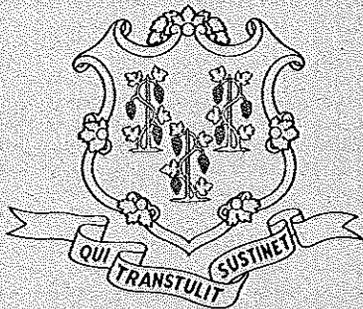


# Regulation of Massage Parlors, Masseurs And Masseuses

Connecticut  
General Assembly



LEGISLATIVE  
PROGRAM REVIEW  
AND  
INVESTIGATIONS  
COMMITTEE

**SUNSET 1983**

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CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements where indicated. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

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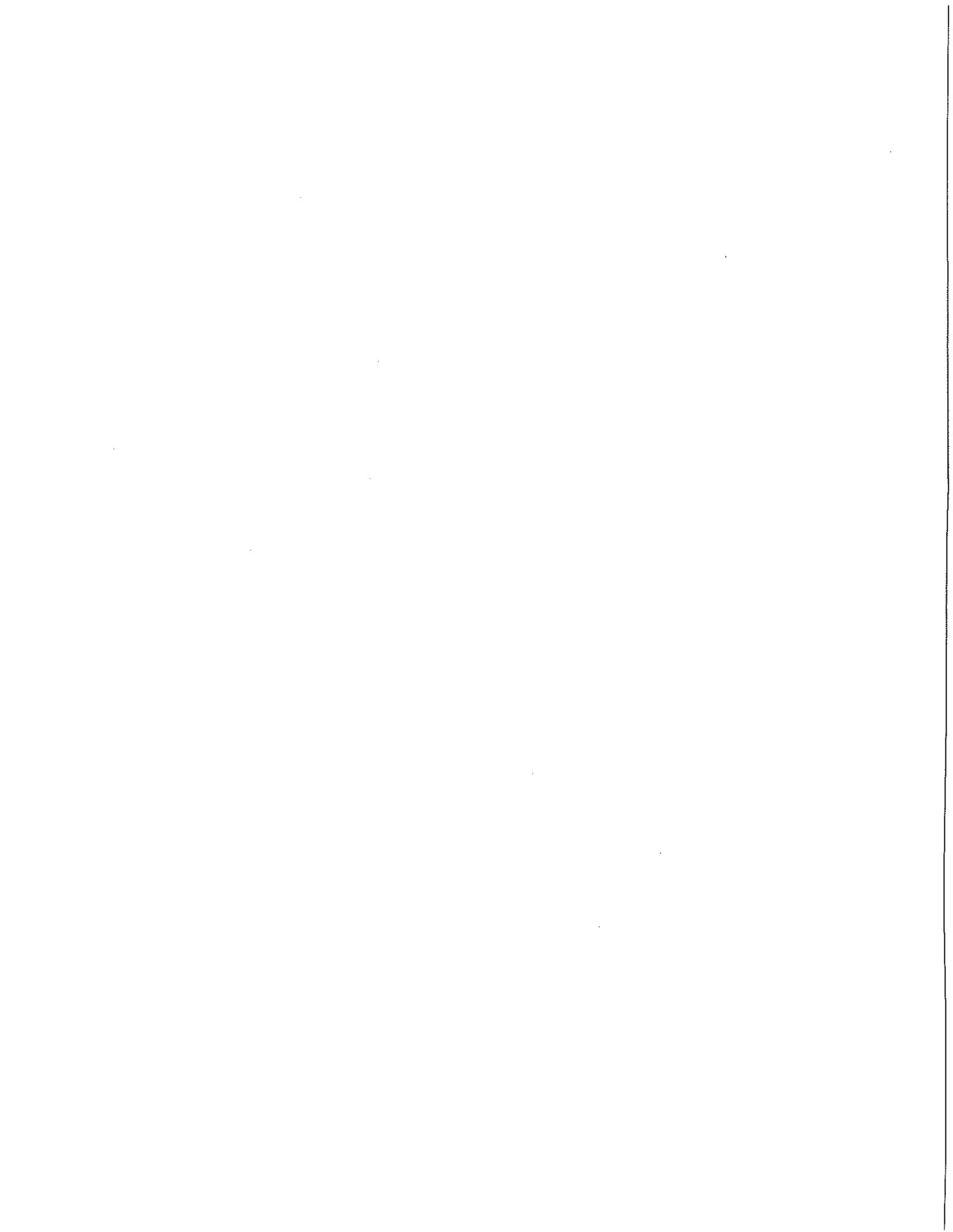
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SUNSET REVIEW 1983

