

REGULATION GOVERNING THE PRACTICE OF BODYWORK SECTION

1.0 PURPOSE

The purpose of this regulation is to protect the public health and safety of the community, including the patrons, employees, and owners of commercial businesses offering legitimate services such as Bodywork Therapy, Reflexology, Spa Services, and others. The scope of this regulation is broad and includes provisions designed to ensure legitimate operations and to guard against the risk of prostitution, human trafficking and disease transmission. It is the Board of Health's intent that only an individual who meets and maintains a minimum standard of competence and conduct within their scope of professional practice may provide services to the public. This regulation designates the requirements for obtaining a permit to operate a bodywork establishment and permit to practice bodywork, as well as grounds for suspension, revocation or denial of such a permit.

SECTION 2.0

AUTHORITY

These regulations are adopted by the Franklin Board of Health, pursuant to its authority under Massachusetts General Laws, Chapter 111, Section 31.

SECTION 3.0

DEFINITIONS

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

Applicant: shall mean an individual or entity seeking licensure who has submitted an official application as provided by the Franklin Public Health Department, two forms of identification, a complete CORI/SORI record request form, and has paid the application fee.

Application: shall mean the application form provided by the Franklin Public Health Department 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, signed, and notarized within the Town.

Bodywork: shall refer to practices including, but not limited to: Accupressure, 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, Ayurvedic medicine and other practices as they become known.

Criminal Offender Record Information (CORI): shall mean a record of criminal offenses committed as an adult or juvenile, as compiled by the Criminal History Systems Board.

Department: unless otherwise specified, shall mean the Franklin Public Health Department acting in its role as the agent for the Franklin Board of Health.

Establishment: shall mean any location, or portion thereof, in the Town of Franklin 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. In addition, bodywork establishments shall not be located in a private residence, condo, apartment, or Section 12.0 other residentially zoned space.

Licensee: shall mean a person holding a license to practice any form of bodywork therapy or to operate a bodywork establishment in the Town of Franklin. Where applicable, this shall include partnerships and/or corporations.

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.

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.

Therapist: shall mean a bodywork practitioner licensed by the Franklin Public Health Department.

Tobacco product: Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed or sold or prescribed solely for the approved purpose.

SECTION 4.0

Bodywork Establishment & Individual Bodywork Therapist Licenses any person or entity desiring to open or conduct a commercial business practicing Bodywork Therapy shall obtain a Bodywork Establishment License from the Franklin Public Health Department. Any person desiring to be a bodywork therapist at a Bodywork Establishment shall obtain an Individual Bodywork Therapist License. The application for these licenses shall include the items specified herein: (a) The applicant shall submit a completed application form provided by the Franklin Public Health Department. (b) The applicant shall submit a non-refundable application fee according to the Health Department fee schedule. (c) The applicant shall provide supporting documentation that he/she is eighteen (18)

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, certified baptismal record, certified record of marriage, certified copy of Social Security Card, or other government-issued photo ID. (d) The applicant shall submit to the Franklin Public Health Department a form authorizing the Town of Franklin 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 Franklin Public Health Department. All responses to these record checks shall be kept confidential. By signing the application or renewal form, the applicant gives authorization to the Town of Franklin or its contracted third party to run a CORI/SORI background check, which will consist of the information pertaining to all convictions, non-convictions, and pending criminal case information. CORI and SORI checks may be conducted in all states in which the applicant has resided within the last ten (10) years. (f) The applicant shall disclose the circumstances surrounding any of the following convictions or license revocations:

1. Disclosure of any conviction for any sexual-related offense, including prostitution or sexual misconduct.
2. Disclosure of any conviction of any misdemeanor or felony occurring within the past ten (10) years.
3. Disclosure of open criminal charges that are pending judicial action.
4. Revocation, suspension, or denial of a license to practice massage issued by any state or municipality.
5. Loss or restriction of any licensure or certification by any municipality or other jurisdiction for any reason.

