

List of municipal concerns related to C.R.S. 30-15-401.4

Key enforcement provisions included in local ordinances that are absent from C.R.S. 30-15-401.4 are detailed below.

- 1. A denial prohibition for license applications for a location for 24 months after a license was revoked or surrendered for cause** for a similar business at the location. Illicit massage businesses are perpetual in locations and turn over through a network and run as long as they can, until they are shut down. No legitimate massage business would operate in that location. While the statute discusses the possibility of a nuisance action, the lengthy court process required produces an advantage for the illicit operators to continue operating. Landlords are often complicit with these locations. The deferral on licensing that location provides a clear path for all parties.
- 2. Requirement to demonstrate applicant's right to the premises.** The statute has specific application requirements but removed local government flexibility to ask for additional documentation, including the applicant's lease for the premises. This is a requirement for liquor licensees, and particularly with massage businesses, it is useful for landlord engagement should the business turn out to be an illicit operation.
- 3. The statute includes a very limited set of circumstances under which a license can be denied,** and states local governments cannot add anything additional. Unlike the liquor code, the statute fails to provide an element of reasonable flexibility with a provision that if the character, record or reputation of the applicant is such that a protentional violation of this statute (illicit massage) may occur if a license is issued to the applicant. The complete lack of flexibility in the denial provisions skews favor for illicit operators. The licensing authority may be presented with a set of facts leaving no doubt that the applicant intends to open an illicit business, and the rigidity of the statute would require the license still be granted to the illicit operator.
- 4. The statute fails to include operation of an erotic parlor or sex business as a reason for a temporary summary suspension** or as a reason for revocation when there are a pattern of facts showing it is an erotic parlor when it was not otherwise a clear violation of code. Instead that language was replaced with language that requires that the government be able prove human trafficking. The loss of this provision is hugely damaging in addressing IMGs. The illicit operators take full advantage of these gaps and lack of flexibility in the authority's ability to address them. Proving the human trafficking is extremely difficult, and this completely defeats the purpose of having this set of regulations.

5. **The statute has no provision regarding massaging in manners** to create arousal of clients, no provision preventing touching of genitalia, no provision preventing sex toys, sex aids, and no provision preventing making deals for sexual activity. Generally, statute is missing the elements it seeks to prevent and also recommended language from the Federation of State Massage Therapy Boards in best practice business regulation regarding prohibiting this type of behavior.
6. **No provision to prohibit or permit table showers.** Table showers are notoriously present in illicit businesses. The term is defined and prohibited for someone with a solo practitioner exemption, but it does not addresses the facilities themselves.
7. **No provisions for allowable hours for facilities** which has continually been recognized as an effective measure at preventing illicit operations.
8. **The statute fails to provide a process by** which to incorporate exemptions or certifying that alternative practices are not subject to the licensure. Local ordinances contain the ability to incorporate licensure requirements if an alternative practice is shown to be a way to hide illicit operations.
9. **The statute fails to require that solo practitioners not be permitted** to engage in prostitution acts or advertising for the same and practices otherwise consistent with prostitution activities. Municipalities have had cases of solo practitioners operating a massage and prostitution business creating detrimental impact on the community.
10. **The statute caps fees at \$150 with no escalation,** creating a situation where costs for the enforcement cannot be adequately covered. This entire set of regulations are a form of state unfunded mandate to local jurisdictions, which are now prevented from recovering the full costs of the administration.