

KFN

7726.5

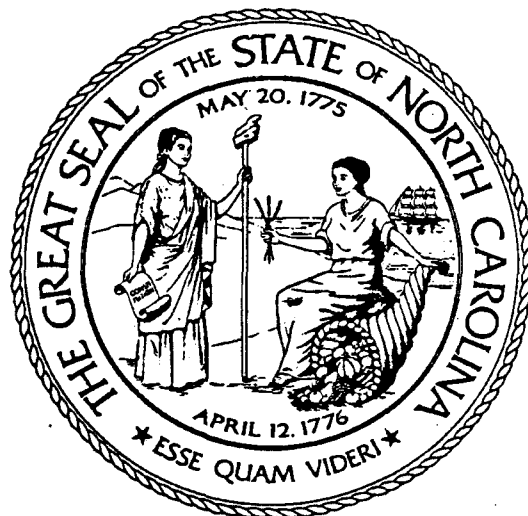
.M381

A25

1993

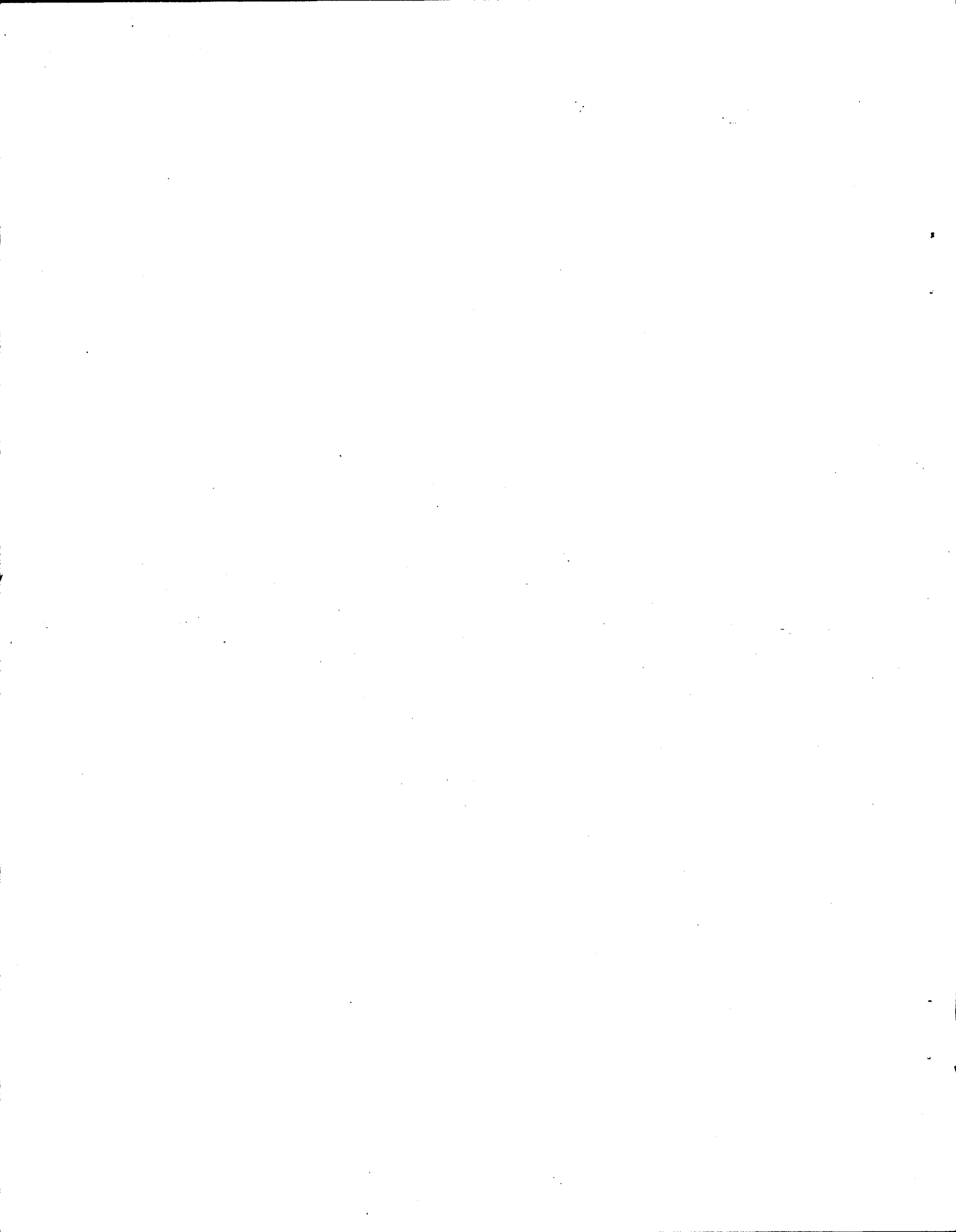
LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

