

## **Medway Board of Health Rules and Regulations for the Practice of Bodywork**

### **A. Authority**

This Regulation is pursuant to the authority granted to the Town of Medway Board of Health by Massachusetts General Laws Chapter 111, Section 31, which provides that “Boards of Health may make reasonable health regulations”.

### **B. Purpose, Scope, and Intent**

The purpose of these Rules and Regulations is to protect residents, businesses, and public health within the Town of Medway. Whereas persons working in this particular service industry have often identified themselves as bodyworkers to gain exemption from the Massachusetts Rules and Regulation Governing Massage Therapists, it is necessary to enact these Rules and Regulations (herein “Regulations”) on the Practice of Bodywork to protect the public health, welfare and safety of the community.

The scope of these Regulations is broad and includes many aspects which, if not particularly regulated, could endanger the community through prostitution, human trafficking, and disease transmission.

It is the Board of Health’s intent that only individuals who meet and maintain a minimum standard of competence and conduct within their scope of practice, as a professional, may provide services to the public. These Regulations designate the requirements for obtaining a permit to operate a bodywork establishment and a permit to practice bodywork, as well as grounds for suspension, revocation, or denial of such permit.

### **C. Definitions**

*Administrative Suspension:* shall mean an administrative action with immediate effect taken by the Board of Health or its Agent for cause when a permit holder fails to renew a permit, denies entry to an agent of the Board during the conduct of an inspection, violates any of these Regulations or applicable laws, or based on an imminent threat to the health and safety of the employees or clients of the establishment or to the public.

*Agent:* shall mean a person employed by the Town of Medway who is authorized by the Medway Board of Health to perform functions subject to these regulations.

*Applicant:* shall mean an individual or entity seeking a permit who has submitted an official application as provided by the Medway Board of Health.

Application: shall mean the application form provided by the Medway Board of Health, which has been signed under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated, and signed.

Board of Health or Board: The Medway Board of Health and/or its designated agent(s).

Bodywork: shall refer to the practice of a person representing himself or herself as a Bodyworker or Bodywork Therapist, or the practice of a person using primary touch to manipulate tissue, which does not constitute Massage as defined in M.G.L. Chapter 112, Section 227 in the course of treatment or therapy provide to another person. Bodywork may include, but not limited to, Acupressure, Asian Bodywork, AMMA Therapy®, Body-Mind Centering, Chi Nei Tsang, Feldenkrais Method, Five Element Shiatsu, Integrative Eclectic Shiatsu, Japanese Shiatsu, Jin Shin Do®, Korean Bodywork, Bodymind Acupressure, Polarity, Macrobiotic Shiatsu, Reflexology, Reiki, Rolph Structural Integration, Shiatsu Amma Therapy, Traditional Thai Massage & Bodywork, Trager Approach, Tui Na, Qi Gong, Zen Shiatsu, Ayurveda medicine, and other practices as they become known.

Bodywork Establishment or Establishment: shall mean any established location, or portion thereof, in the Town of Medway which advertises and/or provides bodywork therapy services on the premises. Any health care facility licensed by the Commonwealth of Massachusetts or the office of any health care professional licensed by the Commonwealth of Massachusetts is not an establishment for the purposes of these regulations. Any location within a licensed health care facility or health care professional's office, which is dedicated to and maintained for the use of a therapist who performs occasional bodywork services to the patients of the facility, is a bodywork establishment for the purpose of permitting under these Regulations and the portions of the facility or office wherein bodywork therapy services are provided must be in compliance with these Regulations.

Bodyworker: shall mean a Bodywork Therapist.

Bodywork Therapist: shall mean a person who practices Bodywork.

Client: shall mean a person with whom the Bodywork Therapist has an agreement to provide bodywork therapy services.

Certification: shall mean successful completion of the most current requirements of a national professional membership organization or national certification commission, such as American Organization for Bodywork Therapies of Asia (AOBTA), National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), American Reflexology Certification Board, Massachusetts Association of Reflexology (MAR), and the Reflexology Association of America (RAA). Any such national professional membership organization or national certification commission must include an established set of educational standards, require compliance with a specific code of ethics, and offer a grievance process. All certifications and/or credentials must be approved by the Board.

*Criminal Offender Record Information (CORI)*: shall mean a record of criminal offenses committed as an adult or juvenile, as compiled by the Massachusetts Department of Criminal Justice Information Systems (DCJIS).

*Nicotine Delivery Product*: shall mean any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes, and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

*Cannabis Delivery Product*: shall mean any manufactured object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing cannabis into the human body, and any object or device that facilitates cannabis combustion or vaporization that is used for ingesting or used to aid an individual in ingesting cannabis. Cannabis delivery products include, but are not limited to, vaporizers and portable hand-held pens.

*Operation*: shall mean times when the establishment is open to the public for the practice of bodywork.

*Patron*: shall mean a person with whom the bodywork therapist has an agreement to provide bodywork therapy services or a visitor or any other person on premises at the establishment who is not an employee.

