

File No. 130789

Committee Item No. 2  
Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight Date October 24, 2013

Board of Supervisors Meeting Date \_\_\_\_\_

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Completed by: Erica Dayrit Date October 17, 2013  
Completed by: \_\_\_\_\_ Date \_\_\_\_\_

FILE NO. 130789

ORDINANCE NO.

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

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

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
12 **Deletions to Codes** are in ~~*Times New Roman font*~~.  
13 **Board amendment additions** are in Arial font.  
14 **Board amendment deletions** are in ~~Arial font~~.  
15 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. Environmental Findings.

19 The Planning Department has determined that the actions contemplated in this  
20 ordinance comply with the California Environmental Quality Act (California Public Resources  
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
22 Supervisors in File No. 130789 and is incorporated herein by reference.

23 Section 2. The Health Code is hereby amended by revising Section(s) 1905, 1909,  
24 1910, 1928, to read as follows:  
25

1           **SEC. ~~1905~~29.6. IDENTIFICATION CARD FOR PRACTITIONERS NOT CERTIFIED BY**  
2 **THE STATE CAMTC.**

3           The Director shall provide all massage practitioners *granted a permit, who are not*  
4 *certified as a massage practitioner or therapist by the State of California CAMTC pursuant to the*  
5 *California Business and Professions Code, granted a permit with a photo* identification card.  
6 *Massage practitioners must wear their identification card at all times when they are working at any*  
7 *massage establishment or solo practitioner massage establishment.* The identification card must be  
8 presented to any City health inspector *or law enforcement officer* upon request at all times  
9 during the regular business hours of any massage establishment or solo practitioner massage  
10 establishment.

11           **SEC. ~~1909~~29.11. APPLICATION FOR MASSAGE ESTABLISHMENT, SOLO**  
12 **PRACTITIONER MASSAGE ESTABLISHMENT, OR OUTCALL MASSAGE SERVICE**  
13 **PERMIT FOR PRACTITIONERS NOT CERTIFIED BY THE STATE CAMTC.**

14           (a) Unless all massage practitioners or therapists providing services are certified as a  
15 massage practitioner or therapist by the State of California CAMTC pursuant to the California  
16 Business and Professions Code, Every applicant for a massage establishment, solo practitioner  
17 massage establishment, or outcall massage service permit shall:

18                   (1) file an application with the Director upon a form provided by the Director,  
19                   (2) provide a complete set of fingerprints, through the Live Scan process, or any  
20 comparable successor technology, for the purpose of a undergoing a criminal background  
21 check; and

22                   (3) and pay a non-refundable application fee, as set forth in Section ~~1927~~29.26.

23           (b) The application shall set forth, under penalty of perjury, the following:

24                   (1) The exact nature of the services to be rendered;

25                   (2) The address of the proposed place of business and facilities thereof;

1 (3) The number of individuals to be employed by the business, and, in the case  
2 of a solo massage practitioner establishment, the names of any massage practitioners who  
3 shall operate under that permit;

4 (4) The name, residence address, and date of birth of each applicant;

5 (5) Any history of previous massage permits or licenses in San Francisco or  
6 elsewhere, including whether any such permit or license has been revoked and the reasons  
7 therefor, for each applicant; and

8 (6) All felony or misdemeanor convictions for the applicant within the preceding  
9 five ten years, including, but not limited to, felony sexual assault; sexual battery (Cal. Penal Code  
10 243.4), rape (Cal. Penal Code 261); statutory rape (Cal. Penal Code 261.5); prostitution offenses  
11 related to pimping (Cal. Penal Code 266 and applicable subsections); pandering (Cal. Penal Code  
12 266i); sex crimes for which registration is required under the Sex Offender Registration Act (Cal.  
13 Penal Code 290); keeping or residing in house of ill-fame (Cal. Penal Code 315); keeping  
14 disorderly house (Cal. Penal Code 316); loitering for lewd or lascivious purposes (Cal. Penal  
15 Code 647(d), 647(h)); and human trafficking (Cal. Penal Code 236.1); convictions in any other  
16 state of any offense which, if committed or attempted in this state, would have been  
17 punishable as one or more of the referenced offenses of this subdivision; and, conspiracy or  
18 attempt to commit any such offense described in the subsections above.

