

Salt Lake ~~Valley~~ County Health Department

Health Regulation

#18

**MASSAGE ~~FACILITIES~~ THERAPY
REGULATION**

**Adopted by the Salt Lake ~~Valley~~ County Board of Health
June 3, 1982**

**Revised:
April 2, 1992,
November 2, 2006
*****, 2019**

**Under Authority of Section Utah Code Ann. § 26A-1-114
~~Utah Code Annotated, 1953~~, as amended**

1. PURPOSE & APPLICABILITY OF REGULATION

- 1.1. The purpose of this regulation is to set forth permitting procedures and requirements for the maintenance and operation of permanent, ~~massage facilities and temporary massage facilities~~ mobile and temporary massage therapy establishments in a way that will protect and promote the public health, safety, and welfare; and prevent the spread of disease.
- 1.2. This regulation applies to individuals performing massage therapy and to persons who own or operate a permanent, ~~massage facility or temporary massage facility~~ mobile or temporary massage therapy establishments in Salt Lake County, unless specifically exempted.
- 1.3. This regulation shall not apply to a physician, ~~chiropractor or physical therapist~~ health care provider licensed by the state of Utah who uses massage techniques within the scope of their profession, ~~practice of medicine, chiropractic, or physical therapy~~ or a massage therapist whose only clients are the health care provider's patients.
- 1.4. This regulation shall not apply to an individual who performs massage therapy exclusively for personal, non-commercial use.
- 1.5. This regulation shall not apply to an individual who performs only reflexology per Utah Code Ann. §58-47b-304.

2. DEFINITIONS

For the purposes of this regulation, the following terms, phrases, and words shall have the meanings herein expressed:

- 2.1. "Barrier" shall mean a non-porous, smooth, easily cleanable surface capable of being disinfected.
- 2.2. "Board of Health" shall mean the Salt Lake ~~Valley County~~ Health ~~Department~~ Board of Health.
- 2.3. "Clean" shall mean the removal of all visible dirt and debris.
- 2.4. "Department" shall mean the Salt Lake ~~Valley County~~ Health Department (SLCoHDSLVHD).
- 2.5. "Director" shall mean the Director of the Salt Lake ~~Valley County~~ Health Department or his or her designated representative.
- 2.6. "Disinfect" shall mean the process of eliminating many or all pathogenic microorganisms on inanimate objects.

- 2.7. “Disinfection” shall mean the application of cumulative heat or chemicals on cleaned surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs representative disease microorganisms of public health importance.
- 2.8. “DOPL” shall mean the Utah Division of Occupational and Professional Licensing.
- 2.9. “Dwelling” shall mean a building or structure that is intended or designed to be used, rented, leased, let, or hired out for human habitation.
- 2.10. “Equipment” shall mean any table, mat, tool, or device used in massage therapy procedures.
- 2.11. “Health Care Provider” shall mean an individual licensed in a medical profession by the State of Utah Division of Professional and Occupational Licensing.
- ~~2.12 “Massage” shall mean the practice of applying systematic manual or mechanical manipulation of the soft tissues of the body, including muscles, connective tissues, tendons, ligaments, and joints.~~
- 2.12. “Massage Therapist” shall mean an individual licensed by the State of Utah Division of Professional and Occupational Licensing to perform massage therapy as required in Utah Code Ann. § 58-47b, Massage Therapy Practice Act. Hereinafter referred to as “operator”.
- 2.13. “Massage Therapy” shall mean the same as defined in Utah Code Ann. § 58-47b, Massage Therapy Practice Act.
- 2.14. “Massage Therapy Contracting Business” shall mean any business that sets appointments for massage therapy, and contracts or employs massage therapists to provide massage therapy to clients, but does not otherwise have a massage therapy establishment, mobile massage therapy truck, or out-call massage therapy permit issued by the Department.
- ~~“Massage Equipment” shall mean any device used in massage therapy that may come into contact with the patron’s skin.~~
- 2.15. “Massage Facility Therapy Establishment” shall mean any location, place, area, structure, truck, or business where either as a sole service or in conjunction with other services, massage therapy is performed. Massage therapy establishments shall include establishments that provide mobile massage therapy trucks and/or out-call massage therapy. A massage facility therapy establishment does not include those locations, places, areas, structures, or businesses where massage is performed pursuant to a temporary massage facility therapy establishment permit as provided in this regulation.
- 2.16. “Mobile Massage Therapy Truck” shall mean a fully encased massage therapy establishment:

