

MEDFORD BOARD OF HEALTH

Regulation 8: Massage Establishments & Massage Therapists/Practitioners

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1. Purpose and Scope

The Medford Board of Health is promulgating rules and regulations to provide minimum requirements to be met by any person performing massage therapy upon any individual and for any establishment where massage therapy is performed. These requirements shall include, but not be limited to, general sanitation of premises wherein massage therapy is to be performed.

The Medford Board of Health finds it necessary to license the practice of massage therapy in order to protect the public health and safety. It is the Board's intent that only individuals who meet and maintain a minimum standard of competence and conduct may provide services to the public.

These rules and regulations shall establish procedures for licensing with the City of Medford Board of Health of all persons performing massage therapy. This sets the requirement of minimal training standards for the protection of the public health and safety. Inspectors will provide regular inspection of the premises wherein massage therapy is performed, and have authority to enforce the revocation of the license of any person or establishment deemed in violation of the rules and regulations promulgated under this section. An annual, non-refundable and non-transferable license application fee shall be paid by any massage therapy establishment and any massage therapy practitioner.

2. Authority

The Board of Health in the City of Medford, Massachusetts, acting under the authority of Massachusetts General Laws Chapter 111, Section 31, and Chapter 140, Section 51 & 53, adopts the following rules and regulations governing the licensing and practice of massage therapy and the operation of an establishment for massage therapy.

3. Definitions

Board of Health or Board means the Medford Board of Health.

Establishment means the room or group of rooms, offices, building, place of business or premises where massage therapy is practiced.

Massage Therapist means any person submitting satisfactory evidence of having completed a minimum 500-hour course of study in massage therapy, which meets the standards of a state or national professional association or institute and who, for compensation, hire or reward, engages in the practice of massage therapy.

Massage Therapy means that any act or technique of moving or manipulating superficial or deep tissues, muscles, joints, or bones by rubbing, kneading, guiding, or the like, by manual, mechanical, or verbally directive means for the purpose of invigoration, relaxation, education, or/and increase in the persons' physical and/or emotional health and well-being. The term massage therapy may include, but is not limited to, body work, body-oriented psychotherapy, feldenkrais method, movement education, neuromuscular therapy, oriental bodywork therapies (acupressure, amma, chi nei tsang, jin shin do, okazaki restorative massage, nuat thai, shiatsu and tuina), polarity therapy rolling and TRAGER approach.

Off-premises means at a location other than an establishment which has been licensed or which should be licensed under this regulation, including but not limited to private homes, businesses, and sports events.

Permit means Board approval in writing to either (1) operate a massage therapy establishment or (2) operate as a massage therapy practitioner within a massage therapy establishment. Board approval shall be granted solely for the practice of massage therapy pursuant to these regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirements that may exist within the community or political subdivision comprising the Board's jurisdiction.

Person means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.

Practitioner shall mean any person who has completed a minimum 500 hour course of study in massage therapy at a Massachusetts Department of Education certified school or equivalent, and

six months of instruction and practice or the equivalent, and meets the conditions contained herein for licensing by the Board of Health.

Sanitary means clean and free of agents of infection or disease.

Sanitize means the application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.

Training facility or school means any premises or facility used to train individuals to become a Massage Therapist.

4. Exemptions

(A) These regulations shall not apply to the following individuals while engaged in the regular performance of the duties of their respective professions, provided that they are duly licensed to practice in their respective professions in the Commonwealth of Massachusetts:

- 1) Physicians, chiropractors, osteopaths, occupational therapists, physical therapists or chiropodists (podiatrists) registered in the Commonwealth.
- 2) School Athletic Trainers.
- 3) Nurses.
- 4) A person registered as a barber or an apprentice under the provisions of section 87H, or section 87I of Chapter 112 of the General Laws or as a hairdresser, operator, or a student under the provisions of section 87T to 87 JJ, inclusive of said Chapter 112 of the General Laws may practice facial and scalp massage without taking a license.
- 5) Acupuncturists

(B) Establishment exemptions: Hospitals, nursing homes, convalescent homes, home health agencies, or other similar institutions licensed by professions in the Commonwealth of Massachusetts, unless a practitioner engaged in Massage Therapy is not covered under the practitioner exclusions. That practitioner shall obtain a permit from the Board of Health.

5. Restrictions

- (A) No smoking is allowed in a Massage Therapy Establishment.
- (B) Massage Therapy licenses are valid only for the establishment that the practitioner identifies upon application. No home or mobile operations are permitted in the City of Medford.
- (C) No alcoholic beverages are permitted in the establishment.

- (D) No licensee may operate an x-ray, fluoroscope or similar equipment or radioactive material for any purpose unless already licensed by the Commonwealth of Massachusetts to practice a profession requiring the use of radiation equipment. No licensed establishment may contain an x-ray, fluoroscope, or similar equipment unless the equipment is operated by persons properly licensed to practice a profession requiring the use of such equipment.
- (E) It is forbidden to employ or permit any person in or on the licensed premises to perform an act or acts, or to simulate an act or acts of sexual intercourse, masturbation, sodomy, flagellation, or any sexual acts prohibited by law.

