

HEALTH REGULATION #6

MASSAGE ESTABLISHMENTS, ~~BATHHOUSES,~~
~~HEALTH SALONS AND OUTCALL MASSAGE SERVICES~~



Adopted by the Tooele County Board of Health May 15, 1998
Revisions made and adopted (see last page)

Under Authority of Section 26A-1-121
Utah Code Annotated, 1953, as amended

CERTIFIED OFFICIAL COPY
TOOELE COUNTY HEALTH DEPARTMENT

By _____
Director

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1.0 DEFINITIONS

For the purpose of these regulations and unless defined in other sections the terms, phrases, and words shall have the following meanings:

- ~~1.1 **Bathhouses:** Any place wherein any person engages in, conducts, or carries on, or permits to be engaged in, conducted, or carried on, the business of giving or furnishing Russian, Finnish, Swedish, Turkish, Japanese, hot air, vapor, electric cabinet, steam, mineral, sweat, sauna, fomentation, water, or electric baths or baths of any kind whatever, excluding ordinary tub baths where an attendant is not required;~~
- 1.12 Department:** The Tooele County Health Department;
- 1.23 Director:** The Tooele County Health Department Director of Health or his/her authorized representative;
- ~~1.4 **Establishment:** Any massage establishment, bathhouse, or health salon;~~
- ~~1.5 **Health salon:** Any location, place, area, structure, or business used for body weight reduction, physical fitness, or other health improvement;~~
- 1.36 Massage:** Any method of pressure on or friction against, or stroking, kneading, rubbing tapping, pounding vibrating, wrapping, or stimulating the body or any external part thereof with the hand(s) or with the aid of any mechanical apparatus or appliances with or without supplementary aids. Such aids shall include, but not be limited to rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments and other similar preparations used in this practice;
- 1.47 Massage establishment or establishment:** Any location, place, area, structure, ~~or business used for the practice of massaging or instructing massaging;~~ or business where either as a sole service or in conjunction with other services, where massage services are performed. Massage establishments includes establishments that provide mobile massage therapy trucks and/or outcall massage service.
- 1.58 Nuisance:** Unlawfully doing an act that annoys, injures, or endangers the comfort, repose, health, or safety of any person, or that renders a person insecure in life or the use of property;
- 1.69 Operator:** A person who leases or manages an establishment; or any person or employee of an establishment or outcall massage service;
- 1.710 Outcall Massage Service:** Any business or practice that provides massages at a private location other than a massage establishment;
- 1.811 Outcall Massage Service Operator:** A person who owns or manages an outcall

massage service or any other person performing outcall service massages.

1.912 Owner: Any person who alone, jointly, or severally with others:

- (a) has legal title to any premises, establishment, outcall massage service, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or
- (b) has charge, care, or control of any premises, establishment, outcall massage service, dwelling, or dwelling unit, as legal or equitable owner, agent of the owner, lessee, or is an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner;

2.0 PURPOSE

It is the purpose of these regulations to regulate massage establishments in a way that will:

- 2.1 Protect and promote the public health, safety, and welfare;
- 2.2 Prevent the spread of disease; and
- 2.3 Prevent the creation of nuisances within Tooele County.

3.0 JURISDICTION OF THE DEPARTMENT

- 3.1 All conditions within Tooele County related to massage establishments, and outcall massage services, ~~bathhouses, and health salons~~ enumerated in Section 2.0 shall be subject to the direction and control of the Department.

4.0 POWERS AND DUTIES

The Department, by the Director, shall be responsible for the administration of these rules and regulations and any other powers vested in it by law and shall:

- 4.1 Require the submission of reports, plans, and specifications for establishments as necessary to implement the provisions, requirements, and standards of these regulations;
- 4.2 Issue permits and charge fees as necessary to implement the provisions, requirements, and standards of these regulations;
- 4.3 Make inspections of any establishment or outcall massage services and issue orders as necessary to effect the purposes of these regulations;

- 4.4 Take samples and make analyses of any material or require the sampling and analysis of any such materials;
- 4.5 Do any and all acts permitted by law that are necessary for the successful enforcement of these regulations.

5.0 SCOPE

- 5.1 It shall be unlawful for any person not to comply with any rule or regulation promulgated by the Department, unless expressly waived by these rules and regulations.
- 5.2 These regulations shall not apply to the following persons while engaged in the personal performance of the duties of their respective profession in Tooele County:
 - (a) Physicians, surgeons, chiropractors, chiropodists, podiatrists, osteopaths, or physical therapists who are duly licensed to practice their respective profession in the State of Utah;
 - (b) Nurses who are registered under the laws of the State of Utah;
 - (c) Barbers and beauticians who are duly licensed under the laws of the State of Utah, except that this exemption shall apply solely to the massaging of the hands, neck, face, scalp, and hair of the head of a patron for cosmetic purposes; and
 - (d) An employee or student of any nonprofit organization including, but not limited to, hospitals, clinics, nursing and convalescent homes, universities, colleges, or schools licensed or accredited by the State of Utah, or organized as exempt from taxation by the laws of the United States or the State of Utah, if a massage or treatment is performed as part of such service or education and not for any consideration or gratuity.