- 2.16.1. On a motor vehicle or on a trailer that a motor vehicle pulls to transport; and
- 2.16.2. From which massage therapy procedures are performed.
- 2.17. “Out-Call Massage Therapy” shall mean massage therapy performed in a client’s home, place of business, or other location designated by the client.
- 2.18. ~~“Nuisance” shall mean an act or condition created by a person who unlawfully commits or omits to perform any duty, which either:~~
- 2.18.1. ~~seriously injures or endangers the health, or safety of any person; or~~
- 2.18.2. ~~seriously renders a person insecure in life; or~~
- 2.18.3. ~~endangers the environment.~~
- 2.19. ~~“Operator” shall mean a person who leases or manages a massage facility or temporary massage facility.~~
- 2.17. “Owner” shall mean any person who alone, jointly, or severally with others:
- 2.17.1. has legal title to any ~~massage facility or~~ massage therapy establishment, massage therapy contracting business, or temporary massage facility therapy establishment, with or without accompanying actual possession thereof; or
- 2.17.2. has charge, care, or control of any ~~massage facility~~ massage therapy establishment, massage therapy contracting business or temporary massage facility therapy establishment, as legal or equitable owner, agent of the owner, or is an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
- 2.18. “Patron” shall mean any person who receives a massage therapy procedure by an operator. ~~massage therapist.~~
- 2.19. “Permit” shall mean a written form of authorization issued by the Department in accordance with this regulation.
- 2.20. “Permit Holder” shall mean the entity that:
- 2.20.1. Is legally responsible for the operation of the massage therapy establishment such as the owner, the owner’s agent, or other person; and
- 2.20.2. Possesses a valid permit to operate a massage therapy establishment.

- 2.21. “Person-In-Charge” shall mean the individual present at a massage therapy establishment who is responsible for the operation at the time of inspection.
- ~~“Personal service station” shall mean a booth, table, or chair in which a personal service is provided. Examples include but are not limited to tanning booths, massage tables, and hair stylist chairs.~~
- 2.22. “Potable Water” shall mean water that is suitable for drinking.
- 2.23. “Service Animal” shall mean any animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability as defined in the Americans with Disabilities Act.
- 2.24. “Temporary Massage Facility Therapy Permit” shall mean a permit issued on a temporary basis to an operator that does not possess a massage therapy establishment permit or a mobile massage therapy truck permit issued by the Department. This permit applies to the operator and not the location of the event location, place, area, structure, or business where either as a sole service or in conjunction with other services, massage therapy is performed for seven days or less.

3. GENERAL PROVISIONS

3.1. Jurisdiction of the Department.

- 3.1.1. This regulation is promulgated by the Salt Lake ~~Valley~~ County Board of Health as authorized by ~~Section Utah Code Ann. §26A-1-121(1), Utah Code Ann., 1953 as amended~~ and Chapter 9.04, Salt Lake County Code of Ordinances.
- 3.1.2. The Department is empowered to enforce this regulation in all incorporated and unincorporated areas served by the Department as authorized by ~~Section Utah Code Ann. §26A-1-114(1)(a), Utah Code Ann., 1953 as amended~~ and Chapter 9.04, Salt Lake County Code of Ordinances.
- 3.2. It shall be unlawful for any person not to comply with any regulation promulgated by the Department, unless granted an express variance by the Salt Lake ~~Valley~~ County Board of Health.
- 3.3. Compliance with this regulation does not constitute a defense if charged with any environmental crime or violation of any local, state, or federal law.
- 3.4. Legal action taken by the Department under this Regulation does not preclude prosecution for any environmental crime that may have been committed or violation of any other local, state, or federal law.
- 3.5. Nothing in this regulation affects or modifies in any way the obligations or liability of any person under any other regulation or provision thereof issued by the Department,

any ordinance issued by Salt Lake County or any municipality located within Salt Lake County, or any state or federally issued law, including common law. However, Departmental regulations supersede other existing local and county standards, regulations and ordinances pertaining to similar subject matter that are inconsistent.