6. Operation of Massage Therapy Establishments

Unless otherwise ordered or approved by the Medford Board of Health, each massage therapy establishment shall be constructed, operated and maintained to meet the following minimum requirements:

(A) Physical Plant

- (1) Walls, floors, ceilings, and procedure surfaces shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client tables, chairs, and benches shall be of such construction as to be easily cleaned and sanitized after each client.
- (2) Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
- (3) The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
- (4) The establishment shall be well lighted, well ventilated and properly heated in accordance with local and/or state regulations except during those periods declared as emergencies by local or state officials. Lighting in areas used for massage or baths shall be of such intensity that all parts of the room are clearly visible at all times.
- (5) There shall be a safe, adequate supply of hot and cold running water at all times.
- (6) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap, and paper towels stored in a fixed dispenser.
- (7) At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leak proof, rodent-resistant containers and shall be removed from the premises at least weekly.

(8) The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the massage therapy establishment.

(9) No animals of any kind shall be allowed in the establishment except service animals used by persons with disabilities (e.g., Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.

(10) Smoking, eating, or drinking is prohibited in the area where massage therapy is performed, with the exception of fluids being offered to a client during or after a massage therapy procedure.

(11) No person shall treat or be treated if afflicted with a reportable communicable disease. However, the person may treat or be treated when a written statement is received from a physician to the effect that the condition is no longer contagious.

(12) All robes, sheets, towels, and other items, which may come in direct contact with the body shall be properly cleaned and stored in a sanitary manner. Single service disposable items are acceptable.

(13) The establishment must comply with all local building code requirements.

(D) Posting Requirements

The following shall be prominently displayed:

(1) The license of the establishment and all massage therapists must be displayed in a conspicuous place.

(2) The names, address, and phone number of the Medford Board of Health that has jurisdiction and the procedure for filing a complaint.

(3) An Emergency Plan, including:

(a) A plan for the purpose of contacting police, fire, or emergency medical services in the event of an emergency; received by the Medford Board of Health. These test records shall be retained by the operator for a period of three (3) years and made available to the Medford Board of Health upon request.

(b) A telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and

(c) A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.

(4) An Occupancy and Use Permit as issued by the local building official.

7. Standards of Practice

Practitioners are required to comply with the following minimum health standards:

- (A) A practitioner shall perform all Massage therapy in accordance with accepted standards of practice.
- (B) A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- (C) A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing massage therapy procedures. Before performing massage therapy procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants. It is forbidden to employ or permit any employee or other person to mingle with the patrons or to administer massage or baths while such person is unclothed, or in such attire as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals.
- (D) The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a massage therapy establishment in any capacity in which there is a likelihood that that person could contaminate equipment, supplies, or working surfaces with body substances or pathogenic organisms.

8. Complaints

- (A) The Board shall investigate complaints received about an establishment or practitioner's practices or acts, which may violate any provision of the Medford Board of Health regulations.
- (B) If the Medford Board of Health finds that an investigation is not required because the alleged act or practice is not in violation of the Medford Board of Health regulations, then the Board of Health shall notify the complainant of this finding and the reasons on which it is based.
- (C) If the Medford Board of Health finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate. If a finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this manner.

9. Enforcement, Violations and Fines (Non-Criminal Ticket enforcement is under the authority of MGL c. 40 s 21D)

9.1 Permit Suspension

The massage therapy permit will be suspended immediately, without a hearing upon notice to the holder, when the Medford Board of Health has reason to believe that an imminent health hazard exists or an existing law has been broken.

9.2 Violations

In all other instances of violation of a massage therapy permit holder, the Board of Health shall serve the holder a written notice specifying the violation and allow the establishment the opportunity to correct the cited problems.

9.3 Failure to Comply

If a permit holder fails to comply with the Board of Health Massage Therapy regulations or makes a false statement on the application, the Board of Health shall suspend the massage therapy permit.

- (a) The establishment shall be notified in writing that the permit shall be suspended ten (10) days following the citing of violations unless a request for a hearing is made to the Board of Health in writing within the ten (10) day period.
- (b) Any person whose permit has been suspended may make a request in writing for a reinstatement of the permit after a thirty- (30) day waiting period.
- (c) In the case of serious or repeated violations or for interference with the Board of Health in the performance of its duties, or for persons found guilty of crimes related to massage therapy, the permit may be permanently revoked without the ability to reinstate after an opportunity for a hearing.
- (d) Any person performing Massage Therapy without a permit will be penalized by a fine of \$300 per violation or brought before the district court.

9.4 TICKET ENFORCEMENT UNDER G.L. c. 40 s 21D:

Fine Schedule: First offense, one hundred dollars (\$100.00)
 Second offense, two hundred dollars (\$200.00)
 Third offense, three hundred dollars (\$300.00)
 Subsequent offenses, up to \$1000.00 and including revocation of permit

Each day the violation is not corrected will be deemed as a new and/or separate violation.