MASSAGE THERAPY



ASSESSMENT REPORT
1993

LEGISLATIVE LIBRARY



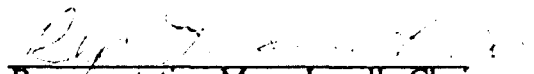
NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS
STATE LEGISLATIVE BUILDING
RALEIGH, NC 27611



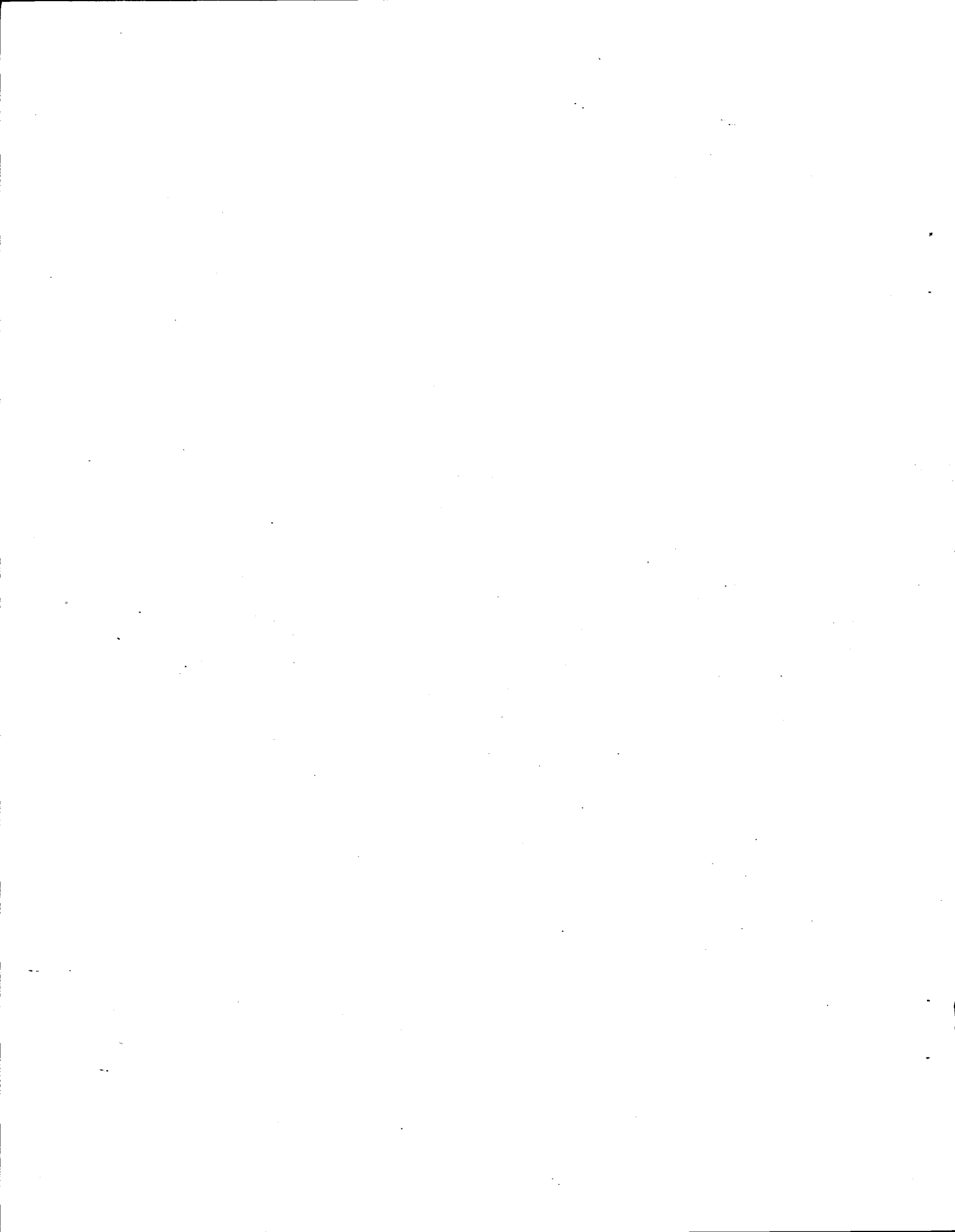
April 14, 1993

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Legislative Committee on New Licensing Boards is pleased to present its assessment report on the licensing of massage therapists. This report serves as both the preliminary and final assessment reports.