6.0 PERMITS

- 6.1 Department approval and permits required. No person shall operate an establishment or outcall massage service or temporary event without written approval or a corresponding valid permit from the Department or both.
- 6.2 Application requirements for approval and permit.
 - (a) Application for approval for construction of a establishment or a permit for operating a establishment shall be in writing setting forth the plans, specifications, and reports as required in the application sections of these regulations. The Department may prescribe the form on which the information required under these regulations shall be submitted. Application shall be made within the following time periods:

- (1) ~~For approval for e~~Construction approval of a new establishment, at least 30 calendar days prior to the start of construction;
 - (2) For a permit to operate a new establishment or outcall massage service, prior to commencement of operation of the establishment or outcall massage service; and
- (b) Upon arrival of the permit application and payment of the required fee, the Department shall issue a permit. Such permit shall expire one year following issuance and shall be renewable within 30 calendar days prior to the expiration date.

6.3 Permit Fees:

- (a) Each massage establishment shall submit a fee, as set by the Tooele County Board of Health, with application for each permitting period. If the permit fee and application have not been received by the due date, a late fee will be assessed.
- (b) No permit fee is refundable for any reason.

6.4 **Permits non-transferable.** No permit shall be transferable from one person to another or from one establishment or outcall massage service to another.

6.5 Denial, suspension, or revocation of approval or permit:

- (a) **Causes:** Construction approval or any permit issued pursuant to these regulations may be denied, suspended, or revoked by the Director for any of the following reasons:
 - (1) Failure of the reports, plans, or specifications to show that the establishment or outcall massage service will be constructed, operated, or maintained in accordance with the requirements and standards of these rules and regulations adopted by the Department;
 - (2) Submission of incorrect or false information in the application, reports, plans, or specifications;
 - (3) Failure to construct, operate or maintain the establishment or outcall massage service in accordance with the application, reports, plans, and specifications approved by the Department;
 - (4) Operation of the establishment or outcall massage service in a way that causes or creates a nuisance or hazard to the public health, safety, or welfare;
 - (5) Violation of any rules, regulations, restrictions, or requirements adopted by the Department;
 - (6) Violation of any condition upon which the permit was issued;
 - (7) Failure to have a medical examination(s) or provide medical verification as required by these rules and regulations;
 - (8) Failure to pay the permit fee; or

(9) Failure of the owner or operator of a establishment or outcall massage service to permit or allow the Department to conduct inspections to determine compliance with these regulations.

(b) **Hearing:** If any permit is denied, suspended, or revoked, the applicant may request a hearing within 10 calendar days of such action. The hearing shall be held before the Director within 10 calendar days after the request. Within 10 calendar days after the hearing, the Department shall send written notice to all parties of the decision of the Director and the reasons therefore.

7.0 REPORT AND PLANS REQUIRED

Before issuance of approval to construct or a permit to operate a establishment or an outcall massage service, a report shall be submitted to the Department for review and approval. Unless otherwise directed by the Department, the report shall include the following information:

- 7.1 The address and telephone number of the establishment or outcall massage service;
- 7.2 The name, address, and telephone number of the owner(s) and operator(s);
- 7.3 A scaled floor plan of the establishment and a description of the facilities used, including, but not limited to, toilet and hand washing facilities, showers, tubs, and steam baths;
- 7.4 The hours of operation of the establishment or outcall massage service;
- 7.5 The number of employees;
- 7.6 The equipment, instruments, and materials that will be used;
- 7.7 The methods of sterilizing or disinfecting equipment and instruments; and
- 7.8 Any other information specifically requested by the Department to ensure compliance with these regulations.
- 7.9 A copy of your license to perform massages by the Utah Division of Occupational and Professional Licensing.

