

**Salt Lake County Health Department**

**Health Regulation**

**#18**

**MASSAGE THERAPY**

**Adopted by the Salt Lake County Board of Health  
June 3, 1982**

**Revised:  
April 2, 1992  
November 2, 2006  
October 3, 2019**

**Under Authority of Utah Code Ann. § 26A-1-114**

## **1. PURPOSE & APPLICABILITY OF REGULATION**

- 1.1. The purpose of this Regulation is to set forth permitting procedures and requirements for the maintenance and operation of permanent, mobile, and temporary massage therapy establishments in a way that will protect and promote the public health, safety, and welfare; and prevent the spread of disease.
- 1.2. This Regulation applies to individuals performing massage therapy and to persons who own or operate a permanent, mobile, or temporary massage therapy establishments in Salt Lake County, unless specifically exempted.
- 1.3. This Regulation shall not apply to a health care provider licensed by the state of Utah who uses massage techniques within the scope of their profession, or a massage therapist whose only clients are the health care provider's patients.
- 1.4. This Regulation shall not apply to an individual who performs massage therapy exclusively for personal, non-commercial use.
- 1.5. This Regulation shall not apply to an individual who performs only reflexology per Utah Code Ann. § 58-47b-304.

## **2. DEFINITIONS**

For the purposes of this Regulation, the following terms, phrases, and words shall have the meanings herein expressed:

- 2.1. "Barrier" means a non-porous, smooth, easily cleanable surface capable of being disinfected.
- 2.2. "Board" means the Salt Lake County Board of Health.
- 2.3. "Clean" means the removal of all visible dirt and debris.
- 2.4. "Department" means the Salt Lake County Health Department.
- 2.5. "Director" means the Director of the Salt Lake County Health Department or his or her designated representative.
- 2.6. "Disinfect" means the process of eliminating many or all pathogenic microorganisms on inanimate objects.
- 2.7. "Disinfection" means the application of cumulative heat or chemicals on cleaned surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs representative disease microorganisms of public health importance.
- 2.8. "DOPL" means the Utah Division of Occupational and Professional Licensing.

- 2.9. “Dwelling” means a building or structure that is intended or designed to be used, rented, leased, let, or hired out for human habitation.
- 2.10. “Equipment” means any table, mat, tool, or device used in massage therapy procedures.
- 2.11. “Health Care Provider” means an individual licensed in a medical profession by the State of Utah Division of Professional and Occupational Licensing.
- 2.12. “Massage Therapist” means an individual licensed by the State of Utah Division of Professional and Occupational Licensing to perform massage therapy as required in Utah Code Ann. § 58-47b, Massage Therapy Practice Act. Hereinafter referred to as “operator”.
- 2.13. “Massage Therapy” means the same as defined in Utah Code Ann. § 58-47b, Massage Therapy Practice Act.
- 2.14. “Massage Therapy Contracting Business” means any business that sets appointments for massage therapy, and contracts or employs massage therapists to provide massage therapy to clients, but does not otherwise have a massage therapy establishment, mobile massage therapy truck, or out-call massage therapy permit issued by the Department.
- 2.15. “Massage Therapy Establishment” means any location, place, area, structure, truck, or business where either as a sole service or in conjunction with other services, massage therapy is performed. Massage therapy establishments includes establishments that provide mobile massage therapy trucks and/or out-call massage therapy.
- 2.16. “Mobile Massage Therapy Truck” means a fully encased massage therapy establishment:
- 2.16.1. On a motor vehicle or on a trailer that a motor vehicle pulls to transport; and
  - 2.16.2. From which massage therapy procedures are performed.
- 2.17. “Out-Call Massage Therapy” means massage therapy performed in a client’s home, place of business, or other location designated by the client.
- 2.17. “Owner” means any person who alone, jointly, or severally with others:
- 2.17.1. has legal title to any massage therapy establishment, massage therapy contracting business, or temporary massage therapy establishment, with or without accompanying actual possession thereof; or
  - 2.17.2. has charge, care, or control of any massage therapy establishment, massage therapy contracting business or temporary massage therapy establishment, as legal or equitable owner, agent of the owner, or is an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.