Representative Mary Jarrell, Chair
Legislative Committee on New Licensing Boards

KFN 77265 .M381. A25 1993



PREFACE

The Legislative Committee on New Licensing Boards was created by the General Assembly in 1984 to screen bills creating new licensing boards. In 1987, the Committee's jurisdiction was broadened to include reviews of bills that would give existing boards licensing authority over previously unregulated professions or occupations.

The purpose of the review is to determine whether there is a justifiable need for licensure. The criteria under which these bills are evaluated by the Committee are set out in the statutes and include factors such as whether the occupation requires special skills, whether the public on its own can evaluate the competence of the practitioner, and whether the occupation can be effectively regulated by other means.

The Committee's findings and recommendations are released through a preliminary assessment report and a final assessment report. Until the final assessment report is released by the Committee, the bill cannot be debated in any other committee or on the floor of either house. The preliminary report gives the sponsor an opportunity to review and comment on an unfavorable recommendation before the Committee makes a final recommendation. The sponsor has up to 7 days to review the report but can waive this review period. When the preliminary assessment report is favorable, the review period is routinely waived so that the final report can be issued immediately.

The Committee has no jurisdiction over proposals to create voluntary certification boards -- i.e., those boards that require certification as a prerequisite to using a certain title but do not otherwise prohibit practice of the profession. The reason these proposals are not reviewed is that they do not prevent persons from practicing a profession; they merely provide a mechanism whereby members of the profession who want to distinguish themselves as "certified" can do so voluntarily.

MEMBERSHIP (1993-94)

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Representative Mary Jarrell, Chair

Senator Frank Ballance

Senator Mary Seymour

Senator Paul Smith

Senator R.C. Soles

Representative Howard Barnhill

Representative Harold Brubaker

Representative Foyle Hightower, Jr.

Representative Richard Moore

MASSAGE THERAPISTS

Massage therapy involves the use of hands or mechanical devices to compress, knead, stretch, or otherwise manipulate the soft tissues of the body for therapeutic, educational, or relaxing purposes. Adjunct therapies may include the external application of water, heat, cold, lubricants, or other topical preparations. Massage therapy does not include the diagnosis of medical conditions, the prescribing of drugs, or the use of physical therapy, chiropractic, or other therapies for which a State license is required.

There are an estimated 500-600 massage therapists in North Carolina. Some are already trained and qualified under the American Massage Therapy Association's certification program, which requires over 500 hours of specialized training.

Legitimate, trained, and qualified massage therapists have suffered for years under the stigma attached to the "massage parlors" that serve as fronts for prostitution and other criminal activities. For example, the legitimate massage therapists are generally classified by local governments as "adult entertainment establishments" for purposes of local privilege licenses and operating permits. Durham County, by contrast, requires by ordinance that massage therapists meet the training standards of the American Massage Therapist Association. The City of Greensboro is also reportedly considering a similar ordinance.

The proposal to license massage therapists would require at least a high school education or equivalent and the successful completion of 500 hours of Board-approved massage therapy schooling and the Board examination. Persons with at least 500 hours

of massage experience within the past 2 years (as their primary source of income) can practice up to one year under a provisional license, if necessary, and must, at the end of the year, pass the exam in order to continue to practice.

The Committee finds that the requirements of G.S. 120-149.1 have been met by the proposal to license massage therapists and therefore recommends licensure of massage therapists:

(1) The unregulated practice of massage therapy can substantially harm or endanger the public health.

(2) Massage therapy possesses qualities that distinguishes it from ordinary labor.

(3) Massage therapy requires specialized skill or training.

(4) A substantial majority of the public does not have the knowledge or experience to evaluate whether a person practicing as a massage therapist is competent.

(5) The public cannot be protected by means other than licensure.

(6) Licensure of massage therapy would not appear to have a substantial adverse economic impact upon massage therapy patients.

*This report serves as both the preliminary and final assessment report on the licensing of massage therapists. The report is based on information provided in the response to the Committee's questionnaire, testimony received before the Committee at its April 14, 1993 meeting, and the proposed legislation before the Committee (House Bill 910).

The response to the questionnaire is provided in this report. Additional materials filed by the sponsor with the Committee are on file with the Committee Counsel and will be available from the Legislative Library at the end of the session.

The Committee is unable to print in the report all materials submitted to it. Materials referenced in the questionnaire response that are not published in this report are generally available from the Committee Counsel.