8.0 CONSTRUCTION AND OPERATION REQUIREMENTS FOR ESTABLISHMENTS

Unless otherwise ordered or approved by the Department, each establishment shall be constructed, operated, and maintained to meet the following minimum requirements:

8.1 Physical facilities:

- (a) Steam rooms, shower compartments, steam compartments, tub compartments, toilet rooms, and adjacent exits shall have smooth, nonabsorbent, and easily cleanable floors and walls.
- (b) Floors of wet and dry heat rooms shall be adequately sloped to one or more floor drains properly connected to an approved sewer system, except that dry heat rooms with wooden floors need not be provided with sloped floors and floor drains.
- (c) A source of hot water approved by the Department shall be available within the immediate area of the massage rooms and dry and wet heat rooms to facilitate cleaning.
- (d) The premises shall have adequate equipment for disinfecting or sterilizing non disposable instruments and materials used to administer massages.
- (e) Massage tables, exercise tables, and benches shall have easily cleanable upholstery or other approved material covering the entire top surface.
- (f) Closed cabinets shall be provided for the storage of clean linen, towels, and other materials used.
- (g) Adequate toilet facilities shall be provided in convenient locations separate from other facilities, to provide privacy to the occupant(s). If seven or more employees and patrons, including both sexes, are on the premises at the same time, separate toilet facilities shall be provided. There shall be at least one toilet facility for each 15 employees or patrons or portion thereof of that sex on the premises at any one time. Urinals may be substituted for one-half of the men's closets if there is at least one water closet provided for men. All toilet rooms shall be equipped with doors opening in the direction of ingress to the toilet rooms. Toilet rooms used by females must be provided with a covered receptacle for sanitary napkins. Toilets shall be designated as to which sex is accommodated there-in. Toilet facilities shall be vented to the outside air.
- (h) A minimum of one ~~separate hand washing facility sink~~ per toilet room shall be provided in each establishment for the use of patrons and employees. Each hand washing facility shall be provided with hot and cold running water, hand soap and sanitary single service towels or blow dryers at all times. Common towels shall not be used. New establishments, after the effective date of this rule, must have an ~~additional separate~~ hand sink in the immediate area of the massage room.
- (i) Each room or enclosure where massages are administered shall have sufficient light available to ensure proper cleaning and sanitizing.
- (j) All areas of the establishment shall have adequate ventilation.

- (k) Pools, tubs, and similar equipment designed for multiple use without the water being changed, shall comply with the Tooele County Health Department Health Regulation #2, and state and other laws. Tubs, baths, and similar equipment designed for single use shall be emptied after each use, thoroughly cleaned, and properly sanitized.
- (l) No owner or operator shall use an establishment for housing, sheltering, or harboring or cause or permit the same to be used as living or sleeping quarters by employees or other persons.

8.2 Cleaning and maintenance:

- (a) Every portion of the establishment, including appliances, exercise tables, equipment and apparatus, shall be kept clean, in good repair, and maintained sanitary. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet facilities and rooms shall be thoroughly cleaned each day the establishment is in operation. Bathtubs and massage tables shall be cleaned and disinfected after each patron's use.
- (b) Each establishment shall have clean, sanitized sheets, towels, or other linen in sufficient quantity and said towels and linen shall be cleaned and sanitized after each use.
- (c) Massage tables and each patron shall be provided with clean and sanitary sheets, towels, or other linen. No common use of sheets, towels, or other linens shall be permitted.
- (d) All instruments, apparatus, equipment, or appliances used more than once shall be disinfected after use on each patron.
- (e) Oils, creams, lotions, or other preparations used in administering to the body shall be sanitary and kept in a clean, closed container(s) or cabinet(s).
- (f) Dispensing of oils, creams, lotions, or other preparations used in administering to the body shall be only by use of single use applicators, spouts that preclude contamination of the contents, or by single use containers.

8.3 Operators and personnel

- (a) Individuals performing massages, either as employees or private contractors shall be licensed to perform massages by the Utah Division of Occupational and Professional Licensing.
- (b) All massages or treatments in an establishment shall be in a room designed for this purpose.
- (c) All employees, patrons, and operators shall be clean and wear clean outer garments. All employees and operators shall maintain a high degree of personal cleanliness and conform to hygienic practices while on duty.
- (d) Each operator shall wash his/her hands thoroughly before and after administering a massage or treatment on each patron, and as often as necessary to remove soil and contamination. An operator or employee of an

establishment shall thoroughly wash his/her hands after using the toilet, smoking, or eating.