- 2.18. “Patron” means any person who receives a massage therapy procedure by an operator.
- 2.19. “Permit” means a written form of authorization issued by the Department in accordance with this Regulation.
- 2.20. “Permit Holder” means the entity that:
- 2.20.1. Is legally responsible for the operation of the massage therapy establishment such as the owner, the owner’s agent, or other person; and
  - 2.20.2. Possesses a valid permit to operate a massage therapy establishment.
- 2.21. “Person-In-Charge” means the individual present at a massage therapy establishment who is responsible for the operation at the time of inspection.
- 2.22. “Potable Water” means water that is suitable for drinking.
- 2.23. “Service Animal” means any animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability as defined in the Americans with Disabilities Act.
- 2.24. “Temporary Massage Therapy Permit” means a permit issued on a temporary basis to an operator that does not possess a massage therapy establishment permit or a mobile massage therapy truck permit issued by the Department.

### **3. GENERAL PROVISIONS**

#### **3.1. Jurisdiction of the Department.**

- 3.1.1. This Regulation is promulgated by the Board as authorized by Utah Code Ann. § 26A-1-121(1), and Chapter 9.04, Salt Lake County Code of Ordinances.
  - 3.1.2. The Department is empowered to enforce this Regulation in all incorporated and unincorporated areas served by the Department as authorized by Utah Code Ann. § 26A-1-114(1)(a), and Chapter 9.04, Salt Lake County Code of Ordinances.
- 3.2. It is unlawful for any person not to comply with any regulation promulgated by the Department, unless granted an express variance by the Board.
- 3.3. Compliance with this Regulation does not constitute a defense if charged with any environmental crime or violation of any local, state, or federal law.
- 3.4. Legal action taken by the Department under this Regulation does not preclude prosecution for any environmental crime that may have been committed or violation of any other local, state, or federal law.

- 3.5. Nothing in this Regulation affects or modifies in any way the obligations or liability of any person under any other regulation or provision thereof issued by the Department, any ordinance issued by Salt Lake County or any municipality located within Salt Lake County, or any state or federally issued law, including common law. However, Departmental regulations supersede other existing local and county standards, regulations and ordinances pertaining to similar subject matter that are inconsistent.
- 3.6. Verbal or contractual obligations do not diminish or remove the owner's or other responsible person's obligation to comply with this Regulation.
- 3.7. **Severance.** If any section, subsection, sentence, clause, or phrase of this Regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Regulation.

#### **4. MASSAGE THERAPY PROVISIONS**

##### **4.1. Permit Requirements.**

###### **4.1.1. Department Approval and Permits Required.**

- (i) No person may operate a Massage Therapy Establishment without valid Massage Therapy Establishment Permit.
- (ii) No person may perform massage therapy procedures at a temporary event or gathering without a valid Massage Therapy Establishment Permit, or a Temporary Massage Therapy Establishment Permit
- (iii) The owner(s) and operator(s) of a Massage Therapy Establishment or a Temporary Massage Therapy Establishment must post the permit in a public area of the establishment.
- (iv) No person may perform massage therapy procedures without a current license from DOPL.
- (v) The owner(s) or operator(s) of a massage therapy establishment must notify the Department of any change in the establishment's name, billing address or telephone numbers.
- (vi) Changes in ownership and/or establishment location require a new permit.

###### **4.1.2. Massage Therapy Contracting Business.**

- (i) No person may operate a massage therapy contracting business without a Massage Therapy Contracting Business Permit.

- (ii) Owners of a massage therapy contracting business that employs individuals to perform massage therapy, either as employees or private contractors must ensure:
  - a. That such individuals are licensed to perform massage therapy by DOPL; and
  - b. Provide an employee and contractor list to the Department upon request.

**4.1.3. Permit Application, Duration, and Renewal.**

- (i) Application for a permit required in section 4.1.1 and 4.1.2 must be made upon a form provided by the Director.
- (ii) Application for a permit required in section 4.1.1 and 4.1.2 must be made prior to commencement of operation of the establishment and upon the form provided by the Department.
- (iii) **Permit Duration and Renewal.** Massage Therapy Establishment Permits and Massage Therapy Contracting Business Permits are issued annually and expire one year from the date of issuance. It is the responsibility of the owner or operator to renew their permit within 30 calendar days prior to the expiration date
- (iv) Each mobile massage therapy truck must have a mobile massage therapy truck permit.
- (v) Permits must be conspicuously posted for public viewing at the establishment or location that massage therapy procedures are performed.