(g) The Franklin Police and the Franklin Public Health Departments shall determine whether an applicant's conduct, criminal or otherwise, shall disqualify that person from obtaining license. **Any convictions or license revocations as outlined in Article 19, Sub-Section 6, a through d will result in an automatic denial of the application.** (h) The applicant shall submit 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, 4 signed, and notarized in the Town False statements shall constitute grounds for revocation of an issued license or denial of a pending license application or license renewal. (i) The Franklin Public Health Department, prior to the issuance of any license, shall evaluate each individual application by the information provided. The Board of Health or Public Health Department may place special conditions on any license issued. (j) False statements in said application shall be grounds for denial, suspension, or revocation of a license. (k) Applicants for a Bodyworks Establishment License shall provide proof of professional liability insurance with a minimum coverage level of \$1,000,000, as well as workers compensation insurance. (l) Applicants for a Bodyworks Establishment License shall provide the name or names of individuals that (m) Applicants for a Bodyworks Establishment License shall provide the name or names of individuals that are currently certified in basic cardiopulmonary resuscitation (CPR) and a copy of their valid certification form. One individual trained in CPR must be on-site at all times during operating hours. (n) The holder of the Bodywork Establishment License shall be ultimately responsible for the physical facility, instruments, advertising, postings, employees, and all compliance with these regulations. (o) The holder of a Bodywork Establishment License shall also obtain an Individual Bodywork Therapist License, if the individual will conduct bodywork. An establishment license does not permit the person to practice without a therapist license. (p) All

applicants for an Individual Bodywork Therapist License shall allow one front faced digital photograph to be taken by the Franklin Public Health Department at the time of license application submittal. This photograph will be attached to the license, if granted. (q) All applicants for an Individual Bodywork Therapist License shall obtain a physician's letter dated no earlier than six 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. (r) All Individual Bodywork Therapist License applicants must identify the name(s) of the licensed establishment(s) where he or she will practice bodywork therapy. In addition, a license holder shall notify the Franklin Public Health Department if the individual changes employment venue within the town. (t) It is a violation of these regulations for any person who is not licensed in the manner described herein to operate a Bodywork Establishment or to operate as an Individual Bodywork Therapist.

SECTION 5.0

License Renewal

(a) This license shall expire on December 31st annually. (b) The applicant shall provide a completed renewal application, including new physician's letter and CORI/SORI form authorization with required documentation, in person to the Franklin Public Health Department. **(c) The fee for each license renewal shall be in accordance with the most recent Health Department fee schedule.**

SECTION 6.0

Conditions of Bodywork License

(a) No bodywork therapist shall perform services if either the practitioner, or a patron, has a communicable disease or exhibits any skin fungus, skin infection, skin inflammation, or skin eruption. (b) No licensed therapist shall use the therapist-client relationship to solicit for or engage in sexual activity with any client, whether consensual or otherwise, whether within or outside the massage establishment, or to make arrangements to engage in sexual activity with any client. (c) Bodywork therapists must wash his/her hands with soap and water immediately before and after administering services to any person. (d) Therapists must maintain a sufficient level of personal cleanliness and be clothed in clean and 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. (e) Clients must be clothed in appropriate attire or draped with clean towels, at no time shall the client's areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals be exposed. (f) Therapists may not perform services they are not specifically licensed to perform, such as; diagnose disease, perform joint/spinal manipulation, perform acupuncture, or other. In addition practitioners shall not operate equipment they are not trained or licensed to operate, such as; x-ray, fluoroscope, diathermy, or other similar equipment. (g) Therapists may not use, or allow patrons to use, alcoholic beverages, illegal drugs, illicit drugs, marijuana, whether for medical or recreational usage, or controlled substances, or tobacco products on the licensed premises. (h) The individual license to conduct bodywork and the bodywork establishment license are nontransferable. Any changes in the business location or other applicable information of the licensee must be reported to the Franklin Public Health Department within fourteen (14) days of the change. (j) For those therapists who conduct business at

