

What We Heard Report: Massage Therapy Association Engagement

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Edmonton

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Engagement Partners

Internal

- City of Edmonton Freedom Of Information and Privacy (FOIP) Office
- City of Edmonton Legal Services
- City of Edmonton Community Services

External

- Transitional Council for the College of Massage Therapists of Alberta (Transitional Council)
- Natural Health Practitioners of Canada (NHPC)
- Massage Therapist Association of Alberta (MTAA)
- Certified Registered Massage Therapy Association (CRMTA)
- Canadian Massage and Manual Osteopathic Therapists Association (CMMOTA)
- Alberta Regional Massage Therapy Association (ARMTA)

Acronyms

- CMTCA: Canadian Massage Therapy Council for Accreditation
- IJ DOC: Inter-Jurisdictional Practice Competencies and Performance Indicators for Massage Therapists at Entry-to-Practice
- ISA: Information Sharing Agreement
- BRP: Body Rub Practitioner
- HEP: Health Enhancement Practitioner (Accredited)
- HEC: Health Enhancement Centre (Accredited)
- BRC: Body Rub Centre

MASSAGE THERAPY ASSOCIATION APPROVAL CRITERIA - PUBLIC ENGAGEMENT, ANALYSIS AND OUTCOMES

Project Overview

Currently in Alberta, massage therapy is not a regulated profession under the *Health Professions Act*. As a result, massage therapists practicing in the City of Edmonton require a business licence. This presented a unique challenge for the City's business licensing program as municipal licensing is not intended to establish comprehensive industry regulations or professional standards. Yet a City business licence sets expectations for the public that licensed massage therapists meet basic standards of safety and professionalism.

Under the Business Licence Bylaw - Bylaw 20002, the City Manager has the authority to establish a list of recognized associations whose members are eligible for licensing under the business licence categories of Health Enhancement Centre (Accredited / Independent) and Health Enhancement Practitioner (Accredited) (HEP). To ensure a fair process, Administration developed a set of criteria that associations would have to meet in order to be recognized and have their members be eligible for licensing in the City of Edmonton. This criteria was developed between March 2022 and November 2023 with feedback from five associations: Natural Health Practitioners of Canada (NHPC), Massage Therapist Association of Alberta (MTAA), Certified Registered Massage Therapy Association (CRMATA), Canadian Massage and Manual Osteopathic Therapists Association (CMMOTA), and Alberta Regional Massage Therapy Association (ARMTA), and the Transitional Council. The criteria establishes consistent minimum standards for membership application and screening, education and training, professional standards, and complaints and disciplinary process.

Administration worked specifically with these five associations and the Transitional Council because they have worked, or are actively working with the Government of Alberta, Ministry of Health to develop a proposed regulatory framework for the massage therapy profession to become self-regulating under the Health Professions Act (Alberta). Four out of the five Associations were also recognized by the City under the previous Business Licence Bylaw, Bylaw 13138, and the fifth association has expressed a strong interest in attaining recognized status.

The engagement was not open to the public, as the subject matter at hand was specific to the massage industry. The engagement findings with both internal partners and external massage therapy associations was used by the City to develop, refine and produce a final draft of the approval criteria that will be used going forward. The feedback is also being used to ensure that

limited information can be shared between the associations and the City when it comes to maintenance and management of business licences.

What We Heard

Over the course of the engagement, Administration provided the associations with three drafts of the proposed approval criteria. After each draft was presented, the associations had an opportunity to provide feedback. Administration considered the feedback and where appropriate, adjusted the approval criteria to best meet the practical considerations presented by the associations and the City's need to ensure public safety.

Feedback on the Approval Criteria

The proposed approval criteria and feedback are organized into four themes: membership, education and training, professional standards, and complaints and disciplinary processes. The four themes emerged after initial conversations with the associations and the Transitional Council, as well as research on best practices in other jurisdictions. Administration worked to confirm what fits within our municipal purpose and what was out of our scope and not within the City's mandate.