REGULATION OF MASSAGE PARLORS, MASSEURS  
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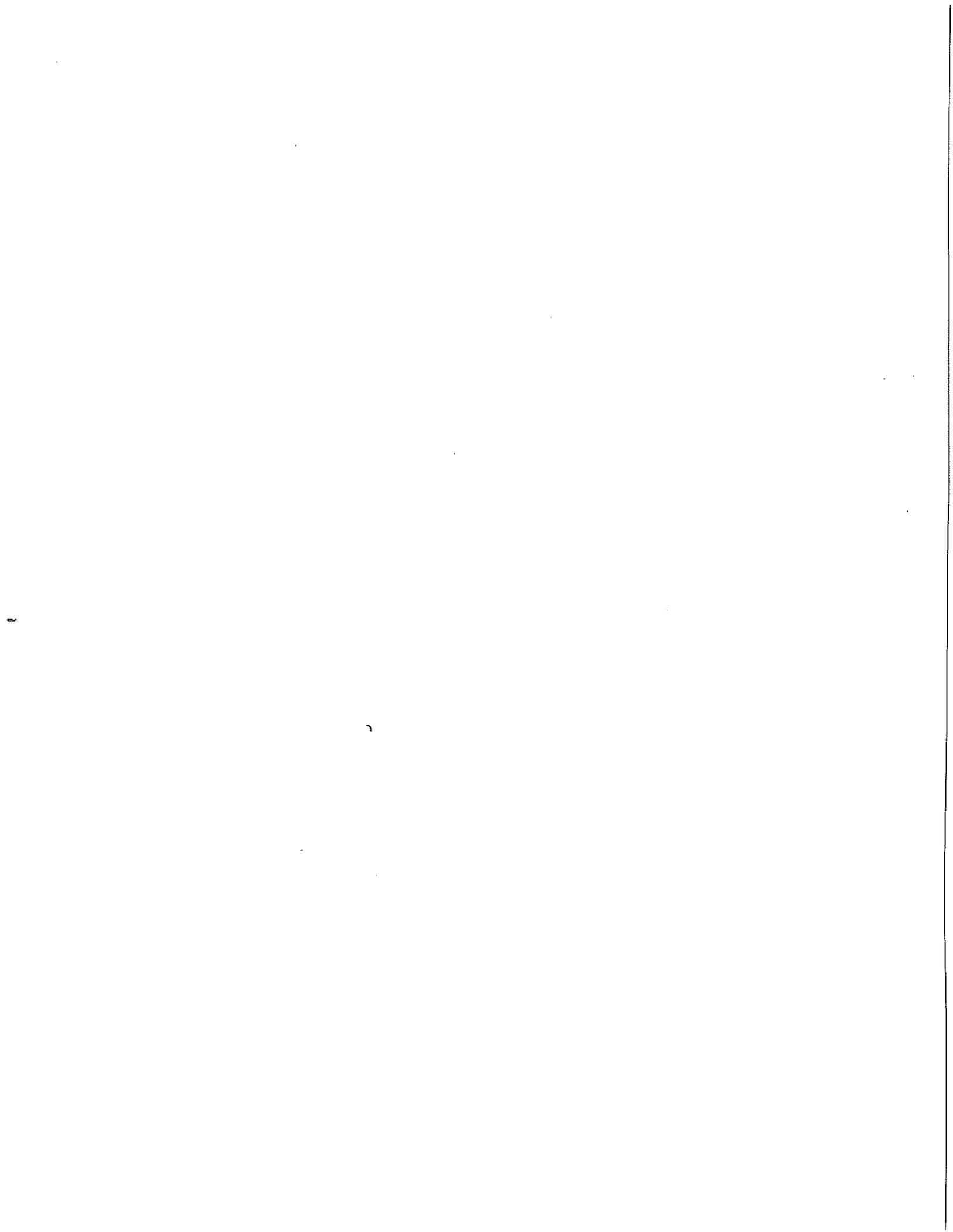
VOL IV - 24

January 1983



## TABLE OF CONTENTS

SUMMARY.....	iii
I. INTRODUCTION.....	1
Purpose and Authority.....	1
Methodology.....	2
II. BACKGROUND.....	3
Legislative History.....	3
Scope of Regulation.....	3
Structure.....	4
Fiscal Information.....	4
III. ACTIVITIES.....	5
IV. ANALYSIS AND RECOMMENDATION.....	7
APPENDICES.....	
A. Summary Sheet.....	11
B. Survey of Municipal Attorneys.....	12
C. Legislative Changes.....	13