**4.1.4. Inspections.** Massage therapy establishments must have:

- (i) A pre-opening inspection prior to an initial permit being issued; and
- (ii) Inspections on a complaint basis following permit approval.

**4.1.5. Permit Application, Plan Review, and Requirements for Temporary Events.**

An owner or operator of a temporary massage therapy establishment must ensure a permit application is submitted to the Department, at least two weeks in advance of an event. Massage therapy establishment permit holders are not required to have a temporary massage therapy permit. A detailed temporary event plan review must be submitted to the Department and must contain a detailed sketch that includes:

- (i) Location of massage therapy stations;
- (ii) Location of restrooms; and

(iii) Location of hand wash stations.

4.1.6. A temporary event permit is:

- (i) Issued to the business for a specifically named event;
- (ii) Valid only for the duration of the specifically named event in the calendar year;
- (iii) Limited to the area assigned to each business; and
- (iv) Conspicuously posted for public viewing.

4.1.7. Temporary events must comply with this Regulation. Additional requirements for temporary events are listed below:

- (i) Temporary or permanent hand wash stations must be located within close proximity to the massage therapy stations.
- (ii) A temporary hand wash station must include a minimum of one enclosed container of potable water with a continuous flow device, soap, paper towels, a collection container for waste water and a waste receptacle; and
- (iii) Waste water must be disposed of in a sanitary sewer

4.1.8. Fees may be waived by the Director for permitted establishments that are volunteering their time for a charitable event.

4.1.9. A permit applicant or permit holder is required to submit to the Department properly prepared plans and specifications for review and approval before:

- (i) The construction of a new massage therapy establishment;
- (ii) The conversion of an existing structure for use as a massage therapy establishment; or
- (iii) The remodeling of a massage therapy establishment if the Department determines that plans and specifications are necessary to ensure compliance with this Regulation.

4.1.10. Permit applicant or permit holder must submit a plan review prior to operating. The plan review must include:

- (i) A scaled floor plan with massage therapy station locations;

- (ii) Location of restrooms;
- (iii) Location and intensity of light sources;
- (iv) A finish schedule (i.e. materials being used on floors, walls, counters, chairs, and tables); and
- (v) Backflow protection for plumbing fixtures as required in the Utah Plumbing Code.

4.1.11. **Physical Facilities.** Unless otherwise ordered or approved by the Department, each establishment must meet the following minimum requirements:

- (i) Restrooms must have walls, floors, tables, counters, and other surfaces constructed of smooth, non-absorbent materials.
- (ii) Plumbing and plumbing fixtures must be properly installed with hot and cold running water and maintained in conformity with Utah Code Ann. §15A -1-101, et seq., Utah State Construction and Fire Code.
- (iii) Restrooms must be accessible to patrons and employees during all hours of operation. The restroom shall have a toilet, toilet paper, a hand wash sink with hot and cold running water, dispensable hand soap, single-use towels and a waste receptacle.
- (iv) Establishments located in a dwelling must have one dedicated restroom as described in section 4.2.3 (iii) exclusively for the use of patrons and operators during business hours.
- (v) Massage therapy chairs and tables must be constructed of smooth, non-absorbent materials.
- (vi) Establishments must be provided with an artificial light source equivalent to at least 20 foot candles (215 lumens) three feet off the floor to allow for proper cleaning and disinfecting.
- (vii) Animals are not allowed in the establishment with the exception of service animals.

#### 4.2. **Plan Review and Construction Requirements for Massage Therapy-Establishments.**

4.2.1. A permit applicant or permit holder must submit to the Department properly prepared plans and specifications for review and approval before:

- (i) The construction of a new massage therapy establishment;



- (ii) The conversion of an existing structure for use as a massage therapy establishment; or
- (iii) The remodeling of a massage therapy establishment if the Department determines that plans and specifications are necessary to ensure compliance with this Regulation.

