Oriented Business (SOB)
- The IMB/SOB is organized crime; not just prostitution
- Investigation into issues involving higher education is on the rise not just in MT but in Nursing education as well

### Strategic Plan 2023

- Under development now; focus on issues that matter to the states, the profession and that increase FSMTB relevance to members

### Standards Under Pressure

- Impacts on the changing professional standards include the landscape in higher education, the rise of post pandemic distance learning, political polarization, characteristics of the next generation of professionals and the rejection of expertise in the age of Tik Tok "experts"

**Keynote speaker Kathy Chen, Senior Program Advisor for The Network discussed the history of trafficking in illicit massage businesses, identifying dynamics of racism, sexism and harmful anti-Asian policies of the past have contributed to the current landscape of sexualization of massage, trafficking**

**Federation of State Massage Board (FSMTB) Executive Summit  
April 27-28, 2023**

**and organized crime.** The Network is a 501c intelligence driven counter-intelligence network solely focused on the illicit massage industry. The role of the media in the portrayal of Asian women as seductive, submissive and objects of desire was discussed as foundation for anti-Asian violence, including the violence that led to the death of six Asian American women at various Asian businesses in Atlanta on March 16, 2021. The speaker then turned to the discussion to the victimization of Asian American women in the role of massage therapist, and the specific aspects of Asian culture that serve to keep the women in the abusive situations. Recommendations to decrease the impact of organized crime on the massage therapy industry include: 1) Create a resource guide for practitioners and law enforcement, 2) Implement minimal educational standards for the profession, 3) Ensure collaboration with other Agencies to ensure the victims of IMB/SOB's are not further victimized and receive the assistance needed to separate themselves from the abusive situation.

**Debra Persinger, Executive Director discussed the results of a survey conducted by FSMTB.** The survey topic "sexual harassment committed by clients", was sent out to current and past Massage Therapists nationwide with 3,536 responses received. The results were alarming, indicating that client perpetrated sexual assault and sexual harassment are all too common experiences for massage therapists in practice today. While regulators do not have jurisdiction over client behavior, an opportunity exists for improving education in massage therapy training programs and continuing education to bring awareness to the issue and better prepare practitioners to handle situations that put them at risk. There is great value the regulation of massage therapy as a health profession on both the state and federal levels.

**There was a healthy discussion, lead by panel members from Oregon, South Carolina, Nevada and Alabama, focusing on Massage Establishment Regulation.** The most interesting part of this discussion was that if the laws and regulations are not clear as to the rationale (from health code enforcement to countering human trafficking) and authority (can a board deny an initial application, revoke a license, order sanction in instances of non-compliance), resources can be wasted on inspections and investigative activities that have no impact on whether the establishment continues to be licensed or not. The advice offered by panel members was to be sure to engage that stakeholders work with legislators to develop regulatory language that achieves the intended goals if establishment licensure is under consideration.

**Exam Security and Emerging Threats were discussed by Harry Samit, Director of Special Investigations, PearsonVue and Colby Dixon, Assistant Director, Data and Compliance, FSMTB.** PearsonVue has 400+ clients, including FSMTB.

Harry Samit of PearsonVue reviewed the top issues impacting the exam business:

- The rise of online proctoring post covid (testing environment is controlled by the test taker, not the testing company); effectiveness of webcam observations is limited
- Content theft and Proxy testing
- Artificial Intelligence (AI models in testing have passed many standardized exams including US BAR exam and other state licensing exams)

Colby Dixon of FSMTB highlighted current trends in the exam fraud arena to include:

- Submission of fraudulent documents
- Fraud is changing from past; it is becoming less obvious, more discreet and well-funded by organized crime
- Online education has spiked from 14% - 47% during the pandemic; now resting at 37% of schools providing some online classes

## **Federation of State Massage Board (FSMTB) Executive Summit April 27-28, 2023**

- FSMTB Fraud Prevention initiatives
  - Candidate handbook
  - Requirements for addressing the exam
  - Highest security of PV testing centers
  - Over 1,000 MBLEX exam results have been investigated and invalidated over time
- Two educational programs recently unapproved by state Boards have resulted in the FSMTB invalidation of many more MBLEX results

### **Executive Breakout Sessions included:**

- Massage Education Standards and Education Fraud, presented by Kevin Snedden, Director of Industry Relations, FSMTB
- Regulatory Trends Roundtable Discussion was facilitated by Ashley Hernandez, Government Relations Specialist, FSMTB
- Tricky Issues in Board Management Moderator: Janelle Larson, Board Executive, Iowa Board of Massage Therapy

### **Investigator Breakout Sessions:**

- Tricky Issues in Investigations/Inspections was moderated by Debra Persinger, Executive Director FSMTB
- Investigator Training Models Moderator: Kevin Snedden, Director of Industry Relations, FSMTB  
Panelists: Mary Winston, Texas; Jeff Van Laanen, Oregon; Rick McElroy, California; Dennis Trammel, Alabama
- Trauma-Informed Investigations and Secondary Trauma: Yours, Mine and Ours Speaker: Pam Hamilton, LCSW, LCSW, Therapist and Consultant, Hamilton Counseling and Consulting

### **My top 3 takeaways from the event:**

1. Fraud in the procurement of health care licenses is on the increase, is more difficult to detect and is a billion-dollar business.
2. There is an increased focus amongst state Boards and legislators to regulate massage establishments to combat human trafficking and organized crime more effectively.
3. IMPact increases the educational requirements above minimum standards for multi-state licensure. Compact states can continue to issue single state licenses to applicants who meet the state requirements.

**A bonus take-away is the reaffirmation for me that there is great variability and diversity in the way state boards are organized, how they function, in the powers and duties of state board and in the conduct of board members and staff. This always results in interesting discussion at these summit events and more importantly, leaves me filled with gratitude and pride to be working in the Commonwealth of Virginia, and at DHP!**



FSMTB®

FEDERATION OF STATE  
MASSAGE THERAPY BOARDS

# Annual Report

October 2023



# Message *from the* President



As state regulators and guardians of the public interest, we are entrusted with the responsibility to shape and uphold laws that impact a profession and the citizens we serve. In our pursuit of good governance, it is essential that we engage in open and honest communication, forging connections across our jurisdictions and transcending boundaries for the greater good.

Through robust communication, we enhance our ability to respond effectively to the challenges of our time. We can tackle the urgent issues of human trafficking, deregulation, and license portability with unwavering determination and unity. It is through communication that we can navigate the complexities of our regulatory landscape. Let us commit ourselves to actively seek out opportunities for dialogue, collaboration, and knowledge exchange.

Let us cultivate an atmosphere of trust and respect, where all voices are heard and valued. Together, we can build a future where the collective wisdom of our state regulators drives positive change.

**Craig Knowles, LMT**  
President

## 2023 FSMTB Board of Directors

**PRESIDENT**  
Craig Knowles  
*Chair, Georgia Board of  
Massage Therapy*

**VICE PRESIDENT**  
Sandy Anderson  
*Executive Director, Nevada  
Board of Massage  
Therapists*

**TREASURER**  
Keith Warren  
*Executive Director, Alabama  
Board of Massage Therapy*

Robin Alexander  
*Indiana*

Foad Araiinejad  
*Alabama Board of  
Massage Therapy*

Mike Arismendez  
*Executive Director,  
Texas Department of  
Licensing and Regulation*

Victoria Drago  
*Florida Board of  
Massage Therapy*

**EXECUTIVE DIRECTOR**  
*Debra Persinger, PhD, CAE*



## Mission



The mission of FSMTB is to support its Member Boards in their work to ensure that the practice of massage therapy is provided to the public safely and competently.

## Non-Profit



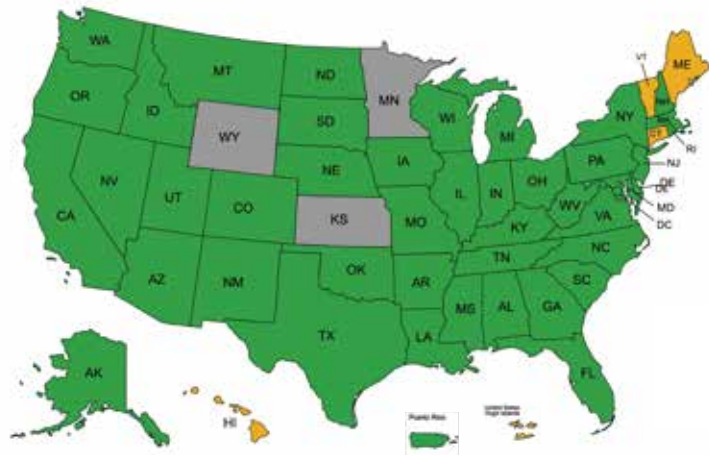
The FSMTB is a 501c3, non-profit organization. All revenue is used to enhance FSMTB programs and services and provide support to its Members in fulfilling their responsibility of protecting the public from unsafe practice.

## Membership

The FSMTB members are state boards and agencies that regulate the profession of massage therapy and are charged with the mission of public protection.

### FSMTB Membership by State

- Not Regulated
- FSMTB Members
- Non-Members

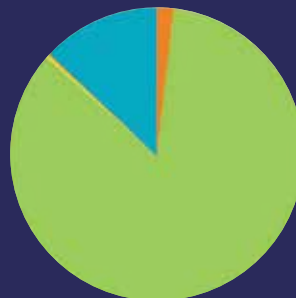


## 2023 Financials\*

July 2022 - June 2023

\* *unaudited*

### INCOME



| INCOME                |                  |
|-----------------------|------------------|
| Membership            | 115,700          |
| Exam Services         | 5,436,400        |
| Professional Services | 21,335           |
| Grants/Donations      | 5,000            |
| Investments           | 827,100          |
| <b>TOTAL</b>          | <b>6,405,535</b> |

### EXPENSES



| EXPENSES          |                  |
|-------------------|------------------|
| General Operating | 2,306,350        |
| Travel & Events   | 515,385          |
| Professional Fees | 496,900          |
| Exam Services     | 1,451,370        |
| <b>TOTAL</b>      | <b>4,770,005</b> |
| <b>Surplus</b>    | <b>1,635,530</b> |



# School Outreach

In addition to campus visits and virtual school events, FSMTB attended national school events, including the Associated Bodywork & Massage Professionals (ABMP) School Forum, American Massage Therapy Association (AMTA) School Summit, AMTA national convention, and Florida State Massage Therapy Association (FSMTA) Convention.

## EVC



The Education Verification Center (EVC) supports more than

**1,500 EVC users** representing over **1,000 state-approved massage therapy schools.**

# Communications

FSMTB responds to over 5,000 phone calls and emails each month.

## WEBSITE

The FSMTB website, [fsmtb.org](http://fsmtb.org), remains the foremost resource for individuals seeking information about FSMTB and the MBLEx. During the past year, the website hosted over 504,000 page views.

**34,260** Calls

**29,332** Emails

**98,862** Home Web Page Visits

**307,251** MBLEx Web Page Visits

**12,353** Member/Regulatory Boards Web Page Visits

**2,333** Translated Content

## SOCIAL MEDIA

FSMTB shares organizational news and regulatory information via its social media presence. Across all platforms, we had 7,000 followers, which was 20.4% lower than the previous year.



[facebook.com/FSMTB](https://facebook.com/FSMTB)



[twitter.com/fsmtb](https://twitter.com/fsmtb)



[linkedin.com/fsmtb](https://linkedin.com/fsmtb)



[youtube.com The FSMTB](https://youtube.com/TheFSMTB)



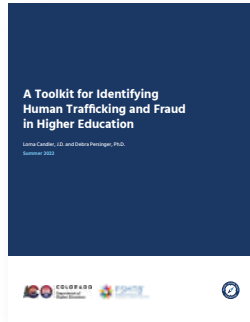
[instagram.com/thefsmtb](https://instagram.com/thefsmtb)





# Collaboration

## HIGHER EDUCATION STATE AUTHORIZERS



The FSMTB received a grant from the Seldin/Haring-Smith Foundation to produce a Toolkit for Identifying Human Trafficking and Fraud in Higher Education. The resource, co-authored by our executive director, Dr. Debra with Lorna Candler of the Colorado Department of Higher Education, is a practical guide for state authorizers to identify and take action on human trafficking in higher education institutions. This guide continues to serve as a resource for education and training in the regulatory compliance and enforcement community.



## GEORGIA HUMAN TRAFFICKING SUMMIT

FSMTB hosted an educational summit for local and state law enforcement agency personnel in Atlanta, Georgia.

## THE NETWORK

### THE NETWORK

The Federation of State Massage Therapy Boards partnered with The Network, a counter-human trafficking organization, to coauthor an article examining massage licensing fraud in education.

## MESSAGE THERAPY COALITION

President Craig Knowles and Executive Director Dr. Debra Persinger represented FSMTB at the annual meeting of the coalition of national massage therapy organizations.



## FEDERAL LAW ENFORCEMENT

FSMTB provided an educational training session for federal law enforcement representatives regarding illicit massage.





# MBLEx

The Massage & Bodywork Licensing Examination (MBLEx) is an entry level competence exam that is psychometrically fair, valid, reliable and legally defensible.

FSMTB continues to work with massage regulatory boards and law enforcement agencies who collaborate to protect the integrity of the exam and in turn, the licensure process.



● STATES & TERRITORIES THAT USE MBLEX   
 ● NOT REGULATED   
 ● STATES THAT DO NOT USE ANY EXAM   
 ● STATES THAT DO NOT USE MBLEX

## MBLEx TESTING ACCOMMODATIONS

The FSMTB complies with federal laws regarding the Americans with Disabilities Act and considers requests from qualified candidates with diagnosed disabilities to utilize testing accommodations when taking the MBLEx.

The nature of the disabilities for which the accommodations were provided included ADHD, learning disabilities, dyslexia, visual/hearing impairments, and mental health conditions. The costs for providing the testing accommodations are covered by FSMTB.

## MBLEx Pass Rates\*



**17,400** MBLEx candidates tested  
 First-time pass rate **72%**.

*\*July 2022 - June 2023*

## MBLEx Accommodations



FSMTB supported **307** MBLEx candidates with **579** testing accommodations



## MBLEx CANDIDATE HANDBOOK

The most current edition of the Massage & Bodywork Licensing Examination Candidate Handbook was published in July 2023. It is available on our website at [fsmtb.org](https://fsmtb.org).

The MBLEx Candidate Handbook is an important reference for applicants and educational institutions. It contains comprehensive details about eligibility criteria, application processes, fees, scheduling, FSMTB candidate support, study materials, and examination content. In addition, it encompasses all the policies pertaining to exam administration, irregularities, and ensuring examination confidentiality.



## MBLEx PREP MATERIALS

The Federation is committed to empowering MBLEx candidates in their exam preparation by offering a comprehensive array of study tools. The Federation strives to provide resources that enable aspiring massage and bodywork professionals to approach the MBLEx confidently.