## REGULATION OF MASSAGE PARLORS, MASSEURS AND MASSEUSES

### SUMMARY

In 1975 the legislature passed and the governor signed a bill that provided for regulation of massage establishments (P.A. 517). The act assigned responsibility for developing and implementing a program to regulate massage parlors, masseurs, and masseuses to the Department of Health Services (C.G.S. Sec. 19-49b). The act did not create a licensing board to assist the department in administering the program, nor did the General Assembly authorize any additional staff or money to run the program. The intent of the legislature was to have the Department of Health Services operate the program with existing resources.

The purpose of the licensing program was to provide a statewide system for regulating massage establishments and persons engaging in the practice of massage. To accomplish this purpose, the Department of Health Services was authorized to:

- establish standards for the regulation of massage establishments and persons engaging in the practice of massage;
- license massage establishments and persons engaging in the practice of massage;
- receive and investigate complaints concerning massage establishments and persons engaging in the practice of massage; and
- suspend or revoke licenses of those massage establishments and persons engaging in the practice of massage found in violation of state law or regulations.

During the sunset review of the regulation of massage parlors, masseurs and masseuses, the Legislative Program Review and Investigations Committee discovered the statewide licensing program required by P.A. 75-517 had never become operational. The Department of Health Services informed the program review committee that failure to implement the licensing program was based on the department learning through hearings on proposed regulations that the public's real concern was the location rather than the operation of massage establishments. The department indicated that it concluded the problem perceived by the

public should be dealt with through local zoning and ordinances aimed at controlling massage businesses and not through a statewide licensure program. Therefore, according to the department, it stopped all efforts aimed at developing and implementing a licensing system.

The program review committee viewed the department's action as a serious violation of a legislative mandate, and in the opinion of the committee members represented unacceptable behavior on the part of an executive branch agency.

In reviewing the regulatory program the committee recognized that insuring competence of masseurs and masseuses was not the overriding concern of the legislature when it passed the licensing law in 1975. Clearly, the unstated intent of the General Assembly was to control the proliferation of massage parlors through a statewide licensing program. In order to evaluate the impact on municipalities of eliminating the state program the committee surveyed 42 municipal attorneys. The vast majority, 20 out of 25 respondents, indicated elimination of the statute would not in any way hamper their town's ability to control massage establishments.