*Permit*: shall mean either a document issued by the Board allowing a specific person to operate a bodywork establishment in the Town of Medway, or a document issued by the Board allowing a specific person to practice bodywork in the Town of Medway.

*Permit Holder*: shall mean a person holding a permit to practice any form of bodywork therapy or to operate a bodywork establishment in the Town of Medway. Where applicable, this shall include partnerships and/or corporations.

*Person-in-Charge*: shall mean the permit holder of a Bodywork Establishment permit, or his/her designee, present at the bodywork establishment who is responsible for the operation at the time of inspection, and who is authorized to sign inspection forms and communicate with the Board of Health or its authorized agent(s).

*Retired Permit*: shall mean a permit that has not been renewed for more than ninety (90) consecutive days.

*Sanitization*: shall mean effective bactericidal/germicidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial/germ count, including bacterial, viral, and fungal pathogens, to a safe level on massage table surfaces, instruments, and/or the general facility.

Sex Offender Registry Information (SORI): shall mean a record of convictions for specified sexual offenses committed as an adult or juvenile, as compiled by the Sex Offender Registry Board.

Sexual Activity: shall mean any direct or indirect physical contact by any person or between persons which is intended to erotically stimulate either person or both, or which is likely to cause such stimulation and include, but not limited to: sexual intercourse, fellatio, cunnilingus, masturbation (or “hand release”), or anal intercourse. Masturbation shall mean the manipulation of any body tissue with the intent to cause sexual arousal. Sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation occurs.

#### **D. Prohibition and Exemptions**

1. No person, firm, corporation, partnership, or other entity shall practice bodywork, operate an establishment for the practice of bodywork, or allow any person to conduct bodywork on premises owned or controlled by them without a valid permit from the Board of Health or its designee, and without fully complying with these regulations and all applicable laws governing the practice of bodywork.
2. Pursuant to these regulations, a Bodywork Therapist Permit shall not be required of the following individuals while engaged in the regular performance of the duties of their respective professions:
  - a. Physicians, chiropractors, osteopaths, occupational therapists, physical therapists, massage therapists, podiatrists, and athletic trainers that are licensed to practice their respective professions in the Commonwealth of Massachusetts;
  - b. Hospitals, long-term care facilities, and home health agencies licensed or certified under the laws of the Commonwealth of Massachusetts;
  - c. Nurses who are registered or licensed under the laws of the Commonwealth of Massachusetts;
  - d. Barbers, cosmetologists, electrologists, manicurists, and aestheticians who are duly registered under the laws of the Commonwealth of Massachusetts, provided that this exemption shall apply solely to the massage of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes in a licensed salon or shop;
  - e. Acupuncturists duly licensed under the laws of the Commonwealth of Massachusetts;
  - f. Naturopathic Physicians who are duly licensed by a state or province.

#### **E. Bodywork Therapist Permit**

1. Any person desiring to practice bodywork, or be a bodywork therapist at a Bodywork Establishment, shall obtain a Bodywork Therapist Permit issued by the Board of Health. An application shall be obtained from the Board of Health. The applicant understands that the Board of Health has the discretion to grant or deny any requested permit.

Requirements for applicants are as follows:

- a. Applicant must be twenty-one (21) years of age or older at the time of application.
  - b. Applicant shall submit a High School Diploma or its verifiable equivalent.
  - c. Applicant shall be able to communicate effectively in English.
  - d. The Applicant shall provide their complete name (use of an alias is prohibited), address, telephone number, and e-mail address.
  - e. Applicant shall answer every question truthfully and completely and supply all information requested in the application to the Board as specified hereunder.
2. The applicant for a Bodywork Therapist Permit shall submit the following:
- a. A completed application form. All required documents specified herein must be received by the Board of Health before any action will be taken by the Board of Health.
  - b. A non-refundable application fee according to the Board's fee schedule. An application is not considered complete unless accompanied by the applicable fee.
  - c. Proof of Certification.
  - d. Supporting documentation that the applicant is twenty-one (21) years of age or older by presenting two forms of positive identification. One form must be a valid state driver's license with photo, a state identification card with photo, and/or a valid passport. The second form of ID may be a certified long-form birth certificate or another government-issued photo ID.
  - e. All applicants must disclose the name, address, and telephone number of any other Bodywork establishment, whether located in Medway or elsewhere, where they are an owner, operator, or employee.
  - f. A CORI Acknowledgment Form authorizing the Town of Medway or a contracted third party to conduct a Criminal Offender Record Information (CORI) inquiry and a Sex Offender Registry Information (SORI) inquiry, and to report the results of those inquiries to the Board. All responses to these record checks shall be kept confidential as required by law. By signing the application or renewal form and completing the required CORI Acknowledgment Form, the applicant gives authorization to the Town of Medway or its contracted third party to run a CORI/SORI background check.
  - g. If applicable, the applicant shall disclose the circumstances surrounding any of the following convictions or license/ permit revocations:
    - i. Disclosure of any conviction for any sexual-related offense, including prostitution or sexual misconduct, rape, or any other felony.
    - ii. Disclosure of any conviction of any misdemeanor or felony.
    - iii. Revocation, suspension or denial of a permit or license to practice bodywork or massage issued by any state or municipality.
    - iv. Loss or restriction of a permit, license, or certification by any municipality or other jurisdiction for any reason.
    - v. Any convictions or license/ permit revocations as outlined in this subsection shall disqualify an applicant from obtaining a permit pursuant to this regulation.
  - h. A signed passport-type photograph taken within the preceding thirty (30) days.

