

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 15, 2017

3:17 p.m.

MEMBERS PRESENT

Representative Sam Kito, Chair
Representative Adam Wool, Vice Chair
Representative Andy Josephson
Representative Louise Stutes
Representative Chris Birch
Representative Gary Knopp
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Mike Chenault (alternate)
Representative Bryce Edgmon (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 110

"An Act relating to the practice of massage therapy; relating to the Board of Massage Therapists; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 110

SHORT TITLE: MASSAGE THERAPY LICENSING; EXEMPTIONS

SPONSOR(S): REPRESENTATIVE(S) KITO

02/08/17	(H)	READ THE FIRST TIME - REFERRALS
02/08/17	(H)	L&C, FIN
02/15/17	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

DAVID EDWARDS-SMITH, Chair
Alaska Board of Massage Therapists
Soldotna, Alaska

POSITION STATEMENT: Testified in support of HB 110.

ANGELA BIRT, Chief Investigator

Division of Corporations, Business, and Professional Licensing
(DCBPL)

Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 110.

CRYSTAL KOENEMAN, Staff
Representative Sam Kito
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 110 on behalf of
Representative Kito, prime sponsor.

ACTION NARRATIVE

[3:17:57 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:17 p.m. Representatives Josephson, Stutes, Birch, Knopp, Sullivan-Leonard, and Kito were present at the call to order. Representative Wool arrived as the meeting was in progress.

HB 110-MASSAGE THERAPY LICENSING; EXEMPTIONS

[3:18:09 PM](#)

CHAIR KITO announced that the only order of business would be HOUSE BILL NO. 110, "An Act relating to the practice of massage therapy; relating to the Board of Massage Therapists; and providing for an effective date."

[3:19:28 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Sam Kito, Alaska State Legislature, presented HB 110 on behalf of Representative Kito, prime sponsor. She stated that the bill language was brought forward by the Board of Massage Therapists, which felt that there were some loopholes that needed to be tightened up. The board was established in 2014 and has since discussed the issue in many board meetings.

MS. KOENEMAN expressed that HB 110 would do many things. It would allow the board to adopt regulations governing massage therapy establishments. The bill would increase the number of hours required for in-class supervised instruction and clinical work from an approved massage school from 500 to 625 hours,

following closer to national standards. She noted that all massage therapy schools in Alaska currently provide 750 hours or more. The bill would reduce the required number of hours of safety education on blood-borne pathogens from four hours to two hours; the courses are two hours long, so most licensees have been taking the same course twice to meet the requirement. She explained that HB 110 would allow the board to issue exemptions from licensing requirements for people who submit an application, pay a registration fee, and submit proof that they meet the requirements for the exemptions. The exemptions would be valid for up to ten years or until the licensee's scope of practice has changed.

MS. KOENEMAN referred to AS 08.61.080, which lists exceptions. She stated that HB 110 would remove paragraphs 7, 10, 11, and 13 from AS 08.61.080 and insert the paragraphs into new statutory language, which would require registration.

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REPRESENTATIVE STUTES asked whether the requirements in paragraphs 7, 10, 11, and 13 in current statute would be exempted in the bill.

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MS. KOENEMAN explained that current statute sets out exceptions which are not governed under massage therapy statutes. Section 3 of HB 110 outlines that those exceptions would be required to register with the department but would not be governed or regulated by the board. She noted that the groups listed in the exemptions, such as Rolfers or structural integrators, would not need meet licensing requirements. The board would not have oversight of the professions, but the groups would register with a nominal fee to have their name and business included in a database. She explained that registering the groups would help the investigative team with the Department of Commerce, Community & Economic Development (DCCED) and Federal Bureau of Investigations (FBI) to determine whether individuals are licensed or unlicensed. She stated that concerns of sex trafficking and human trafficking have led to HB 110.

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REPRESENTATIVE BIRCH asked how many Rolfers are involved.

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CHAIR KITO stated that there isn't a state database collecting data for Rolfers - they are exempt from statutory oversight. Therefore, the number of Rolfers eligible to register is undetermined.

REPRESENTATIVE BIRCH asked, "Is a driver on this because there's illegal sex trafficking going on, as opposed to ... people out there getting ... Rolfed legitimately that haven't paid a ... registration fee?"

CHAIR KITO informed that the board chair can better explain what the changes are. He stated that Rolfig is one of several exceptions currently in statute that would be reclassified under HB 110.

REPRESENTATIVE BIRCH asked whether Rolfig would be incorporated and would require a permit.