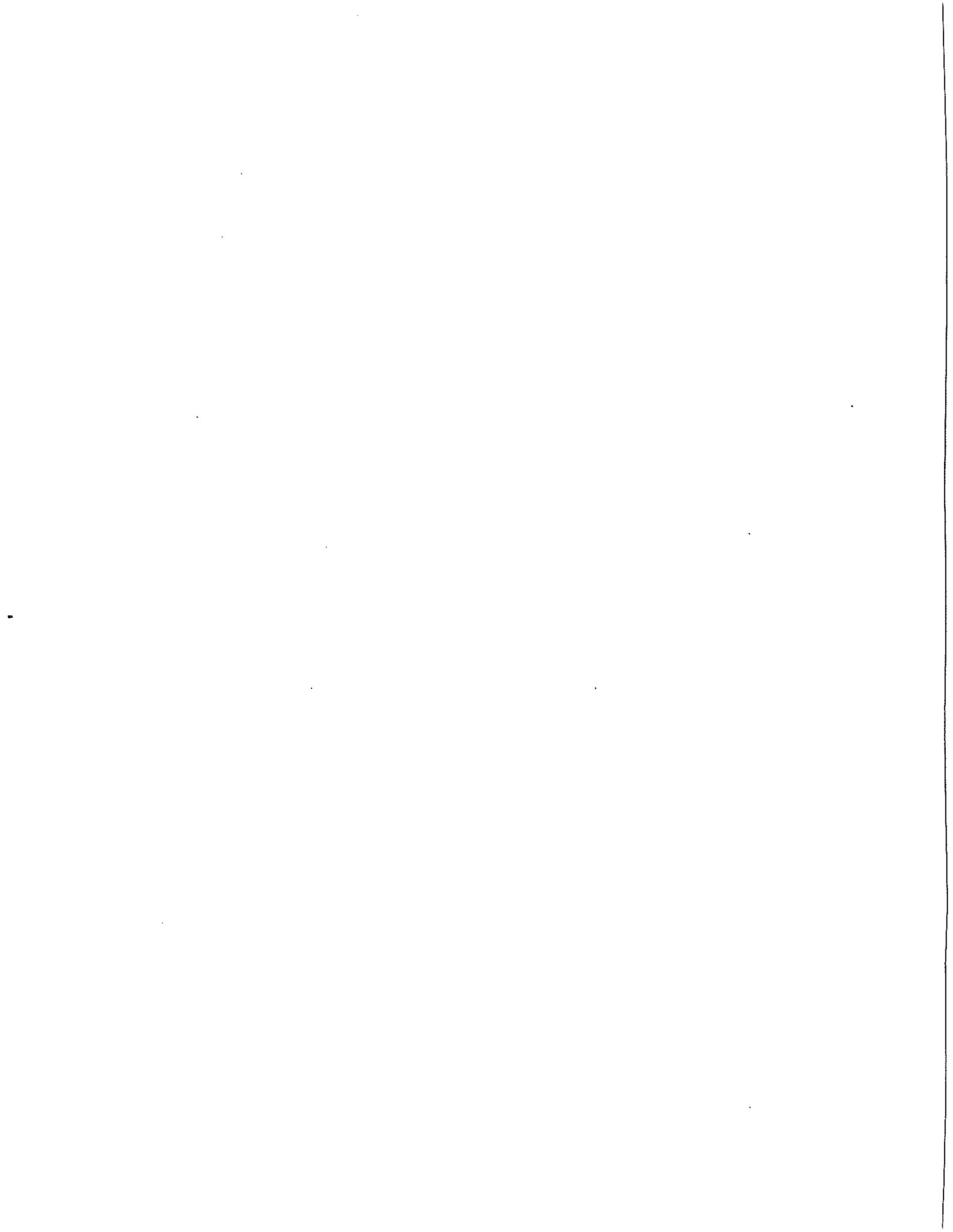
The program review committee also learned 15 towns in Connecticut have local massage parlor ordinances. A review of several of those ordinances found they all require permits to operate or be employed in a massage establishment. Several of the ordinances have been challenged in court. In each case, the courts have upheld the basic authority of local governments to regulate massage parlors.

In summary, the committee's review found no justification to continue the licensing program in order to insure competence on the part of masseurs and masseuses. In assessing the real intent of the program, controlling the proliferation of massage parlors, the program review committee concluded local governments had the authority to regulate the area and were in a better position than the state to do so. The committee also concluded the lack of a public outcry during the past five years over the failure of the Department of Health Services to implement the licensing program was a clear indication that a state level program was not needed.

Finally, the committee recognized a certain futility in trying to control "illegitimate" massage establishments through an occupational licensing program. Experience in states that have tried this approach has shown establishments avoid the law by changing their name to such things as encounter clubs.

*Therefore, the Legislative Program Review and Investigations Committee recommends the statute authorizing state regulation of massage parlors, masseurs and masseuses (C.G.S. Sec. 19-496) be repealed.*

*The committee was concerned that each municipality be warned the state is repealing its licensing law. Therefore, the Legislative Program Review and Investigations Committee recommends the Department of Health Services notify all municipalities when the state regulatory program has been eliminated and inform them that localities can create their own regulatory system.*



## INTRODUCTION

### Purpose and Authority

Chapter 28 of the Connecticut General Statutes provides for the periodic review of certain governmental entities and programs and for the termination or modification of those which do not significantly benefit the public health, safety, or welfare. This law was enacted in response to a legislative finding that a proliferation of governmental entities and programs had occurred without sufficient legislative oversight.

The authority for undertaking the initial review in this oversight process is vested in the Legislative Program Review and Investigations Committee. The committee is charged, under the provisions of Section 2c-3 of Chapter 28, with conducting a performance audit of each entity or program scheduled for termination. This audit must take into consideration, but is not limited to, the four criteria set forth in Section 2c-7. These criteria include: (1) whether termination of the entity or program would significantly endanger the public health, safety, or welfare; (2) whether the public could be adequately protected by another statute, entity, or program or by a less restrictive method of regulation; (3) whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services and, if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and (4) whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations or policies, including budgetary and personnel policies.

In addition to the criteria contained in Section 2c-7, the Legislative Program Review and Investigations Committee is required, when reviewing regulatory entities or programs, to consider, among other things: (1) the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade, or activity regulated by the entity or program; (2) the extent to which the governmental entity involved has complied with federal and state affirmative action requirements; (3) the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated; (4) the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and (5) the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to review.