### THE MBLEx CHECK ONLINE READINESS ASSESSMENT

The MBLEx Check Online Readiness Assessment is the practice test designed to simulate the actual MBLEx experience. The Federation is proud to offer the MBLEx Check in Spanish, catering to our colleagues in Puerto Rico and Spanish-speaking communities nationwide.

### THE OFFICIAL MBLEx STUDY GUIDE

The Official MBLEx Study Guide includes a comprehensive breakdown of the examination's core content areas and invaluable tips to encourage a successful examination experience. Notably, this guide offers a 100-question practice examination and includes sample exam items, further enhancing the learning experience.

The Official MBLEx Study Guide is available in English and Spanish.





## REACH



**94%** of users who took a REACH course were happy with the course content and

**89%** would recommend REACH courses to other users



## REGULATORY EDUCATION AND COMPETENCE HUB (REACH)

FSMTB offers online CE courses sponsored by state boards through the Regulatory Education and Competence Hub (REACH) at [www.reach4ce.org](http://www.reach4ce.org).

Course completion information is recorded in the Massage Therapy Licensing Database (MTLD) for participating state boards to access.

## CE REGISTRY

CE Registry is a registry of educators, providing massage and bodywork therapy continuing education, who meet and adhere to the national CE standards developed by the FSMTB regulatory community. The CE Registry accepts information from continuing education providers, including course completion information, and transfers that information into the national Massage Therapy Licensing Database (MTLD). CE Registry includes a Course Search capability that allows potential CE consumers (LMT's) to search for courses that meet their needs.

***CE Registry is a solution that meets the needs of the regulatory community by:***

- 1.** *Verifying primary source documentation of completed CE in MTLD.*
- 2.** *Supporting the authority of state regulatory boards to accept CE for license renewal.*
- 3.** *Reducing the instances of CE fraud among licensees.*
- 4.** *Protecting the licensees from predatory practices by CE providers.*
- 5.** *Identifying and making transparent the providers who are not compliant with the Standards established by the FSMTB membership.*



***The following states accept CE Registry courses***

|                      |                |
|----------------------|----------------|
| Alabama              | Nevada         |
| Alaska               | New Hampshire  |
| Arkansas             | New Jersey     |
| Connecticut          | New Mexico     |
| Delaware             | North Carolina |
| District of Columbia | Oklahoma       |
| Idaho                | Oregon         |
| Indiana              | Rhode Island   |
| Iowa                 | South Carolina |
| Kentucky             | South Dakota   |
| Maryland             | Tennessee      |
| Michigan             | Virginia       |
| Missouri             | Washington     |
| Montana              | West Virginia  |
| Nebraska             | Wisconsin      |

## CE Registry



**383** courses registered to date  
**85%** positive course feedback

## GOVERNMENT RELATIONS

This year the Government Relations team was active, primarily providing support and education to members and their jurisdictions' legislators on the Interstate Massage Compact (IMpact).

## INTERSTATE MASSAGE COMPACT (IMPACT)

Massage therapy regulators, practitioners, and educators, in collaboration with FSMTB and the Council of State Governments (CSG), have developed the interstate massage therapy licensure compact, or IMpact.

IMpact enables licensed massage therapists to practice in all states that join the compact, rather than get an individual license in each state where they want to practice.

After seven (7) states adopt the legislation, IMpact is activated and the Compact Commission will begin accepting applications for the massage therapy multistate license.

## SERVICE



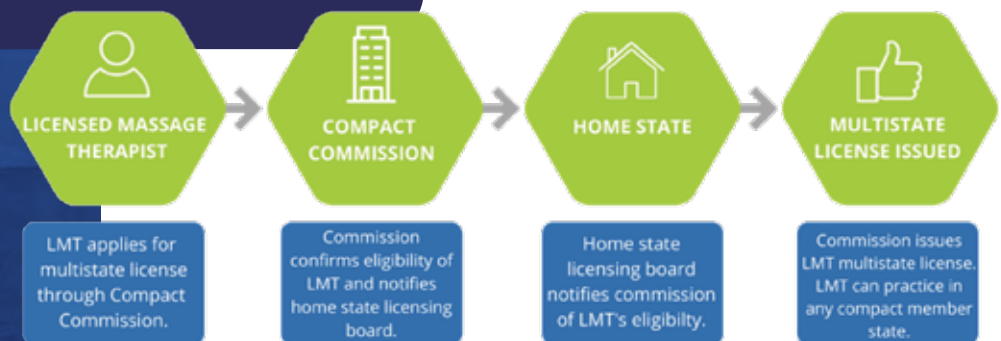
Attended over **100** board meetings, spending over **300** hours being directly available to our members.

Attended **50** legislative and committee hearings and submitted testimony on **18** occasions to **12** states.

## Impact



Nevada was the **FIRST** state to adopt IMpact.



## BILLS



A total of **198** bills were tracked, **42** of which were enacted.

## LEGISLATIVE TRACKING

The most common type of legislation tracked related to the Interstate Massage Compact, massage boards, human trafficking, establishment regulation, license application and discipline, and scope of practice related to reflexology.



## VIRTUAL MEMBERSHIP EVENTS

The Virtual Membership Events support the mission of the FSMTB by facilitating communication among member boards and providing education and guidance on trending issues such as licensure mobility, uniform minimum competency standards and interagency collaboration. Topics addressed in 2023 included the Interstate Massage Compact, the value of the Massage & Bodywork Licensing Examination, how to educate massage clients on boundaries, and collaborating with state education entities.

These events present an opportunity for members to discuss issues across jurisdictions and learn from one another. They continue to receive positive feedback and attendees consistently encourage others to attend.

## MESSAGE BOARD EXECUTIVE SUMMIT

The Message Board Executive (MBE) Summit was held in Denver, Colorado on April 27-28, 2023. The 2023 Summit offered two tracks, one for Board Executives and one for Inspectors and Investigators.

The Summit focused on facilitating communication and sharing best practices across jurisdictions. Session content addressed how race, gender and policies contribute to the illicit massage industry; organized crime and protecting exam content; understanding trauma, secondary trauma, and burnout; regulatory trends; investigator training models; and massage establishment regulation. The feedback received from attendees was very positive.

## LEGAL

The FSMTB initiated litigation in the United States District Court for the Southern District of Texas against Footy Rooty Development, Inc. D/B/A Footy Rooty Institute Houston, its officers, and other participating parties.

The litigation process, currently ongoing, was initiated by FSMTB, alleging copyright and trade secret infringement related to the intellectual property interests of the Massage & Bodywork Licensing Examination (MBLEx®).

## MBE Summit



**46** attendees representing  
**25** member jurisdictions.



# VOLUNTEERS

We are grateful for our volunteers who juggle work schedules, family schedules, and everyday life obligations while still finding time to dedicate to volunteering for FSMTB.

We owe a special debt of gratitude to examination item writers for their unwavering service and dedication. Their diligent efforts and invaluable contributions significantly elevate the massage and bodywork profession for the benefit of all.

## Contributions



**6,237** volunteer hours  
contributed to FSMTB

**\$198,337** of volunteer  
time donated

Thank  
you



# People

## CONTINUING EDUCATION COURSE DEVELOPMENT

Katherine Brady, TX  
Pattie Campbell, VA  
Melissa Clark, OH  
William Ensminger, PA  
Ceena Lund, KS  
Susan Salvo, LA  
Elan Schacter, NC  
Christina Valente, OH  
Roberta Wolff, TX  
Dr. Diane Young, FL

## CE REGISTRY

Nicole Davis, NJ  
William Ensminger, PA  
Joseph Frazier, MA  
Rosendo Galvez, IL  
Barbara Lis, IN  
Ceena Lund, KS  
Dr. Tim Reischman, NC  
Charlene Russell, MS  
Elan Schacter, NC  
Jan Shaw, SC  
Bianca Smith, NV  
Richard Ventura, MO

## EXAMINATION DEVELOPMENT

Sarah Albanawi, VA  
Karen Armstrong, MI  
Su Bibik, MI  
Ed Bolden-Greer, TN  
Jeryd Bolden-Greer, TN  
Katherine Brady, TX  
Vickie Branch, NH  
Laurie Craig, GA  
Nicole Davis, NJ  
Chimere Figaire-Correa, WA  
Priscilla Fleming, NC  
Sandy Fritz, MI  
Rosendo Galvez, IL  
Bethany Lowrie, PA  
Ceena Lund, KS  
Wendy McGinley, ND  
Jodi Peck, AZ  
Dr. Tim Reischman, NC  
Charlene Russell, MS  
Susan Salvo, LA  
Elan Schacter, NC  
Cherie Sohnen-Moe, AZ  
Juntan (JT) Song, AZ  
Tracy Sullivan, CT  
Christina Valente, MO  
Richard Ventura, MO  
Charles Watson, KY  
Roberta Wolff, TX

## EXAMINATION ELIGIBILITY

**Chair:** Ed Bolden-Greer, TN  
Chimere Figaire-Correa, WA  
Karen Frazier, KY  
Caroline Fox-Guerin, TX  
Linda Lyter, WV  
Sharon Oliver, MD  
Charlene Russell, MS  
Maile Tau'a-Roberts, UT  
Heidi Williams, WA

## FINANCE

**Chair:** Treasurer, Keith Warren, AL  
Elisabeth Barnard, NV  
Caroline Fox-Guerin, TX  
Elizabeth Kirk, NC  
Linda Lyter, WV

## EXAMINATION POLICY

**Chair:** Caroline Fox-Guerin, TX  
Elisabeth Barnard, NV  
Ed Bolden-Greer, TN  
Chimere Figaire-Correa, WA  
Karen Frazier, KY  
Linda Lyter, WV  
Charlene Russell, MS

## POLICY

**Chair:** Victoria Drago, FL  
Chimere Figaire-Correa, WA  
Charisma Townsend-Davila, WI  
Kay Warren, NC

## NOMINATING

**Chair:** Charlene Russell, MS  
Carrie Anderson, ND  
Karen Armstrong, MI  
David Cox, MD

## ESTABLISHMENT TASK FORCE

**Chair:** Adrienne Price, GA  
Karen Armstrong, MI  
Ed Bolden-Greer, TN  
Mike James, AL  
Rick McElroy, CA  
Charlene Russell, MS  
Jeff Van Laanen, OR

## LICENSE RENEWAL

**Chair:** Jan Shaw, SC  
Lori Cutchin, OK  
Karen Frazier, KY  
Elizabeth Kirk, NC  
Sharon Oliver, MD  
Bianca Smith, NV  
Maile Tau'a-Roberts, UT  
Charisma Townsend-Davila, WI

## ANNUAL MEETING PRESENTERS

Robert Beiser, *Strategic Initiatives Director, Polaris*  
Michael Fogel, *PsyD, ABPP, Founder, Redirect*  
Doug Gilmer, *PhD, Resident Agent in Charge, Homeland Security Investigations*  
Matthew Shafer, *Deputy Policy Director, National Center for Interstate Compacts, The Council of State Governments*  
Chris Smith, *Trauma Touch Therapist, Director of Colorado School of Healing Arts*

## MESSAGE BOARD EXECUTIVE SUMMIT PRESENTERS

Theresa Brown, *South Carolina Board of Massage/Bodywork Therapy*  
Christine Brunner, *Nevada State Board of Massage Therapists*  
Kathy Chen, *Senior Program Advisor, The Network*  
Pam Hamilton, *MSW, LCSW, Hamilton Counseling & Consulting*  
Elizabeth Kirk, *North Carolina Board of Massage and Bodywork Therapy*  
Janelle Larson, *Iowa Board of Massage Therapy*  
Mike Longmire, *North Carolina Board of Massage and Bodywork Therapy*  
Rick McElroy, *California Massage Therapy Council*  
Robert Ruark, *Oregon Board of Massage Therapists*  
Harry Samit, *Director, Special Investigations, Pearson VUE*  
Jason Shawver, *Enforcement Investigator, State Medical Board of Ohio*  
Dennis Trammel, *Alabama Board of Massage Therapy*  
Jeff Van Laanen, *Oregon Board of Massage Therapists*  
Keith Warren, *Alabama Board of Massage Therapy*  
Mary Winston, *Texas Department of Licensing and Regulation*

## VIRTUAL MEMBER EVENTS PRESENTERS

Dale J. Atkinson, *Esq., The Atkinson Firm, General Counsel to the FSMTB*  
Matt Shafer, *Deputy Policy Director, National Center for Interstate Compacts, The Council of State Governments*  
Jessica Thomas, *Policy Associate, Council of State Governments*  
Craig Knowles, *FSMTB President, Chair, Georgia Board of Massage Therapy*  
Harry Samit, *Director, Special Investigations, Pearson VUE*  
Sandy Anderson, *LMT, FSMTB Vice President and Executive Director, Nevada State Board of Massage Therapy*  
Niki Munk, *PhD, LMT, researcher, Department of Health Sciences, Indiana University*  
Mica Rosenow, *LMT, researcher, Department of Health Sciences, Indiana University*  
Sylvia Rosa-Casanova, *Senior Associate for Private Postsecondary Education, SCHEV*  
Sandra Freeman, *Director, State Council of Higher Education for Virginia*  
Kimberly Hodge, *Compliance Officer, Tennessee Higher Education Commission*  
Gloria Lindsay, *Executive Director, Missouri Board of Therapeutic Massage*



# Combating Massage Licensing Fraud

## How Traffickers Exploit Gaps in Education Oversight

January 2023

State massage licensing regulations seek to provide assurance of common standards of safety, expertise, and professionalism among licensed therapists (LMTs). However, because of the value of LMT licenses, illicit massage industry (IMI)<sup>1</sup> actors work to fraudulently obtain them by cheating on the educational credentials and exams needed to obtain them. IMI associates then use the fraudulently obtained credentials to hide human trafficking and other crimes behind the massage therapy profession. Gaps in regulation, oversight, and communication among state massage therapy boards (MTBs) and state education authorities are exploited by the IMI to operate diploma mills, which offer fake transcripts and certificates. IMI actors then attempt –too often, successfully—to leverage the fake transcripts and test fraud to obtain LMT licenses. More permissive states that do not exercise adequate oversight and regulation over massage education and licensing regimens thus help IMI networks move and expand nationally.

### REGULATORY AND OVERSIGHT GAPS IN MASSAGE EDUCATION

In summer 2021, the Seldin/Haring-Smith Foundation (SHSF) exploded onto the front page of *USA Today* with its research into massage diploma mills, and the gaping regulatory and oversight cracks that allow them to operate. Existing regulation for massage schools runs a broad spectrum from none to school approval processes that include unannounced inspections and curricula review. Legal authority to act within states is often divided or ambiguous, sometimes allowing patently fraudulent schools to remain operational due to lack of clarity and/or coordination regarding state responsibility. There is also an overall lack of awareness about this problem and its potential role in facilitating human trafficking among many state agencies. Organizations like the Federation of State Massage Therapy Boards (FSMTB) have advocated for a massage school accreditation body that would set consistent national standards for training curricula, hours, etc.,<sup>2</sup> as well as for MTBs to have authority over these standards where other state bodies lack the expertise to evaluate massage education standards.