REPORT TO THE LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

1993 NORTH CAROLINA GENERAL ASSEMBLY

**AN ACT REGULATING THE PRACTICE OF MASSAGE THERAPY
(House Bill 910)**

Submitted by

**Legislative Task Force of Massage Therapists
American Massage Therapy Association - NC Chapter**

LICENSING FOR MASSAGE THERAPISTS

Position Paper

The practice of massage therapy is a nationally recognized health profession, only voluntarily governed in North Carolina at present by the American Massage Therapy Association. Due to the absence of a statewide licensing board in North Carolina, those practicing massage therapy are governed by local ordinances which regulate so-called "massage parlors" and "adult entertainment establishments." Placing these stigmatizing labels on these practitioners subjects them to extensive investigation by law enforcement agencies and piecemeal regulation by many local government ordinances. Licensure for massage therapists who meet educational and licensure requirements set out by a Board of Massage Therapy is necessary to protect the public from the unqualified and untrained practitioners. The practice of massage therapy is very specialized as set out in the Guide to Massage Therapy in America (see Exhibit 1). In addition, licensure will impose nationally recognized educational, practical, and ethical principles on the practice of massage therapy.

The American Massage Therapy Association as well as doctors, chiropractors, dentists, and other health professionals support the effort of the North Carolina Legislative Task Force of Massage Therapists in obtaining licensure in North Carolina (see Exhibit 2). In addition, law enforcement agencies, and local government officials support the effort to enact a statewide licensure program for massage therapists that will legitimize and regulate the profession to protect the public.

Explanation of the Massage Therapy Licensure Act

The purpose of the bill is to create mandatory licensure of those engaged in the practice of massage therapy to ensure minimum standards of competency among massage therapists and to safeguard the health, safety and welfare of the general public. Massage therapy is a specialized practice that is not regulated in North Carolina. At present, the only business license that therapists are able to obtain is an adult entertainment license, thereby placing them in the same category as so-called "massage parlors" and topless bars.

"Massage therapy" is defined in the bill as systems of activity applied to the soft tissues of the body for therapeutic, educational, or relaxing purposes, which may include pressure, friction, compression, stroking, rocking, tapping, or kneading, but does not include the diagnosis of illnesses or disease or medical procedures. The bill would require those persons engaged in massage therapy to obtain a license to practice from a board to be created entitled North Carolina Board of Massage Therapy. The Board shall have broad authority to adopt rules regulating massage therapists.

License requirements

Upon application and payment of required fees, a massage therapy applicant may be licensed if the applicant:

- Has obtained a high school diploma;
- Is nineteen (19) years of age or older;
- Is of good moral character;
- Has successfully completed a five hundred (500) hour course of supervised study by an approved massage therapy school or program, which shall be approved by the Board; and
- Successfully completes an examination administered or approved by the Board.

No person may represent himself or herself as a massage therapist, may not advertise himself or herself as such, and may not use any title or description using the terms "massage therapist", etc., if he or she has not obtained a license.

Licenses shall be renewed biennially. When renewing a license, each massage therapist shall submit to the Board evidence of successful completion of at least fifteen (15) hours of study in the field of massage therapy during the preceding two (2) years.

Exemptions

The bill also provides for exemptions from licensure which include the practice of a profession by individuals licensed under other laws of this State who are performing services within their authorized scope of practice (such as physical therapists who use massage), and students enrolled in approved schools.

Reciprocity and Provisional Licensure

The bill provides for reciprocity to those licensed under laws of another State upon presenting certain documentation to the Board, and if the State from which the person is coming has also granted reciprocity to this State.

The bill provides for provisional licensure for one year for those who do not meet the licensure requirements at the time that the Board is established. The applicant must submit documentation that he or she is 19 years of age, has a high school diploma, pays the necessary fees, and submits verification of 500 hours of massage therapy experience, and other documentation.

The bill also provides for disciplinary action to be taken by the Board for wrongdoing committed by massage therapists licensed under the Act.

REPORT TO THE LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

I. A. In what ways has the marketplace failed to regulate adequately the profession or occupation?

The absence of state licensure for massage therapists has resulted in a number of different problems in the marketplace:

Lack of educational requirements. At the present time, virtually anyone can engage in the practice of massage therapy in North Carolina, whether or not they have received professional training. There are individuals who hold themselves out as "massage therapists" who are not qualified. Unqualified individuals may inflict injury.

No regulatory oversight. Because there is no agency on local or state levels which oversees the practice of massage therapy, there is no mechanism for identifying unqualified practitioners, for investigating claims of potentially harmful or unethical activity, or for disciplining practitioners who have violated established standards of practice. The marketplace cannot provide these necessary regulatory functions.