- i. A Massachusetts physician's letter, on physician's official letterhead, dated no earlier than twelve (12) months prior to the submittal of the application, stating that the applicant has had a physical examination and to the best of the physician's knowledge is up-to-date with adult immunizations and free from communicable diseases and/or conditions that may be transmitted due to close physical contact and detrimental to the public's health. In addition, the examination report shall include whether a Tuberculosis (TB) screening is indicated and, if indicated, a written negative result obtained.
  - j. The name(s) of the permitted establishment(s) where the applicant will practice bodywork therapy in the Town of Medway. In addition, a Bodywork Therapist Permit holder shall notify the Board if the individual changes employment venue within the Town of Medway.
  - k. A written declaration, under penalty of perjury, that the foregoing information contained in the application is true and correct, and said declaration shall be duly dated, signed, and notarized by a Notary Public of the Commonwealth of Massachusetts. False statements shall constitute grounds for revocation of an issued permit or denial of a pending permit application or permit renewal.
3. The Board, in consultation with the Medway Police Department, shall determine whether an applicant's conduct, criminal or otherwise, shall disqualify that person from obtaining a permit.
4. The Board, prior to the issuance of any permit, shall evaluate each individual application by the information provided. The Board may place special conditions on any permit issued to ensure the protection of public health, safety, and welfare.
5. A Bodywork Therapist Permit shall be posted on the premise of the permitted bodywork establishment in a location that is conspicuous, open, and obvious to all people entering the establishment.
6. The holder of a Bodywork Therapist Permit shall notify the Board of a change of name and/or address within fourteen (14) days.
7. All Bodywork Therapist Permits shall notify the Medway Board of Health of any criminal complaint brought against him/her within seven (7) calendar days. Failure to do so may result in revocation of permit.
8. All Bodywork Therapist Permits shall expire on December 31st annually, unless sooner revoked. An Applicant intending to renew a current Bodywork Therapist Permit shall provide to the Board of Health by December 1st a completed renewal application, including a new Massachusetts physician's letter as specified in Section E(2)(i), new CORI and SORI Acknowledgment Forms/ inquiries, and annual permit fee. The fee for each permit renewal shall be in accordance with the most recent Medway Board of Health fee schedule.
9. Any Bodywork Therapist Permit not renewed by the thirty-first (31st) day of December

of the present year shall be administratively suspended. Such a permit may be reinstated if a completed renewal application with a late fee according to the Board of Health fee schedule is received by March thirty-first (31<sup>st</sup>). Any permit not renewed by said date shall be deemed a retired permit and may only be reinstated upon approval of a completed application for a new permit.

10. A Bodywork Therapist Permit shall be considered retired if not renewed for more than ninety (90) days. A retired permit may not be renewed; an initial permit application must be submitted to the Board of Health.
11. The Board of Health will review all completed applications to determine whether the applicant has suitable character and qualifications. Determinations of an applicant's suitability will be based on criminal history checks, any applicable law or regulation, and other information concerning the character, qualifications and appropriateness of the applicant.

Factors to be considered in determining the suitability of an applicant based on criminal history may include, but not be limited to, the following:

- Relevance of the offense(s) noted on the record to the license sought;
- The nature of the work to be performed (where applicable);
- Time since the conviction(s);
- Age of the candidate at the time of the offense;
- Seriousness and specific circumstances of the offense;
- The number of offenses;
- Whether the applicant has pending charges;
- Any relevant evidence of rehabilitation or lack thereof; and
- Any other relevant information, including information submitted by the individual or requested by the Board of Health.

Other factors to be considered in determining the suitability of an applicant may include, but not be limited to:

- Education and experience level;
- Whether a license or permit to operate an Establishment or to practice Bodywork has previously been revoked or suspended;
- Whether the applicant has demonstrated an ability to practice Bodyworks in a manner that is sufficiently protective of public health, safety and welfare.

The applicant is to be notified in a timely matter of the decision regarding the determination of suitability.

The Board of Health may deny any application if it finds that the applicant is not a suitable candidate. The Board of Health may impose conditions upon issuance of a permit that it deems necessary for the protection of public health, safety and welfare.

Upon submission of a completed application, the Board of Health shall consider the application at a duly noticed public meeting, with prior notice to the applicant. All applicants shall appear personally before the Board of Health, during a properly posted public meeting, and shall answer any and all questions posed by the Board.