## Methodology

The Legislative Program Review and Investigations Committee's sunset review process is divided into three phases. The initial phase focuses on collecting quantitative and qualitative data related to each entity's background, purpose, powers, duties, costs and accomplishments. Several methods are used by committee members and staff to obtain this information. These include: (1) a review of statutes, transcripts of legislative hearings, entity records (e.g., minutes, complaint files, administrative reports, etc.), and data and statutes of other states; (2) staff observation of meetings held by each entity during the review period; (3) surveys of selected persons and groups associated with each entity; (4) formal and informal interviews of selected individuals serving on, staffing, affected by or knowledgeable about each entity; and (5) testimony received at public hearings.

During the second phase, the staff organizes the information into descriptive packages and presents it to the committee. The presentations take place in public sessions designed to prepare committee members for the hearings, identify options for exploration and alert entity officials to the issues the committee will pursue at the hearings.

The final step of the review involves committee members and staff following up on and clarifying issues raised at briefings and public hearings. During this period, the staff prepares decision papers and presents recommendations to the committee. The committee, in public sessions, then debates and votes upon recommendations for the continuation, termination or modification of each entity.

## BACKGROUND

### Legislative History

In 1943 the first in a series of bills aimed at regulating massage parlors, masseurs and masseuses was put before the General Assembly. The purpose of the initial and subsequent bills introduced in the 1940's and 1950's was to restrict practice of the occupation to masseurs and masseuses who completed specialized training programs. None of the bills ever became law and all efforts to obtain licensure were abandoned in the mid 1950's.

The movement was revised during the 1973 session of the General Assembly. However, this attempt at licensure was also unsuccessful. Finally, in 1975 the legislature passed and the governor signed a bill that provided for regulation of massage establishments (P.A. 517).

The 1975 act required the commissioner of health to adopt regulations for licensing both massage establishments and persons engaging in the practice of massage (C.G.S. Sec. 19-49b). The regulations were to include: procedures for the application, suspension or revocation of licenses; guidelines for the operation of massage establishments; advertising requirements; rate posting requirements; designation of exempted persons and organizations; and health standards.

### Scope of Regulation

Definitions contained in proposed regulations drafted by the Department of Health Services in 1975 outlined the scope of activities to be regulated. The definitions were as follows:

Massage: Any method or pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance including heat lamps, hot and cold packs, tubs, showers or cabinet baths, steam and dry heat baths, with or without any such supplementary aids as alcohol for external application, liniments, antiseptics, oils, powders, creams, lotions, ointments, salts or other similar preparations commonly used in this practice;

Massage establishment: Any establishment having a fixed business where any person, firm, association, or corporation engages in or carries on or permits to be engaged in or carried on any of the activities pertaining to massage; and

Masseur and Masseuse: Any person who for any consideration whatsoever engages in the practice of massage.

### Structure

Public Act 75-517 assigned the responsibility for developing and implementing a program to regulate massage parlors, masseurs, and masseuses to the Department of Health Services. The act did not create a licensing board to assist the department in administering the program, nor did the General Assembly authorize any additional staff or money to run the program. The intent of the legislature was to have the Department of Health Services operate the program with existing resources. At present the department does not have any of its staff working on this regulatory program.

### Purpose, Powers and Duties

The purpose of the licensing program was to provide a statewide system for regulating massage establishments and persons engaging in the practice of massage. To accomplish this purpose, the Department of Health Services was authorized to:

- establish standards for regulation of massage establishments and persons engaging in the practice of massage;
- license massage establishments and persons engaging in the practice of massage;
- receive and investigate complaints concerning massage establishments and persons engaging in the practice of massage; and
- suspend or revoke licenses of those massage establishments and persons engaging in the practice of massage found in violation of state law or regulations.