- In 33 states, the state MTB does not maintain a list of approved programs that have met standards for quality instruction as a prerequisite to take the licensing exam. Of those who do create approved schools lists, many approve submitted curricula but lack the ability to conduct site visits and other due diligence that would reveal red flags for fraud.
- Even in states like Nevada and Tennessee, where MTBs deny or withdraw approval of questionable schools and curricula, the schools can remain accredited and authorized to operate by the state, as state education entities often lack the authority and expertise to assess curricula and quality of massage education. This allows the questionable schools to receive federal loans and grants<sup>3</sup> and participate in federal student loan and visa programs.<sup>4</sup>
- In the SHSF report, authors noted that regulators in Minnesota had done everything within their power regarding the links between American Academy of Acupuncture and Oriental Medicine 's Chinese-language Tuina massage program and prostitution and/or trafficking, but ultimately lacked the authority to close the school based on these concerns.<sup>5 6</sup>

- Each state has a different regulation and oversight regimen for independent massage therapy schools (those at community colleges are handled differently), with various combinations of authorities shared between the MTB, state education authority, and entities such as the state health or labor agencies. Lack of understanding of lanes of responsibility and gaps not only within states, but between states, plays a large role in allowing fraudulent schools to operate unimpeded and to leverage their credentials in states other than the one in which they operate.

## LICENSING EXAM FRAUD

IMI-affiliated individuals buy fake transcripts and diplomas because they are a prerequisite to take the exam(s) needed for licensing where states exercise this oversight. Most states use a proprietary massage licensing exam called the Massage & Bodywork Licensing Examination (MBLEx), though some states use other exams in lieu of or in addition to it. FSMTB, which owns the MBLEx, has continually escalated security protocols to protect the integrity of the exam from cheating rings that engage in the illegal recording and selling of exams and answers. FSMTB also seeks to protect the integrity of the exam by invalidating exam results where there is proof of education fraud; it shares invalidated scores with all state MTBs to prevent bad actors from simply moving to another state when their license in one is revoked on these grounds.

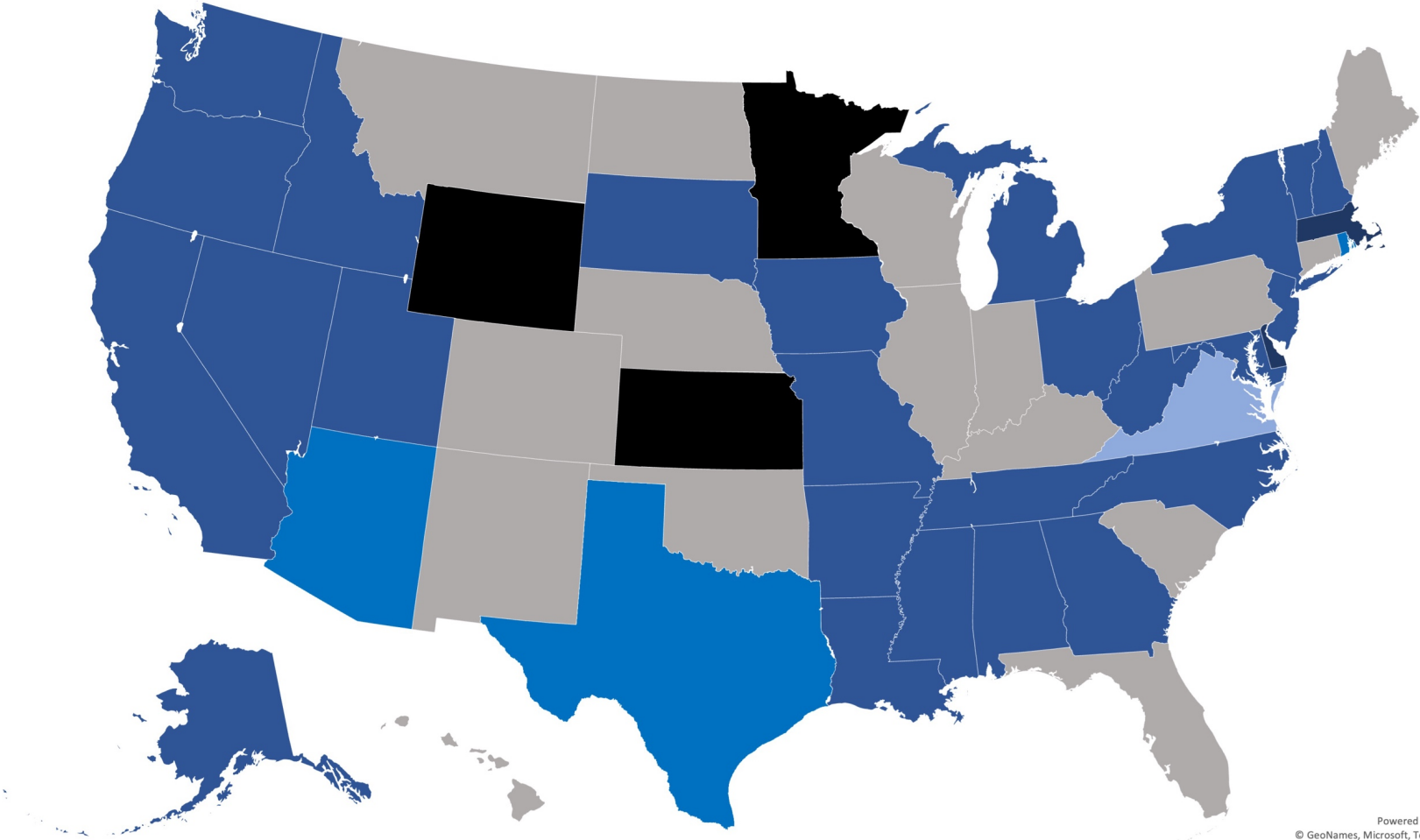
- In 2015, an investigation into a test-taker who had exam answers hidden in her boot led to video footage of the owner of a diploma mill recording answers to the exam via a camera hidden in a shirt button.<sup>7</sup>
- In 2017, the U.S. Government prosecuted Naresh “Raj” Rane, a New Jersey man who sold fake transcripts and certificates for \$2600, with the full knowledge that these would be used in illicit massage businesses.<sup>8</sup>
- A 2019 case in Colorado involved two individuals who created a false school and prepared fraudulent transcripts, as well as selling answers to the MBLEx.<sup>9</sup> At least one state legislator is now working to create the ability for regulatory bodies to revoke the licenses of those found to have obtained them via fraud.

Graphic: The Federation of State Massage Therapy Boards (FSMTB) and The Network researched types of regulatory gaps commonly exploited by IMI criminal actors. FSMTB administered a survey to its member MTBs to collect further insights into relevant authorities and practices vis a vis massage education; 30 states responded. Our goal is to apprise state bodies of areas where closer collaboration or the closing of gaps may help impede human traffickers within the IMI from being able to hide behind the profession of massage therapy.

## References:

- 
1. While “Illicit Massage Industry” and “Illicit Massage Business” are standard terms in the counter-trafficking arena, many LMTs and massage professional associations understandably prefer to avoid including the term massage to disassociate themselves as much as possible from the industry. Nonetheless, the traffickers, sex buyers, and other criminals involved in these ventures rely on hiding behind the massage profession as part of their business model, and therefore it is important to educate audiences about how they do so.
  2. [https://www.fsmtb.org/media/1606/httf-report-final-web.pdf?mc\\_cid=45e74d8e56&mc\\_eid=3e6d3fcc42](https://www.fsmtb.org/media/1606/httf-report-final-web.pdf?mc_cid=45e74d8e56&mc_eid=3e6d3fcc42), p. 26
  3. <https://www.yahoo.com/now/massage-schools-across-us-suspected-100107791.html>
  4. <https://cpe.nv.gov/uploadedFiles/cpenvgov/content/Meetings/2018/2018%2002%2007%20CPE%20Meeting%20Minutes.pdf>
  5. <https://cpe.nv.gov/uploadedFiles/cpenvgov/content/Meetings/2018/2018%2002%2007%20CPE%20Meeting%20Minutes.pdf>
  6. <https://www.documentcloud.org/documents/20983709-minnesota-order-aaaom>
  7. <https://www.usatoday.com/story/news/investigations/2021/07/11/fraud-prostitution-linked-to-us-massage-schools-what-to-know/7921239002/>
  8. <https://www.justice.gov/usao-nj/press-release/file/1071691/download>
  9. <https://www.justice.gov/usao-co/pr/two-sentenced-scheme-fraudulently-obtain-licenses-massage-therapy>

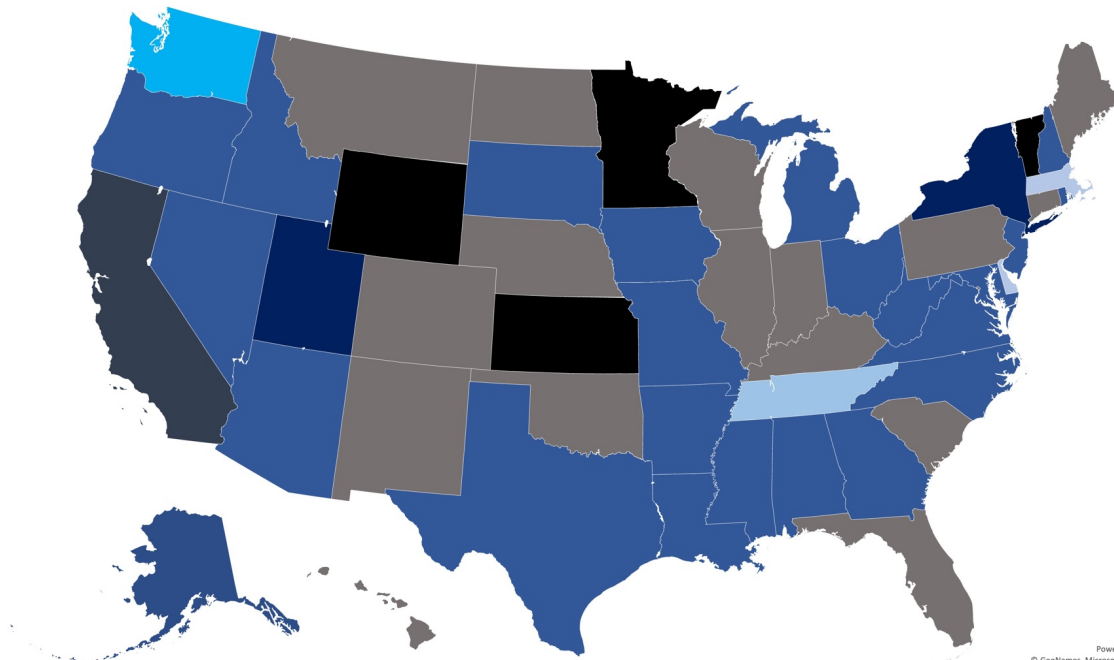
# STATE BODY WITH AUTHORITY TO SET MASSAGE CURRICULUM STANDARDS AND HOURS



■ MTB ■ STATE LEGISLATURE ■ STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA (SCHEV) ■ UNABLE TO VERIFY ■ UNREGULATED

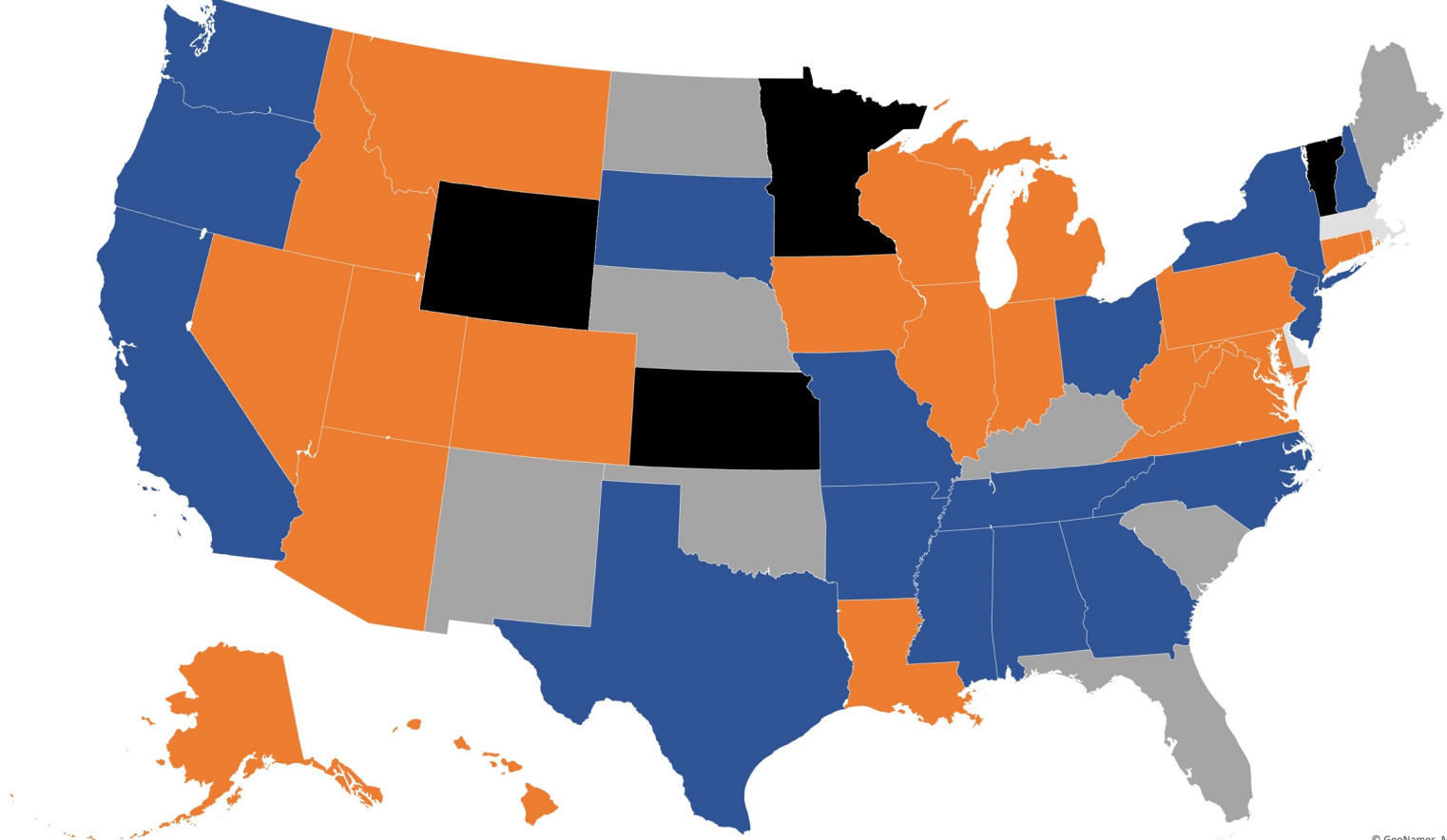
Powered by Bing  
© GeoNames, Microsoft, TomTom