CHAIR KITO explained that the exceptions currently in statute include 13 individual types of practices, several of which include applying pressure by hand, and those exceptions are being removed and reclassified as exemptions. The exemptions would require a practitioner to provide registration stating what type of manipulation he/she practices and the location of the business. He stated that a registration fee would help take care of the paperwork for filing the applications. The registered individuals would still not be licensed under Alaska statute, but their businesses would exist in a database, allowing investigators to know who has been registered as a legitimate practitioner.

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REPRESENTATIVE BIRCH asked if the Board of Massage Therapists asked the sponsor for legislation to expand the definition of massage to include Rolfig and other practices.

CHAIR KITO answered yes.

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REPRESENTATIVE JOSEPHSON asked Ms. Koeneman who is asking for the legislation.

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MS. KOENEMAN responded the Board of Massage Therapists. She remarked, "They approached us and had requested ... changes to their statutes."

REPRESENTATIVE JOSEPHSON asked whether the board said it wanted changes that would impact massage therapists and wanted Rolfers to be registered.

MS. KOENEMAN stated the changes were discussed in the board's public meetings. The board determined that the language of HB 110 gives investigators the tools necessary to do more timely investigations.

REPRESENTATIVE JOSEPHSON asked what the board's motivation is for changing the Rolfers' statutory classification. He remarked, "Are they afraid that the sex traffickers are really not them, but the Rolfers, and so they're to divert attention to the Rolfers?"

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CHAIR KITO stated the question might be more appropriate for the chair of the Board of Massage Therapists.

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REPRESENTATIVE KNOPP mentioned that when people try to sell something they freely throw out disparaging accusations. He stated that the board is recommending something and concerns about sex trafficking, prostitution, and human trafficking have been mentioned. He cautioned that evidence should be provided before disparaging a profession.

MS. KOENEMAN stated that she does not intend to disparage any profession. She remarked, "There are concerns of sex trafficking, and whether they are from these professions or somebody else that lays hands on others, it's a way of having an idea of who is authorized and who is registered with the state to practice something in this scope." She reiterated that she does not want to disparage the profession in any way.

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REPRESENTATIVE WOOL stated his understanding that the proposed legislation allows Rolfers and other modalities to register in a database but not necessarily be a licensed member of a board. He asked whether a Rolfer with a statutory exemption is a

licensed practitioner but does not have to meet the additional requirements.

MS. KOENEMAN answered, "With the way the current statute is, it's almost like they don't exist in the world of massage therapy." She stated that there is no way to know who is practicing and there is no oversight. In statute, the professions don't fall under massage therapy, therefore there is no oversight from any state department at any level.

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REPRESENTATIVE WOOL commented that with the current exception, Rolfers could merely "hang a sign on the door" and practice without any professional oversight, although there is oversight for massage therapy. He stated that a component of HB 110 is to combat sex trafficking; and under the bill, anyone who states that they practice massage must prove they are licensed.

MS. KOENEMAN stated that if anyone hangs a sign saying he/she is a massage therapist and practices, he/she would need to be registered and licensed. There are provisions in statute for unlicensed activity which lead to investigations and penalties. Currently, Rolfers can practice Rolfing with a business license and no other registration. The board does not currently have the ability to adopt regulations governing massage establishments, which is where there are concerns of sex trafficking and human trafficking.

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CHAIR KITO stated that current statute does not allow the ability to track Rolfing. Anyone under the existing exceptions can practice without the board's knowledge or oversight. He explained that there is an interest in providing the ability to register activities and addresses of some modalities, but they would not be overseen, tracked, or licensed.

REPRESENTATIVE WOOL noted that HB 110 would provide exemptions to non-massage modalities but they would have to register. He asked if such businesses could practice without the exemption. He remarked, "They're not a licensed practitioner of massage therapy; they practice another modality; they don't wish to apply for an exemption; they're non-registered; they just have a shingle..."

CHAIR KITO deemed that the department can better answer how they would enforce the statute.

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REPRESENTATIVE STUTES asked if any fees are currently charged to the other modalities.

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MS. KOENEMAN answered no. The only established fees are for massage therapy.

REPRESENTATIVE STUTES asked if HB 110 would implement fees to the other modalities with registration.

MS. KOENEMAN responded that there would be nominal registration fees, but not licensing fees like those associated with the massage therapists.

REPRESENTATIVE STUTES asked if the fees are indicated in the bill.

MS. KOENEMAN drew attention to HB 110, section 4, lines 12 and 13, which would allow the department to set fees for exemption applications and renewals. She stated that the fee is separate from the license for massage therapists; it is an additional fee that the department would be authorized to establish.