### Fiscal Information

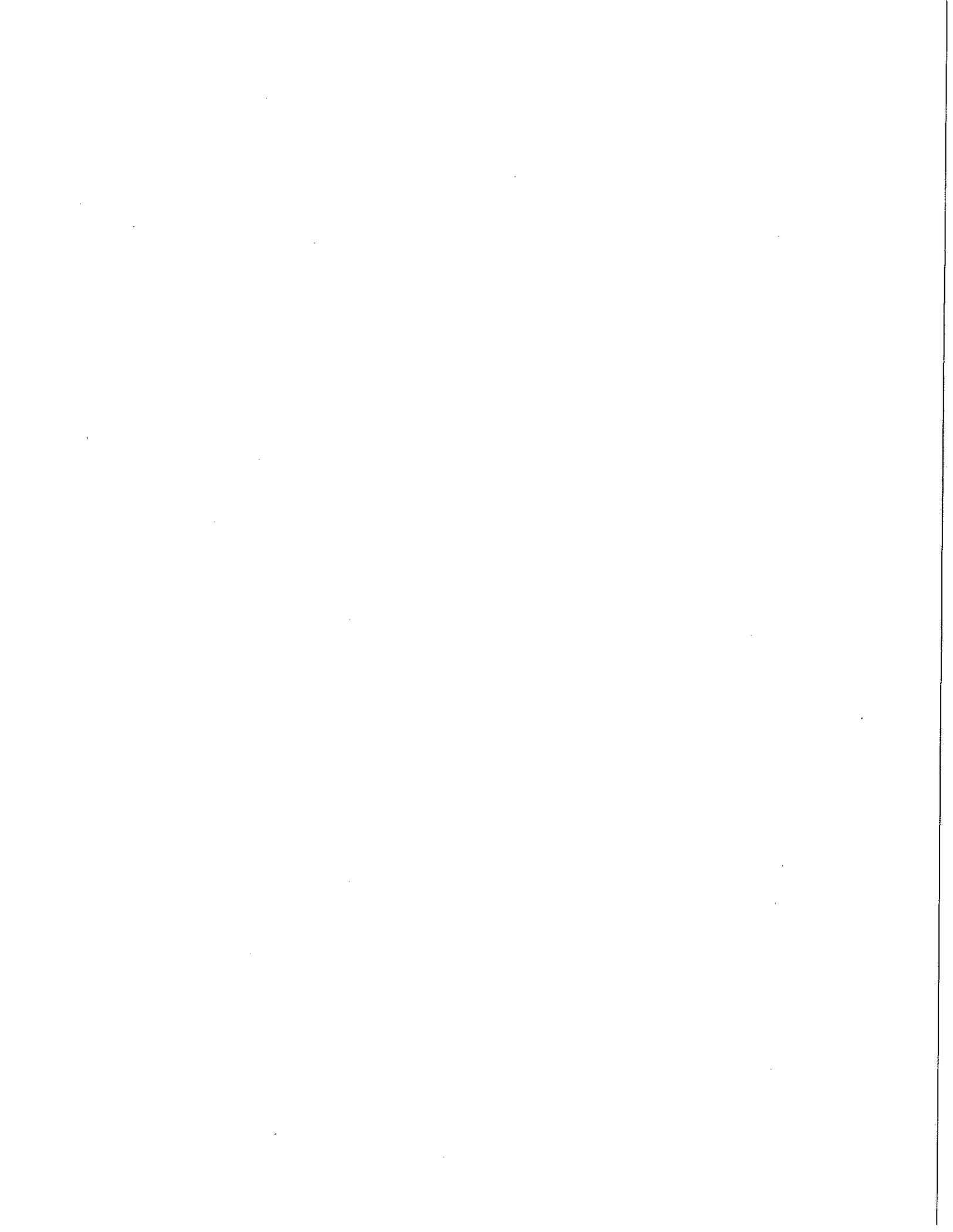
The state has not spent any money on the operation of this program in the last four fiscal years.

## ACTIVITIES

During the summer of 1975 the Department of Health Services drafted regulations for licensing massage parlors, masseurs and masseuses. On September 24, 1975, notice of the department's intent to adopt regulations was published in the Connecticut Law Journal. The preliminary regulations were presented to the Public Health Council in December of 1975 but were not approved for public hearings until 1977.

The department held six public hearings between June 1977 and January 1978. Two hearings were held in Hartford and one was held in each of the following municipalities: Norwich, Waterbury, New Haven and Newington.

At the conclusion of the hearing process the department abandoned efforts to adopt regulations concerning licensing massage parlors, masseurs and masseuses. As a result no state licenses have been issued since the program became law, and no staff have been assigned to it in the last four years.



## ANALYSIS AND RECOMMENDATIONS

During the sunset review of the regulation of massage parlors, masseurs and masseuses, the Legislative Program Review and Investigations Committee discovered the statewide licensing program required by P.A. 75-517 had never become operational. Faced with this reality the program review committee focused its attention on determining why the law had not been implemented and whether it should be made operational.