### STATE HAS AUTHORITY TO DISCIPLINE LMT BASED ON EDUCATION FRAUD



- YES
- YES, WITH CAUSE
- YES, IF LICENSE REVOKED IN ISSUING JURISDICTION
- YES, CAMTC MAY REVOKE FOR CERTAIN VIOLATIONS EVEN THOUGH CERTIFICATION IS VOLUNTARY
- YES, WITH A PATH TO COME INTO COMPLIANCE
- THE MTB MAY MAKE A RECOMMENDATION TO REVOKE WITH EVIDENCE OF FRAUD
- SUSPENSION UNTIL BROUGHT INTO COMPLIANCE
- UNREGULATED
- UNABLE TO VERIFY

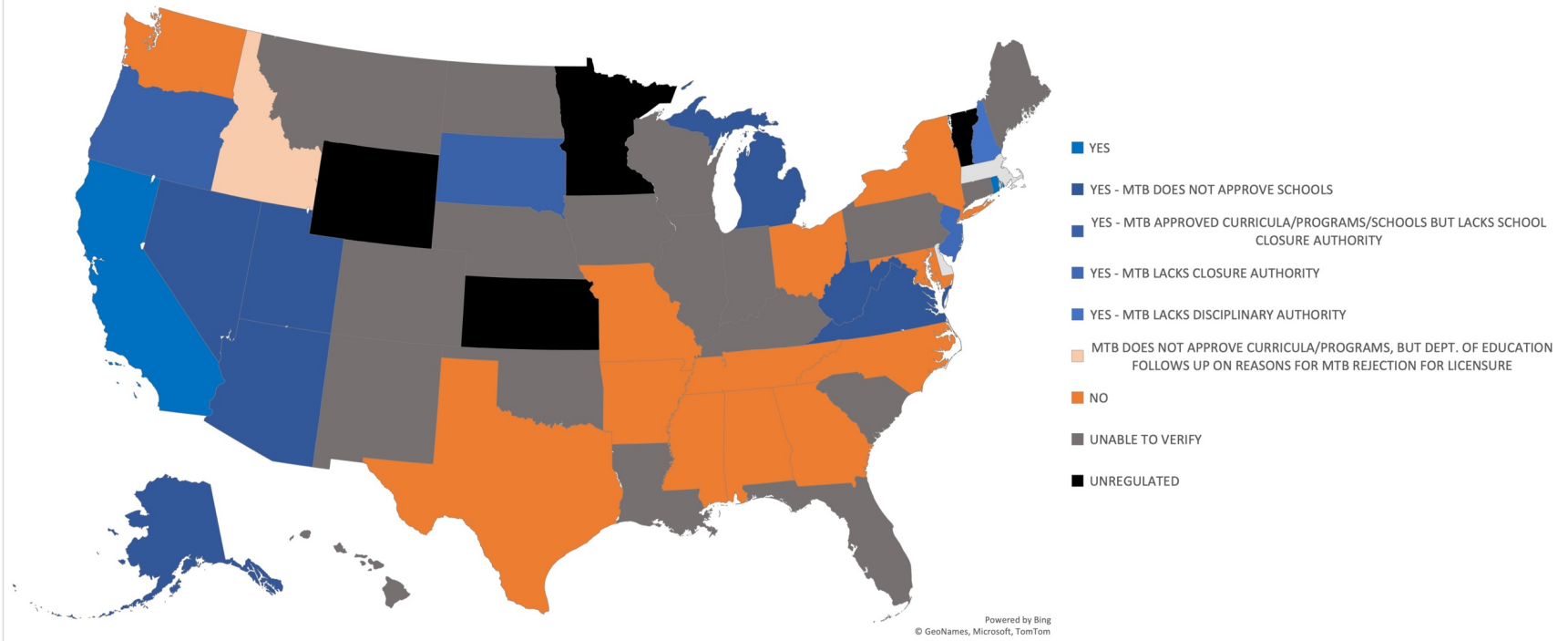
**MASSAGE THERAPY BOARD (MTB) MAINTAINS A LIST OF APPROVED SCHOOLS IN STATE**



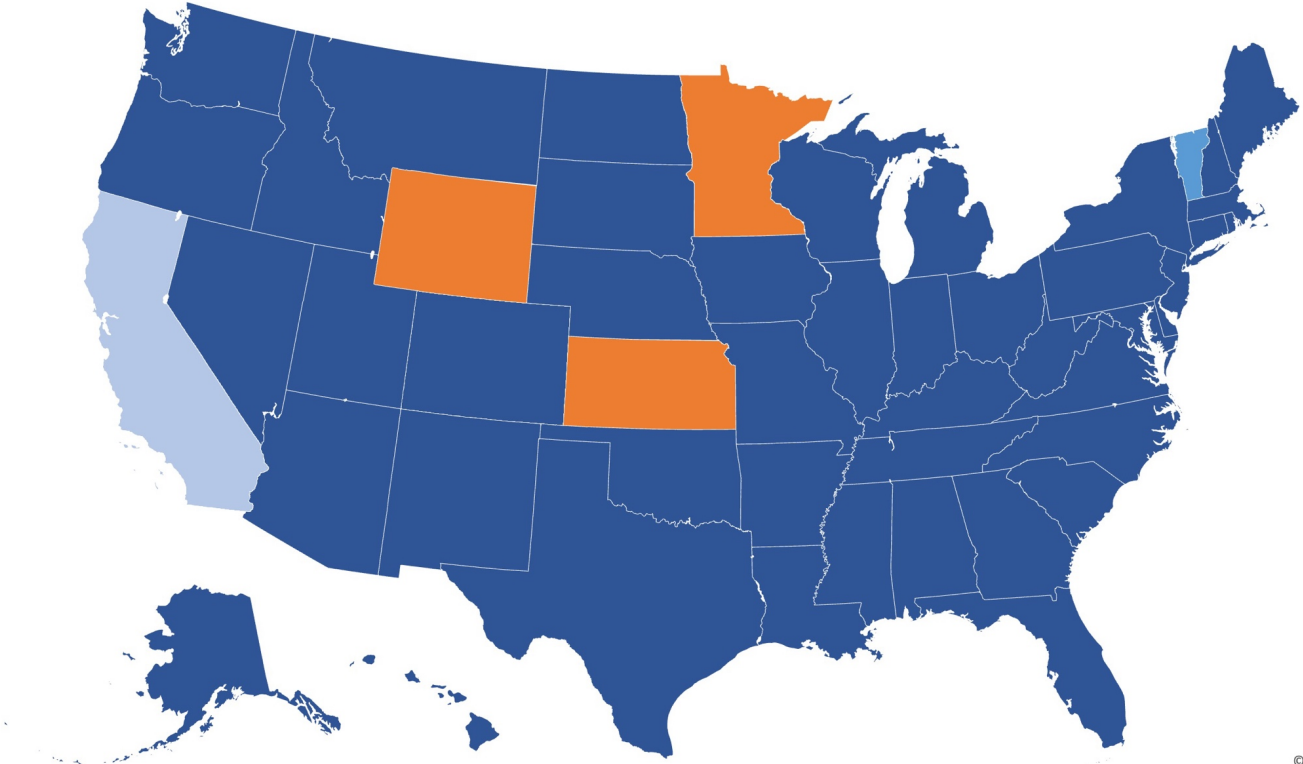
■ YES ■ NO ■ UNABLE TO VERIFY ■ UNREGULATED

Powered by Bing  
© GeoNames, Microsoft, TomTom

### THE STATE EDUCATION AUTHORITY CAN ALLOW SCHOOLS TO OPERATE EVEN IF NOT APPROVED BY THE MTB



# MASSAGE THERAPY STATE REGULATION



■ MANDATORY LICENSING ■ VOLUNTARY CERTIFICATION ■ UNREGULATED ■ REGISTRATION

Powered by Bing  
© GeoNames, Microsoft, TomTom





COMMONWEALTH OF VIRGINIA  
THE COMMISSION ON HUMAN TRAFFICKING PREVENTION AND SURVIVOR SUPPORT  
FINAL REPORT – JANUARY 9, 2023

*“Let the Oppressed go Free”*



Timothy Schmalz 2022 groundbreaking sculpture features Josephine Bakhita rescuing victims of human trafficking. In 1877, when she was 7–8 years old, Bakhita was seized by Arab slave traders, who had abducted her elder sister two years earlier. She was forced to walk barefoot 600 miles to El-Obeid and was sold and bought twice before she eventually arrived in Europe. Over the course of twelve years (1877–1889) she was sold three more times and then she was finally given her freedom. She spent her entire life in service to others. The Catholic Church declared her the patron saint of human trafficking survivors.

**COMBATING HUMAN TRAFFICKING IN VIRGINIA**  
**Final Report of the Commission on Human Trafficking Prevention  
and Survivor Support**

**Table of Contents**

Members of the Commission .....3

Letter from the Chair to the Governor .....4

Executive Summary .....5

Statement of the Problem .....6

Who are Trafficking Victims? .....13

How does Human Trafficking Impact all of Society? .....14

EXECUTIVE ORDER GOAL 1: Increase Enforcement through Focused Initiatives..... 15

EXECUTIVE ORDER GOAL 2: Empowering Trafficking Survivors through a Regime of  
Direct Funding and Partnerships .....20

EXECUTIVE ORDER GOAL 3: Enhance Education and Training of Law Enforcement  
and First Observers .....25

National Trafficking Hotline.....30

## Members of the Commission

- Mike Lamonea of Chesapeake, Chair, Director at Juniper Networks and Retired DHS/Homeland Security Investigations Special Agent
- Michael J. Brown of Lynchburg, Sheriff (Retired), Bedford County Sheriff's Office
- Brittany Dunn of Alexandria, COO & Co-Founder, Safe House Project
- Sarah-Beth Evans of Norfolk
- Keith Farmer of Roanoke Valley, Director, Straight Street
- Michael Y. Feinmel of Henrico, Deputy County Manager, Henrico County
- Pamela Hock of Richmond, Educator, Advocate, Survivor
- Tyller Holden of Virginia Beach, Junior Board of Directors, EnJewel
- Michael Miller of Bedford, Sheriff, Bedford County
- Deepa Patel of Springfield, Co-Founder and Clinician, Trauma and Hope
- Mea Picone of Richmond
- Susan Young of Fairfax, Executive Director and Founder, Parent Coalition to End Human Trafficking

### **Ex-officio Members:**

- Secretary Robert "Bob" Mosier, Secretary of Public Safety and Homeland Security
- Secretary Aimee Guidera, Secretary of Education
- Secretary Bryan Slater, Secretary of Labor
- Angella Alvernaz, State Trafficking Response Coordinator, Virginia Department of Criminal Justice Services
- Major Caren Sterling, Deputy Director of the Bureau of Criminal Investigations, Lead of VSP Human Trafficking Unit, Virginia State Police
- Tanya Gould, Director, Anti-Human Trafficking, Office of Attorney General

## Letter from the Chair to the Governor

Governor Youngkin,

In accordance with Executive Order 7, I am pleased to present the Final Report for the Commission on Human Trafficking Prevention and Survivor Support. Combatting human trafficking remains a priority amongst the unfinished work in society to ensure the respect and inalienable rights of all people throughout the world. It is a privilege to serve as your Chair and the Commission is pleased to contribute to your administration's efforts to make Virginia the best state to live, work, and raise a family for all its residents.

Commission members include survivors of human trafficking, law enforcement professionals, and practitioners who deliver services and resources to rescue victims and prosecute offenders. The perspective of these participants proved invaluable during the Commission's deliberative process, which resulted in recommendations that are grounded in years of applied knowledge and practices.

Our final recommendations include:

- The eradication of illicit massage businesses through the development of comprehensive multidisciplinary teams and enhanced accountability for property owners and customers who create the demand.
- Updating Virginia codes and expanding partnerships with Internet Crimes Against Children task forces to increase available resources and ensure technology companies actively fight human trafficking on their platforms.
- The development of greater resources for victims and survivors, including the implementation of state grants, licensing/certification of providers, and potential funding support through a regimen of fines or asset forfeiture levied against traffickers or those who exploit trafficked persons; and
- Expanding education and training on human trafficking in schools, among health care providers, and law enforcement in coordination with similar work and recommendations undertaken by the Virginia Department of Education in its Standards of Learning and the annual report of Virginia's State Trafficking Response Coordinator.

It is my hope that the Commission's work contributes to the goals that were outlined in Executive Order 7 as we all work together to make the promise of Virginia a reality for those who live and work in our great Commonwealth. The Commission members look forward to continuing their efforts to eradicate human trafficking.

Respectfully submitted,

Michael K. Lamonea  
Chair

## Executive Summary

On January 15, 2022, Governor Youngkin signed Executive Order Seven, “Establishing the Commission on Human Trafficking Prevention and Survivor Support,” to prevent human trafficking and provide support to its victims in the Commonwealth.<sup>1</sup>

The Commission’s purpose is to study human trafficking in the Commonwealth, combat human trafficking, and reduce the number of human trafficking incidents, as well as identify solutions. The Commission was also assigned to make recommendations to the Governor with the goal of identifying ways to reverse increasing human trafficking incidents in the Commonwealth.

Commission Meetings occurred on:

- June 8, 2022
- June 30, 2022
- July 13, 2022
- August 10, 2022
- August 24, 2022
- September 21, 2022
- October 5, 2022
- October 21, 2022
- November 18, 2022

This Final Report of the Commission includes a description of the problem, several policy proposals, and a series of best practices recommendations. The Commission provides this report in response to several critical questions posed in the Governor’s Executive Order. This document contains a directional snapshot about the path that the Commission believes would place the Commonwealth among the leaders in anti-trafficking interdiction and victim care.

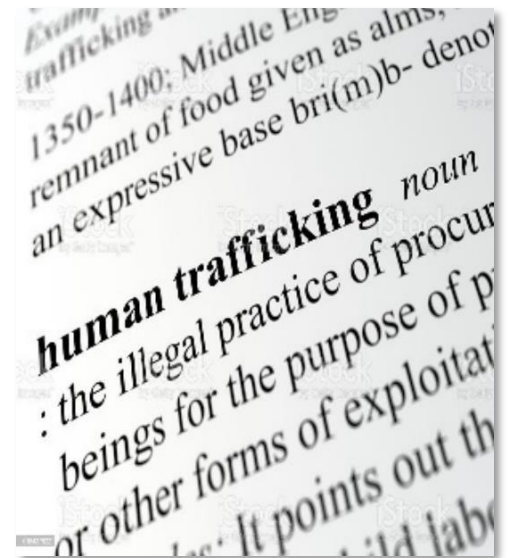
---

<sup>1</sup> “Executive Order 7.” *Office of the Governor.Virginia.gov*, 15 Jan. 2022.

