

Legislation and the Masseur

Rodney Hunt is one member on the AAMT Western Australian Division Committee monitoring the changing health legislation that affects the industry. In this article Rodney examines the review of Western Australian Legislation and the possible flow on effects to other states and therapists.

Although massage therapists may largely be a caring group of practitioners not involved or interested in politics or legislation, perhaps believing it irrelevant to the practice of massage, legislation seriously restricts the practice of massage.

For example, the West Australian Physiotherapy Act of 1950, which states the definition of 'physiotherapy' as

"the use by external application to the human body, for the purpose of curing or alleviating an abnormal condition thereof, of manipulation, massage, muscle reeducation, electricity, heat, light or any proclaimed method but does not include the internal use of a drug or medicine or the application of a medical or surgical appliance except insofar as the application of the appliance is necessary in the use of such manipulation, electricity, light or proclaimed method."

The scope of this definition is so broad that it overlaps the practice of many disciplines. These include massage, occupational therapy, and rehabilitation post major surgery, such as a hip replacement. If you re-read the quoted Act, you will see that most procedures are in breach of the Physiotherapists' Act 1950.

There is no definition of what constitutes an 'abnormal condition', so that legally, breaches can be taken against any action that alleviates or cures pain. Individual practitioners have already been prosecuted under this Act by the Physiotherapy Registration Board. This board has also brought action against an occupational therapist.

The Physiotherapy Act was reviewed in 1987 and reached the draft stage in 1989. The change was listed as an 'administrative update', but failed to change the definition of 'practice'. One aspect that was proposed was to increase the fines from \$50 to \$2,500 for persons in breach of the act, increasing the fine up to \$10,000 for subsequent offences.

Legislation can prevent the practice of massage. Therefore, legislation concerns us all. It requires input from all who wish to continue to practice massage. Members need to take an active role in understanding the effect of legislation, and changing it where necessary. It requires vigilance by every member of the profession to protect the practice of massage, and the right of the public to freedom of choice of treatment.

The campaigns of the massage industry have been carefully orchestrated and executed effectively for the benefit of our industry. It is a credit to the profession in Western Australia that members have remained united and focused. In early 2003 massage therapists across several Associations, including those members who now are represented by AAMT, worked as a team (which is why the input was respected) but it is necessary to maintain an interest and awareness of what is going on.

In the beginning, the submissions were made by several groups of massage associations however the duplication of effort was inefficient and expensive. The United Front of Massage Professionals (UFMP) was formed to deal with this and any other legislation which would affect the massage industry.

Massage Industry Associations in the eastern states have supported the UFMP with advice and financial assistance because the enactment of the Physiotherapists' Bill would set a precedent and influence legislation in other states.

Naturally, it is easier for the government to ignore the input of what is considered to be a fragmented and diverse industry, but member and client votes is a number to be respected. AAMT can now tackle the issue of legislation change under the one body, be committed to the role and develop the strategies and time to contact, inform and educate our local politicians.

There is no easy solution to influencing Legislation. Over the last 15 years in Western Australia alone the following strategies have been applied.

- Representatives from the United Front of Massage Professionals (UFP) have explained the restrictive trade effect of the Physiotherapists act on the massage industry to every new Minister for Health.
- Every Member of Parliament was contacted in regard to the Physiotherapist, Osteopathic, Sex Industry and Psychology Bills concerning the effect that these Bills would have on the public's right of choice of treatment.
- Practitioners, students, and clients were invited to write letters to Health Ministers expressing their concern regarding the proposed legislation.
- There have been petitions with 20,000 signatures presented to Parliament.
- Over a thousand people have marched on Parliament to express their concern with the proposed legislation and its effect on their freedom of choice of health practitioner.
- Submissions prepared by legal council have been presented to the current Minister for Health as the situation required.
- A submission of the opinion of a Constitutional lawyer on 'the breach of Constitutional rights by a proposed legislation' has been presented to the Minister for Health.
- Numerous submissions prepared by the volunteer members of the Association regarding the restrictive nature of the legislation have been presented to the Health Department.

Because of these efforts, the Physiotherapy Act was put to one side. Repeated submissions against the undefined practices of physiotherapy, the support of different members of Parliament, and the repeated expense of redrafting the Physiotherapists' Bill caused it to be shelved.

The government then looked at the Osteopaths' Bill, and attempted to make a template Health Bill to cover Western Australian Health Practitioner Legislation. This template is to revise the following Acts:

- Chiropractors Act 1964
- Dental Act 1939
- Dental Prothetists Act 1985
- Nurses Act 1992
- Occupational Therapists Act 1980
- Optical Dispensers Act 1966
- Optometrists Act 1940
- Osteopaths Act 1997
- Pharmacy Act 1964
- Physiotherapists Act 1950
- Podiatrists Registration Act 1984
- Psychologists Registration Act 1976.

The State Government has approved the drafting of replacement legislation for twelve regulated Western Australian health practitioner groups with the Osteopaths Act 1997 identified as the model. The Osteopaths Bill 2003 has been developed. The individual health practitioner bills were proposed to be drafted before the end of 2003.

The changes to legislation and the effects on members however are not limited to the West. In Queensland, AAMT members, then QAMT members, argued against changes to the Physiotherapy, Osteopathy and Chiropractic Acts that made changes to the scope of practice of massage therapists in that state.

Further, Boards from health industries in other states, for example, the Osteopath Registration Board in the ACT, have attempted to outlaw the teaching of cranio-sacral balancing by massage therapists. It has been claimed that this technique is 'manipulation of the spine using accessory bones', and is therefore the province of registered osteopaths.

How do these changes now become monitored and addressed by AAMT?

In recent times some Acts has been reviewed under the Australian Competitive & Consumer Commission (ACCC) because of the restrictive nature of the practices and the implications against freedom of public choice in health treatment. It would appear that this may be one of the most effective lobbying strategies to preventing the reduction in the scope of practice for massage therapists in the future.

It also requires members to be aware of the legislation that affects them in their state and to work with their Association to address any issues as they come to light. AAMT will be commencing further work on legislative reviews in 2004 and keeping members informed. Remember:

- Legislation changes can put masseurs out of business.
- Action can be taken to prevent this happening
- To educate your local member and clients about the benefits of massage therapy and the effective treatment they are receiving. In marginal seats every vote counts!
- Be united with other members and your Association to assist in any campaign; there is strength in numbers.

Many people have supported the UFMP with time, effort and expertise. *Sharon Calcutt*, in particular has worked tirelessly, giving freely of her invaluable political knowledge, over the last 12 years, assisting in co-ordinating the legislation Committee of the United Front of Massage Professionals. Also *Matthew Baker* and *Colin Morley* were involved with discussion with Queensland Health and, even though they had no success in making changes, ensured that massage therapists continued to be heard at the higher level.

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From

The Journal of the Australian Association 'Massage Therapists'

February 2004

http://www.aamt.com.au/journals/Feb2004/3_legislation_and_the_masseur.doc