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REPRESENTATIVE BIRCH stated that HB 110 would broaden the reach [of government] in a time of a \$3 billion deficit. He said the stacks of communication the committee has received are a good indication that the non-massage world has operated fine. He asked, "Do we really need to be pushing out into this?" He noted that the bill is likely not a revenue opportunity without knowing how many people the bill would affect. He stated his concern that this bill would require a fair amount of time.

CHAIR KITO stated that HB 110 has no additional cost. He noted that the bill has not been fully presented. He urged members to refrain from making final conclusions on the bill until all information has been presented.

[3:42:02 PM](#)

REPRESENTATIVE JOSEPHSON asked if there is a national organization that collects information on structural integration specialists.

MS. KOENEMAN offered her understanding that there is a national organization of Rolfers.

REPRESENTATIVE JOSEPHSON asked if the impetus for the bill was to have a registry to separate the "true" structural integration specialists from the not truly trained person. He asked why there wasn't a separate bill to register other "laying on hands" individuals.

MS. KOENEMAN responded that in the past there has been discussion of Rolfers creating their own board. The conversations which established [the Board of Massage Therapy] included discussions of whether or not to include Rolfers. In many other states, other modalities are included in massage therapy statutes. She noted that it's not uncommon for a person to be licensed as both a massage therapist and a Rolfer since they are similar professions. She stated that the board chair can better speak to the impetus for HB 110.

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REPRESENTATIVE KNOPP asked if [the non-massage modalities] would be subject to investigation if they were registered but not regulated. He commented that businesses are required to have a business license in order to "hang the shingle." He asked if registration could be done through the licensing process.

MS. KOENEMAN deferred the first question regarding investigations to the department. Responding to the question regarding business licenses, she said that when individuals apply for a business license, they get to choose their North American Industry Classification System (NAICS) code. Sorting through the many business licenses creates a burden for investigators.

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REPRESENTATIVE SULLIVAN-LEONARD asked if different modalities are under one distinction in the Lower 48 and where that is happening. She noted that Rolfers must go through distinct training to be certified, and they put a lot of time and energy into their craft.

MS. KOENEMAN stated that she is working on compiling a list and will share it with the committee upon completion.

3:48:07 PM

DAVID EDWARDS-SMITH, Chair, Alaska Board of Massage Therapists, testified in support of HB 110. He stated that in February of 2015, the Alaska Board of Massage Therapists had its first meeting. The board took seriously the advisement of Dr. Sara Chambers to discuss the process of reviewing the statutes and determining the best way to instill refinement in the new laws. He expressed that the board felt it was necessary to refine statute by addressing massage establishments, licensing exemptions, entry-level education requirements, and inconsistencies with the standards in blood-borne pathogen education. He said that the board's establishment has led to a better understanding of ways to serve Alaskans.

MR. EDWARDS-SMITH stated that the board is aware of exploitation of the massage therapy profession for illegal practice of human and sex trafficking, which is prevalent throughout the United States. He cautioned that the problem will continue if institutions of law enforcement are not permitted the critical tools to addressing the issue. In 2015, state investigations and the FBI identified 29 illicit establishments in Anchorage and up to 130 throughout Alaska. He noted that several agencies have communicated their concern on the issue of human and sex trafficking at board meetings. The agencies include: the Alaska Wage and Hour [Administration], DCBPL's Investigations Unit, the FBI, and the Federation of State Massage Therapy Boards. The board determined through research and discussion that it was necessary for the protection of the public to work to provide law enforcement agencies to the tools to address this issue.

MR. EDWARDS-SMITH stated that requiring massage establishments to register would enable state and federal investigation agencies to hold the owner of an establishment accountable for criminal activities. Under current statute, investigators are only able to hold massage therapists - who are often victims - accountable for criminal activities. The cycle of human and sex trafficking remains unbroken until the business owner is legally accountable for his/her establishment's activities.

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MR. EDWARDS-SMITH expressed that the board has drafted regulations to ensure that there is no impact on establishments owned by licensed massage therapists. The owners have been vetted with fingerprinting and background checks, which are necessary protocols in the industry. Owners of massage establishments will be required to maintain local, state, and federal standards of health and safety and operate in a manner that ensures public protection. He remarked:

As far as exemptions, with the necessary statutory change to licensing establishments, we looked to address loopholes that have been known to be or have the potential of exploitation by illegal practices in the massage industry. After careful consideration of information presented by the massage therapy boards from around the United States through the federation of massage therapy board and public testimony, the board determined that a strengthening of existing exemption language was in the interest of public protection.