## Statement of the Problem

### Understanding the Problem of Human Trafficking

The Commission combined the experience of each member to better understand the challenge of human trafficking within the Commonwealth of Virginia. Our common definition of human trafficking is the “obtaining of and coercive control of persons for sexual exploitation or exploitation of a labor force far below market pricing in violation of the laws of the Commonwealth, several international protocols, most nations’ laws, the U.S. Constitution, and several federal statutes.” In Article 7.2 of the International Criminal Court, it was declared that human trafficking is a crime against humanity.<sup>2</sup> The below heat-map image shows locations of likely human trafficking cases in 2018 and reflects the probable paths and regions plagued with trafficking.



### Polaris: Likely Human Trafficking Cases in 2018<sup>3</sup>



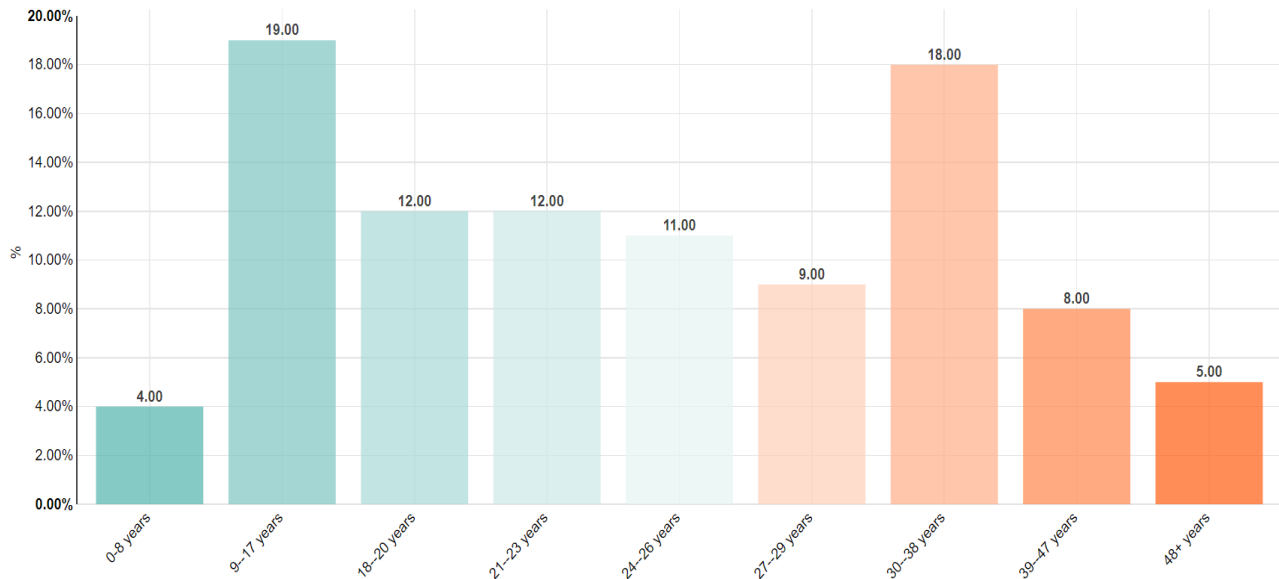
<sup>2</sup> Smith, 2014 as cited in Doherty, Oludele C. Human Trafficking in Richmond, Virginia: An Exploratory Case Study. Diss. The University of the Rockies, 2018.

<sup>3</sup> “2018 U.S. National Human Trafficking Hotline Statistics.” *Polaris*, 13 Feb. 2020, <https://polarisproject.org/2018-us-national-human-trafficking-hotline-statistics>.

## The Historic Motive of Human Trafficking

The primary purpose of human trafficking is the same today as it has been throughout human history: to own another person, their time, their work, their future, and their well-being. Throughout history, human trafficking has caused untold misery and pain and solely occurs to increase financial gain for illicit individuals or businesses. Measuring the prevalence of human trafficking is difficult, but on September 28, 2022, John Cotton Richmond, former Ambassador at Large for the Department of State's Office to Combat and Monitor Trafficking in Persons announced at a roundtable with the World Health Organization at the United Nations that there is a global rise in human trafficking of approximately 12.5% from 24 million to 27 million individuals, and that only .32% of victims are currently identified. In the United States, the FBI reports that 81% of cases involve commercial sex trafficking, while 19% involve labor trafficking.<sup>4</sup>

**The Counter Trafficking Data Collaborative:  
Global Data Hub on Human Trafficking Victims Across the World<sup>5</sup>**

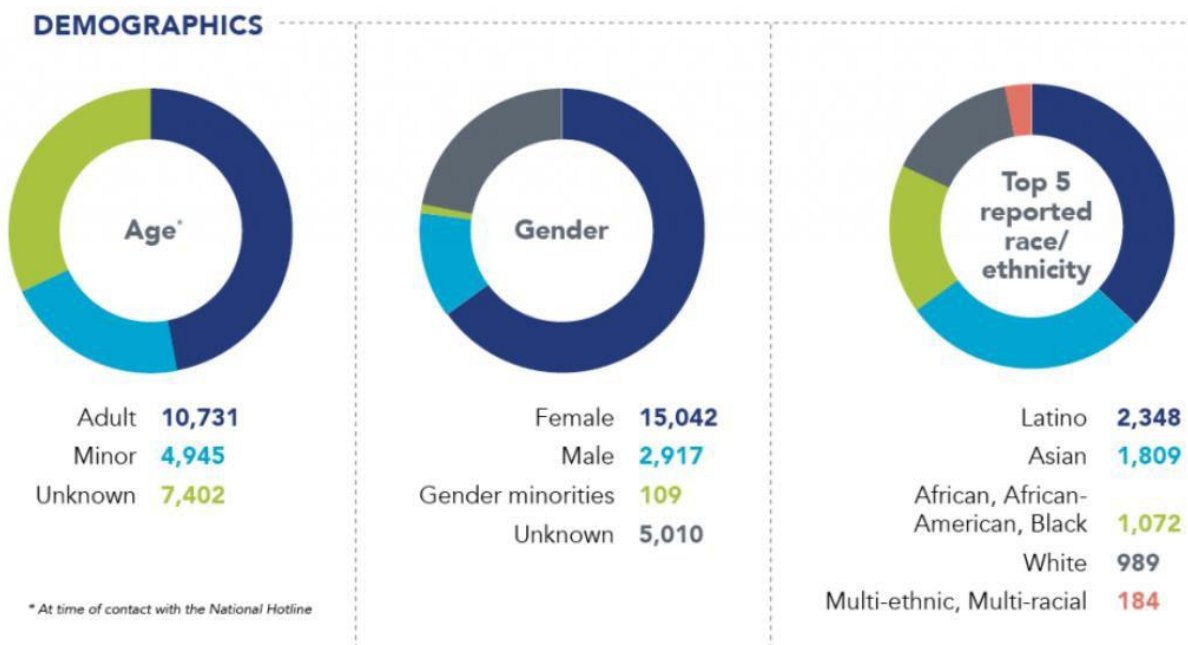


<sup>4</sup> "Crime in the U.S. 2015." *FBI*, FBI, 3 May 2016, <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015>.

<sup>5</sup> "Counter-Trafficking Data Collaborative (CTDC)." *CTDC*, Initiative by the International Organization for Migration, 2022, <https://www.ctdatacollaborative.org/story/age-victims-children-and-adults>.

Human trafficking affects individuals of every race, gender, socio-economic class, community type, and immigration status. Of those identified in the United States, 60% of survivors identify as female, 36% as male, and just over 4% transgender.<sup>6</sup> African American and people of color are disproportionately impacted by human trafficking with approximately 40% of identified adult survivors being Black females.<sup>7</sup> The following chart depicts the demographics of the victims of human trafficking.

### Polaris: Victim Demographics in 2018<sup>8</sup>



Currently, labor trafficking is not identified as frequently as sex trafficking but is estimated to impact hundreds of thousands of individuals in the United States every year. Perpetrators often target prey of individuals to fulfill labor or repayment. The debt bondage places an "invisible chain" that binds a victim and often their family to the trafficker.<sup>9</sup> Most victims of human trafficking "fall into two broad categories—sex trafficking and labor trafficking."<sup>10</sup> The invisible chain that one has on a victim "tightens with unmet quotas and may become a physical one."<sup>11</sup> For children there are many trajectories into human trafficking. Children are often the first victim; their innocence and trust of adults makes them prey to predators. Children "reported that

<sup>6</sup> Swaner, Rachel, et al. "Youth involvement in the sex trade: A national study." (2016).

<sup>7</sup> Davey, Samantha. Snapshot on the State of Black Women and Girls: Sex Trafficking in the U.S. Congressional Black Caucus Foundation, 2020.

<sup>8</sup> "2018 U.S. National Human Trafficking Fact Sheet" *Polaris*, 13 Feb. 2020, <https://polarisproject.org/2018-us-national-human-trafficking-hotline-statistics/>.

<sup>9</sup> Ladd M, Jones EB. Texas Human Trafficking. StatPearls Publishing; 2022 <https://www.ncbi.nlm.nih.gov/books/NBK573077/>

<sup>10</sup> Busch-Armendariz, Noël, Maura B. Nsonwu, and Laurie Cook Heffron. "Human trafficking victims and their children: Assessing needs, vulnerabilities, strengths, and survivorship." *IDVSA Journal Articles* (2011).

<sup>11</sup> Ladd M, Jones EB. Texas Human Trafficking. StatPearls Publishing; 2022 <https://www.ncbi.nlm.nih.gov/books/NBK573077/>.



traffickers gained their trust by taking care of them or helping them out of a difficult situation.”<sup>12</sup> The following chart from Polaris Project shows the breakdown of the entry points that facilitate sex trafficking, labor trafficking and sex and labor trafficking combined.

### Polaris: Top Three Types of Trafficking Cases in 2018<sup>13</sup>



In 2021, the National Center for Missing and Exploited Children received 17,200 reports of child sex trafficking in all 50 states.<sup>14</sup> Child trafficking cases have involved stripping, pornography, forced begging, commercial sex, magazine crews, drug sales, and the cultivation of various products. According to the Counter Trafficking Data Collaborative “over 40% of children were recruited by a family member or relative compared to 9% for adults.”<sup>15</sup> In 2021, there were “roughly 25,000 children reported missing to the National Center for Missing & Exploited Children who ran away. One in 6 were likely to be sex trafficking victims.<sup>16</sup> The number of victims who fall into the categories of being trafficked individuals’ shows steady increases. The following chart shows the date of “23,078 survivor records” that “give insight into the systems and tactics that traffickers use to conduct their businesses.”<sup>17</sup> “[T]raffickers frequently prey on an individual’s vulnerabilities, and the data spotlight factors that may have placed these victims at risk—as well as the variety of tactics used to recruit and keep them in a trafficking situation.”<sup>18</sup>

### Polaris: Top Five Categories of Risk Factors, Methods of Force, Fraud, Coercion and Points of Access to Potential Help<sup>19</sup>



<sup>12</sup> Reid, Joan A. “Entrapment and enmeshment schemes used by sex traffickers.” *Sexual Abuse* 28.6 (2016): 491-511.

<sup>13</sup> “2018 U.S. National Human Trafficking Fact Sheet” *Polaris*, 13 Feb. 2020, <https://polarisproject.org/2018-us-national-human-trafficking-hotline-statistics/>.

<sup>14</sup> *Child Sex Trafficking Overview - National Center for Missing & Exploited Children*. 2022, <https://www.missingkids.org/content/dam/missingkids/pdfs/CST%20Identification%20Resource.pdf>.

<sup>15</sup> “Counter-Trafficking Data Collaborative (CTDC).” *CTDC*, Initiative by the International Organization for Migration, 2022, <https://www.ctdatacollaborative.org/story/age-victims-children-and-adults>.

<sup>16</sup> *Child Sex Trafficking Overview - National Center for Missing & Exploited Children*. 2022, <https://www.missingkids.org/content/dam/missingkids/pdfs/CST%20Identification%20Resource.pdf>.

<sup>17</sup> “2018 U.S. National Human Trafficking Fact Sheet” *Polaris*, 13 Feb. 2020, <https://polarisproject.org/2018-us-national-human-trafficking-hotline-statistics/>.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

Victims of human trafficking may experience extensive poly-victimization, multiple contact with government agencies, complex trauma, multiple Adverse Childhood Experiences (ACEs), and have a high likelihood of re-exploitation without specialized, trauma-informed, culturally appropriate services. Common themes among those who are trafficked or are vulnerable to trafficking include prior sexual abuse or molestation, poverty, unstable home environments that involve substance abuse, and truancy that often prevents high school graduation. According to the Rape, Abuse & Incest National Network (RAINN), “One in 9 girls and 1 in 53 boys under the age of 18 experience sexual abuse or assault at the hands of an adult.”<sup>20</sup> As a result, individuals who have experienced sexual abuse are at a higher risk for substance abuse, mental health issues, and lack the “concept of social norms, belonging, or sense of family.”<sup>21</sup> According to the ACE Pyramid, neurodevelopment is disrupted or stunted by an adverse childhood experience. As “[S]ocial, emotional, and cognitive impairments result, which progress to high-risk behaviors that negatively impact overall health. Disease, disability, and social problems ensue, cascading to an early death.”<sup>22</sup> A Florida study, conducted between 2009 and 2015, shows that trafficking abuse reports were highest among children with an ACE score of six or greater.<sup>23</sup> Below is a graph that shows common forms of violence and abuse in sex trafficking:

**Beazley Institute for Health Law and Policy, Loyola University School of Law  
Violence and Abuse in Sex-trafficking<sup>24</sup>**

| Common Forms of Violence/Abuse     | % Reporting (N=103) |
|------------------------------------|---------------------|
| <i>Some form of violence/abuse</i> | <i>95.1%</i>        |
| Forced sex                         | 81.6%               |
| Punched                            | 73.8%               |
| Beaten                             | 68.9%               |
| Kicked                             | 68.0%               |
| Forced unprotected sex             | 68.0%               |
| Threatened with weapon             | 66.0%               |
| Strangled                          | 54.4%               |
| Abused by person of authority      | 50.5%               |

<sup>20</sup> David Finkelhor, Anne Shattuck, Heather A. Turner, & Sherry L. Hamby, *The Lifetime Prevalence of Child Sexual Abuse and Sexual Assault Assessed in Late Adolescence*, 55 *Journal of Adolescent Health* 329, 329-333 (2014) as cited in “Children and Teens: Statistics.” Rape, Abuse & Incest National Network (RAINN), <https://www.rainn.org/statistics/children-and-teens>.

<sup>21</sup> Toney-Butler TJ, Ladd M, Mittel O. *Human Trafficking*. StatPearls Publishing; 2022 <https://www.ncbi.nlm.nih.gov/books/NBK430910/>.