Confusion with criminal activity. For several decades now, so-called "adult entertainment" establishments have used the terms "massage" and "massage parlor" as a front to promote prostitution and other crimes which typically occur in such places. Because of this unfortunate situation, the terms "massage" and "illicit sexual behavior" have become synonymous to many people. This has placed an undeserved stigma on the legitimate and ethical practice of massage therapy, and has prevented many people from exploring massage therapy as a viable means of restoring health and increasing well-being.

B. Have there been any complaints about the unregulated profession or occupation?

There have been voluminous complaints to local agencies about the so-called "massage parlors" which present a difficult law enforcement problem. Over the years, municipal boards have enacted prohibitive ordinances in an effort to rid their communities of these problems. Unfortunately, the "parlor problem" still exists in most places.

There is anecdotal evidence about problems with unqualified and/or unethical massage practitioners, but the lack of a state regulatory agency makes it almost impossible to track such complaints. There have been grievances filed with the American Massage Therapy Association (AMTA) regarding individual members, but their proceedings are confidential. Also, since AMTA is a private membership organization, not all practitioners are necessarily members.

Since there is no licensing board, there has been no formal agency to which the public may complain. Other massage therapists have received complaints from consumers and clients. Because of the desire for confidentiality, those names cannot be released. However, those complainants will be asked to contact legislators about the problem. One particular complainant

is:

Michele Moss
2120 Computer Drive
Raleigh, NC 27608

II. A. In what ways has the public health, safety, or welfare sustained harm or is in imminent danger because of the lack of state regulation?

There have been reports of individuals seeking legitimate massage therapy who have walked into establishments whose signage advertises "massage," only to discover scantily-clad women offering illicit sexual services. This has created emotional trauma and confusion for such individuals. These adult establishments are also havens for illegal drug activity, according to law enforcement officials. This means that "massage parlors" are sheltering a number of criminal activities which are detrimental to our communities.

There have also been reports of individuals who have been traumatized by unqualified and/or unethical massage practitioners. Such trauma has been identified as physical, as well as emotional in nature. The public has no guidelines for knowing what therapists are misinforming the public concerning their credentials, training, education, etc. There are no uniform standards for practicing as massage therapists.

B. Please give specific examples including names and addresses.

As described in 1b above, the lack of a state regulatory agency for recording this information makes it difficult to give documentation of these reports. There is, however, the following example provided by a respective therapist and consumer:

Ted Looyen
The Looyenwork Institute
Post Office Box 1742
Sausalito, CA 94966
415-381-9025

Mr. Looyen came to give a 2-day workshop in North Carolina. During that time he also saw patients for massage therapy. He engaged in inappropriate sexual behavior with a therapist, and several other women. He also engaged in inappropriate sexual behavior during the workshop. Since there was no state licensing board, the aggrieved individuals had no opportunity to file complaints. This allows therapists to engage in misconduct without being concerned about being reported. Since the profession is "regulated" under adult entertainment, law enforcement at times takes the attitude that the consumer acts at his own risk.

Also, please see exhibit 3 for more information.

III. A. Is there potential for substantial harm or danger by the profession or occupation to the public safety or welfare? How can this potential be recognized?

There exists potential for substantial harm to the public safety and welfare because of the current problem of criminal activities which are promoted under the term "massage." Harm could also result from the current presence of unqualified and/or unethical practitioners in the profession. Qualified massage therapists know how to determine whether there are medical conditions present in an individual which may be contraindicated for massage. Unqualified practitioners could massage an individual with a contraindicated medical condition and cause injury, or even death. There is the potential for physical harm by the inappropriate use of modalities some would call massage. By having a licensing board, and restricting those who may advertise the practice of massage therapy, the public will be ensured that the therapist they see will have the minimum requirements to practice and ethical standards to which to adhere.

B. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process? Please list the other states and give the relevant statutory citations?

At present, approximately 19 states have licensing or certification boards regulating the practice of massage therapy. They include:

Arkansas
Connecticut
Delaware (certification)
Florida
Hawaii
Iowa
Louisiana
Maine (registration)
Nebraska
New Hampshire
New Mexico
New York
North Dakota (registration)
Ohio
Oregon
Rhode Island
Texas (registration)
Utah
Washington

In addition, Durham County enacted a licensing ordinance in 1987 and the City of Burlington enacted an ordinance in 1985 regulating massage therapists and massage establishments.

IV. A. What will be the economic advantage of licensing to the public?

Licensure and its resulting professional regulation will attract more well-trained, ethical practitioners to the field of massage therapy, and will therefore expand the public's access to these services. Massage therapy is viewed as a cost-effective means of health care which emphasizes prevention and wellness; its utilization can help the public save money on overall health care costs.