The Department of Health Services informed the program review committee that failure to implement the licensing program was based on the department learning through hearings on the proposed regulations that the public's real concern was the location rather than the operation of massage establishments. The department indicated it concluded the problem perceived by the public should be dealt with through local zoning and ordinances aimed at controlling massage businesses and not through a statewide licensure program. Therefore, according to the department, it stopped all efforts aimed at developing and implementing a licensing system.

The Legislative Program Review and Investigations Committee was extremely angered by the department of health's decision to completely ignore a law enacted by the General Assembly. It viewed the department's action as a serious violation of state government doctrine, and in the opinion of the committee members, represented unacceptable behavior on the part of an executive branch agency.

However, the program review committee did examine the reasons cited by the department for not putting the program into operation to determine if those reasons had any merit with respect to the need to continue licensing massage parlors, masseurs and masseuses. The committee could find no evidence demonstrating the practice of massage posed any potential physical harm to consumers of the service. In this instance the committee concurred with the Department of Health Services that there was no reason to have a licensing program aimed at insuring competence on the part of the service provider.

The committee recognized that insuring competence of masseurs and masseuses was not the overriding concern of the legislature when it passed the licensing law in 1975. Clearly, the unstated intent of the General Assembly was to control the proliferation of massage parlors through a statewide licensing program. In order to evaluate the impact on municipalities of

eliminating the state program the committee surveyed 42 municipal attorneys. Five respondents indicated the problem presented by repealing the law would be the loss of consistency offered by the state statute. However, the vast majority, 20 out of 25 respondents, indicated elimination of the statute would not in any way hamper their town's ability to control massage establishments.

The program review committee also learned 15 towns in Connecticut have local massage parlor ordinances. A review of several of those ordinances found they all require permits to operate or be employed in a massage establishment. Several of the ordinances have been challenged in court. In each case, the courts have upheld the basic authority of local governments to regulate massage parlors. In fact, in the case of Kings Ransom, Inc. vs. City of East Hartford, the court ruled local regulations are in effect at least until state regulations are adopted (Superior Court Hartford County, March 23, 1976).

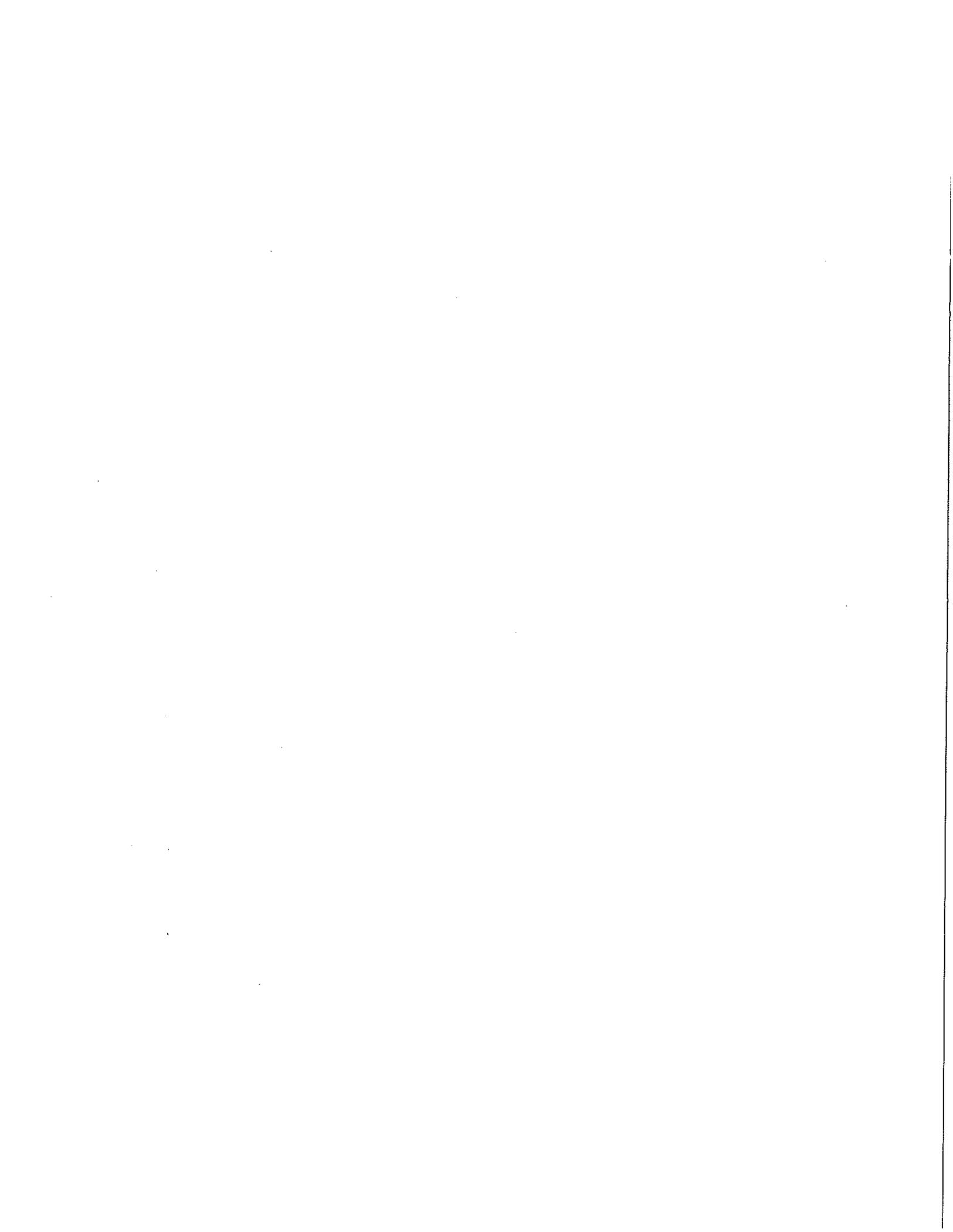
In summary, the committee's review found no justification to continue the licensing program in order to insure competence on the part of masseurs and masseuses. In assessing the real intent of the program, controlling the proliferation of massage parlors, the program review committee concluded local governments had the authority to regulate the area and were in a better position than the state to do so. This position was supported by an overwhelming majority of town attorneys responding to a committee survey and by the courts in several decisions resulting from challenges to local regulations. The committee also believed the lack of a public outcry during the past five years over the failure of the Department of Health Services to implement the licensing program was a clear indication that a state level program was not needed.

