

1 [Authorizing Access to State and Federal Background Checks for Massage Permits]

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3 **Resolution authorizing the Department of Public Health to access state and federal**  
4 **level summary criminal history for the licensing, permitting, and/or certification of**  
5 **massage business applicants.**

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7 WHEREAS, Article 29 of the San Francisco Health Code requires all individuals  
8 applying for a massage business permit from the San Francisco Department of Public Health  
9 (“Department”) to provide a complete set of fingerprints in the manner required by the Director  
10 of Health (“Director”) for the purpose of undergoing a criminal background check; and

11 WHEREAS, Sections 29.29 and 29.33(a)(1) of the San Francisco Health Code  
12 authorize the Director to deny massage business permit applications for individuals convicted  
13 of a violent or serious felony or misdemeanor; and

14 WHEREAS, The Department does not currently have access to state and federal level  
15 summary criminal history to conduct a background check for individuals convicted of violent or  
16 serious felonies and misdemeanors; and

17 WHEREAS, Penal Code, Sections 11105(b)(11) and 13300(b)(11) authorize cities,  
18 counties, districts and joint powers authorities to access state and local summary criminal  
19 history information for employment, licensing or certification purposes; and

20 WHEREAS, Penal Code, Section 11105(b)(11) authorizes cities, counties, districts and  
21 joint powers authorities to access federal level criminal history information by transmitting  
22 fingerprint images and related information to the Department of Justice to be transmitted to  
23 the Federal Bureau of Investigation; and

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1           WHEREAS, Penal Code, Sections 11105(b)(11) and 13300(b)(11) require that there be  
2 a requirement or exclusion from employment, licensing, or certification based on specific  
3 criminal conduct on the part of the subject of the record; and

4           WHEREAS, Penal Code, Sections 11105(b)(11) and 13300(b)(11) require the city  
5 council, board of supervisors, governing body of a city, county or district or joint powers  
6 authority to specifically authorize access to summary criminal history information for  
7 employment, licensing, or certification purposes; now, therefore, be it

8           RESOLVED, That the Department’s Environmental Health Branch, on behalf of the City  
9 and County of San Francisco, is hereby authorized to access state and federal level summary  
10 criminal history information for massage business permits; and, be it

11           FURTHER RESOLVED, That the Department’s Environmental Health Branch may not  
12 disseminate the criminal history information to a private entity; and, be it

13           FURTHER RESOLVED, That the Department shall not consider a person who has  
14 been convicted of a violent or serious felony or misdemeanor eligible for a massage business  
15 permit.

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18 RECOMMENDED:

19 /s/\_\_\_\_\_

20 Dr. Grant Colfax  
21 Director of Health

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