4.2.2. Permit applicant or permit holder must submit a plan review prior to operating. The plan review must include:

- (i) A scaled floor plan with massage therapy station locations;
- (ii) Location of restrooms;
- (iii) Location and intensity of light sources;
- (iv) A finish schedule (i.e. materials being used on floors, walls, counters, chairs, and tables); and
- (v) Backflow protection for plumbing fixtures as required in the Utah Plumbing Code.

4.2.3. **Physical Facilities.** Unless otherwise ordered or approved by the Department, each establishment must meet the following minimum requirements:

- (i) Restrooms must have walls, floors, tables, counters, and other surfaces constructed of smooth, non-absorbent materials.
- (ii) Plumbing and plumbing fixtures must be properly installed with hot and cold running water and maintained in conformity with Utah Code Ann. §§ 15A - 1-101 to 15A-6-202, Utah State Construction and Fire Code.
- (iii) Restrooms must be accessible to patrons and employees during all hours of operation. The restroom must have a toilet, toilet paper, a hand wash sink with hot and cold running water, dispensable hand soap, single-use towels and a waste receptacle.
- (iv) Establishments located in a dwelling shall have one dedicated restroom as described in section 4.2.3 (iii) ~~exclusively~~ for the use of patrons and operators during business hours.
- (v) Massage therapy chairs and tables must be constructed of smooth, non-absorbent materials.

- (vi) Establishments must have an artificial light source equivalent to at least 20-foot candles (215 lumens) three feet off the floor to allow for proper cleaning and disinfecting.

### **4.3. Mobile Massage Therapy Truck—Additional Provisions.**

4.3.1. Mobile massage therapy trucks must have a potable water tank, a wastewater tank, and a wastewater disposal plan.

4.3.2. Mobile Water Tank Design. A mobile water tank on a mobile massage therapy truck must be:

- (i) Enclosed from the filling inlet to the discharge outlet; and
- (ii) Sloped to an outlet that allows complete drainage of the tank.

4.3.3. Water Supply Tank Capacity. A mobile massage therapy truck water supply tank must have a 30-gallon capacity or greater.

4.3.4. Mobile Tank Inlet. A mobile massage therapy truck's water tank inlet must be:

- (i) 19.1mm (3/4 inch) in inner diameter or less; and
- (ii) Provided with a hose connection of a size or type that will prevent its use for any other service.

4.3.5. Sewage Holding Tank. A sewage holding tank in a mobile massage therapy truck must be:

- (i) Sized 15 percent larger in capacity than the water supply tank; and
- (ii) Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater and equipped with a shut off valve.

4.3.6. Wastewater Disposal Plan. A mobile massage therapy truck must have a written wastewater disposal plan that includes the location and method for wastewater disposal approved by the Department.

### **4.4. Cleaning, Disinfecting, and Maintenance.**

4.4.1. Walls, floors, tables, counters, equipment, chairs, and other surfaces in the establishment and restrooms must be kept clean and in good repair.

4.4.2. Prior to disinfection, non-electric re-useable equipment must be cleaned using the following method:

- (i) Remove debris;
- (ii) Scrub using soapy water; and
- (iii) Rinse with clean water.

4.4.3. Reusable equipment must be disinfected with a United States Environmental Protection Agency registered disinfectant, such as sodium hypochlorite or quaternary ammonia and used in accordance with the manufacturer's label.

4.4.4. If used, establishments must have an adequate supply of clean towels and linens which shall be changed after each patron.

4.4.5. Clean towels and linens must be stored and transported in a closed single use container or a closed clean container.

4.4.6. Used towels and linens must be stored and transported in a container separate from clean towels and linens.

4.4.7. A massage therapy establishment or temporary massage therapy establishment must have an adequate supply of disinfectant.

4.5. **Equipment.** Items used to increase comfort of the patron (i.e. sheepskin, electric blanket, etc.) must be protected by a barrier. The barrier or layer(s) above the barrier must be disinfected or changed when contacted by a patron.

4.6. **Shower Massage Tables.** Shower massage tables used for massage therapy that has water that contacts a person must be:

4.6.1. Located in a room with surfaces that are smooth, cleanable and non-absorbent.

4.6.2. Installed in conformity with Utah Code Ann. §§ 15A-1-101 to 15A-6-202, State Construction and Fire Codes Act.

4.6.3. Equipped with a floor drain.

4.6.4. Disinfected between uses.

4.7. **Oils, creams, lotions, or other preparations:**

4.7.1. Must be stored in clean, closed containers.

4.7.2. Must be transferred from one container to a single-use container or a clean container capable of being disinfected.