#### **F. Bodywork Establishment Permit.**

1. Any person or entity desiring to open a Bodywork Establishment shall obtain a Bodywork Establishment Permit from the Medway Board of Health. The applicant understands that the Board of Health has the discretion to grant or deny any requested permit. Requirements for applicants are as follows:
  - a. All persons with an ownership interest in the business shall be twenty-one years of age or older.
  - b. Every Establishment shall have one or more managers who shall be responsible for ensuring that the Establishment and all practitioners and clients comply with all requirements of these Regulations and such manager shall be authorized to act on behalf of the owners at all times that the Establishment is open for business. All managers shall be permitted bodywork therapists and may be an owner of the Establishment.
  - c. Applicants for a Bodywork Establishment Permit shall provide proof of professional liability insurance of at least one million dollars (\$1,000,000) per occurrence and at least one million dollars (\$1,000,000) aggregate in addition to workers compensation insurance.
  - d. All owners of a Bodywork Establishment shall demonstrate that they have suitable character and qualifications to operate and oversee the practice of Bodywork in manner that is sufficiently protective of public health and safety. This shall be demonstrated by submitting documentation required in Section F(2) and maintaining compliance with these regulations.
  - e. The owners of the Bodywork Establishment are responsible for ensuring that the practice of Bodywork at the Establishment is conducted in accordance with accepted industry standards, all applicable rules, laws and regulations and these regulations, and the owners shall be responsible for any violations occurring on the premises whether they are present or not.
  - f. Applicant shall answer every question truthfully and completely and supply all information requested in the application to the Board as specified hereunder.
2. The applicant of a Bodywork Establishment Permit shall submit to the Board the items specified herein for the application of this permit:
  - a. A completed application form provided by the Board of Health.
  - b. A non-refundable application fee according to the Board's fee schedule. An application is not considered complete unless accompanied by the applicable fee.
  - c. The name, address, telephone number, and e-mail address of all persons who have an ownership interest in the Establishment. No ownership interest in an Establishment shall be given to any person unless and until a transfer of the permit or portion thereof is approved by the Board.

- d. The names of every bodywork therapist expected to be working at the Establishment.
- e. If the applicant does not own the premises on which the business will be conducted, proof of a signed lease or other written authorization from the owner of the property shall be provided with the application.
- f. A floor plan of the Premises with sufficient detail to ensure that the Premises will comply with the Facility and Equipment requirements of these regulations and that the Premises are suitable for the practice of Bodywork. The Board of Health may require an inspection of the Premises prior to issuance of the permit.
- g. Supporting documentation that every person with an ownership interest in the Establishment is twenty (21) years of age or older by presenting two forms of positive identification. One form must include a photograph, such as a valid state driver's license with photo, a state identification card with photo, and/or a valid passport. The second form of ID may be a certified long-form birth certificate or another government-issued photo ID.
- h. All owners must disclose the name, address, and telephone number of any other Bodywork establishment, whether located in Medway or elsewhere, where they are an owner, operator, or employee.
- i. An executed CORI Acknowledgement form authorizing the Town of Medway or a contracted third party to conduct a Criminal Offender Record Information (CORI) inquiry and a Sex Offender Registry Information (SORI) inquiry, as authorized by state law, and to report the results of those inquiries to the Board. All responses to these record checks shall be kept confidential. By signing the application or renewal form and completing the required CORI Acknowledgment Form, the applicant gives authorization to the Town of Medway or its contracted third party to run a CORI/SORI background check.
- j. If applicable, the applicant shall disclose the circumstances surrounding any of the following convictions or license/ permit revocations:
  - i. Disclosure of any conviction for any sexual-related offense, including prostitution or sexual misconduct, rape, or any other felony.
  - ii. Disclosure of any conviction of any misdemeanor or felony.
  - iii. Revocation, suspension or denial of a permit or license for bodywork or massage establishments issued by any state or municipality.
  - iv. Loss or restriction of a permit, license, or certification by any municipality or other jurisdiction for any reason.
  - v. Any convictions or license/ permit revocations as outlined in this subsection shall disqualify an applicant from obtaining a permit pursuant to this regulation.
- k. Proof of satisfactory professional liability insurance and a Worker's Compensation Insurance Affidavit is to be submitted with the application as attached thereto.
- l. Name or names of individuals that are currently certified in basic cardiopulmonary resuscitation (CPR) and a copy of their valid certification. One individual trained in CPR must be on-site at all times during operating hours.
- m. Copies of the Bodywork Therapist Permits of all therapists performing bodywork at the establishment. To obtain a Bodywork Establishment Permit, an

establishment shall have at least one (1) duly permitted bodywork therapist employed at all times.