more than one location, the original license shall be retained on file at the first address indicated on the license. At the additional business address, the practitioner shall retain on file a copy of the license to which an original Franklin Public Health Department stamp has been placed. (k) Bodywork establishment licenses must be prominently displayed in the waiting room of the establishment; licenses for individual bodywork practitioners shall be retained on file in all locations at which the individual practices bodywork. (l) The use of aliases by practitioners and apprentices is prohibited. (m) Therapists may not administer a massage, unless the individual is properly licensed by the Massachusetts Board of Registration of Massage Therapy AND the premise at which the massage occurs is similarly licensed by the Commonwealth for the conduct of massage. (n) Therapists and Bodyworks practitioners may administer treatment 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. (o) All therapists shall have a valid form of identification on them at all times within the establishment. (p) All bodywork practitioner licensees shall notify the Franklin Public Health Department of a change of name and/or home address within fourteen (14) days. (q) All licensees shall notify the Franklin Public Health Department of any criminal complaint brought against them or licensed practitioners operating within their establishment within seven (7) days. Failure to do so may result in revocation of licensure.

SECTION 7.0

Facility and Equipment

(a) The operator shall provide that all public areas, rooms used for therapy, and employee areas are clean and sanitary. The establishment must be well-lighted, adequately ventilated, properly heated, and free from defects that would create a public health or employee safety hazard in accordance with all local, state, and federal regulations. (b) Every room used for the treatment of patrons shall be equipped with a door and have at least 70 square feet of floor space. All treatment room doors shall not be capable of being locked. (c) No room or section of an Establishment shall be used as a bedroom, for sleeping purposes, or as a domicile. (d) Every waiting room area must be lit with a combination of natural and artificial lights. Blackout curtains, other light prohibitive shades, or window sprays are prohibited. (e) 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. (f) A sink with running hot and cold water (minimum hot water temperature should be 110 degrees Fahrenheit) must be located in an easily accessible area within the permitted establishment. (g) Sanitizing chemicals/equipment should be on site and labeled with ingredients it contains, in case of a spill. All furniture and equipment in each room shall be kept clean and sanitary at all times. (h) Restrooms must be made available to customers/employees and shall be located in an easily accessible area within or near the permitted establishment. (i) Non-disposable instruments shall be sanitized after use on each person in a manner sufficient to maintain cleanliness (j) The facility shall have adequate equipment for disinfecting and sanitizing non-disposable instruments and materials used in administering bodywork. (k) No un-sanitized part of an instrument (i.e. Hot Stones) shall be applied directly to the skin of a patron. (l) Robes, towels, cloths, or other linens, which come into direct contact with the bodies of patrons, shall, after use and before re-use, be laundered in such a manner as to ensure effective sanitization. (m) No common use of robes, towels, cloths, sheets, or other linens is permitted. 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". (n) All oils, creams, lotions, talc, or other preparations used in administering bodywork shall be kept in factory labeled containers in a clean and closed condition. All such containers shall be stored in appropriate cabinets or shelving. (o) All non-disposable instruments and devices designed or used for direct application to the skin shall be kept in a clean location. (p) Ensure non-latex gloves are available on site. If latex-containing products are to be used, a sign shall be conspicuously posted stating all clients shall be advised that latex containing products are in use. (q) Conducting bodywork therapy shall be limited between the hours of 7:00 a.m. and 9:00 p.m. (r) Patrons shall be granted access to inspect all oils, creams, lotions, talc, or other preparations treatment substances before use on the individual. (s) The facility shall have a conspicuously placed sign in the lobby which reads "Report any inappropriate or unsanitary conditions to the Franklin Public Health Department at (508) 520-4905 or to the Franklin Police Department at **(508) 528-1212**. In the event of an emergency, please immediately call 9-1-1." (t) No items of sexual nature may be stored or displayed within the establishment or on the grounds. (u) Use of any kind of tobacco products is prohibited within a bodywork establishment or on the grounds, thereof. (v) One individual trained in basic cardiopulmonary resuscitation (CPR) must be on-site at all times during operating hours. (w) A Department of State – "Know Your Rights" pamphlet and other educational material as deemed necessary by the Public Health Department shall be displayed prominently in employee areas, in English and also in all languages spoken by on-site personnel. (x) No bodywork facility shall install a shower or other home good that would allow the employees of such establishment with the ability to live at the facility.