4.7.3. Must be dispensed to preclude any cross contamination.

4.8. Skin contact equipment surfaces shall be cleaned and disinfected between use.

**4.9. Hand Washing and Glove Use**

4.9.1. Operators must wash their hands immediately before engaging in massage therapy activities.

4.9.2. Operators must wash their hands thoroughly with liquid hand soap and hot water for a minimum of 20 seconds.

4.9.3. Operators must dry their hands using single-use towels or other method approved by the Department.

4.9.4. Operators must wash their hands after:

(i) Using the restroom;

(ii) Smoking, eating, coughing, sneezing, using a disposable tissue or handkerchief

(iii) Handling soiled equipment; or

(iv) Engaging in other activities that contaminate the hands.

4.9.5. Operators with an open wound, cut, sore, burn, or other skin injury capable of coming into contact with a client's skin must not perform a procedure without covering the wound, cut, sore, burn or skin injury with a suitable physical barrier such as a finger cot or single-use glove.

**4.10. Owners, Operators, and Patrons.**

4.10.1. Owners and operators of an establishment which employs individuals to perform massage therapy, either as employees or private contractors must ensure that such individuals are licensed to perform massage therapy by DOPL and a licensed operator shall be on site during all hours of operation.

4.10.2. DOPL Licenses must be on site, prominently displayed in the area where the massage therapy procedure is being performed, and available upon request.

4.10.3. Owners and operators of a massage contracting business must ensure that employees and contracted employees have a copy of the valid Health Department Massage Contracting Business Permit when performing massage therapy available upon request.

- 4.10.4. Operators must wear clean outer clothing, maintain a high degree of personal cleanliness and conform to good hygienic practices.
- 4.10.5. Operators must not perform a procedure if they know or suspect that they have any illness or infection capable of being transmitted to patrons.
- 4.10.6. If the Director has reasonable suspicion that a disease has been transmitted by an operator in the course of performing a massage therapy procedure, the Director must conduct an investigation or examination as appropriate and take action as needed to protect and preserve the public health. In addition to other legal remedies, such action may include, but is not limited to:
- (i) Exclusion of the operator or patron from the establishment; or
  - (ii) Immediate closure of the establishment.
- 4.10.7. Operators may deny service to patrons with skin diseases or other conditions posing public health concerns. If service is not denied, appropriate personal protective equipment must be worn and the establishment must be properly disinfected after the procedure.

#### **4.11. Assignment of Responsibility.**

The permit holder must designate a person-in-charge and must ensure that a person-in-charge is present at the massage therapy establishment during all hours of operation. The permit holder may designate themselves as the person-in-charge.

#### **4.12. Person-In-Charge—Duties. The person-in-charge must ensure and demonstrate knowledge that:**

- 4.12.1. All massage therapy procedures are performed by persons that have the required DOPL License;
- 4.12.2. Persons performing massage therapy are effectively washing their hands;
- 4.12.3. The establishment and reusable equipment are properly maintained, cleaned and disinfected; and
- 4.12.4. The establishment is maintained in good repair;

#### **4.13. Prohibited Acts**

- 4.13.1. No person may perform any massage therapy without a valid permit and the required DOPL License.

- 4.13.2. Massage therapy procedures must not be conducted on skin surfaces that have a rash, pimple, boil, infection or if the patron manifests symptoms of a communicable skin disease.
- 4.13.3. Operators must not engage in eating, cooking, drinking or sleeping in areas where massage therapy procedures are performed or while disinfecting or handling equipment.
- 4.13.4. Operators must not diagnose medical conditions.
- 4.13.5. No massage therapy establishment may be open without a DOPL licensed massage therapist on-site.