- n. A written declaration, under penalty of perjury, that the foregoing information contained in the application is true and correct, and said declaration shall be duly dated, signed, and notarized by a Notary Public of the Commonwealth of Massachusetts. False statements shall constitute grounds for revocation of an issued permit or denial of a pending permit application or permit renewal.
3. The Board, in consultation with the Medway Police Department, shall determine whether an applicant's conduct, criminal or otherwise, shall disqualify that person or establishment from obtaining a permit.
4. Any false statements or information furnished and/or contained in the application as submitted to the Board shall be grounds for denial, suspension, or revocation of a permit.
5. The Board, prior to the issuance of any permit, shall evaluate each individual application by the information provided. The Board may place special conditions on any permit issued.
6. The permit holder of a Bodywork Establishment Permit shall be ultimately responsible for the physical facility, instruments, advertising, postings, employees, and all compliance with these regulations.
7. All owners of a Bodywork Establishment Permit shall also obtain an Individual Bodywork Therapist Permit if the individual will conduct bodywork. An establishment permit does not permit the person to practice without a therapist permit.
8. A Bodywork Establishment Permit or any ownership interest in the Establishment shall not be transferred in any manner, including new ownership or change of address without the express written approval of the Board of Health.
9. A Bodywork Establishment Permit shall be posted on the premise of the establishment in a location that is conspicuous, open, and obvious to all people entering the establishment.
10. Every owner of a Bodywork Establishment Permit shall notify the Board of a change of name and/or address within fourteen (14) days.
11. All Bodywork Establishment Permits shall expire on December 31st annually, unless sooner suspended. Applicants intending to renew a current Bodywork Establishment shall provide to the Board by December 1st a completed renewal application, including new CORI and SORI Acknowledgement Forms/ inquiries, copies of all Bodywork Therapist Permits of all therapists performing bodywork at the establishment, copy of valid CPR certification forms, proof of professional liability insurance and worker's compensation insurance, Worker's Compensation Insurance Affidavit, fully executed

Lease for the premises, and annual permit fee. The fee for each permit renewal shall be in accordance with the most recent Medway Board of Health fee schedule.

12. Any Bodywork Establishment Permit not renewed by the thirty-first (31st) day of December of the present year shall be administratively suspended. Such a permit may be reinstated if a completed renewal application with a late fee according to the Medway Board of Health fee schedule is received by March thirty-first (31<sup>st</sup>). Any permit not renewed by said date shall be deemed a retired permit and may only be reinstated upon approval of a completed application for a new permit.
13. The Board of Health will review all completed applications to determine whether the applicant has suitable character and qualifications. Determinations of an applicant's suitability will be based on criminal history checks, any applicable law or regulation, and other information concerning the character, qualifications and appropriateness of the applicant. Factors relevant to a determination of suitability are coextensive with those enumerated in Section E(11) above. The applicant is to be notified in a timely matter of the decision regarding the determination of suitability. The Board of Health may deny any application if it finds that the applicant is not a suitable candidate. The Board of Health may impose conditions upon issuance of a permit that it deems necessary for the protection of public health, safety and welfare. Upon submission of a completed application, the Board of Health shall consider the application at a duly noticed public meeting, with prior notice to the applicant. All owners of the proposed Establishment shall appear personally before the Board of Health, during a properly posted public meeting, and shall answer any and all questions posed by the Board.

#### **G. Requirements and Standards for Bodywork Therapists**

1. No Bodywork Therapist shall perform services if either the Bodywork Therapist, or a client, has a communicable disease or exhibits any skin fungus, skin infection, skin inflammation, or skin eruption. All Bodywork Therapists shall practice safe work-related procedures in accordance with universal precautions, Occupational Safety and Health Administration (OSHA) standards, and the established guidelines of their profession.
2. No Bodywork Therapist shall use the therapist-client relationship to solicit for or engage in any sexual activity with any client or patron, whether consensual or otherwise, whether for a fee or otherwise, whether within or outside the permitted Bodywork Establishment, or to make arrangements to engage in any sexual activity with any client or patron.
3. Bodywork Therapists must wash their hands with soap and water immediately before and after administering services to any person.
4. Bodywork Therapists must maintain a sufficient level of personal cleanliness and be properly clothed, within the bounds of decency and propriety, in accordance with the

standards of their profession. Abbreviated or provocative attire is prohibited. Bodywork Therapists shall wear appropriate attire which at no time will expose any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals. The Board or its agent shall be the final arbiter as to what constitutes inappropriate or prohibited attire in their discretion.

5. Bodywork Therapists may not perform services they are not specifically licensed/ permitted to perform, such as diagnosis of disease, joint/spinal manipulation, acupuncture, or massage therapy.
6. Bodywork Therapists shall not operate equipment they are not trained or licensed/ permitted to operate, such as x-ray, fluoroscope, diathermy, or other similar equipment.
7. Bodywork Therapists may not use, or allow any client or patron to use, alcoholic beverages, illegal drugs, illicit drugs, marijuana, whether for medical or recreational usage, or controlled substances in the permitted Bodywork Establishment.
8. Bodywork Therapists may administer services to a person younger than 18 years of age, provided that a parent or guardian signs an intake form for the client younger than 18 years of age who is receiving treatment and provided that the parent or guardian of the client is provided the option to observe the treatment session from inside the therapy room.
9. Bodywork Therapists may only practice bodywork in permitted Bodywork Establishment(s).
10. At no time shall a bodywork therapist conduct any bodywork business, or list as a bodywork business, at his/her address. Additionally, at no time may clients or patrons be seen at the Bodywork Therapist's residence or run a bodywork business as a door-to-door enterprise.
11. At no time shall a Bodywork Therapist conduct or run a bodywork business from a residence, condominium, hotel, motel, mobile home, or other residential setting.
12. Bodywork Therapists must ensure all clients are properly clothed in appropriate attire or draped with cleaned towels which at no time will expose any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals.