<sup>22</sup> Ibid.

<sup>23</sup> Austin A, Herrick H, Proescholdbell S. Adverse Childhood Experiences Related to Poor Adult Health Among Lesbian, Gay, and Bisexual Individuals. *Am J Public Health*. 2016 Feb;106(2):314-20.

<sup>24</sup> *Annals of Health Law*, Beazley Institute for Health Law and Policy, Loyola University School of Law. Vol. 23, no. 1, 2014. P. 75

As a result of violence and abuse in trafficking, survivors experience complex mental health challenges. The psychological health consequences suffered by many victims or survivors includes “acute stress (38.7%), bipolar (30.2%), depersonalization (19.8%), multiple personality (13.2%), disorder, and 96.4% of survivors reported at least one psychological symptom.”<sup>25</sup> In this study, “41.5% had attempted suicide.”<sup>26</sup> Survivors experience medical challenges as a direct result of their trafficking situation. Many need to detox due to an “estimated 84.3% using alcohol, drugs, or both, and 27.9% of those saying they were forced to use substances as part of their trafficking experience”<sup>27</sup> Victims of trafficking have substantial decline in health as a result of being trafficked.

**Beazley Institute for Health Law and Policy, Loyola University School of Law  
Physical Health Problems<sup>28</sup>**

| Category                           | % of respondents reporting at least one symptom <sup>26</sup> |
|------------------------------------|---|
| <i>Any Physical Health Problem</i> | 99.1% (N=106)   |
| Neurological                       | 91.7% (N=106)   |
| General Health                     | 86.0% (N=105)   |
| Injuries                           | 69.2% (N=102)   |
| Cardiovascular/Respiratory         | 68.5% (N=106)   |
| Gastrointestinal                   | 62.0% (N=106)   |
| Dental                             | 54.3% (N=105)   |

In terms of reproductive health, “55.2% of survivors have had an abortion and 54.7% have had at least one miscarriage, with a prevalence of forced abortions amongst those surveyed. Twenty-nine percent of survivors reported multiple miscarriages and 29.9% reported multiple abortions.”<sup>29</sup> As a result of increased mental health and medical needs “87.8% of human trafficking survivors report interacting with a healthcare provider during their victimization.”<sup>30</sup> Health provider contact and victim identification is critical to connecting survivors to resources to break the cycles of victimization. An increase in victim identification will require a corresponding increase in available services. Right now, there are an “estimated 1,632 beds in 272 residential therapeutic homes for human trafficking victims across the United States.”<sup>31</sup> In 2020, the National Human Trafficking Hotline reported 10,583 human reported trafficking cases<sup>32</sup>.

<sup>25</sup> Ibid.p70.

<sup>26</sup> Ibid.p70.

<sup>27</sup> Ibid.p76.

<sup>28</sup> Ibid.p69.

<sup>29</sup> Ibid.p73.

<sup>30</sup> Long E, Dowdell EB. Nurses’ Perceptions of Victims of Human Trafficking in an Urban Emergency Department: A Qualitative Study. J Emerg Nurs. 2018 Jul;44(4):375-383.

<sup>31</sup> “Landscape Analysis for Restorative Care & 2022 Grant Details.” Safe Hour Project: Uniting to End Domestic Trafficking, 2022, p 12. [https://doi.org/https://www.safehouseproject.org/files/ugd/2dbc84\\_94a60dc39cea444989a9e3c9318596a0.pdf](https://doi.org/https://www.safehouseproject.org/files/ugd/2dbc84_94a60dc39cea444989a9e3c9318596a0.pdf).

<sup>32</sup> “Understanding and Characterizing Labor Trafficking Among U.S. Citizen Victims.” National Institute of Justice, 2022, <https://nij.ojp.gov/topics/articles/understanding-and-characterizing-labor-trafficking-among-us-citizen-victims>.

Estimates vary for non-reported cases but based on just those confirmed cases through the hotline, 84.6% of survivors would not have access to residential therapeutic care. Without a safe place to go, 80% of survivors end up being revictimized.<sup>33</sup> It is critical that we close the service gap to prevent further victimization and to prevent an even greater number of illicit trafficking businesses.<sup>34</sup>

---

<sup>33</sup> Counter Trafficking Data Collaborative. Counter Trafficking Data Collaborative, <https://www.ctdatacollaborative.org>. Accessed 1 September 2021.

<sup>34</sup> Fritz, Gregory K. "A National Perspective on Children's Mental Health." Hampton Roads Community Foundation. Hampton Roads Community Foundation, 15 May 2019.

## Who are Trafficking Victims?

Human trafficking can affect anyone and, within the United States, victims of a variety of backgrounds have been identified. These include United States citizens who are trafficked within their own communities and country, undocumented people who enter the United States illegally, people entering legally who are lured by false promises of good working conditions, people paying off a debt, and other refugee populations.

Human trafficking does not require movement or travel. Domestically, individuals are often groomed through tactics such as “boyfriending” or are trafficked by their own families. School aged trafficking victims have been lured into sexual exploitation through targeted social media or gang activity and many youth victims are “runaway, homeless, kidnapped children or children in or leaving foster care who are at elevated risk of forced prostitution and trafficking.”<sup>35</sup>

The coercive tools used to manipulate and control trafficking victims may include debt bondage owed by the victim and often by another family member. In internationally based cases, these debts may be incurred as smuggling expenses. Cases involving organized crime reflect the sale of recently smuggled persons for the “payment” they are owed. Additionally, workers who have legitimate immigration papers or work visas have had their documents confiscated and used as an extortion tool to control and underpay workers. These same workers are told that law enforcement is corrupt and will not help them. Foreign nationals are unfamiliar with the anti-trafficking laws in the United States and the rights that are provided under the Constitution. The photographs shown below provide insight into one location that was used for sex trafficking; however, a variety of venues from all socio-economic classes are utilized by traffickers.



*Rural Brothel viewed from the outside and inside where young women were forced to sell sex to migrant Farm Workers.*

---

<sup>35</sup> Fong, Rowena, and Jodi Berger Cardoso. “Child human trafficking victims: Challenges for the child welfare system.” *Evaluation and program planning* 33.3 (2010): 311-316.

## How does Human Trafficking Impact all of Society?

Many local officials in some of the Commonwealth's largest jurisdictions do not believe they have a "trafficking problem." This belief is in part due to lack of awareness and because victims rarely self-report due to the coercive methods that are used and the trauma that has been endured. Effects of human trafficking on the victims also "have serious repercussions for local communities."<sup>36</sup> The adverse impacts occur on both macro (group) and micro (individual) levels within communities; including mental health, medical, and familial effects that can also be the result of vicarious trauma.

Human trafficking is the fastest growing source of profit for organized crime worldwide and leads to corruption in the countries of origin, as well as during transit and at the destination. The Commission cataloged the following trafficking crimes which have an impact on all of society: abduction, kidnapping, illegal confinement, deprivation of liberty, sexual exploitation, sexual violence, assault, torture, fraud, wage and labor offenses, debt bondage, extortion, and child sexual abuse.

The criminal networks that traffic human beings commit additional crimes including illegal entry to the United States, falsification of travel documents, smuggling, fraud, corruption of public officials, debt bondage, money laundering, and tax evasion.

Human trafficking even occurs inside American classrooms.



<sup>36</sup> Lane & Batchelor, 2015 as cited in Doherty, Oludele C. *Human Trafficking in Richmond, Virginia: An Exploratory Case Study*. Diss. The University of the Rockies, 2018.

## **EXECUTIVE ORDER GOAL 1: Increase Enforcement through Focused Initiatives**

- **Holding both Traffickers and Customers Accountable.**
- **Expanding Partnerships with Internet Crimes Against Children Task Forces.**
- **Developing an Executable Plan to Eliminate Illicit Massage Businesses from the Commonwealth.**

The Commission recognizes that criminal enforcement of human trafficking is inconsistent throughout the Commonwealth and strongly advocates for the development of designated multi-jurisdictional and multi-disciplinary teams to effectively coordinate anti-trafficking efforts. This regional approach emphasizes greater cooperation between state and local law enforcement, federal law enforcement, Commonwealth's Attorneys, U.S. Attorneys, non-profit organizations, and various other agencies/entities to increase prosecution and seek appropriate accountability for human traffickers, those who benefit from the criminal conduct, and those who create demand for an abused work force.

### **INCREASE PROSECUTION AND SEEK INCARCERATION AS OPPOSED TO FINES FOR THOSE WHO SOLICIT PROSTITUTION**

In response to, and to encourage, further arrests for solicitation, the Commission recommends that the Commonwealth develop a uniform "Demand Diversion Program," with a three-tiered approach:

1. Leverage 18 VAC 125-30-101 and VA Code § 19.2-301 to create an assessment to determine the basis of purchasing sex (i.e., sexual addiction, lack of education) and whether sex offender counseling/treatment is appropriate to prevent recidivism;
2. Development a Treatment Plan; and,
3. Treatment/Education.

Each tier is equally important and builds upon the previous tier. The assessment stage relies upon development of an assessment tool to determine the basis of purchasing sex and whether sex offender counseling or further treatment would be effective. A working committee is necessary to develop an assessment approach. Virtual platforms will enable both centralized assessments as well as consistency in the treatment response.

#### ***Legislative Change***

The buyer should bear the financial burden of both the assessment and the treatment; incentivized by the opportunity for reduction or dismissal of charges when the education process is completed. The Commission recommends a review of the Commonwealth's forfeiture laws and whether the Commonwealth-wide anti-trafficking fund, or a similar fund, can be utilized to assist with program responses for purchasers who qualify as indigent or lack the resources to pay for the assessment/counseling. The anti-trafficking fund should be supported by costs and fines for those charged with solicitation and other human trafficking related charges.

It is further recommended that the solicitation statute (*Code of Virginia* section 18.2-346.01) be amended to reflect that a first offense solicitation of a non-minor include a path towards a dismissal for that first offense based on completion of the Demand Diversion Program and community service. A second offense (either with the defendant having been previously convicted or previously participating in the Demand Diversion Program) would result in a mandatory conviction with jail time. A third offense would result in a felony conviction. Either a second or third offense can also mandate completion of the Demand Diversion Program but present no pathway for a dismissal.

To avoid the ability of a defendant to have unlimited opportunities for participation in the Demand Diversion Program, it is recommended that an amended statute include a ten-year period in which any participant is ineligible for expungement.

### **ENHANCE ENFORCEMENT BY INCREASING TARGETING OF ILLICIT MASSAGE BUSINESSES BY COORDINATING WITH LAW ENFORCEMENT, PRIVATE PROPERTY OWNERS, AND REGULATORY BOARDS**

Successful investigations and prosecutions of Illicit Massage Businesses (IMBs) present a myriad of difficulties for law enforcement that may serve as a barrier to conducting these investigations. Many of these IMBs are operated by organized crime syndicates that exploit these difficulties, not the least of which are language barriers, lack of victim services, and massive distrust of governmental and other supportive entities. “Raiding” and shutting down an IMB may create for local law enforcement an entirely new problem, as these “raids” often leave victims without the shelter, food, clothing and other necessities that the IMB provides for them. Without community resources to respond to the ability to effectively communicate with survivors and provide appropriate wrap-around services, a locality may decide to allow the IMB to remain in operation if the community has no viable response team.

Masseuses in the Commonwealth are licensed by the Board of Nursing, and massage parlors must maintain these licenses and business licenses. Law enforcement experience tends to reveal that when IMBs are raided, most victims working as masseuses are unlicensed. Generally, the owner/operator and one or two others may have Board of Nursing licenses displayed in common areas, but they are not present. Violations of fire ordinances, zoning laws, and business inspections could be used to suggest a revocation of either Board of Nursing licenses or localities’ business licenses.

#### ***Legislative Change***

The Commission recommends that all masseuses working in massage parlors be legally required to obtain licenses and subsequently display licenses in the room in which they are performing massages. Localities could then revoke business and/or occupancy licenses for a mandatory minimum period before the entity can reapply. To avoid situations in which an entity merely re-organizes under a different business name and applies for a new license upon revocation, regulations could be established to making it impermissible for a massage business to occupy the impacted premises for a mandatory minimum period of time as well.

Of important note is that formal coordination between the Board of Nursing and Virginia State Police would be crucial in identifying businesses that are shuttered due to licensing violations. If



a business does have its business license revoked, the Board of Nursing must be aware to prevent the IMB from simply relocating to an adjacent county and reopening the same business.



**INCREASE ENFORCEMENT THROUGH LEGAL AMENDMENTS AND ENHANCED COLLABORATION TO ENSURE SOCIAL MEDIA AND TECHNOLOGY COMPANIES ACTIVELY FIGHT HUMAN TRAFFICKING ON THEIR PLATFORMS**

***Improving Tools to Address Tech Companies – Legislative Change***

Law enforcement and prosecutors have found tech companies to be resistant to law enforcement efforts to secure information about human trafficking efforts, identify individuals involved with trafficking, and keep law enforcement efforts confidential. *Code of Virginia* § 19.2-70.3, utilized by law enforcement to secure records of electronic communications, only authorizes nondisclosure in the case where a juvenile is alleged to be the victim. Both law enforcement and survivor members of the subcommittee could all detail incidents of cyber-bullying or cyber-stalking designed to recruit or intimidate. Disclosure by tech platforms is prohibitive in investigative strategies to identify these individuals. Therefore, the Commission recommends that the *Code of Virginia* §19.2-70.3 (D) be amended to add all of Title 18.2, Article

3. Further, *Code of Virginia* §19.2-70.3 (L) should be amended to remove the language: “that there is a reason to believe that the victim is under the age of 18 and”.

The Commission also recommends that the Commonwealth expand Internet Crimes Against Children (ICAC) task force partnerships by collaborating with respective authorities, non-profits, and other to ensure social media and technology companies actively fight human trafficking on their platforms. ICACs are a federally funded and authorized grant program under The PROTECT Our Children Act of 2008. The ICAC program is administered through the Department of Justice’s Office of Juvenile Justice and Delinquency Prevention. There are 61 task forces across the US, two of which are in Virginia. The Northern Virginia ICAC is housed at the Virginia State Police and the Southern Virginia ICAC is housed at the Bedford County Sheriff’s Office. ICACs are required to partner with federal, state and local agencies including investigative bureaus, prosecutors, schools, other ICACs, and community stakeholders in their region to conduct both reactive and proactive investigations. They receive cyber-tips from the National Center for Missing and Exploited Children along with various other private and public entities, and conduct undercover peer-to-peer, dark web, chat, and other types of investigations into child sexual abuse, child pornography, and child trafficking. ICACs are resource (personnel, real estate, hardware, software, vehicles, etc.) challenged due to funding and agency priority constraints and are consistently overwhelmed by both reactive and proactive leads for investigation and forensics.