Finally, the committee recognized a certain futility in trying to control "illegitimate" massage establishments through an occupational licensing program. Experience in states that have tried this approach has shown establishments avoid the law by changing their name to such things as encounter clubs.

*Therefore, the Legislative Program Review and Investigations Committee recommends the statute authorizing state regulation of massage parlors, masseurs and masseuses (C.G.S. Sec. 19-496) be repealed.*

The committee was concerned that each municipality be warned the state is repealing its licensing law. Therefore, the Legislative Program Review and Investigations Committee recommends the Department of Health Services notify all municipalities when the state regulatory program has been eliminated and inform them that localities can create their own regulatory system.

## APPENDICES



APPENDIX A

REGULATION OF MASSAGE PARLORS, MASSEURS AND MASSEUSES

STATUTORY REF: C.G.S. Sec. 19-49b

ESTABLISHED: 1975 (P.A. 75-517)

ORGANIZATIONAL LOCATION: Department of Health Services

PURPOSE: To provide a statewide system for regulating massage establishments and persons engaging in the practice of massage.

POWERS AND DUTIES:

- Establish standards for regulation of massage establishments and persons engaging in the practice of massage
- License massage establishments and persons engaging in the practice of massage
- Receive and investigate complaints concerning massage establishments and persons engaging in the practice of massage
- Suspend or revoke licenses of those massage establishments and persons engaging in the practice of massage found in violation of state law or regulations

STAFF: 0

BUDGET: 0

APPENDIX B

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

1983 Sunset Review

of

The Regulation of Massage Establishments,  
Masseurs & Masseuses

This questionnaire has been constructed to elicit information about the regulation of massage establishments, masseurs and masseuses. You are welcome to provide additional comments either directly on the questionnaire or in a separate attachment.

1. Does the city or town you represent have any specific ordinances aimed at regulating either massage establishments, masseurs or masseuses?

8 Yes                      No 17

2. Would the repeal of section 19-49b of the Connecticut General Statutes cause your city or town to experience any problems which could not be overcome locally in regulating either massage establishments, masseurs or masseuses?

5 Yes                      No 19                      1 Not Sure

3. If you answered yes to question number 2, please explain.

APPENDIX C

Legislative Changes Needed to Implement  
Legislative Program Review and Investigations Committee  
Recommendations

- Repeal Section 19-49b of the Connecticut General Statutes to eliminate the authority for a state level licensing program for massage parlors, masseurs and masseuses. Also, require the Department of Health Services to notify each municipality when the licensing program has been eliminated.