## 5. LICENSES, PERMITS, AND REGULATORY FEES

- 5.1. The Department may establish and collect appropriate fees for licenses and permits as set out in this Regulation. The Department may collect appropriate fees as set out in this Regulation for the performance of services, including plan reviews. If information on a license or permit application changes, the applicant must notify the Department in writing within 20 calendar days.
- 5.2. **Massage Therapy Establishment Plan Review and Initial Permit Fee (Includes Out-Call Massage Therapy and Mobile Massage Therapy Truck).** The fee for a Massage Therapy Plan Review required in section 4.2 of this Regulation must be remitted to the Department at the time that plans are submitted for review in the amount as provided for or as approved by the Director in the Department's fee schedule, upon application. This fee includes the first Massage Therapy Establishment permit
- 5.3. **Massage Therapy Contracting Business Initial Permit Fee.** Any applicant who applies for a massage therapy contracting business permit as required in section 4.1.2 of this Regulation must remit to the Department a Massage Therapy Contracting Business Permit Fee in the amount as provided for or as approved by the Director in the Department's fee schedule upon application.
- 5.4. **Massage Therapy Establishment Permit and Massage Therapy Contracting Business Renewal Fee.** A massage therapy establishment permit holder and a massage therapy contracting business permit holder must remit to the Department a Massage Therapy Establishment Permit Renewal Fee in the amount as provided for or as approved by the Director in the Department's fee schedule at time of permit renewal.
- 5.5. **Temporary Massage Therapy Establishment Permit Fees.** Any applicant who applies for Temporary Massage Therapy Establishment Permit as required in Section 4.1.1 of this Regulation must remit to the Department a Massage Therapy Establishment Permit Fee in the amount as provided for or as approved by the Director in the Department's fee schedule upon application.

**5.6. Massage Therapy Follow-Up Inspection Fee.** The Department will charge a follow-up fee to a Massage Therapy Establishment permit holder or to a Temporary Massage Therapy Establishment permit holder when conditions found during an inspection or complaint investigation require a follow-up inspection to ensure compliance. The owner or permit holder must remit the massage therapy follow-up fee to the Department in the amount as provided for or as approved by the Director in the Department's fee schedule, following a follow-up inspection.

**5.7. Late Fees.**

5.7.1. The Department may impose upon any party subject to this Regulation penalties and charges for failure to timely pay service and license or permit fees as set out in this Regulation. Attorney's fees and collection fees may also be applied.

5.7.2. Fees unpaid to the Health Department after one month of the due date will be assessed a penalty of 10% of the outstanding balance. Failure to pay the fees and additional charges after two months of the due date will be assessed an additional penalty of 15% of the outstanding balance including previous penalties. Failure to pay the fees and additional charges after 100 days of the due date will result in suspension of the permit and the right to operate. A \$40.00 charge will be assessed for each returned check.

5.7.3. Unless otherwise provided for in this regulation or approved by the Director in the Department's Fee Standard, all fees collected by the Department are non-refundable. All licenses and permits issued by the Department are non-transferable.

**5.8. Denial, Suspension, or Revocation of License or Permit.** Any permit or license applied for or issued pursuant to this regulation may be denied, suspended, or revoked by the Director for any of the following reasons:

5.8.1. Failure of the permit application, plans, or specifications to show that the massage therapy establishment will be operated or maintained in accordance with the requirements and standards of this regulation.

5.8.2. Submission of incorrect or false information in the permit application, plans, or specifications;

5.8.3. Failure to construct, operate or maintain the massage therapy establishment in accordance with the permit application, plans, and specifications approved by the Director;

5.8.4. Failure of the owner or operator of a massage therapy establishment to permit or allow the Department to conduct inspections as necessary to determine compliance with this Regulation;

- 5.8.5. Operation of the massage therapy establishment in a way that causes or creates a nuisance or hazard to the public health, safety, or welfare;
- 5.8.6. Violation of this regulation or any other restrictions required by the Director;
- 5.8.7. Violation of any condition upon which the permit was issued;
- 5.8.8. Failure to pay the permit fee or any late fees within 100 days of the permit fee's due date;
- 5.8.9. Failure of the owner or operator to prevent persons from performing massage therapy without a DOPL license.
- 5.8.10. Failure to have a DOPL licensed person, for massage therapy, on-site during hours of operation.
- 5.8.11. Failure to supply updated information as required in Section 5.1.
- 5.8.12. Performing massage therapy without a DOPL License.