19 (c) The Director is hereby authorized to require in the application any other information  
20 including, but not limited to, information related to the health, hygiene, and sanitation of the  
21 premises and any information necessary to confirm the accuracy of the matters set forth in the  
22 application.

23 (d) If an applicant for a massage establishment or outcall massage service permit is a  
24 corporation, the name of the corporation shall be set forth exactly as shown in its articles of  
25 incorporation together with the names and residence addresses of each of the officers,

1 directors, and each stockholder holding more than 10 percent of the stock of the corporation.  
2 If the application is a partnership, the application shall set forth the name and the residence  
3 address of each of the partners, including limited partners. If one or more of the partners is a  
4 corporation, the provisions of this Section pertaining to corporate applicants applies. The  
5 same permit and criminal history information required of individual applicants, set forth in  
6 subsection (b)(6), above, shall be provided for each officer, director, and stockholder holding  
7 more than 10 percent of the stock of the corporation, or for each partner, including limited  
8 partners.

9 (e) In addition to the information required under subsections (b) and (c), an applicant  
10 for a solo practitioner massage establishment permit shall provide proof that he or she holds a  
11 current, valid advanced massage practitioner permit issued by the Director under  
12 Section ~~190129.2~~.

13 (f) Applicants shall also submit proof of compliance with any applicable Planning Code  
14 requirements regarding notice and posting of the proposed establishment.

15 (g) An advanced massage practitioner holding a solo practitioner massage  
16 establishment permit shall not be required to pay any additional permit fee for an outcall  
17 massage service permit.

18 (h) Within 14 days following a hearing, or, if no hearing is held, within 60 business days  
19 following receipt of a completed application for a permit for a massage establishment that does not  
20 solely employ practitioners certified as a massage practitioner or therapist by the State of California  
21 pursuant to the California Business and Professions Code the Director shall either issue the permit or  
22 mail a written statement of his or her reasons for denial thereof to the applicant. If the Director takes  
23 neither action, the permit shall be deemed issued.

24 (i) No massage establishment permit shall be issued if the Director finds:

25 (1) The applicant has provided materially false documents or testimony; or

1                   (2) The applicant has not complied fully with the provisions of this Article; or

2                   (3) Within five years immediately prior to the date of application, the applicant  
3 has had any license or permit related to the operation of a massage establishment revoked by the City,  
4 another City or County, or by the CAMTC; or

5                   (4) The applicant has been convicted of any of the following offenses or  
6 convicted of an offense outside the State of California that would have constituted any of the following  
7 offenses if committed within the State of California, within the last five years: felony sexual assault;  
8 sexual battery (Cal. Penal Code 243.4), rape (Cal. Penal Code 261); statutory rape (Cal. Penal Code  
9 261.5); prostitution offenses related to pimping (Cal. Penal Code 266 and applicable subsections);  
10 pandering (Cal. Penal Code 266i); sex crimes for which registration is required under the Sex  
11 Offender Registration Act (Cal Penal Code 290); keeping or residing in house of ill-fame (Cal.  
12 Penal Code 315); keeping disorderly house (Cal. Penal Code 316); loitering for lewd or  
13 lascivious purposes (Cal. Penal Code 647(d), 647(h)); supervision of a prostitute (Cal. Penal  
14 Code 652.23); and human trafficking (Cal. Penal Code 236.1); convictions in any other state of  
15 any offense which, if committed or attempted in this state, would have been punishable as  
16 one or more of the referenced offenses of this subdivision; and, conspiracy or attempt to  
17 commit any such offense described in the subsections above; or,

18                   (5) A massage establishment permit at the same location was revoked  
19 within the prior 24 months.

20                   (j) If an application for a massage practitioner permit is denied, within 30 days of the date of  
21 receipt of the notice of denial, the applicant may appeal the decision by notifying the Director in  
22 writing. The notice shall set forth in detail the ground or grounds for the appeal. Within 30 days of  
23 receipt of the notice of appeal, the Director shall conduct a hearing to consider the appeal. At least 10  
24 days prior to the hearing, the Director shall notify the applicant of the time and place of the hearing.

1 The Director shall oversee the hearing, provide the applicant an opportunity to speak at the hearing,  
2 and issue a ruling within 30 days of its conclusion. The Director's ruling shall be final.