B. What will be the economic disadvantage of licensing to the public?

None anticipated. An expanded base of licensed practitioners will encourage healthy competition in the marketplace. This will help maintain costs for therapeutic services at present levels.

C. What will be the economic advantages of licensing to the practitioner?

Increased public awareness of massage therapy and consistent standards for professional practice will create more job opportunities for practitioners in the future.

There are existing municipal "massage parlor" ordinances which require exorbitant license and investigation fees. State licensure would eliminate the applicability of those ordinances to true and qualified massage therapy practitioners and uphold one consistent and reasonable fee structure for all practitioners across North Carolina. Licensing will help the image of the profession, will give credit to the therapists who do meet the minimum requirements, will help maintain higher standards for the whole profession, and will minimize piecemeal, burdensome restrictions.

D. What will be the economic disadvantages of licensing to the practitioners?

For those practitioners not affected by existing municipal ordinances, there would be a modest economic impact from licensure and examination fees. There may be a cost of additional education to be incurred to meet the licensing requirements set by the Board.

E. Please give other potential benefits to the public of licensing that would outweigh the potential harmful effects of licensure such as decreases in the availability of practitioners and higher cost to the public.

As evidenced by activity in other states which license massage therapists, there will be an increased number of practitioners interested in and available to provide community service. For example, therapists have provided massage to relief workers and persons displaced by natural disasters such as hurricanes and fires, persons with terminal medical conditions, persons at fundraising events for charities, etc.

V. A. Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor. How is each justified?

"Simple massage" can be given by almost anyone who has the intention to help another person feel better. By contrast, the profession of massage therapy requires a specific body of knowledge and skills in order to be practiced safely and effectively as a health care discipline.

This specialized training includes clinical techniques, theory, anatomy and physiology, ethical principles and adjunctive methods. There are massage therapy schools which offer such training. Nationally, the agency which reviews and approves these school programs is the AMTA Commission on Massage Training Accreditation/Approval (COMTAA). COMTAA specifies a minimum curriculum of 500 hours of supervised classroom instruction, in the following areas:

- 300 hours of theory and clinical techniques of massage therapy
- 100 hours of human anatomy and physiology, including the medical indications and contraindications for massage therapy
- 100 hours of adjunctive subjects, which typically include:
Basic First Aid & CPR, communication skills, massage laws and professional ethics, hydrotherapy, protocol for working with other health care providers, and business practices.

In North Carolina, licensure for schools of massage therapy is presently handled by the Department of Community Colleges, Division of Proprietary Schools Services, which is directed by Dr. Neill McLeod. The Department began requiring licensure of massage schools in 1988, and established a minimum curriculum requirement of 500 hours.

B. What are other qualities of the profession or occupation that distinguish it from ordinary labor?

The primary organization which represents this profession is the American Massage Therapy Association (AMTA). Nationally, there are 16,000 members, with more than 300 members in the North Carolina Chapter. AMTA is governed by a National Board of Directors; each state chapter has its own autonomous board. The mission of AMTA is to develop and advance the art, science and practice of massage therapy in a caring, professional and ethical manner in order to promote the health and welfare of humanity. Goals which AMTA pursues on both state and national levels include:

- To establish massage therapy as integral to the maintenance of good health and complimentary to other health care practices
- To ensure the highest standards in providing massage therapy to the public
- To provide access to quality massage therapy for all persons
- To oversee legislative and regulatory issues in the field of massage therapy
- To fund research into the therapeutic effects of massage therapy through the AMTA Foundation.

There is a National Certification Board for Therapeutic Massage and Bodywork which promotes professionalism by creating and maintaining standards in the field. The primary purpose of this Board is the evaluation of those individuals who wish to enter, continue and/or advance in the profession of therapeutic massage and bodywork through the certification process, and the issuance of credentials to those individuals who meet the required levels of competence.

VI. A. Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners of the profession or occupation will be exempt, what is the rationale for the exemption?

Yes, if they meet the definition of massage practice. Exemptions include those giving "simple massage" to members of their own family, and those whose present profession (such as physical therapists) include the modalities included in massage therapy. There is a provision for licensure for those practicing massage therapy for one year after the establishment of the Board so that the person may obtain the necessary credentials to qualify for licensure.

B. What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?

At present, there are approximately 500-600 persons who would be regulated by this Act. Because of the wide range of applicability of massage therapy for both preventive and corrective needs, there are few individuals in North Carolina who would not be potential candidates to utilize these professional services.

VII. What kind of knowledge or experience does the public need to have to be able to evaluate the services offered by the occupation or profession?