#### **H. Requirements and Standards for Bodywork Establishments**

1. Bodywork Establishments shall comply with zoning requirements of the Town of Medway.
2. Bodywork Establishments shall provide that all public areas and rooms used for therapy, and all employee areas, are clean and sanitary.

3. The Bodywork Establishment must be well-lighted, adequately ventilated, and free from defects or conditions that would create a public health or employee/ patron safety hazard in accordance with all local, state and federal regulations.
4. Bodywork Establishments shall contain a waiting area for clients within the establishment. Such waiting room shall not have shades, covers, or blackout curtains. Each waiting area must be lit with a combination of natural and artificial lights. Window sprays, frosted glass, or similar products are prohibited.
5. Bodywork Establishments shall have at least one handwashing sink, located within close proximity to all therapy rooms. Such sink shall be supplied with hot water to at least 110°F, hand soap, and disposable paper towels. Hand washing sinks located inside a restroom shall not be used to satisfy this requirement.
6. All bodywork within the Bodywork Establishment shall be conducted in adequately lighted, heated, and ventilated rooms.
7. The establishment shall maintain properly installed smoke detectors and fire extinguishers.
8. Every room used for treatment of patrons shall be equipped with a door and have at least seventy (70) square feet of floor space. All treatment room doors shall not be capable of being locked.
9. Floors, walls, and ceilings of Bodywork Establishments shall be constructed of materials that are easily cleanable. These surfaces shall be kept clean at all times.
10. All equipment, furniture, linens, and supplies used in the performance of Bodywork shall be maintained in a safe and sanitary manner.
11. Linens, towels, robes, and cloths, which come into direct contact with the bodies or patrons shall, after each use and before each reuse, be laundered in such a manner as to ensure effective sanitation.
12. All used robes, towels, cloths, or other linens shall be kept in covered containers, closed cabinets, or closed bags and shall be held separately from clean robe, towel, cloth or linen storage areas. Such separate storage areas shall be plainly marked as "CLEAN" or "SOILED".
13. All oils, creams, lotions, talc, or other preparations used in administering bodywork shall be kept in a clean and closed condition. All such containers shall be stored in appropriate cabinets or shelving. Patrons shall be granted access to inspect all oils, creams, lotions, talc, or other preparation treatment substances before use on the individual.
14. If any latex-containing products are used, a sign shall be conspicuously posted alerting all

clients that latex-containing products are in use.

15. Hours of operation for any Bodywork Establishment shall be limited to 8:00 AM to 9:00 PM, with the last appointment to end no later than 9:00 PM.
16. There shall be at least one (1) Permitted Bodywork Therapist/person-in-charge present in the Bodywork Establishment when it is in operation.
17. One (1) individual trained in CPR must be on-site at the Bodywork Establishment at all times during operating hours.
18. All Bodywork Establishments shall keep records of clients who have received services. These records shall be made available to the Board during an active investigation of reported communicable disease. Records shall include at a minimum, client name, address, phone number, services received, date of service and Bodywork Therapist who performed services.
19. No room or section of a Bodywork Establishment shall be used as a bedroom or for sleeping or domicile. A Bodywork Establishment shall not be located in, or a portion of, a residence, condominium, hotel, motel, mobile home, or any other residential setting.
20. Standard or portable massage tables shall be covered with a durable washable material, which is capable of being cleaned and sanitized, and is cleaned and sanitized after each patron use. Beds and mattresses are not allowed.
21. Any room used by any person permitted to practice bodywork shall have ready access to an adequate supply of hot and cold water, sanitizing chemicals and equipment. All sanitizing chemicals/equipment on site should be labeled with all ingredients it contains, in case of a spill. All furniture and equipment in each room shall be kept clean and sanitary at all times.
22. Restrooms must be made available to customers/employees and shall be located in an easily accessible area within or near the permitted establishment.
23. All non-disposable instruments or devices designed or used for direct application to the skin shall be sanitized after use on each person in a manner sufficient to maintain cleanliness. All such instruments or devices shall be kept in a clean location.
24. The facility shall have adequate equipment for disinfecting and sanitizing non-disposable instruments and materials used in administering bodywork.
25. No un-sanitized part of an instrument (i.e. hot stones) shall be applied directly to the skin of a patron.
26. No items of sexual nature may be stored or displayed within the Bodywork Establishment or on premise.