3 **SEC. ~~191029.12.~~ FACILITIES NECESSARY OPERATING REQUIREMENTS FOR**  
4 **MASSAGE ESTABLISHMENTS.**

5 ~~No permit to conduct a massage establishment shall be issued unless an inspection by the~~  
6 ~~Director reveals that the~~All ~~massage establishments~~ must ~~complies~~y ~~with each of the following~~  
7 health and safety requirements:

8 (a) Toilet rooms shall be provided for patrons in convenient locations.

9 (1) Construction of rooms used for toilets, as well as rooms used for, tubs, steam  
10 baths, and showers shall be made waterproof with hard nonabsorbent materials which are  
11 easily cleaned and shall be installed in accordance with the San Francisco Building Code.

12 (2) Plumbing fixtures in toilet rooms as well as rooms used for, tubs, steam baths, and  
13 showers shall be installed in accordance with the San Francisco Plumbing Code.

14 (1) ~~For toilet rooms, toilet room vestibules, and rooms containing bathtubs, there shall~~  
15 ~~be a waterproof floor covering, which will be carried up all walls to a height of at least five inches.~~  
16 ~~Floors shall be coved at the juncture of the floor and wall with a inch minimum radius coving.~~

17 (2) ~~Steam rooms and shower compartments shall have waterproof floors, walls, and~~  
18 ~~ceilings approved by the Director.~~

19 (3) ~~Floors of wet and dry heat rooms shall be adequately pitched to one or more floor~~  
20 ~~drains properly connected to the sewer. Dry heat rooms with wooden floors need not be provided with~~  
21 ~~pitched floors and floor drains.~~

22 (4) ~~A source of hot water must be available within the vicinity of dry and wet heat~~  
23 ~~rooms to facilitate cleaning.~~

24 (b) ~~Toilet facilities shall be provided in convenient locations. When five or more employees or~~  
25 ~~patrons of different genders are on the premises at the same time, separate toilet facilities shall be~~

1 ~~provided. A single toilet shall be provided for each 1.5 or more persons of the same gender on the~~  
2 ~~premises at any one time.~~

3 (3) Urinals may be substituted for toilets after one toilet has been provided.

4 (4) Doors to toilet rooms shall open inward and be self-closing.

5 (5) Toilet rooms shall be designated as to the gender accommodated therein.

6 (b) Handwashing facilities shall be provided within or adjacent to the toilet rooms and shall be  
7 equipped with an adequate supply of hot and cold running water under pressure.

8 ~~(c)(1) Lavatories or wash basins with both hot and cold running water shall be installed~~  
9 ~~in either the toilet room or the vestibule.~~ Lavatories or wash basins must have soap in a  
10 dispenser and sanitary towels.

11 (2) Handwashing facilities shall be readily accessible to the massage practitioner.

12 ~~(d)~~ All portions of the massage establishment shall be provided with adequate light  
13 and ventilation by means of windows or skylights with an area of not less than of the total floor  
14 area, or shall be provided with an approved artificial light and a mechanical operating  
15 ventilating system. ~~When windows or skylights are used for ventilation, at least 1/2 of the total~~  
16 ~~required window area shall be operable. To allow for adequate ventilation, cubicles, rooms, and areas~~  
17 ~~provided for the use of patrons not served directly by a window, skylight, or mechanical system of~~  
18 ~~ventilation shall be constructed so that the height of the partitions does not exceed 75 percent of the~~  
19 ~~floor-to-ceiling height of the area in which they are located.~~

20 (1) Toilet, dressing and massage rooms shall be provided with at least 108 lux (10 foot  
21 candles) of light.

22 (e2) All electrical equipment shall be installed in accordance with the  
23 requirements of the San Francisco Electrical Code.

24 (d) A room, enclosure, or designated area shall be provided where patrons can change and  
25 store their clothes.



1 (e) A room, enclosure, or designated area, which is separate from the toilet, massage room(s),  
2 steam room, or other common areas shared by the patrons shall be made available for each employee.

3 (f) Every portion of a massage establishment, including appliances and apparatus, shall be  
4 kept clean and operated in a sanitary condition.

5 (1) Adequate and suitable space shall be provided for storage of clean linens, including  
6 but not limited to sheets, towels, and apparel.

7 (2) Every massage establishment shall provide clean laundered sheets and towels and  
8 shall launder them after each use and store them in a sanitary manner.