**5.9. Progressive Permit Suspension and Revocation.**

- 5.9.1. Receipt of the first permit suspension will result in suspension of the Massage Therapy Establishment permit until the Department has verified that identified violations of this regulation have been corrected.
- 5.9.2. Receipt of a second permit suspension within two (2) years of the first permit suspension, as set forth in section 5.10.1, will result in suspension of the Massage Therapy Establishment permit for a period of a minimum of seven (7) days.
- 5.9.3. Receipt of a third permit suspension within two (2) years of the second permit suspension, as set forth in section 5.10.2, may result in the Massage Therapy Establishment permit being revoked. The owner of the said establishment may be restricted from operating a massage therapy establishment for a minimum of 30 days, at which time the owner may be required to make application and submit a plan review etc., as if the establishment was a new establishment. Additional conditions may be imposed by the Department for approval of the establishment to operate.
- 5.9.4. Receipt of a permit suspension by an owner that previously had their permit revoked in accordance with section 5.10.3 may result in immediate revocation of the current permit for a minimum of 30 days.
- 5.9.5. Permit suspension and revocation will reset after two (2) years from the last suspension for a history of compliance with all provisions of this regulation.



## 6. INSPECTIONS AND INVESTIGATIONS

6.1. To ensure compliance, the Department has the authority to perform inspections, investigations, reviews, and other actions as necessary.

6.2. Authority for Department to Enter Premises.

6.2.1. Regulated Commercial Premises. Upon presenting proper identification, authorized representatives of the Department may enter upon the premises of properties regulated by the Department to perform routine inspections to ensure compliance with rules, standards, regulations, and ordinances adopted by the Board of Health, the Departments of Health & Environmental Quality, county or municipal governing bodies, or the division of Occupational and Professional Licensing.

6.2.2. Private Dwellings. Inspections of private dwellings are made by consent of owner or otherwise responsible party or upon a warrant issued by a court.

6.2.3. Consent by License or Permit: The Department may require licensees or permittees to consent to access for inspections as part of their license or permit. Failure to allow access for inspections as set out in the license or permit may result in the suspension or revocation of the license or permit.

6.3. The owner or other responsible person may request information gathered by the Department during an investigation, inspection or review as authorized by the Government Records Access and Management Act, Utah Code Ann. §§ 63-2-101 to 63-2-1001.

**7. ENFORCEMENT MECHANISMS.** If the Department has investigated or inspected any property or facility and believes the property owner or other responsible party is in violation of this Regulation or the division has other reasonable grounds to believe that there has been a violation of any part of this Regulation or that the property owner or otherwise responsible party is not in compliance with this Regulation, the Department may take civil enforcement action as authorized by statute, rule, ordinance, and regulation and may also refer the matter for criminal prosecution. Civil enforcement may involve court or administrative actions, injunctive actions, and closures and may involve cost recovery, penalties, and other remedies. Civil and criminal actions may be brought simultaneously. A person does not need to be first adjudged liable in a civil matter before facing criminal charges.

7.1. **Criminal Enforcement Actions.** The Department may recommend criminal prosecution for violations either alone or in conjunction with civil enforcement. Criminal prosecutions for violations of state or federal law may be filed by the District Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity. Factors that the Department may consider in recommending criminal enforcement include the following factors and any other relevant factors.

- 7.1.1. The nature and seriousness of the offense including the immediacy of the threat of danger to the life or safety of another or the harm or threatened harm to human health or;
- 7.1.2. The degree to which the violation was designed to provide economic gain or cost avoidance or it involved a pattern of conduct or a common attitude of illegal conduct;
- 7.1.3. The degree to which the offender is a known violator and has avoided prior actions by the Department;
- 7.1.4. The degree to which prosecution might deter future violations;
- 7.1.5. The person's actual culpability in connection with the offense including the presence in connection with the offense including the presence of criminal intent;
- 7.1.6. The person's willingness to cooperate in the investigation including whether the violator has attempted to conceal evidence or prosecution of others;
- 7.1.7. The appropriateness of referring the case to other agencies having prosecutorial interest; and
- 7.1.8. Possibilities of civil remedies which would be more appropriate than initiating the criminal justice process.