The Commission further recommends that Commonwealth officials formally coordinate with tech companies to mutually pursue human trafficking educational components. Training tech companies about the prevalence, signs, and indicators of human trafficking, as well as the positive impact law enforcement investigations can have, will be a major first step in fostering sustainable public-private partnerships. Survivor involvement in meetings with tech companies will be key to growing these professional relationships.

### **INCREASE ENFORCEMENT BY ENSURING ALL LAW ENFORCEMENT OFFICERS ARE THOROUGHLY TRAINED IN IDENTIFYING TRAFFICKING CASES AND PROTOCOLS FOR WORKING WITH VICTIMS.**

Creation of a state-wide, standardized training for law enforcement is the most substantial first step in delivering increased enforcement. These trainings must have:

1. A defined plan with goals to accomplish; and,
2. An understanding of the audience – backgrounds, motivations, and experience.

Law enforcement trainings must include law enforcement officials because law enforcement will only respond when trainers understand the work being done. However, equally important in training law enforcement are survivor experiences presented by the survivors who lived them. Non-Governmental Organizations (NGO’s) can and should be part of presentations but must do so in combination with law enforcement officials and survivors collaborating on the curriculum. These trainings must be trauma-informed, survivor informed and victim-centered.

The trainings themselves must be tailored both to fit the geographic differences between the sections of the state and the experience levels of the target audience. For example, training looks different between a responding (“boots on the ground”) officer and a long-term

investigating human trafficking detective. However, each member of the law enforcement team must be able to fulfill their role in the process of interacting with the human trafficking victim and must be able to do so in a trauma-informed supportive manner. The highly trained empathetic detective will have difficulty creating traction in his/her investigation if the responding officer demonstrated a lack of empathy and patience at the point of first interaction with the victim. Likewise, an understanding of how cases and human trafficking differ in the various geographic regions of the Commonwealth will inform law enforcement's successful approaches to trafficking victims.

The desired outcome for all human trafficking cases, as outlined in the training, should be pursuant to the response of a multidisciplinary team that combines victim services, law enforcement and prosecutorial personnel to ensure the protection and support of survivors and the prosecution of traffickers. The "response team" approach, integrating partners from government and non-government entities, provides the most supportive response to balancing trauma-informed support and case development. Child Advocacy Centers (CACs) can also be a tremendous resource in the development of a "response team" and should be further explored to be a part of training.

The Commission recommends that human trafficking training schedules of approximately once every two years, in addition to academy trainings, be incorporated into ongoing training efforts. A working group should be formed to develop curriculum, plan training, and develop processes for virtual trainings to meet geographic needs. This working group must include both survivors and law enforcement.

## **EXECUTIVE ORDER GOAL 2: Empowering Trafficking Survivors through a Regime of Direct Funding and Partnerships**

Providing equitable access to care for trafficking survivors to empower their path to freedom requires an understanding of who is being victimized, the complexity of the trauma, and effective support solutions.

**Partnering with non-profits and the private sector to increase the provision of resources survivors need for mental and behavioral recovery and wellness.**

### **Healthcare Identification Training**

The Commission recommends a requirement that those who are licensed or seeking licensure through the Virginia Board of Health Professionals to complete an approved human trafficking training. Approved trainings must contain certain elements as outlined by stakeholders within the healthcare community that elevate trauma-informed, survivor-informed, and evidence-based practices, as well as reporting protocols and effective resourcing of survivors.

The Commission recommends that training describe trafficking business models including: familial trafficking, boy friending, pimp/trafficker controlled, organized crime, and labor. Training should describe vulnerable populations including racial minorities, LGBTQ, homeless, runaway and disconnected youth, underage youth, and youth experiencing neglect or abuse.

Grooming techniques that need to be highlighted include in-person interactions, online and gaming interactions, peer to peer recruitment, blackmail, isolation, and abduction.

Finally, the Commission recommends an annual virtual training on Human Trafficking for Virginia Board of Health Professions to continue their certification.

### **Emergency Response**

The Commission recommends that the Commonwealth fund a survivor hotline that is a centralized resource for survivors to receive emergency assistance and service referrals.

Funding is also recommended for regional intake centers (separate for minor and adults-within same place) that allow survivors to enter care 24/7 and be provided with initial assessments, medical care, and initial interviews. Initial service plans would be created at these sites to ensure that the survivors had supportive services in place when they are discharged. A best practice is to assign survivors as advocates to help victims navigate service options such as housing, legal, education, medical, and mental health.

### **General Support Services**

Another best practice is to assign a case manager who can register victims for all state or federally funded support services (regardless of income), such as Medicaid, disability assistance, Social Security income/benefits, housing subsidy. Currently, minors suspected or confirmed to be trafficking survivors are included in mandated reporting calls and assessed and managed by the Virginia Department of Social Services. Similar case management services are

needed for adult survivors. Minor victims should be assessed for special education services and be approved for accommodations under an Emotional Disability identifier to receive educational services through the school system.

Additional resources would include grants for privately run organizations to run drop-in centers to support survivors who may not be fully ready to exit their exploitation, but who are seeking support services as they explore their options.

The Commission recommends that the Virginia Department of Criminal Justice Services (DCJS) certify organizations that provide services to trafficking survivors.

### **Residential Program**

The Commission recommends provision of capacity building grants for organizations that provide programmatic training to support the launch of new human trafficking programs that ensure that they are meeting standards of care while providing ongoing support for certified organizations providing residential care and therapeutic treatment to trafficking survivors. The Capacity expansion would include establishing and funding an approved virtual education program for minor survivors in residential treatment facilities to achieve their academic milestones.

### **Fostering public-private partnerships to educate, train, and empower survivors towards a career path.**

The following recommendations foster public-private partnerships to educate, train, and empower survivors towards a career path. Eligibility for services can be validated by law enforcement, a government agency, non-profit, or therapist to confirm status as a trafficking survivor. Recommendations are as follow:

- **Funding for a private organization(s) to assist survivors in educational pursuits and career readiness activities to centralize resources. Responsibilities should include best practices such as:**
  - a. Dedicated educational/support person to help a survivor navigate education/career opportunities.
  - b. Provide free access to GED completion programs or full diploma programs (ex. K-12). Have public and private schools provide free virtual tutoring to trafficking survivors.
  - c. Establish partnerships with certification and training institutes that will create, host, and provide career training for trafficking survivors (e.g., Microsoft Office).
  - d. Partner to provide Career Opportunity & Personality Assessment tools that help survivors understand various career paths, skill sets/capabilities, and define a pathway to achieving that career aspiration.
  - e. Workforce readiness skilling, including to resume building, interview techniques, and etiquette.
  - f. Corporate mentorship/shadow program with pathways for hiring survivors.

### **Legislative Change**

Provide tax incentives to educational institutions that provide scholarships to trafficking survivors and report back on the steps they have taken to:

Accommodate the needs of trafficking survivors, including extensions, counseling, asynchronous courses, online courses.

Provide human trafficking and trauma-informed training to faculty and staff.

### **Create eligibility criteria for a tax incentive for corporations that provide work opportunities for survivors. The eligibility criteria would include:**

- Adopt a Human Trafficking Training for all employees as part of their annual compliance trainings.
- Provide on the job training for survivors through internship or entry level positions.
- Outline long-term career opportunities with the organization.

### **Mandate training for workforce development boards to identify suspected trafficking and resource survivors and provide employment opportunities.**

### **Fostering public-private partnerships to assist victims in securing temporary and long-term housing options.**

Recommendations outlined below are divided by adult or emancipated youth trafficking survivors and minors for *independent* temporary or long-term housing and excludes opportunities through non-profits or behavioral health systems.

### **Adults and Emancipated Youth:**

The following recommendations are to provide temporary and long-term housing solutions to adult or emancipated youth survivors. Eligibility for housing support is predicated on a survivor adhering to a service contract. Based upon best practices and recommendations decided upon by the service provider and the trafficking survivor, the following options should be available to trafficking survivors:

- 1) **Identify viable methods to create low barrier housing options that do not rely solely on Section 8 housing through HUD.**
- 2) **State funded rental subsidies (adjusted according to need).**
  - a. Recommend to match housing subsidies with career opportunities.
  - b. Create a standard practice for rental agreements to allow non-profits to cosign lease agreements on behalf of trafficking survivors.
- 3) **Legislative Change – Provide tax incentives or establish partnerships with rental companies, real estate brokers, and property management companies who commit to the following:**

- a. Approve residential applications for trafficking victims regardless of trafficking situation and/or background check (only in relation to charges as part of the trafficking situation).
  - b. Reduce or waive the security deposits associated with rental agreements.
- 4) **Provide tax incentives to utility companies that provide discounted or flat rate costs to trafficking survivors, allowing a survivor to create a financial plan that is consistent as they get back on their feet.**
- 5) **Create and fund a case management division within VDSS for assisting adult/emancipated youth trafficking survivors with housing. Roles and responsibilities should include:**
- a. Case managers must have regular touchpoints with the survivor.
  - b. Case manager and survivor must develop a housing and financial plan with corresponding activities for long-term success of housing placement.
  - c. This division should work closely with the private organizations to provide career opportunities to survivors to achieve economic independence and long-term stability.

**Minors:**

The Commission recommends provision of access to housing opportunities that are survivor and trauma-informed for all minor victims of trafficking, regardless of whether the minor is a ward of the state. Minor victims of trafficking are currently provided housing in independent living programs, residential therapeutic safe house programs, group homes, foster care, behavioral health institutions, or at their primary residence. We recommend the following housing options for minor victims of trafficking:

**Fund the increased capacity of safe, therapeutic, well-resourced, and certified environments to help survivors overcome the trauma they have endured.**

- Require human trafficking training, trauma-informed training, and continuing education around interpersonal and complex trauma for anyone housing trafficking survivors.
- If the child can maintain a relationship with their family, family should be included in the above trainings.

**Review and expand Virginia’s current DFS/DSS Protocol for placement and housing of minor trafficking survivors:**

- Mandate a trauma-informed assessment and human trafficking screening for youth and families within DFS/DSS:
  - Develop a protocol for suspicion of familial trafficking and ongoing engagement with the family.
  - Create a triage component where trafficking survivor cases are triaged for a defined period to ensure youth and family are connected to resources and services.
  - Assign a dedicated case worker in each local social service department to respond to trafficking allegations comprehensively.
  
- DSS should revamp the current training and protocols in place for each department: family preservation, foster care, hotline, adult/aging.
  - Create human trafficking-specific therapeutic foster care pathways: including structured training for foster parents to create more short-term and long-term housing options.
  
- Improve protocols for oversight of housing locations and complaints:
  - Office of the Children’s Ombudsman should assess the reason that local social services offices are not properly reporting alleged human trafficking cases to the Virginia Department of Social Services.
  - Routine audit for independent living situations if the survivor is receiving state assistance or a program must be certified by the state.



## **EXECUTIVE ORDER GOAL 3: Enhance Education and Training of Law Enforcement and First Observers**

Every day, people are unknowingly the “first observers” of a trafficking victim. By increasing awareness of the signs of potential trafficking and appropriate ways to intervene, including for teachers, school officials and students, the likelihood of victim rescue and perpetrator accountability is dramatically increased. As trafficking numbers continue to increase in the Commonwealth, the average age at which a child is trafficked is between 12 and 15 years old. It is estimated that human trafficking is the 2<sup>nd</sup> Largest Criminal Enterprise Worldwide.

Communities and schools being easy access points for traffickers to interact with and groom unsuspecting adolescents. Of the 22,326 trafficking victims and survivors identified through contacts with the National Human Trafficking Hotline in 2019, at least 5,359 were under age 18. Many underage victims of human trafficking are students in the local school system. The Commonwealth must protect its younger citizens by mandating prevention curricula in all schools while highlighting how each demographical area is unique and specific to trafficking. Teachers and school officials play a vital role in the fight against trafficking.

### **Requiring Schools to Provide Online Safety Training and Education**

As the need for technology both inside and outside the classroom increases, so must our commitment to protect children from online predators. Students across the Commonwealth are provided personal computers to enhance their educational experience and prepare them for careers of the future. Many parents provide their children with mobile phones to maintain communication and ensure the safety of their children. Widespread access to computers, phones and other digital technology is a necessity in the 21<sup>st</sup> Century. While access to this technology allows students to reach their full potential and prepares them for life in the modern world, we must take the necessary steps to protect their online identity and ensure their safety as they navigate the web.

The National Center for Missing and Exploited Children (NCMEC) developed a national Cyber Tipline focused on how the online cyber network exploits children. Of the total reported offenders, 98% were individuals seemingly unknown to the children in real life, while only 2% were likely known. Of the 5,917 offenders named in the reports, the majority were male at 82% while only 9% were female. (For 9% of offenders, gender could not be determined). While an overall offender age range and average age could not be calculated, some reported offenders were as young as early teens and others as old as late adulthood and even into their late seventies.

The goals of offenders include (for 3% of offenders, more than one goal was indicated) most commonly, the desire for sexually explicit images of children (60%); to meet and have sexual contact with children (32%); to engage in sexual conversation/role-play with children online (8%); and to acquire some type of financial goal (2%).<sup>37</sup> In addition, there were other, less

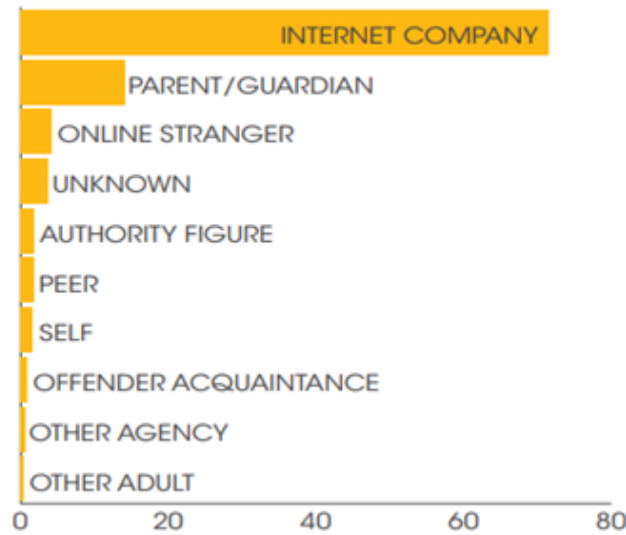
---

<sup>37</sup> Ibid. p2.

common and/or more difficult goals to determine, including trying to use children for sex trafficking purposes, whether in person or online; wanting revenge on children by distributing their content to others; having some form of exhibitionist goals; and for children to offend upon other children. Internet companies were the most frequent reporter of online enticement to the Cyber Tipline (71%), followed distantly by parents/guardians (14%) and members of the general public unknown to the child victim (4%). The child victims only reported to the Cyber Tipline on their own behalf in ~2% of reports.<sup>38</sup>

**National Center for Missing & Exploited Children:<sup>39</sup>**

**Reporters to the CyberTipline**



<sup>38</sup> "National Human Trafficking Hotline An Office of the Administration for Children & Families." *U.S. Department of Health & Human Services*, 2019, <https://www.acf.hhs.gov/otip/victim-assistance/national-human-trafficking-hotline>.