9 (3) No towels or sheets shall be laundered or dried in any massage establishment unless  
10 such massage establishment has laundry facilities for such laundering and drying.

11 (4) The massage establishment shall provide smooth, cleanable appropriately labeled  
12 receptacles for the storage of soiled linens and disposal of paper towels.

13 (5) The massage establishment shall appropriately bag and dispose of soiled refuse.

14 (6) Every massage establishment shall thoroughly sanitize its wet and dry heat rooms,  
15 shower compartments, and toilet rooms each business day.

16 (7) Bathtubs shall be thoroughly cleaned and sanitized after each use.

17 (g) Any room in which a massage establishment provides massage services shall not be used  
18 for residential or sleeping purposes; provided, however, that the Director may allow such room to be  
19 used for residential or sleeping purposes if the Director finds that the health and safety of the patrons  
20 of the massage establishment will not be jeopardized.

21 (h) Massage practitioners shall not engage in lewd or lascivious acts on the premises of a  
22 massage establishment during business hours, including but not limited to: the performance of acts, or  
23 simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, copulation (oral, anal or  
24 vaginal), flagellation; the actual or simulated caressing or fondling by one adult human being of the  
25

1 breast, anus or genitals of another adult human being; the actual or simulated displaying of the pubic  
2 hair, anus, vagina, penis, vulva, buttocks, areola, or any other external genitalia of the human body.

3 (i) Massage practitioners shall be fully clothed in clean, non-transparent clothing at all  
4 times that shall not expose their genitals, pubic area, buttocks or chest, nor shall the operator  
5 of a massage business allow or permit any person providing services at the massage  
6 establishment to dress in non-conforming clothing.

7 (j) Massage Establishment interior and exterior doors shall remain unlocked during business  
8 hours, except in establishments where all practitioners are certified by the CAMTC, when there  
9 is no staff available to ensure security for clients and massage staff who are behind closed doors.

10 (k) No alcoholic beverages or drugs may be sold, served, used, or possessed on the premises of  
11 any massage establishment during business hours. "Alcoholic beverage" includes a mixture of one or  
12 more alcoholic beverages ingested separately or as a mixture as defined in Section 23004 of the  
13 California Business and Professions Code. "Drug" shall include all narcotics, drugs, or controlled  
14 substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the California  
15 Health and Safety Code.

16 (l) Unless the massage establishment operator and all practitioners are CAMTC  
17 certified, the operator of the establishment must post a notice informing the public and victims  
18 of human trafficking of telephone hotline numbers to seek help or report unlawful activity in  
19 English, Spanish, Cantonese and Vietnamese, and other appropriate languages as  
20 determined by the Department in a conspicuous place near the public entrance of the  
21 massage establishment or in another conspicuous location in clear view of the public and  
22 employees where similar notices are customarily posted pursuant to Cal. Civil Code Section  
23 52.6.

1                   **SEC. ~~192829.27~~. VIOLATIONS AND ADMINISTRATIVE PENALTIES.**

2                   (a) Any person who violates any provision of this Article or any rule or regulation  
3 adopted pursuant to Section ~~192629.25~~ may, after being provided notice and an opportunity to  
4 be heard, be subject to the following monetary penalties and/or permit penalties. ~~an administrative~~  
5 ~~fine not to exceed \$1,000 for the first violation of any provision of this Article or any rule or regulation~~  
6 ~~in a 24 month period, \$2,500 for the second violation of any provision of this Article or any rule or~~  
7 ~~regulation in a 24 month period, and \$5,000 for the third and subsequent violations of any provision of~~  
8 ~~this Article or any rule or regulation in a 24 month period; provided, however, that the schedule of~~  
9 ~~administrative fines for a massage practitioner shall be as follows: not to exceed \$250 for the first~~  
10 ~~violation of any provision of this Article or a rule or regulation in a 24 month period, \$500 for the~~  
11 ~~second violation of any provision of this Article or any rule or regulation in a 24 month period, and~~  
12 ~~\$1,000 for the third and subsequent violations of any provision of this Article or any rule or regulation~~  
13 ~~in a 24 month period.~~

14                   (b) Any permittee who knowingly employs a massage practitioner who is not in possession of a  
15 valid permit or who allows such a massage practitioner to perform, operate, or practice in the  
16 permittee's place of business may, after being provided notice and an opportunity to be heard, be  
17 subject to an administrative fine not to exceed \$1,000 for the first violation in a 24 month period,  
18 \$2,500 for the second violation in a 24 month period, and \$5,000 for the third and subsequent  
19 violations in a 24 month period.