## **7.2. Civil Enforcement Actions.**

- 7.2.1. The Department may request that the District Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

## **7.3. Administrative Actions.**

- 7.3.1. The Department may, at its discretion, issue a Notice of Violation & Order of Compliance ("NOV").
- 7.3.2. **Service of NOV.** The Department may provide notice to the owner of the property or otherwise responsible person by sending the NOV via first class mail to the last known address of the owner of the property or other responsible person. If notice is returned undeliverable, the owner of the property or other responsible person may be personally served or be given notice by other methods reasonably calculated to give actual notice to the owner or other responsible party.
- 7.3.3. **Contents of NOV.** The NOV will:
  - (i) Describe the property and the persons believed to be in violation;

- (ii) Describe the violation;
- (iii) Describe remedial action that will comply with the provisions of this regulation;
- (iv) Set a reasonable time for the performance of any required remedial action(s);
- (v) Describe the procedure to contest the NOV and the time limits for such a contest; and
- (vi) Notify the owner or other responsible person that if no written contest is filed within the time required, the NOV will become final and unappealable to any administrative entity or court.

7.3.4. **Challenging an NOV.** As detailed in the Department's Adjudicative Hearing Procedures, a party aggrieved by an NOV may request a departmental conference, departmental hearing, or departmental appeal in writing within ten (10) days of the date of the NOV.

#### 7.4. **Additional Administrative Enforcement Authority.**

7.4.1. The Department may declare unsanitary conditions a nuisance and cause every nuisance affecting the public health to be abated.

7.4.2. **Variances.** Any variance allowed by the Department to the requirements of this regulation shall be only by written approval of the Board.

7.4.3. **Exercise of Physical Control.** The Department may establish, maintain, and exercise physical control over property and over individuals as the Department finds necessary for the protection of the public health including but not limited to closing theaters, schools, and other public or private places and prohibit public gatherings. The order will be effective immediately. Any person to whom the order is directed must comply immediately but may petition the Director for a hearing in accordance with the Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this regulation, the Director may continue the order in effect or modify or revoke it.

7.4.4. **Emergency Enforcement.** If the Director finds that an emergency exists that requires immediate action to protect the public health, he or she may, without notice or hearing, issue an order declaring the existence of an emergency and requiring that action be taken as he or she deems necessary to meet the emergency. The order will be effective immediately. Any person to whom the order is directed must comply and abate the nuisance immediately; but may

petition the Director for a hearing in accordance with the Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this Regulation, the Director shall continue the order in effect or modify or revoke it. If circumstances warrant because of the seriousness of the hazard, the Department may act to correct or abate the emergency without issuance of an order or directive or without waiting for the expiration of compliance time previously given in an order.

## **8. CRIMINAL, CIVIL, AND ADMINISTRATIVE PENALTIES**

### **8.1. Criminal Penalties.**

- 8.1.1. Any person who is found guilty by a court of violating any of the provisions of this regulation, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Utah Code Ann. § 26A-1-123.
- 8.1.2. Each day such violation is committed or permitted to continue constitutes a separate violation.
- 8.1.3. Each similar subsequent violation occurring within two years of the initial violation may constitute a class A misdemeanor.

### **8.2. Civil & Administrative Penalties.**

- 8.2.1. Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:
  - (i) The violator's history of compliance or non-compliance;
  - (ii) The violator's economic benefit of non-compliance;
  - (iii) The documented costs associated with environmental or health damage;
  - (iv) The violator's degree of willfulness or negligence; and
  - (v) The violator's good faith efforts to comply and cooperate.
- 8.2.2. The Director may multiply the penalty by the number of days the violation occurred

### **8.3. Recovery of Investigation & Abatement Costs**

- 8.3.1. The Department may recover its inspection, investigative and abatement expenses and costs from owners or other responsible person.

8.3.2. The Department may record a judgment lien on a violator's property to recover its expenses and costs.

**9. EFFECTIVE DATE.**


9.1. This regulation becomes effective upon its enactment by the Board.

**APPROVED AND ADOPTED** this 3rd day of October, 2019.

SALT LAKE COUNTY BOARD OF HEALTH

By:   
\_\_\_\_\_  
Dr. William Cosgrove, Chair

ATTEST:

  
\_\_\_\_\_  
GARY L. EDWARDS, M.S.  
Executive Director  
Salt Lake County Health Department