

AMENDED LEGISLATIVE DIGEST
Amended in Committee – April 27, 2023

[Health Code - Massage Permit Requirements]

Ordinance amending the Health Code to exempt applicants for Massage Establishment, Sole Practitioner Massage Establishment, and Outcall Massage Service permits from fingerprinting requirements if the applicant holds a valid license issued by the California Massage Therapy Council; remove certain departments (Building Inspection, Police, Fire) from the list of departments that the Department of Public Health (DPH) must notify regarding new Massage Establishment permit applications, and remove all notification requirements to departments in cases of change in ownership of Massage Establishments or Sole Practitioner Massage Establishments; remove the requirement that departments receiving notice of new Massage Establishment permit applications conduct inspections with written findings of the applying massage establishment; allow Massage Establishments to install an exterior door keyless lock system upon prior DPH approval and upon providing DPH with a valid and up-to-date access code; remove from the Health Code the inoperative local application process for new Massage Practitioner permits; include solicitation of lewd conduct or prostitution by Massage Practitioners as conduct subject to penalty under this Article; and clarify that violations of certain sections of the Health Code regulating Massage Practitioners are also subject to enforcement as public nuisances.

Existing Law

The existing law, codified at Article 29 of the Health Code, establishes the requirement with limited exceptions that, until January 1, 2019, people administering massages for compensation must have obtained a permit from the Director of Health (Director). Existing law exempted from this permitting requirement massage practitioners holding valid California Massage Therapy Council (CAMTC) certification, licensed health care professionals, and other licensed professionals who provide massage services to the extent permitted under their license.

Existing law also requires anyone with an ownership interest in a massage business, including sole practitioner and outcall massage businesses, to provide the Director a full set of fingerprints to carry out a background check while applying for a permit for their business. Existing law requires these businesses to allow relevant City departments to inspect massage facilities. Existing law also requires the Director to refer massage businesses permit applications to the following City departments: Building Inspection, Police, Fire, and Planning. These departments are required to inspect massage businesses applying for permits and provide resultant written findings to the Director.

Existing law generally prohibits certain massage businesses from locking exterior doors while the business is open.

Existing law also provides an enforcement structure that includes issuance of administrative penalties and fines for violations of Article 29.

Amendments to Existing Law

The Proposed Legislation would remove from the Health Code an inoperative local application process for new massage practitioner permits because the Department no longer accepted such applications as of January 1, 2019.

The Proposed Legislation would allow people who are documented CAMTC-certified practitioners to be exempt from the requirement of providing fingerprints to the Director for criminal background checks related to their application for a massage establishment, sole practitioner massage establishment, or outcall massage service permit.

The Proposed Legislation would remove the requirement that the Director report new massage establishment or sole practitioner massage establishment permit applications to certain City departments (Building Inspection, Police, and Fire) and would remove the requirement that City departments inspect these establishments. Under the Proposed Legislation, the Director will still be required to report these new applications to the Planning Department, but not in the case of massage establishments that are continuing operation under a change of ownership.

The Proposed Legislation would allow massage establishments to install keyless lock systems with access codes on exterior doors upon prior approval by the Director. Under the Proposed Legislation, establishments using these pre-approved systems may remain locked while open for business if the establishment provides the Department of Public Health (Department) with a valid access code or other method of unlocking the system.

Under the Proposed Legislation, it would be a violation of the Health Code if the Department is unable to gain entry to an establishment using a keyless lock system during the establishment's operating hours. The Proposed Legislation would also add additional penalties for repeat violations of keyless lock system requirements including removal of the keyless lock system and rescission of the Director's approval to continue using a keyless lock system.

The Proposed Legislation would amend the Health Code to include solicitation of lewd conduct and prostitution by massage practitioners as conduct subject to civil penalty, and would clarify that certain violations of Article 29 of the Health Code are considered a public health nuisance and subject to related additional enforcement, penalty, or other action.

Background Information

The Proposed Legislation seeks to increase efficiency in applying for certain massage establishment permits by exempting CAMTC-certified practitioners from redundant local fingerprinting requirements, removing some interdepartmental referral and inspection requirements that added unnecessary delay and expense to the application process, and removing all interdepartmental referral requirements in cases of change of ownership at massage establishments with preexisting approved permits. By allowing keyless locking systems under certain circumstances, the Proposed Legislation balances Departmental needs to access and inspect massage establishments with the establishments' interest in maintaining building security.

This Legislative Digest reflects amendments made at the April 27, 2023 meeting of the Public Safety and Neighborhood Services Committee to: 1) include solicitation of lewd conduct or prostitution by massage practitioners as conduct subject to civil penalties, even in the absence of a criminal citation, charge, or conviction; and 2) clarify that violations of Article 29 may also be addressed as public nuisances under Section 581 of the Health Code.

N:\LEGANAVAS2022\2300043\01673485.DOCX