20                   (c) ~~In determining the amount of the administrative fine, the hearing officer shall consider any~~  
21 ~~relevant circumstance presented by any of the parties, including but not limited to the nature and~~  
22 ~~seriousness of the violation, the number of violations, the persistence of the violation, the length of time~~  
23 ~~over which the violation occurred, the willfulness of the violation, and the impacts of the violation on~~  
24 ~~the community.~~

1                   (1) Establishment Operating Without a Permit from the San Francisco Department of  
2 Public Health.

3                   (A) Administrative fine: Up to \$1,000 per day of operating without a permit; and

4                   (B) Permit penalty: Revocation, and Massage Establishment location and  
5 permittee are ineligible for a new permit from the San Francisco Department of Public Health for 180  
6 days.

7                   (C) Repeat violations: Same penalties as (a)(1)(A) and (a)(1)(B).

8                   (2) Establishment Violating Conditions of California Business and Professions Code  
9 sections 4600-4620 and all Implementing Regulations.

10                   (A) Administrative fine: Up to \$1,000 per day of operating without a permit;  
11 and

12                   (B) Permit Penalty: Massage Establishment location and permittee are  
13 ineligible for a permit from the San Francisco Department of Public Health for 180 days.

14                   (C) Repeat violations: Same penalties as (a)(3)(A) and (a)(3)(B).

15                   (3) Massage Establishment Employing Underage Practitioner as defined in Section  
16 29.17.

17                   (A) Administrative fine: None.

18                   (B) Permit penalty: Mandatory 60-120 days suspension of Massage  
19 Establishment permit.

20                   (C) Repeat violations: Revocation for second occurrence within 36 months of  
21 first occurrence and Massage Establishment location and permittee are ineligible for a new permit for  
22 180 days.

23                   (4) Solicitation Charges or Convictions, as Defined by California Penal Code section  
24 647 and/or San Francisco Police Code section 225, for anyone working at Massage Establishment.

1 (A) Administrative fine: \$5,000 to be paid by Massage Establishment permittee;

2 and

3 (B) Permit penalty: Mandatory 60-120 days suspension of Massage  
4 Establishment permit.

5 (C) Repeat violations: Revocation; Permittee ineligible for a new Massage  
6 Establishment permit from the San Francisco Department of Public Health, at any location.

7 (5) Trafficking Charges or Convictions, as Defined by California Penal Code  
8 Section 236.1, for anyone working at Massage Establishment.

9 (A) Administrative fine: None.

10 (B) Permit penalty: Revocation and Permittee ineligible for a new Massage  
11 Establishment permit, at any location.

12 (C) Repeat violations: Same penalty as (a)(5)(B).

13 (6) Establishment Knowingly Employing Unlicensed or Uncertified Massage  
14 Practitioner or Therapist

15 (A) Administrative fine: \$1,000 to be paid by Massage Establishment permittee.

16 (B) Permit penalty: None.

17 (C) Repeat violations: 15-30 days suspension and up to \$2,500 fine for 2nd  
18 occurrence within a 24 month period; 30-60 days suspension or permit revocation, and up to \$5,000  
19 fine for 3rd occurrence within 24 months.

20 (7) Establishment Used for Residential Sleeping Purposes, Without Authorization by the  
21 City and County of San Francisco Director of Public Health.

22 (A) Administrative fine: Up to \$1,000.

23 (B) Permit penalty: None.

1                                    (C) Repeat violations: 15-30 days suspension and up to \$2,500 fine and for 2nd  
2 occurrence within 24 months; 30-60 days suspension and up to \$5,000 fine for 3rd occurrence within  
3 24 months.

4                                    (8) Presence of beds instead of massage tables.

5                                    (A) Administrative fine: None.

6                                    (B) Permit penalty: Notice of violation only.

7                                    (C) Repeat violations: Up to \$1,000 fine for 2nd occurrence within 24 months;  
8 15-30 day suspension and up to \$2,500 fine and for 3rd occurrence within 24 months.