SECTION 8.0

Advertisement

Bodywork therapists and owners of such establishments shall be mindful of professional ethics when placing advertisements. Advertising in periodicals, newspapers, or on-line 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 will result in the revocation of the license.

SECTION 9.0

Department of State-Know Your Rights Pamphlet

(a) Any place of employment that may be a common location of human trafficking, as reported by the National Human Trafficking Resource Center, shall conspicuously post a Department of State – Know Your Rights Pamphlet in a commonly visited employee information posting area. The pamphlet must be available in both English and the primary language of all employees. As of the date these regulations are enacted, common human trafficking employment locations shall include hotels, nail salons, restaurants, bars, strip clubs, farm labor camps, construction companies, large factories, and bodywork establishments defined herein. The Franklin Public Health Department has the right to include more business locations that are common locations for human trafficking as they become known to the Franklin Public Health Department, Franklin Police Department, or the National Human Trafficking Resource Center. This pamphlet is available free of charge at the following web address:

<http://travel.state.gov/content/visas/english/general/rights-protections-temporaty-workers.html>

SECTION 10

Inspections

(a) The purpose of inspections is to verify the compliance of these regulations. (b) Denial of access to any part of an establishment, by the licensee, by a bodywork therapist, or an employee may result in immediate revocation/suspension of the license. (c) Applicants will be subject to a minimum of two inspections by the Franklin Public Health Department, Franklin Police Department, or their authorized agents over the course of the calendar year. One inspection may be announced to the facility prior to the visit and one or more inspections may be unannounced, where an agent visits without prior notification to the facility. (d) Re-inspection shall take place when an establishment does not pass an inspection.

SECTION 11.0

Disciplinary Actions, Order and Hearings

A. Actions – 1. Upon a finding by an agent that a licensee has violated any provisions of these regulations, the Franklin Public Health Department and/or the Board of Health may impose any of the following actions separately or in any combination which is deemed appropriate to the offense: 1. Suspension of a licensee's right to practice or maintain an establishment for a fixed period of time, or denial of a license application or license renewal. 2. Administrative revocation for failing to renew licensure in a timely manner. Licenses that have been administratively revoked may be reinstated upon the licensee's achievement of all the renewal requirements of these regulations. The license will expire if there is no renewal and the therapist will be considered to not have a license until the renewal requirements are achieved and a license is renewed or (re)issued. 3. Revocation for cause which terminates the license. The Franklin Public Health Department and/or the Board of Health may allow reinstatement of a revoked license upon conditions and after a period of time deemed appropriate. Any person whose license has been revoked may not apply for licensure for at least one (1) year unless otherwise stated in the revocation order.

B. Orders 1. All orders shall be in writing. 2. Orders shall be served on the licensee or licensee's agent as follows: • by sending a copy of the order by certified mail, return receipt requested at the last known address or the address appearing on the license, or • personally, by any person authorized to serve civil process, or • by posting a copy in a conspicuous place on or about the establishment.

C. Hearings 1. The person to whom any order or notice has been issued pursuant to violations of any provision of these regulations may request a hearing before the Board of Health. Such a request must be in writing and shall be filed with the Franklin Public Health Department within five (5) working days of receipt of the order or notice. Upon receipt of such request, the Board of Health or its agent shall inform the petitioner thereof in writing of the time and place of said hearing, which shall be commenced within a reasonable time. 2. At the hearing, the petitioner shall be given an opportunity to be heard, to challenge the inspection findings, and/or to show why the order should be modified or rescinded, or why the license should not be suspended or revoked. Any oral testimony given at a hearing shall be recorded electronically and shall be part of the licensee's file. 3. After the hearing, the Board of Health shall make a final decision based upon the complete hearing record and shall inform the petitioner in

writing of the decision. If the Board of Health sustains or modifies an order, it shall be carried out within the time period allotted in the original order or in the modification. 4. Every notice, order, decision or other record prepared by the Board of Health in connection with the hearing shall be entered as a matter of public record in the Franklin Public Health Department.