10. Application for Massage Therapy Establishment Permit

(A) No person may operate a Massage Therapy establishment except with a valid permit from the Board.

(B) Mobile Massage Therapy Establishments and residential establishments will NOT be permitted in the City of Medford.

(C) Applications for a permit shall be made on the application provided by and available from the Medford Board of Health. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications. Joint licenses will not be considered without clearly defined and designated areas within the facility.

(D) Every licensee shall notify the Medford Board of Health prior to any change of name, address, or ownership.

(E) No licensed establishment shall operate under any name or designation nor specified on the license.

(F) No licensed establishment shall be kept open between the hours of 11:00 PM and 7:00 AM, unless specifically authorized in writing by the Director of Public Health.

(G) Every licensee shall permit the Medford Board of Health and/or Police Department to inspect his/her place of business at any time to the maximum extent permitted by law.

(H) An establishment permit shall be valid from April 1st and shall automatically expire March 31st of the following year unless revoked sooner by the Medford Board of Health

(I) The Medford Board of Health shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:

(1) Name, address, and telephone number of:

- (a) The Massage Therapy establishment;
- (b) The operator of the establishment; and
- (c) The Massage Therapy practitioner(s) working at the establishment;

(2) A signed and dated acknowledgement that the applicant received read and understood the requirements of the Medford Board of Health Massage Therapy regulations;

(3) A drawing of the floor plan to scale of the proposed establishment, a plan review application and fee, for a plan review by the Medford Board of Health, as part of the permit application process; and,

(4) Any additional information as the Medford Board of Health may reasonably require.

(J) The Medford Board of Health requires a **\$ 200.00 non-refundable and non-transferable license application fee** for an establishment. No cash will be accepted. A check or money order payable to the City of Medford is required.

(K) A permit for a massage therapy establishment shall not be transferable from one place or person to another.

11. Application for Massage Therapy Practitioner Permit

(A) No person shall practice Massage Therapy without first obtaining a practitioner permit from the Medford Board of Health. The Medford Board of Health requires a **\$ 100.00 non-refundable and non-transferable license application fee** for a practitioner. No cash will be accepted. A check or money order payable to the City of Medford is required. Any false statements in said application shall be grounds for denial, suspension, or revocation of a license request.

(B) A practitioner shall be a minimum of 18 years of age.

(C) A practitioner permit shall be valid from April 1st and shall automatically expire on March 31st of the following year unless revoked sooner by the Medford Board of Health.

(D) Application for a practitioner permit shall include:

- (1) Name;
- (2) Date of birth;
- (3) Residence address;
- (4) Mailing address;
- (5) Phone number;
- (6) Photo identification
- (7) Place(s) of employment as a practitioner;
- (8) A list of all previous establishments, addresses, operator names, addresses and telephone numbers;
- (9) Training and/or experience as set out in (E) below; and
- (10) signed consent for a Criminal Offender Record Information (CORI) check and Sexual Offender Record Information (SORI) check

False statements in said application shall be grounds for denial, suspension or revocation of a license request.

(E) Practitioner Training and Experience - Written proof of having satisfactorily completed a 500-hour course of study at an institution approved by the AMP or the AMTA.

(F) A practitioner's permit shall be conditioned upon continued compliance and renewal of all training required.

12. Grounds for Denial of Permit, Revocation of Permit, or Refusal to Renew Permit

(A) The Board may deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew:

- (1) any actions that would indicate that the health or safety of the public would be at risk;
- (2) fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
- (3) criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice massage therapy as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
- (4) any present or past violation of the Board's regulations governing the practice of massage therapy;
- (5) practicing massage therapy while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
- (6) being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
- (7) knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
- (8) continuing to practice while his/her permit is lapsed, suspended, or revoked; and
- (9) having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations.
- (10) other just and sufficient cause which the Board may determine would render the establishment, practitioner, or applicant unfit to practice massage therapy;

(B) The Medford Board of Health shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations, for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit, if the applicant, establishment or practitioner fails to comply after said seven (7) days.

(C) Applicants denied a permit may reapply at any time after denial.

13. Grounds for Suspension of Permit

The Medford Board of Health may summarily suspend a permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that an establishment and/or a practitioner is an immediate and serious threat to the public health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

14. Procedure for Hearings

(A) Suspension of a Permit

(1) After a Board suspension of a permit, a hearing shall be initiated pursuant to 801 CMR 1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure), no later than thirty (30) calendar days after the effective date of the suspension.

(2) Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board.

(3) In cases of suspension of a permit, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension an immediate and serious threat to the public health, safety or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

(B) Denial, Revocation, or Refusal to Renew a Permit

(1) If the Board determines that a permit shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801 CMR 1.00 et seq.

(2) Following the hearing, the chairperson of the Medford Board of Health shall issue a written decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

15. Unauthorized Practice of Massage Therapy

The Medford Board of Health shall refer to the appropriate District Attorney, Attorney General, or other law enforcement official any incidents of unauthorized practice of massage therapy.

16. Severability

If any provision contained in the regulations is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

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