MR. EDWARDS-SMITH stated that the board determined that two exemptions required a strengthening of language to prevent illegal exploitation of existing statute. The current exemption language for reflexology and structural integration allows any acting practitioner to claim an exemption by defining his/her practice as only involving the hands and feet or as a structural integrator. Reflexology was not defined in statute and did not require proof of credentials. He expressed that research demonstrated that acting practitioners could avoid licensure with a non-professional public membership to the International Association of Structural Integrators (IASI). The board determined that public protection required closing such loopholes. The board also determined that exemptions involving an act of touch must be registered with the division to provide a resource for investigators to take appropriate action in the event of suspected illegal activity. The board determined that changes in education requirements are necessary for consistency with the skill components of entry-level education. The board reviewed a study of entry analysis which resulted in the change to 624-hour school programs to prepare graduates for safe and competent practice. The board recognized that the four hour requirement for blood-borne pathogen courses was unnecessary.

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REPRESENTATIVE JOSEPHSON asked whether the board decided to engage in an effort to review practices of reflexology and structural integration and include them in the concern of sex trafficking.

MR. EDWARDS-SMITH stated the board was targeting the exemptions that utilized touch, listed as paragraphs 7, 10, 11, and 13 of AS 08.61.080. He stated that no profession was singled out; there are four exemptions for which registration was being required.

REPRESENTATIVE JOSEPHSON noted that this is a new board. He asked whether the board was concerned that other trades were negatively coloring reputable massage therapy practitioners. He stated that he does not understand why the board reached outside its field to discuss regulating or registering someone else's trade.

MR. EDWARDS-SMITH stated there is a disagreement about whether structural integrators are outside the massage therapy industry. The Federation for State Massage Therapy Boards had a job task analysis which confirmed that somatic therapists, Rolfers, and structural integrators were interchangeable. The data also confirmed that body workers and meta practitioners performed and viewed the importance of tasks nearly identically to massage therapists.

REPRESENTATIVE JOSEPHSON offered his impression that a Rolfer is a professional in the field of medicine, and a masseuse is a different kind of professional.

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REPRESENTATIVE STUTES commented that the bill is overreaching. She referred to a letter which indicated that there is such a large differential between massage therapists and the other modalities that massage therapists instituted a lawsuit against a Rolfer professing to be a massage therapist. She offered her opinion that using the FBI or law enforcement is an excuse for overreach. She asked why the board felt the "need to control everyone in the playground."

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MR. EDWARDS-SMITH stated that he disagrees that the bill is overreaching. He mentioned that there is concern, not specifically with Rolfing, but with all exemptions. Colorado

had 30 cases of exploitation of it reflexology exemption last year. He said that the board is not looking to control the exemptions, but tighten the language. Right now, anyone could hang a shingle and be exempt from regulation, and 1,000 licensees wouldn't have to renew their license if they changed their description to structural integrator. He added that structural integration coursework is common in massage therapy schools. He stated that the term "structural integrator" is not a registered trademark like Rolwing: Rolwing is a trademark bodywork technique that has made its way into exemption language in massage therapy statutes in an effort to distinguish the brand. He offered his understanding that "there are 6 states out of 46 states that have Rolwing exemptions." He expressed that the Rolwing exemptions in these states were based on conclusions from experts in the professions, but were based on lobbying efforts by IASI.

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REPRESENTATIVE STUTES offered her interpretation of Mr. Edwards-Smith's comments. She analyzed that he wants other professions to conform to the same regulations that he has to conform to and have the same educational requirements. She compared it to nurses complying with doctor's regulations or being forced to get more schooling. She expressed that the bill does not make sense to her, but she would keep her mind open.

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CHAIR KITO stated that there isn't time for public testimony today; it will be heard at a future meeting.

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REPRESENTATIVE KNOPP referred to the 29 cases in Anchorage and 130 in Alaska mentioned by Mr. Edwards-Smith. He asked if the cases were infractions on licensed facilities and what type of facilities they were. He questioned whether the regulations in place are working if the infractions were at licensed massage facilities.

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ANGELA BIRT, Chief Investigator, Division of Corporations, Business, and Professional Licensing (DCBPL), Department of Commerce, Community & Economic Development (DCCED), responded to Representative Knopp's question, stating that the numbers refer

to facilities identified by the Anchorage Police Department or the FBI as potential human trafficking locations. The facilities are not all being investigated and are not necessarily where infractions occurred. Most of the facilities are advertised as massage operations. She stated that there is currently no law that would allow inspections of the facilities in question. The law requires individual practitioners to be licensed, but there is no ability to hold the facility owner accountable. She expressed that there are many facilities across the state that should be investigated, but law limits doing so. She reiterated that the numbers do not reflect infractions, but do reflect facilities identified as potential human and sex trafficking operations operating under the guise of massage parlors.