27. Use of any kind of nicotine or cannabis delivery product is prohibited within a Bodywork Establishment or on premise.
28. No owner or operator, manager, responsible managing employee, or permit holder in charge of or in control of a Bodywork Establishment or business may employ or permit a person to act as a Bodywork Therapist who is not in possession of a valid permit issued under this regulation.
29. The Bodywork Establishment shall have a conspicuously placed sign in the lobby or waiting area that reads “Report any inappropriate actions or unsanitary conditions to the Medway Police Department or Medway Board of Health” with listed phone numbers for both the police and Board of Health.
30. A written plan describing sanitation measures must be submitted by the applicant to the Board for any bodywork that entails disrobing and/or draping, use of oils or lotions, and/or use of a massage type table.

## **I. Advertising**

1. Bodywork Therapists and owners of Bodywork Establishments shall be mindful of professional ethics when placing advertisements. Advertising in periodicals, newspapers, or online in a sexual or provocative manner (i.e. pictures or language) to promote business may be construed as a violation of the proper standards of bodywork and is prohibited.
2. The use of an alias by a Bodywork Therapist and/or Establishment is prohibited, unless the actual name that appears on the Permit is also used in all advertising and representations.
3. Any person who is not permitted in the manner described herein may not represent him/herself as being a permitted bodywork therapist or to hold him/herself out to the public as being permitted by using a title on signs, mailboxes, address plates, stationary, announcements, telephone listings, calling cards, or other instrument of professional identification or advertisements of any sort. The word “Bodywork(s)” may be used in the title or advertisement of an establishment whereas the establishment and the therapist(s) are permitted by the Medway Board of Health.

## **J. Department of State – Know your Rights Pamphlet**

Sex trafficking is a form of modern-day slavery in which individuals perform commercial sex through the use of force, fraud, or coercion. Minors under the age of 18 engaging in commercial sex are considered to be victims of human trafficking, regardless of the use of force, fraud, or coercion. Sex traffickers frequently target victims and then use violence, threats, lies, false

promises, debt bondage, or other forms of control and manipulation to keep victims involved in the sex industry for their own profit.

Sex trafficking exists within diverse and unique sets of venues and businesses including fake massage businesses, escort services, residential brothels, in public on city streets and in truck stops, strip clubs, hotels and motels, and elsewhere.

The Board of Health has determined that Bodywork Establishments have a likelihood of becoming common locations for human trafficking.

Therefore, the owner of a Bodywork Establishment shall conspicuously post in an area commonly visited by employees of the Establishment the Department of State – Know Your Rights pamphlet, which is available at the following link at the time these regulations were passed:

<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/temporary-workers.html>

#### **K. Inspections**

1. The purpose of inspections is to verify the compliance of these Bodywork Regulations
2. Denial of access to any part of a Bodywork Establishment by the permit holder, Bodywork Therapist, or an employee may result in administrative suspension of the permit.
3. Inspections may be unannounced, where an agent of the Board of Health, Medway Police Department, or Medway Fire Department, or authorized agents, bearing proper proof of identification, visits without prior notification to the establishment.
4. Re-inspection may take place when a Bodywork Establishment does not pass an inspection to ensure corrective action was taken to achieve compliance with these Regulations.
5. If, upon inspection, conditions are found that do not comply with the provisions set forth in these Regulations, both the operator and any bodywork therapist responsible for violating any of these Regulations may be subject to enforcement proceedings and penalties as set forth herein.

#### **L. Enforcement**

1. This regulation may be enforced by the Board of Health or its duly authorized agents.
2. The Board of Health may deny, refuse to renew, revoke, suspend, or modify any permit

issued pursuant to these regulations for reasons that include but are not limited to the following:

- a. Refusal to permit an agent of the Board or other designated enforcement official to inspect the facility.
  - b. Interference with an agent or other designated enforcement official in the performance of their duty.
  - c. A criminal conviction of the permit holder relating to the operation of the establishment or the practice of bodywork.
  - d. Failure of the permittee to submit the appropriate documentation.
  - e. Failure to pay the required permit fees or assessed fines or penalties.
  - f. The establishment's owner, operator, or employee's failure to comply with these regulations.
  - g. Committing a Prohibited or Criminal Act as outlined in these regulations.
  - h. Keeping or submitting any misleading or false records or documents related to the operation of the establishment or practicing bodywork.
  - i. Advertising services or the establishment that is in a sexual or provocative manner.
  - j. Otherwise operating a bodywork facility or practicing bodywork so as to cause a threat to the public health or safety shall cause suspension, modification or revocation of a permit by the Board of Health after a hearing before the Medway Board of Health.
3. Enforcement action by the Board may include ordering appropriate relief, including but not limited to, ordering corrections to the physical facility or the practices and procedures used in the establishment.
  4. The Board of Health or its Agent may issue an Administrative Suspension for any Bodywork Therapist Permit or Bodywork Establishment Permit, or both, for cause when a permit holder fails to renew a permit, denies entry to an agent attempting to conduct an inspection, violates any of these Regulations or applicable laws, or based on an imminent threat to the health and safety of the employees or clients/ patrons of the establishment or to the public.
    - a. An Administrative Suspension shall take effect immediately and shall remain in effect until the Agent certifies in writing that the imminent threat to the health and safety is rectified, a permit renewal is completed, agent is allowed to conduct and inspection, or until the suspension is lifted by the Board of Health or its agent.
  5. Any person aggrieved by an action of the Board may request a hearing before the Board of Health by submitting a written request within seven (7) days of service of notice of said action. For the purposes of this Section, service of notice of said action shall be deemed to have been served on the date of mailing and/or date of it being hand delivered by the Board's agent. After conducting a public hearing, the Board of Health may affirm, vacate, or modify the decision.