There are objective and subjective means for evaluation. The public must know that there are professional and ethical standards for the practice of massage therapy, and should inquire as to whether or not a practitioner has received proper training and credentials. Individuals who receive massage therapy should trust their own internal knowledge in order to subjectively evaluate the effectiveness of a given therapy session. In addition, if licensure is granted to those practicing massage therapy, those advertising as massage therapists will only be those that are licensed. The public will have to discern whether those advertising in other ways to connote massage but not using the term massage are establishments they want to patronize.

VIII. Does the occupational group have an established code of ethics, a voluntary certification program, or other measure to ensure a minimum quality of services? Please document.

There is a Code of Ethics which has been established by the American Massage Therapy Association (see Exhibit 4). There is a minimum training curriculum for massage therapy schools which has been established by the AMTA/COMTAA. There is a voluntary certification program and Code of Ethics offered by the National Certification Board for Therapeutic Massage & Bodywork.

IX. Please cite and document the extent to which any other licensing board in North Carolina regulates similar or parallel functions to the profession or occupation.

Massage is traditionally included in the scopes of practice for nursing, cosmetology and physical therapy. The amount of specific classroom training in massage techniques that each of these professions receives is minimal - 25 hours or less. As well, the actual utilization of these techniques in their respective practices is regarded as minimal. The Act will continue to allow these practitioners to include massage in their practices if massage is within their authorized scope of practice.

About the American Massage Therapy Association



The American Massage Therapy Association (AMTA) was founded in 1943 and is the oldest and largest national organization representing the massage therapy profession. This Association has grown dramatically in recent years and has evolved with its members as massage has become a multi-faceted health care profession.

On the national level, AMTA serves in a leadership role in many ways. The Association has been instrumental in establishing and maintaining educational

standards through: a rigorous accreditation/approval process for massage schools, continuing education for its members, and advanced certification programs.

A massage therapist qualifies to become an AMTA member in one of three ways: graduating from an AMTA COMTAA accredited/approved program of study, being licensed in a state whose standards meet those of AMTA, or by passing a membership entrance examination. There are 36 schools throughout the U.S. and Canada which are AMTA Affiliated - they are

AMTA CODE of ETHICS

This Code of Ethics is a summary statement of the standards by which massage therapists agree to conduct their practices and is a declaration of the general principles of acceptable, ethical and professional behavior.

Massage therapists shall:

- I have a sincere commitment to provide the highest quality care to those who seek their professional service
- Perform only those services for which they are qualified and represent their education, certifications, professional affiliations and other qualifications honestly
- Acknowledge the inherent worth and individuality of each person and, therefore, do not unjustly discriminate against clients or colleagues and work to eliminate prejudices in the profession
- Strive for professional excellence through regular assessment of personal strengths, limitations and effectiveness and by continued education and training
- Actively support the profession through participation in local, state and national organizations which promote high standards of practice in massage therapy
- Work in their communities toward the understanding and acceptance of massage therapy as a valuable health service, abide by all laws governing massage practice and work for the repeal or revision of laws detrimental to the legitimate practice of massage therapy
- Acknowledge the confidential nature of the professional relationship with a client and respect each client's right to privacy
- Respect the integrity of each person and, therefore, do not engage in any sexual conduct or sexual activities involving their clients
- Respect all ethical health care practitioners and work together amicably to promote health and natural healing
- Conduct their business and professional activities with honesty and integrity and project a professional image in all aspects of their practices
- Accept the responsibility to self, clients and associates to maintain physical, mental and emotional well-being

leaders in career training and professional development.

AMTA regularly provides teams of sports massage therapists for premier athletic events (see page 16). And it has recently formed the AMTA Foundation which is dedicated to funding and assisting research, education and voluntary outreach programs involving massage therapy.

The Association publishes an excellent quarterly magazine, the *MASSAGE THERAPY JOURNAL*. Written for the general reader as well as the professional, it covers a wide range of topics relating to health and hands-on therapeutics.

Two of the major obstacles facing the massage therapy profession are: lack of public awareness about massage therapy, and oppressive laws which affect the practice of massage. AMTA addresses these vital issues and supports the work of its members through both National Public Relations and Law and Legislation Programs.

The Association also has a national office in Chicago, Illinois. This headquarters serves as a central networking resource which can provide you with free information about membership, training in massage therapy and referrals to qualified practitioners. This office can also answer any questions you may have pertaining to massage - or will help you find appropriate resources.

AMTA is governed by a National Board of Directors, which guides the work outlined above. The organization exists to serve the needs of its members, and especially, the health care consumer.