9                                    (9) Massage Practitioner Not Wearing ~~Improper~~ Attire as described in Section  
10 29.12(i).

11                                    (A) Administrative fine: Up to \$250 to be paid by practitioner and up to \$250  
12 per person to be paid by Massage Establishment permittee; and,

13                                    (B) Permit penalty: Notice of violation.

14                                    (C) Repeat violations: Up to \$500 fine for 2nd and each subsequent occurrence  
15 and 60 day suspension for practitioner and 60 day suspension per person for Massage Establishment  
16 permit.

17                                    (10) Sanitation Issues, pursuant to Section 29.12(f).

18                                    (A) Administrative fine: None.

19                                    (B) Permit penalty: Notice of violation.

20                                    (C) Repeat violations: Up to \$250 fine and 60 day suspension for Massage  
21 Establishment permit.

22                                    (11) Massage Establishment Operating Past 10 p.m.

23                                    (A) Administrative fine: Up to \$1,000.

24                                    (B) Permit penalty: None.

1                                    (C) Repeat violations: 15-30 days suspension and up to \$2,500 for 2nd  
2 occurrence within 24 months; 30-60 days suspension and up to \$5,000 fine for 3rd and each  
3 subsequent occurrence within 24 months.

4                                    (12) Practicing Massage Without a Permit.

5                                    (A) Administrative fine: \$250 fine.

6                                    (B) Permit penalty: None.

7                                    (C) Repeat violations: \$500 fine for 2nd occurrence within 24 months; \$1,000  
8 fine for 3rd and each subsequent occurrence within 24 months, and Practitioner ineligible for San  
9 Francisco Department of Public Health permit for 180 days.

10                                   (13) Anyone performing sex acts as defined in Section 29.12(h) on Massage  
11 Establishment premises during business hours.

12                                   (A) Administrative fine: \$1000 to be paid by Massage Establishment permittee,  
13 and

14                                   (B) Permit penalty: 60 day permit suspension of Massage Establishment permit.

15                                   (C) Repeat violations: Permit revocation of both practitioner and Massage  
16 Establishment permittee.

17                                   (14) Failure to post notices as required by Section 29.12(l).

18                                   (A) Administrative fine: Written warning for first violation, \$250 for  
19 second violation within 12 months.

20                                   (B) Permit Penalty: 30 day suspension for third and subsequent  
21 violations within 24 months.

22                                   (1415) All other violations of San Francisco Health Code Article 29, and any Massage  
23 Program Rules and Regulations.

24                                   (A) Administrative fine: Up to \$1,000; and


25                                   (B) Permit penalty: suspension or revocation.





1 portions of this ordinance. The Board of Supervisors hereby declares that it would have  
2 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and  
3 word not declared invalid or unconstitutional without regard to whether any other portion of  
4 this ordinance would be subsequently declared invalid or unconstitutional.  
5

6 APPROVED AS TO FORM:  
7 DENNIS J. HERRERA, City Attorney

8 By:   
9 VIRGINIA DARIO ELIZONDO  
Deputy City Attorney

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FILE NO. 130789

**LEGISLATIVE DIGEST**

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

**Ordinance amending the Health Code to 1) require massage practitioners licensed by San Francisco to wear photo identification cards when working; 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:

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- 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.

#### 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.

Electronically BOS-11  
COB Leg Dep.  
Comm Clerks

President, District 3  
BOARD of SUPERVISORS



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DAVID CHIU  
邱信福  
市參事會主席

**PRESIDENTIAL ACTION**

Date: 10/9/2013  
To: Angela Calvillo, Clerk of the Board of Supervisors

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2013 OCT -9 PM 4:43

Madam Clerk,

Pursuant to Board Rules, I am hereby:

- Waiving 30-Day Rule (Board Rule No. 3.23)  
File No. \_\_\_\_\_ (Primary Sponsor)
- Transferring (Board Rule No. 3.3)  
File No. 130789 Tang  
(Primary Sponsor)  
From: Rules Committee *LW*  
To: Government Audit & Oversight Committee *ENCAD.*
- Assigning Temporary Committee Appointment (Board Rule No. 3.1)  
Supervisor \_\_\_\_\_  
Replacing Supervisor \_\_\_\_\_  
For: \_\_\_\_\_ Meeting  
(Date) (Committee)

David Chiu  
David Chiu, President  
Board of Supervisors