SECTION 12.0

Prohibitions

(a) No person licensed by Franklin Public Health Department to perform bodywork shall use the therapist-client relationship to solicit for, or engage in, sexual activity with any client, whether consensual or otherwise, whether within or outside the massage establishment, or to make arrangements to engage in sexual activity with any client. (b) At no time shall a practitioner of bodywork therapy conduct any business, or list as a business, his/her home address. Additionally, at no time may clients be seen at the practitioner's residence or run a bodywork business as a door-to-door enterprise. (c) At no time shall a practitioner of bodywork therapy run a business from a residence, condominium, hotel, motel, mobile home, or other residential setting.

SECTION 13.0

General Enforcement

These regulations may be enforced by the Franklin Public Health Department and the Police Department and other departments or agencies supporting the Town of Franklin, except that only the Public Health Department and/or Board of Health may grant, deny, revoke, suspend or modify permits or variances of these regulations. The grounds on which the Public Health Department may deny renewal, revoke, suspended, or modify any permit or certification issued pursuant to these regulations include, but are not limited to: (a) Refusal to permit an agent of the Public Health Department or other government official to inspect the facility; (b) Interference with an agent of the Public Health Department or other government official in the performance of their duty; (c) A criminal conviction of the license holder relating to the operation of the establishment; (d) Failure of the license holder to submit the appropriate documentation; (e) Failure to pay the required license 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 this document. (h) Keeping or submitting any misleading or false records or documents related to the operation of the establishment or practicing bodywork; 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 license. Such action by the Public Health Department may include ordering other appropriate relief, including but not limited to, ordering corrections to the physical facility. These regulations may be enforced through appropriate criminal or civil process, including but not limited to that specified at M.G.L .c. 40, section 21D, in any court of competent jurisdiction. All criminal acts or violations of M.G.L. will be enforced by the Franklin Police Department. In addition, the Franklin Police Department or Public Health Department may issue fines per this ordinance on top of penalties assessed by the appropriate criminal court.

SECTION 14.0

Fines for Violations of Orders and Suspensions

Any person or entity violating any term or condition of these regulations, or any Franklin Public Health Department suspension or order enforcing these regulations, shall be subject to a fine for each violation according to MGL Chapter 40 Section 21 D Non-Criminal Disposition of Ordinance, Bylaw, rule, or regulation violations.

SECTION 15.0

Exemptions

Pursuant to these regulations a professional practitioner license 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 or physical therapists who are licensed to practice their respective professions in the Commonwealth of Massachusetts. (b) Athletic trainers duly licensed 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 and beauticians 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. (e) Acupuncturists duly licensed under the laws of the Commonwealth of Massachusetts. (f) Persons licensed to practice massage by any city or town in the Commonwealth of Massachusetts may, at the request of a physician, attend patients in the Town of Franklin without taking out an additional license. (g) Naturopathic Physicians who are duly licensed by a state or province.

SECTION 16.0

Severability

If any chapter, section, paragraph, sentence, clause, phrase, or word of these regulations shall be declared invalid for any reason whatsoever, 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.

SECTION 17.0

Transitional Rules

Existing bodywork establishments, as well as, individuals who conduct bodywork shall submit applications for licensure to the Franklin Public Health Department within ninety (90) days of passage of these regulations.

SECTION 18.0

Effective Date

These regulations are formally adopted by the Franklin Board of Health on January __, **2023**, and shall take effect on January __, **2023**.