In addition, there are AMTA State Chapters in all 50 states, the District of Columbia and the Virgin Islands. There are also members in Canada and other foreign countries. Each individual chapter has its own Board of Directors, which establishes goals and designates projects which serve its members and the public on a local level.

"AMTA is committed to upholding the highest standards of educational expertise and professionalism. We invite your inquiry."

Elliot Greene, AMTA National President



Contact AMTA

At:

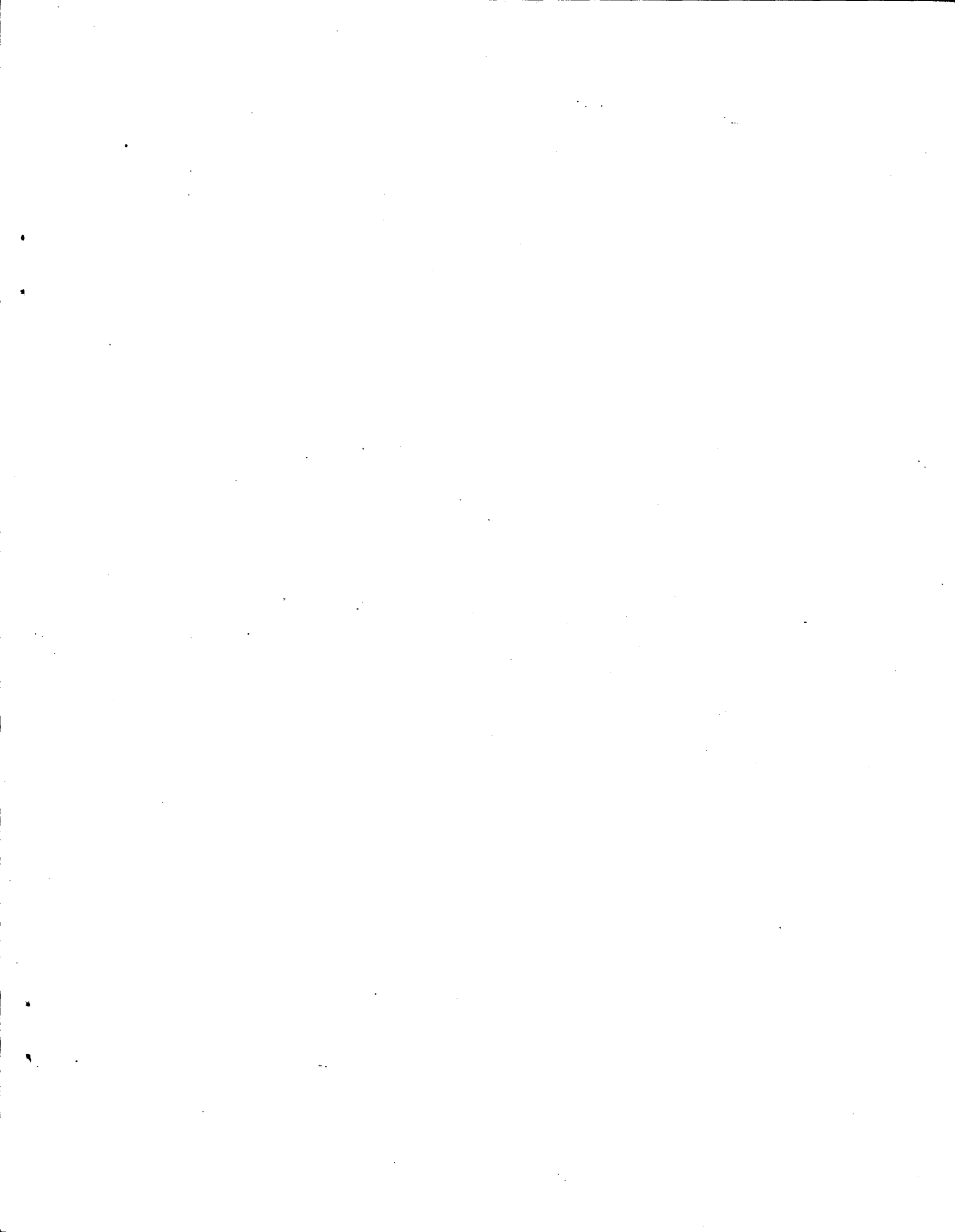
1130 W. North Shore Avenue
Chicago, Illinois 60626-4670

Office • 312/761-AMTA

Fax • 312/761-0009

For:

- additional information
- ordering more copies of this booklet
- subscriptions to the *Massage Therapy Journal*
- national referrals to qualified massage therapists



LEGISLATIVE LIBRARY