- (e) No operator shall administer a massage or give treatment to a patron on a specific part of the body exhibiting any skin fungus, skin infection, skin inflammation, or skin eruptions, except that a physician duly licensed by the State of Utah may certify that such person may be safely massaged or treated and prescribing the conditions of the massage or treatment. No operator shall diagnose illness or dispense or sell any drug to a patron.
- (f) No person while infected with any disease in a communicable form, or while a carrier of such disease, or while affected with a boil(s), sore(s), infected wound(s), venereal disease(s), or an acute respiratory illness, and no person known or suspected of being infected with any communicable disease or condition shall work or be employed in an establishment. If the owner or operator has reason to suspect that any employee has contracted or is a carrier of any reportable communicable disease, he shall notify the Director immediately.
- (g) If the Director has reasonable cause to suspect disease transmission from or to any employee, the Director shall make investigation or examination as may be indicated and take appropriate action. In addition to other legal remedies, such action may include, but is not necessarily limited to:
 - (1) The immediate exclusion of the employee from all establishments;
 - (2) The immediate closure of the establishment concerned until, in the opinion of the Director, no further danger of disease spread or hazard exists; and
 - (3) Adequate medical and laboratory examinations, including body discharges, of the employee, or other employees or both.
- (h) It shall be the responsibility of the establishment owner or operator to ensure that employees and patrons comply with all health regulations at all times, and no establishment owner shall employ an operator who does not comply with the provisions of these regulations.

9.0 OUTCALL MASSAGE AND TEMPORARY EVENT SERVICE REQUIREMENTS

Each outcall massage service, temporary event and operator shall meet the same requirements, where applicable, as establishments.

10.0 NOTICE

- 10.1 Department to notify owners or others of violations.** If the Director has inspected any establishment or outcall massage service and has found and determined that the establishment or outcall massage service is in violation of these regulations or has reasonable grounds to believe that there has been a violation(s) to the owner(s) or other responsible person(s) thereof.
- 10.2 Department to issue written notice of violation(s).** Prior to initiating a court complaint for the violation of these rules and regulations, the Director shall issue a notice pursuant to Section 10.1 and shall:
- (a) describe the property;
 - (b) give a statement of the cause for its issuance;
 - (c) set forth an outline of the remedial action that complies with the provisions of these regulations; and
 - (d) set a reasonable time for the performance of any required remedial act.
- 10.3 Department to serve notice.** The Director shall serve notice upon the owner(s) of the establishment or outcall massage service or other responsible person(s) pursuant to Sections 10.1 and 10.2 of these rules and regulations. Service shall be deemed complete if the notice is served in one of the following ways:
- (a) served in person;
 - (b) sent by certified mail to the last known address of the owner(s) or other responsible person(s); or
 - (c) published in a newspaper of general circulation.

11.0 ENFORCEMENT

- 11.1 Department to ensure compliance.** It shall be the duty of the Director, upon the presentation of proper credentials, to make inspections of property where any establishment is located or will be located or any outcall massage service. ~~as is necessary to ensure compliance with these regulations.~~
- a. ~~Each establishment must have a pre-opening inspection prior to initial permit issuance.~~
 - b. ~~Additional inspections to be on a complaint basis following permit approval.~~
- 11.2 Inspection made with consent.** Departmental inspections may be made with the consent of the owner(s) or other responsible person(s). If consent is not granted, a search may be made pursuant to an administrative search warrant issued by a court of competent jurisdiction.

11.3 Owners may request a factual report of inspections. Upon request, the owner(s) or other responsible person(s) of any establishment or outcall massage service shall receive a report setting forth all facts found that relate to his/her compliance status.

12.0 RIGHT TO APPEAL

Within 10 calendar days after the Department has given a notice of violation(s), any person(s) aggrieved by the notice may request in writing a hearing before the Department. The hearing shall take place within 10 calendar days after the request is received. A written notice of the Director's final determination shall be given within 10 calendar days after adjournment of the hearing. The Director may sustain, modify, or reverse the action or order.

13.0 PENALTY

13.1 Any person who is found guilty of violating any of the provisions of these rules and regulations, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor pursuant to Section 26A-1-123, Utah Code Annotated, 1953, as amended. If a person is found guilty of a subsequent similar violation within two years, he is guilty of a class A misdemeanor, pursuant to Section 26A-1-123(5), Utah Code Annotated, 1953, as amended.

13.2 Each day such violation is committed or permitted to continue shall constitute a separate violation.

13.3 The County Attorney may initiate legal action, civil or criminal, requested by the Department to abate any condition that exists in violation of these rules and regulations.

13.4 In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of these rules and regulations shall be liable for all expenses incurred by the Department in removing or abating any nuisance, source of filth, cause of sickness or infection, health hazard, or sanitation violation.

14.0 SEVERABILITY

If any provision, clause, sentence, or paragraph of these rules and regulations or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of these rules and regulations. The valid part of any clause, sentence, or paragraph of these regulations shall be given independence from the invalid provisions or application and to this end the provisions of these regulations are hereby declared to be severable.

IN WITNESS WHEREOF, the Tooele County Board of Health has passed, approved and adopted this regulation this _____ day of _____, _____.

ATTEST:

TOOELE COUNTY BOARD OF HEALTH

JEFF COOMBS,
Health Officer

KATHY TAYLOR,
Chairperson

REVISION DATES

- January 4, 2001
- May 15, 2015