Membership

The membership criteria establishes minimum conditions that must be satisfied with respect to granting and confirming association membership. This includes requirements for the associations to ensure their members have sufficient insurance coverage, verify the identity of members, and review criminal history before membership is granted. Associations must also have a mechanism for the City and the general public to be able to confirm if a particular practitioner has an active association membership is in good standing.

All associations and the Transitional Council were supportive of these proposed requirements and no substantial amendments were requested.

Education and Training

The education and training criteria includes the minimum standards for formal education and continuing education requirements, as well as massage program accreditation requirements. It specifies that associations can only grant membership to applicants who are educated to Canadian standards in the practice of massage therapy.

After some minor amendments to clarify how associations could verify and accept non-Canadian educational programs, all of the associations were supportive of the proposed

requirements. The transitional council raised some concerns about fraudulent diploma mills in Alberta, however, this is out of the City's jurisdiction as education is a provincial responsibility.

Professional Standards

The professional standards criteria outlines that the associations must establish and enforce standards of professional conduct, including: prohibiting members from engaging in or initiating inappropriate sexual contact with clients; requiring members to follow proper draping procedures and obtain informed consent; incident reporting, and anti-discrimination guidance for members.

One of the associations provided feedback that discrimination would fall under the Human Rights Commission, which Administration clarified would be the case in many situations but that a policy should still be provided to provide guidance to members with questions or concerns about potential discrimination - even if, at a minimum, the policy simply provides a referral to members. The criteria was updated to provide this additional clarity.

It was also suggested by the Transitional Council that information about restricted and sensitive areas of the body should be provided to members. This was also included in the amended criteria.

Complaints and Disciplinary Process

The complaints and disciplinary process includes the steps that associations must take, at minimum, to document and enforce investigative and disciplinary procedures, including the types of complaints that must be reviewed and how the investigations will be undertaken. It outlines some of the potential outcomes of an investigation, while still providing the associations with the flexibility to apply the measure they deem appropriate. Lastly, it includes a section about the associations notifying the City of outcomes that have a direct impact on their eligibility for a business licence, which is subject to bylaw amendments being approved.

The Transitional Council provided feedback in support of the proposed three person panel and Administration clarified for the associations that notification to the City would only be required if a membership is cancelled or suspended during, or as a result of their investigative process. After some minor amendments for clarity, all of the associations and the Transitional Council were supportive of the criteria.

Feedback on Information Sharing By the City

During the engagement process, in addition to the approval criteria, a common area of concern among the associations was around massage practitioners also providing adult services. Several of the associations requested that the City notify them if one of their members with an issued

HEP business licence also obtains a BRP business licence, if a member is found to be operating as a BRP or if a HEC licensee is found to be operating as a BRC.

Feedback on Information-Sharing By the Associations

Administration ensured the associations understood that the City already has the personal information of the member's name through the member's business licence application, but would be collecting the current association membership status information pursuant to a change in that status for the continued management of a member's business licence. Details about any incidents or criminal charges would not be shared with or requested by the City, only the current status of the association membership status information.

What We Did

Approval Criteria

Administration took the feedback to refine the massage association approval criteria into its final draft, ensuring it was business-friendly for the associations, while still ensuring the associations and their members meet minimum standards of safety and professionalism expected by the City. The approval criteria is currently being implemented with the associations, with the exception of the parts that relate to notification from associations to the City or notification from the City to associations.

Information Sharing by the City

In response to the request for further information sharing, Administration completed a legal and privacy analysis to understand where information could be shared. Administration determined that the City would not be able to notify associations if a member has both a HEP and BRP business licence. As long as a practitioner is abiding by the requirements of each of their separate business licences, these are two legal business activities and this would be a significant overreach of the City's authority. However, in a situation where an investigation was undertaken and either an individual member with a HEP business licence, or a business licensed as a HEC was found to be operating outside of the limits of their approved category, Administration determined that the City could share limited factual information. In the case of a HEP, this would be limited to the licensee's name and the status of their business licence. In the case of a HEC, this would be limited to the name and location of the business. The reason for the change in status of the business license would not be provided. In either case, there would have to be a high level of certainty of the offence to a similar level needed to issue fines or cancel the business licence in accordance with the provisions of the Business Licence Bylaw.