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REPRESENTATIVE KNOPP asked whether registered but not regulated facilities would be investigated by Ms. Birt and DCBPL under HB 110, and asked if the investigative charges would be billed to the Board of Massage Therapists.

MS. BIRT stated that the number and types of complaints are so varied that she cannot answer definitively. She said that she is not sure if the areas of practice [in the complaints] would be under the jurisdiction of the board for investigative costs. She noted that if a Rolfer was suspected of practicing massage therapy, then the division would have to look at potential unlicensed practice and the cost would go to the board.

REPRESENTATIVE KNOPP stated that he has been to massage therapists and Rolfers and has never acknowledged similarities between the two professions. He asked how Mr. Edwards-Smith designated similarities.

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MR. EDWARDS-SMITH stated that the similarity lies in the idea that Roling is a brand. The United States Patent Office granted service mark rights for the word "Roling" to the Rolf Institute of Structural Integration in 1979. It is a trademark brand of a massage modality - a modality that utilizes the manipulation of soft tissue. He noted that there are many techniques that are brands. He drew attention to language [from the International Association of Structural Integrators (IASI), which read as follows, original punctuation included]:

IASI stays on top of the latest efforts in legislation and we do our best to inform and affect the law when possible. Our member surveys have concluded that structural integrators want the profession to be recognized as a distinct form of health care. Though this is a difficult and time-consuming task, IASI is committed to climbing this mountain with patience and perseverance.

IASI works for legislation which will allow structural integrators to maintain their unique place in the healthcare field, practicing free of unnecessary restrictions.

MR. EDWARDS-SMITH asked what the difference is between massage therapy and Rolfing. He stated that massage therapy is a complex profession with many tiers and levels of competency. Structural integrators also have a high standard and level of competency. He expressed that the board is asking to strengthen language, asking [other modality practitioners] to be certified, and asking to close a loophole that allows anyone to claim to be a structural integrator. He stated that structural integrators and lobbyists notified the board that they support maintaining the exemption.

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REPRESENTATIVE WOOL asked whether a massage facility of questionable activity involved police action before the board was created. He asked if Ms. Birt was involved in investigations related to massage therapy prior to the board's existence.

[4:13:08 PM](#)

MS. BIRT responded that the division was not involved.

REPRESENTATIVE WOOL assessed that the licensing board was created in response to discussion of illicit massage parlors becoming places where sex trafficking happened as an effort to tighten up the industry and legitimize those practicing legitimate massage. Now a board investigator is called to investigate a potentially illegitimate massage facility. He noted that now that there is a board, an activity breaking the same laws has different jurisdiction.

MS. BIRT responded that there is still a law enforcement component of any investigation, but HB 110 would allow the board to visit the locations and ask for credentials for massage therapists operating there. She remarked, "Instead of holding the trafficking victims accountable for unlicensed practice or not being able to close down the shop but simply stop that one person, the state could then close that facility."

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REPRESENTATIVE WOOL asked if that is the result of the Board of Massage Therapists or of HB 110.

MR. EDWARDS-SMITH answered that it is based on the provisions of HB 110.

REPRESENTATIVE WOOL noted that the bill has not yet been enacted. He assessed that the massage industry has been affected by the sex trafficking component, which was one of the motivations for creating the board. He asked if there has been similar activity with Rolfing.

MS. BIRT answered, "Not to my knowledge."

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REPRESENTATIVE BIRCH stated that it seems police action has been happening in massage parlors; Rolfers haven't been the source of illicit activity. He offered his opinion that it might be better to leave the matter aside. He offered his understanding that the massage therapy and Rolfing businesses all have to be licensed by the state and are legitimate businesses in that sense. He asked if Rolfing competes with massage therapy and is viewed as competition for providing a similar service.

MR. EDWARDS-SMITH offered his view that HB 110 is a means of closing an exploitable loophole. He stated that HB 110 should have no effect on Rolfers. He stated that the board's intention is to change statute to limit individuals with no background in massage therapy from hanging up a sign, practicing as a structural integrator, and avoiding licensure. He stated that it is in the view of public protection to provide oversight to ensure that wouldn't happen.

REPRESENTATIVE BIRCH noted that the businesses must have business licenses but don't fall under the purview of the Board of Massage Therapists.

MR. EDWARDS-SMITH agreed. He added that ensuring that a Rolfer is certified would assure the public that the person has met the minimum standards in his/her profession and are certified.

CHAIR KITO announced that HB 110 was held over.

[4:18:30 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:19 p.m.