## **M. Penalties**

1. Whoever violates any provision of this regulation and/or any condition in a permit or enforcement action issued by the Board or its agent may be penalized by a noncriminal disposition process as provided in G.L. c. 40, §21D and the Town's non-criminal disposition by-law. If noncriminal disposition is elected, then the non-criminal fine for each such violation, if not otherwise specified, shall be:

First Offense:	Written Warning
Second Offense:	\$100
Third:	\$200
Fourth and subsequent offense(s):	\$300

Each day or portion thereof shall constitute a separate offense. If more than one, each condition shall constitute a separate offense.

2. Whoever violates any provision of this regulation and/or any condition in a permit or enforcement action issued by the Board or its agent may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the penalty for each violation or offense shall be as set forth in Massachusetts General Laws, Chapter 111, Section 31. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

## **N. Criminal Acts**

1. Sexual activity by any person or persons in any Bodywork Establishment is prohibited.
2. At no time shall an individual offer, or agree to engage in sexual conduct, with another person for a fee per M.G.L. Chapter 272, Section 53A.
3. At no time shall a customer, employee, owner or representative of a Bodywork Establishment, or any person on the premises of such establishment request to receive, or agree to engage in, sexual conduct with another regardless of age, M.G.L. Chapter 272, section 53A.
4. At no time shall an individual derive support or income from a prostitute's earnings per M.G.L. Chapter 272, Section 7.
5. At no time shall an individual induce a minor to become a prostitute or knowingly assist in inducing a person under the age of eighteen (18) to become a prostitute per M.G.L. Chapter 272, Section 4A.
6. At no time shall an individual knowingly permit prostitution on the premises per M.G.L. Chapter 272, Section 6.

7. At no time shall an individual intentionally expose his/her genitals or breasts to one or more persons per M.G.L. Chapter 272, Section 53.
8. At no time shall an individual annoy or accost in a sexual way per M.G.L. Chapter 272, section 53.
9. At no time shall an individual engage in natural or unnatural sexual intercourse with a victim, by compelling the victim to submit by force and against her or his will, or by threat of bodily injury per M.G.L. Chapter 265, Section 22(a) or 22(b).
10. At no time shall an individual commit an “indecent” assault and battery, which the victim did not consent to, regardless of age, per M.G.L. Chapter 265, Section 13(b) or 13(h).
11. At no time shall an individual secretly video or photograph naked or partially naked people, and at no time shall an individual disseminate secretly obtained videos or photographs of nude or partially nude individuals, per M.G.L. Chapter 272, Section 105.
12. At no time shall an individual provide or obtain another individual, or subject, recruit, entice, harbor, or transport an individual by any means, in order to force him or her into servitude per M.G.L. Chapter 265, Section 51.

#### **O. Variances**

1. Variance to any section of this regulation may be requested in writing to the Board.
2. Variances shall be granted only under the following conditions:
  - a. Strict enforcement of this regulation will constitute a manifest injustice; and
  - b. The granting of a variance shall not in any way impair public health and safety.
3. The Board may impose any conditions, safeguards and other limitations on a variance when it deems it appropriate to protect public health and safety.

#### **P. Transitional Rules**

1. Existing permitted Bodywork Establishments and Bodywork Therapists shall maintain full compliance with these rules and regulations as soon as they are effective, unless outlined below in Section P(2).
2. Within 60 days after the effective date of these regulations, permitted Bodywork Establishments and Bodywork Therapists shall submit and comply with the following:
  - a. Documentation listed in Section E for Bodywork Therapists.
  - b. Documentation listed in Section F for Bodywork Establishments.
  - c. CPR trained staff as required in Section H(17) for Bodywork Establishments.

**Q. Severability**

If any section, paragraph, sentence, clause, phrase, or word of these regulations shall be declared invalid for any reason whatsoever by a court of competent jurisdiction, that decision shall not affect any other portion of these regulations, which shall remain in full force and effect; and to this end the provisions of these regulations are hereby declared severable.

Signed this 6<sup>th</sup> day of May, 2024.

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AS

Lauren Joubert, AD

Smith

Amet Tomolu

Effective date: 05/07/2024

A True Copy  
Attest: Stefany Ohannesian  
Town Clerk Medway  
Stefany Ohannesian