<sup>39</sup> Virginia | National Human Trafficking Hotline; <https://humantraffickinghotline.org/state/virginia>.

## **The Following Sections Offer Best Practices for Implementation Detail Recommendations from the Commission**

### **Ensure Human Trafficking Training for All Staff and Students in Public Schools**

- Mandate a human trafficking training program and curriculum for all teachers and school officials within one year. Appropriate enforcement could include withholding school funding can be withheld or reduced for non-compliance.
- All teachers seeking licensure within Virginia or renewing their state license should undergo an annual human trafficking training program to include a trauma-informed explanation of human trafficking and how to recognize, understand and report it.
- Mandate a no-opt-out policy for school superintendents. (Parents should have the opportunity to opt their child out of the human trafficking prevention curriculum.)
- Require all school resource officers, counselors, and support staff to complete annual training on how to recognize and report human trafficking cases. All training will include a trauma-informed and best practices approach curriculum.
- Ensure appropriate healthy relationship awareness and communication criteria starting in the first grade and presented on a continuum.
- Develop district and school-wide policies for identifying a suspected victim and the appropriate ways to interact and report to authorities.
- If a student is identified as a possible victim, they will only interact with trauma-informed staff and will initiate a triage of safety protocols and procedures to ensure victims' safety.
- Establishment of a state-wide parent portal for education, training, and support services.

### **Outreach and Communications**

- Create and fund a Human Trafficking Awareness Campaign, including billboards, TV commercials, and posters in public areas, in addition to partnering with local television stations that will advertise the awareness campaign.
- Partner with online platforms to raise safety awareness.
- Parent and student awareness campaign to provide greater insight into the laws regarding sexting and pornography to students and parents.
- Create online platforms, or private technology companies create can create a virtual game.
- Investigate alternative ways to teach/reach students via Artificial Intelligence and virtual reality technologies.
- Create an online safety for parents training portal for parents to participate in safety training annually.

## **Funding**

- Establish State funding with an annual budget for all schools to obtain human trafficking prevention curriculum training and education.
- Provides tax incentives to all companies willing to develop and implement technology in the school system.

## **Organizational Structure**

- Develop a help/tipline for students, teachers, and community members who seek additional information regarding human trafficking or need to report suspicious activity or possible trafficking cases. Some may want to do so anonymously.

## **Implement / Distribute Training**

- The human trafficking curriculum could be taught as a separate program and not in the FLE classroom.
- Rely upon the experience of survivors to develop a comprehensive plan to identify and interdict a suspected victim of human trafficking. Best practices and trauma-informed methods will be used.
- Each school should have a trafficking response team comprised of the school social worker, SRO, school nurse, and principal, who will coordinate with the county level multi-disciplinary team.
- Before any interaction with the victim, the school response team will formulate a well-educated plan before interacting with the victim to limit any additional trauma.
- Trauma-informed caseworkers should alert the parents (not if familial trafficking) and ensure the child has a safe environment. Recommend using those with life experience to inform and teach the curriculum, and peer-to-peer interaction and engagement are strongly encouraged.
- Work with online platforms to create an App to educate students and parents about techniques used by the traffickers.

## **Audit the effectiveness of the training program**

- Review and revise all training modules for teachers and staff every two years as new trafficking data emerges.
- Audit and review to ensure all schools comply with the mandate to report human trafficking cases. If a school is found to be non-compliant; the penalty is running the risk of losing State funding for the following school year.
- Gather and track statistical data from each school system to ensure the curriculum is an effective training method.

### **Other considerations**

- Work with cell carriers to prevent the sharing or blocking of underage/inappropriate images.
- Enforce a greater penalty in schools and the community concerning underage sexting and sending inappropriate (pornographic) images between underage minors.
- Report trafficking data at regular intervals to the established *Virginia's Analytics System for Trafficking (VAST)* which is maintained by the Virginia Department of Criminal Justice Services (DCJS).

## National Trafficking Hotline

### **Expanding awareness of the National Trafficking Hotline and other resources for victims to report and receive assistance to escape trafficking.**

The National Human Trafficking Hotline has been a staple in the trafficking community since 2007. In that time frame the hotline has answered more than 368,000 calls, including more than 27,000 from potential victims, and identified more than 47,000 cases of human trafficking across the United States.<sup>40</sup> With a significant decrease in cases between 2019 and 2020. In 2019,<sup>41</sup> Virginia reported 189 human trafficking cases, dropping to 119 in 2020. There are some discrepancies within the data listed above in section (A).<sup>42</sup> The National Human Trafficking Hotline is recommended to process verifying all data.

### **Recommendations:**

- Establish a hotline through a State-funded entity to work directly with the Taskforce and statewide service providers.
- Conduct an independent review to determine the effectiveness of the National Human Trafficking Hotline to ascertain if another organization is better suited for the position.
- Audit and review standards of practice of the National Trafficking Hotline and submit for review by the Commission members and State officials.

---

<sup>40</sup> Human Trafficking in America's Schools (PDF) (ed.gov); <https://www2.ed.gov/documents/human-trafficking/human-trafficking-americas-schools.pdf>

<sup>41</sup> <https://humantraffickinghotline.org/state/virginia>

<sup>42</sup> <https://humantraffickinghotline.org/state/virginia>

## Department of Education Revokes 150% Rule for Title IV Funding Eligibility

FSMTB <dpersinger@fsmtb.org>

Tue 11/28/2023 2:06 PM

To:Stoll, Candis (DHP) <candis.stoll@dhp.virginia.gov>



### Department of Education Revokes 150% Rule for Title IV Funding Eligibility Massage Schools and Education Programs Affected

On October 31, 2023, The Department of Education (DoE) published final **rulemaking** that will greatly impact clock-hour programs in states with minimum clock-hour requirements for licensure or certification, including massage therapy. The press release can be found [here](#).

Currently, and until June 30, 2024, clock-hour based education programs are allowed to offer 50% more education than their state's minimum requirements and students would remain eligible for financial aid (150% Rule). So, if a state's minimum requirement is 500 hours, a school may offer a program for up to 750 hours and remain eligible to offer federal student loans.

**Effective July 1, 2024, for massage schools and programs to remain eligible for Title IV student loan funding, the program length must be exactly what the state minimum requires (100% Rule).** Schools cannot deviate from this number, or the entire program becomes ineligible. There is no grandparenting provision, so there will be a transition period where some students in massage programs will be subject to different hour requirements. A DoE Fact Sheet regarding the rulemaking can be found [here](#). This change applies to **all** programs that fall under "Gainful Employment" which generally include for-profit career schools and non-degree programs at non-profit and public institutions.

FSMTB is providing the membership with information on the rule change, as massage regulatory boards and agencies may receive requests to approve or recognize revised programs to comply with this rule and/or may receive requests to change the minimum hours of education required. Alternatively, some schools may choose to start the process of closing their program.

The massage professional associations, **ABMP** and **AMTA**, have communicated with their membership regarding advocacy efforts that can be undertaken. COMTA is also aware of the situation. FSMTB is collaborating with these massage therapy organizations to educate constituents and address this issue, as appropriate.

**FSMTB supports the position that 625 hours of education is the minimum required for entry-level competence** pursuant to the ELME Blueprint from the **ELAP** and recommended in the Model Practice Act. This is an empirically based standard supported by the Coalition of Massage Therapy Organizations that includes FSMTB, COMTA, AMTA, ABMP, NCBTMB, AFMTE, and the MTF.

Please contact FSMTB's Government Relations team at [gr@fsmtb.org](mailto:gr@fsmtb.org) if you have any questions or for further information. FSMTB plans to provide an update on any developments as they become available.

The mission of FSMTB is to support its Member Boards in their work to ensure that the practice of massage therapy is provided to the public safely and competently.

FSMTB | 7300 College Boulevard, Suite 650, Overland Park, KS 66210

[Unsubscribe candis.stoll@dhp.virginia.gov](mailto:candis.stoll@dhp.virginia.gov)

[Update Profile](#) | [Constant Contact Data Notice](#)

Sent by [dpersinger@fsmtb.org](mailto:dpersinger@fsmtb.org) powered by



Try email marketing for free today!



## **Fact Sheet: Protecting Students Through Final Regulations That Strengthen Department of Education Oversight and Monitoring of Colleges and Universities**

Today, the Biden-Harris Administration released final rules to significantly strengthen monitoring and oversight of institutions of higher education (institutions) and strengthen consumer protection for student borrowers. These regulations will allow the Department of Education (Department) to better protect taxpayers from the negative effects of sudden college closures, will restrict colleges from withholding course credits paid for with Federal money from students' transcripts, and require colleges to clearly communicate to students how much financial aid they will receive—a common source of confusion and error. The regulations also provide a more streamlined process for States to approve postsecondary opportunities for students without a high school diploma or its equivalent. These regulations will go into effect on July 1, 2024.

### **Financial Responsibility**

College closures and institutional financial instability create significant costs for students and taxpayers. Studies by the [U.S. Government Accountability Office](#) and the [State Higher Education Executive Officers Association](#) show that institutional closures are disruptive for students, often putting an end to their educational journeys, and that closures often involve insufficient notice to and protections for students. Closures also frequently result in significant losses of taxpayer funds to cover the cost of loan discharges that are not reimbursed by the institution. For instance, Department data show that, from 2013-2022, there was more than \$1.6 billion in liabilities established from institutions but only \$344 million collected from institutions during that time period.

The final rules give the Department the ability to act more swiftly to protect taxpayers from potential losses when institutions show warning signs. This approach will also dissuade institutions from engaging in risky behavior in the first place. The rules do this by outlining certain mandatory triggering events that will result in requests for a letter of credit or other forms of financial protection from institutions be submitted to the Department. These events include when institutions:

- Have a failing financial responsibility composite score because they are required to pay a debt or other liability or are subject to a lawsuit by Federal or State actors.
- Are at risk of losing access to Federal aid due to having high cohort default rates, failing the 90/10 revenue requirement, or having a significant share of aid in failing gainful employment programs.
- Take steps to manipulate their composite score or discourage Department oversight by making a contribution to the school that results in a passing score and then making a distribution after the fiscal year ends; or enter into debt covenants that could cause

adverse conditions if the Department places limitations on the institution's access to Federal financial aid.

- Declare financial exigency or enter a receivership.

The final rules also include several discretionary triggers that could result in a requirement to provide financial protection based upon a case-by-case determination. These discretionary triggers include some that were listed as mandatory triggers in the proposed rule. Some of the discretionary triggers would apply to institutions that are:

- Subject to adverse accreditor actions, such as a show cause order or probation.
- Experiencing significant fluctuations in Federal student aid volume.
- Closing programs or locations that enroll significant shares of students.
- Subject to adverse actions by States and other Federal agencies.

Institutions will have 21 days to report triggering events, up from 10 days in the proposed rule. As part of this reporting, institutions could also show that a mandatory triggering event has been resolved.

Beyond the triggering events, the regulations also adopt a more streamlined approach for when the Department will seek proof that a public institution has full faith and credit backing by its State. The Department will request such documentation when a school first seeks to participate as a public college or after a conversion.

### **Administrative Capability**

The final rules strengthen how the Department administers the statutory requirement that institutions must demonstrate that they are capable of administering the Title IV programs. Institutions that are reviewed and found not to be administratively capable may be required to provide financial protection or have their participation in the Federal student aid programs limited, suspended, or terminated.

The final rules:

- Require that institutions provide adequate financial aid counseling and financial aid communications to students, including information on the cost of attendance and the sources and types of financial aid available to them.
- Limit an institution from having a principal or affiliate whose misconduct or institutional closure contributed to significant liabilities to the Federal government.
- Require institutions to provide, within 45 days of the student finishing necessary coursework, geographically accessible clinical or externship options that are required prior to the completion of a program. Geographic accessibility will be considered based upon what a student could reasonably expect given the level of the program and specificity of the externship or clinical experience needed. This does not apply to clinical experiences that occur after graduation, such as medical residencies.

- Strengthen requirements that institutions develop and follow adequate procedures to evaluate the validity of a student’s high school diploma. This provision was simplified from the proposed rule to eliminate language that would require an institution to verify the validity of a high school diploma in a student’s home State for students learning online and language addressing when a diploma is provided by an entity with a business relationship to the institution. These changes will make the requirement clearer and easier to administer.
- Require institutions to provide adequate career services.

### **Certification Procedures**

These rules govern the agreements institutions sign with the Department to participate in its financial aid programs. The final regulations strengthen the Department’s ability to increase scrutiny of institutions that exhibit concerning signs and allow us to impose conditions to mitigate the risk posed to students and taxpayers. They also add conditions that institutions will agree to when signing these agreements. The provisions in the final rule include:

- Allowing the Department to request teach-out plans or agreements from provisionally certified institutions that are at risk of closure.
- Requiring entities with direct or indirect ownership of a proprietary or private nonprofit institution sign the institution’s Program Participation Agreement. This expands on guidance issued by the Department last year on when it will seek these signatures on a case-by-case basis.
- Limiting career training programs to no more than 100 percent of the length mandated by the State for certification or licensure. The final rule clarifies that this applies only to new programs as of July 1, 2024, excludes fully online programs, and does not apply to State requirements for degree programs.
- Requiring all programs to show that they meet any required programmatic accreditation and State licensure requirements so that students can obtain employment, if the State has them. The final rules clarify that this applies only to new programs as of July 1, 2024, give institutions an option to show that they meet requirements in a State where a student attests they intend to move, and clarify that programs that lead to provisional licensure or licensure through reciprocity agreements would meet this requirement.
- Protecting students from the effects of closures by requiring distance education providers to comply with State laws related to closure in any State where they serve students. This includes requirements related to teach-outs, record retention, tuition recovery funds, and surety bonds. The final rule removes provisions in the proposed rule that would also have covered State laws specifically related to misrepresentation and recruitment at postsecondary institutions because we believe those items are covered by generally applicable laws against unfair and deceptive acts or practices.
- Preventing institutions from withholding transcripts for credits paid for with Title IV aid. The final rule removed a provision related to return of title IV funds.

## **Ability to Benefit**

The Higher Education Act establishes three “ability to benefit” (ATB) alternatives that a student without a high school diploma may pursue to access Federal financial aid, including participating in a State process approved by the Department. ATB students are required to enroll in an eligible career pathway program to access Federal student aid.

The final ATB regulations establish safeguards to ensure State processes are adequate and establish reporting requirements for institutions participating in the State process. The regulations also define an eligible career pathway program (ECPP) and set clear documentation standards for institutions to demonstrate compliance. The final rule generally follows the proposed rule, which was agreed to by consensus by non-Federal negotiators. However, the Department simplified the process for approving ECPPs to focus on approving at least one ECPP per institution, with the option for additional approval of more ECPPs if there are concerns. The proposed rule would have required Department approval of all ECPPs.