

AMENDED AT THE BOARD ON 11/5/2013

LEGISLATIVE DIGEST

[Health Code - Licensing and Regulation of Massage Establishments and Practitioners]

Ordinance amending the Health Code to 1) require ~~massage practitioners~~ establishments to post licensed by San Francisco to wear the photo identification cards of all practitioners licensed by San Francisco when working at the establishment; 2) deny Massage Establishment permits to applicants convicted of specified crimes; 3) provide an appeal process for persons denied a Massage Establishment permit; 4) establish health and safety requirements for all Massage Establishments; 5) establish penalties for violations of Article 29 governing Massage Practitioners and Massage Establishments; 6) require notice of violations be sent to the owner(s) of property where Massage Establishments are located; and making environmental findings.

Existing Law

All individuals engaged in the practice of massage must obtain a permit from the San Francisco Health Department ("Department"). The Department provides an identification card to all permitted practitioners, which must be presented to any City health inspector upon request at all times during the regular business hours of any massage establishment or solo practitioner massage establishment. The Director of Health may suspend or revoke a permit after a public hearing. Massage establishments and solo practitioners must comply with public health and safety facility and operating requirements. Every person holding a massage establishment, solo practitioner massage establishment, or outcall massage service permit issued by the Department pays an annual license fee to the Tax Collector.

Amendments to Current Law

Currently pending before the Board is a revision of Health Code Article 29 which will bring the Health Code into compliance with state law changes that provide: 1) An individual who is certified as a massage practitioner by the State of California pursuant to the California Business and Professions Code is not required to obtain a permit from the Department. However, any practitioner who is not certified by the State must still obtain a permit from the Department; and 2) Massage establishments that employ only massage practitioners who are certified by the state must provide copies of those certificates to the Health Department for all massage practitioners employed by the establishment, and must update this information annually. The operator of a massage establishment, solo practitioner massage establishment, or outcall massage service must maintain a register of all individuals employed as massage practitioners and their State of California certificate or Department permit numbers. Such register shall be available for inspection by the Department at all times during regular business hours.

All massage establishments, whether state-certified or not, must comply with reasonable health and safety operating requirements. These amendments will:

- require massage practitioners licensed by the Department to wear a photo identification card;
- authorize denial of permit to an applicant for a Massage Establishment permit who has been convicted of specified crimes;
- provide an appeal process for anyone denied a Massage Establishment permit;
- prohibit sexual activity, and consumption of alcohol and non-prescription drugs on the premises of a Massage Establishment during business hours;
- provide other reasonable health and safety requirements;
- establish administrative penalties for violations of Article 29.

Committee Amendments

1. Clarify that massage practitioners are certified by the California Massage Therapy Council (CAMTC), not the state of California.
2. For massage practitioners not certified by the CAMTC:
 - require an applicant for a massage establishment permit to submit a full set of fingerprints for the purpose of conducting a criminal background check.
 - add convictions for pandering and keeping a house of prostitution, revocation of a massage permit in the same location within 24 months as grounds for denial of a permit.
3. Require all massage practitioners to be fully clothed.
4. For massage establishments where the operator and all practitioners are not certified by CAMTC, require the posting of a notice in multiple languages providing information on how to report human trafficking, and adding penalties for failing to post this notice.

Board Amendment 11-05-13

1. Delete monetary penalty for inadequate attire levied against practitioner, massage establishment permittee is still responsible for fines.
2. Require massage establishments to post the photo identification cards of all practitioners licensed to practice in San Francisco working at the establishment in a public place, and delete the requirement that the practitioners wear their photo identification card.

Background Information

State law was amended beginning in 2008 to exempt massage practitioners and massage therapists who are certified by the California Massage Therapy Council, and massage businesses that employ only state certified practitioners, from local permitting and other regulatory requirements except reasonable health and safety standards.

These amendments are designed to clarify and strengthen the health and safety standards, and provide uniform penalties for violation.