Administration advised associations that in order for them to receive information from the City in these situations, they would have to sign an Information Sharing Agreement (ISA) outlining the terms and method of disclosure. The first draft of the ISA included a consent form that

associations would have to get their members to sign, which would also facilitate the sharing of information from associations back to the City, in the same situations.

Some of the associations expressed interest, pending their respective board's review and decision. Administration prepared and shared a proposed ISA with the associations in September 2023 and met with the associations that wanted to discuss it further. Some associations expressed concern over the logistics of obtaining written consent from their members in Edmonton (a requirement of the ISA), with many of them having members across Alberta. One association advised that after reviewing the draft ISA, they would not likely proceed with signing it. In response, Administration advised the associations that the ISA would be separate from the approval process for recognized status and would only be required for those associations that want to receive information from the City. The ISA is optional for the associations.

Information-Sharing By the Associations

Given the practical concern raised about the consent forms, Administration determined that a Bylaw amendment, pending City Council approval, would be a more desirable alternative to requiring consent forms. The bylaw amendment would allow the City to indirectly collect information from the associations pursuant to the requirements in both the *Freedom of Information and Protection of Privacy Act* (governing the City) and the *Personal Information Protection Act* (governing the associations). The amendment is drafted to collect information limited to the licensee's name and status of their association membership only when it is related to the approval or maintenance of the licence. To comply with privacy legislation, the ISA would still be required if the associations want to receive information from the City in a situation where an investigation has occurred and there is a high degree of certainty that a licensee is operating outside of the limits of their City business licence.

Administration ensured the associations understood that the City already has the personal information of the member's name through the member's business licence application, but would be collecting the current association membership status information pursuant to a change in that status. Details about any incidents or criminal charges would not be shared with the City.

Public Engagement Approach

How We Engaged

Decision-maker(s)

- City Administration
- City Council (for bylaw amendment)

Administration engaged with associations starting in March 2022 and wrapped up the final engagement in November 2023, with implementation extending into 2024. The associations and the Transitional Council were provided with three opportunities to provide feedback throughout the course of the engagement. This included in-person and virtual meetings for the first round of engagement, and a survey that was sent out for the second round of engagement. After the two rounds of engagement, the final approval criteria was shared along with a draft of the information sharing agreement. Associations and the Transitional Council were provided with an opportunity to request meetings with Administration if they wanted to discuss anything further.

What We Asked

In the first round of engagement, Administration reviewed associations current bylaws, policies and procedures and presented the first draft of proposed approval criteria. Administration then met with all associations to ask questions about the impact of the proposed criteria to their association and what current measures they had in place.

In the second round of engagement, Administration responded to some of the associations' requests and presented another draft of the approval criteria with an opportunity to share feedback through a brief survey.

In the third and final round of engagement, Administration shared the draft of the ISA with the associations and offered to meet with any associations that had questions or concerns. Administration also outlined a timeline for implementation of the approval criteria, including the application process. Meetings were held with three of the associations to provide additional clarification.

What Happens Next?

Implementation of the approval criteria began on January 2, 2024 and Administration is in the process of reviewing applications as they are submitted by the associations. This work is expected to continue throughout much of 2024, and possibly into early 2025.

If the bylaw amendment is approved by City Council, the associations that are recognized under the new approval criteria will be required to notify the City in situations where a member has a cancelled or suspended licence, within the limitations previously mentioned. Work will also continue on the ISA to allow the City to share information with the associations in a situation of

a cancelled or suspended business licence. The ISA is optional and the associations do not have to participate.