3.6. Verbal or contractual obligations shall not diminish or remove the owner's or other responsible person's obligation to comply with this regulation.

3.7. **Severance.** If any section, subsection, sentence, clause, or phrase of this regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this regulation.

4. MESSAGE THERAPY PROVISIONS

4.1. Permits and Plan Review Requirements.

4.1.1. Department Approval and Permits Required.

- (i) No person shall operate a Massage Facility Therapy Establishment without written approval and a corresponding valid Massage Facility Therapy Establishment Permit from the Department.
- (ii) No person shall operate perform massage therapy procedures at a temporary event or gathering a Temporary Massage Facility without obtaining written approval and a corresponding a valid Temporary Massage Facility Therapy Establishment Permit, or a Temporary Massage Therapy Establishment Permit from the Department.
- (iii) The owner(s) and operator(s) of a Massage Therapy Establishment or a Temporary Massage Therapy Establishment shall post the permit in a public area of the establishment.
- (iv) No person shall perform massage therapy procedures without a current license from DOPL.
- (v) The owner(s) or operator(s) of a massage therapy establishment shall notify the Department of any change in the establishment's name, billing address or telephone numbers.
- (vi) Changes in ownership and/or establishment location require a new permit.

4.1.2. Massage Therapy Contracting Business.

- (i) No person shall operate a massage therapy contracting business without a Massage Therapy Contracting Business Permit.

- (ii) Owners of a massage therapy contracting business that employs individuals to perform massage therapy, either as employees or private contractors shall ensure:
 - a. That such individuals are licensed to perform massage therapy by DOPL; and
 - b. Provide an employee and contractor list to the Department upon request.

4.1.3. Permit Application, Duration, and Renewal.

- (i) Application for a permit required in section 4.1.1 and 4.1.2 shall be made upon a form provided by the Director.
- (ii) Application for a permit required in section 4.1.1 and 4.1.2 shall be made prior to commencement of operation of the establishment and upon the form provided by the Department.
- (iii) **Permit Duration and Renewal.** ~~The Massage Facility~~ Massage Therapy Establishment Permits and Massage Therapy Contracting Business Permits shall be issued annually and shall expire one year from date of issuance ~~expire~~. It is the responsibility of the owner or operator of the ~~Massage Facility to pursue permit renewal through appropriate channels. The Permit shall be renewable within 60~~ to renew their permit within 30 calendar days prior to the expiration date. ~~The Temporary Massage Facility Permit shall be valid for seven consecutive days beginning with the date written on the permit.~~
- (iv) Each mobile massage therapy truck shall have a mobile massage therapy truck permit.
- (v) Permits shall be conspicuously posted for public viewing at the establishment or location that massage therapy procedures are performed.

4.1.4. Inspections. Massage therapy establishments shall have:

- (i) A pre-opening inspection prior to an initial permit being issued; and
- (ii) Inspections on a complaint basis following permit approval.

4.1.5. Permit Application, Plan Review and Requirements for Temporary Events. An owner or operator of a temporary massage therapy establishment shall ensure a permit application is submitted to the Department, at least two weeks in advance of an event. Massage therapy establishment permit holders are not required to have a temporary massage therapy permit. A detailed temporary event plan review shall be submitted to the Department and shall contain a detailed sketch that includes:

- (i) Location of massage therapy stations;
- (ii) Location of restrooms; and
- (iii) Location of hand wash stations.

4.1.6. A temporary event permit shall be:

- (i) Issued to the business for a specifically named event;
- (ii) Valid only for the duration of the specifically named event in the calendar year;
- (iii) Limited to the area assigned to each business; and
- (iv) Conspicuously posted for public viewing.

4.1.7. Temporary events shall comply with this regulation. Additional requirements for temporary events are listed below:

- (i) Temporary or permanent hand wash stations shall be located within close proximity to the massage therapy stations.
- (ii) A temporary hand wash station shall include a minimum of one enclosed container of potable water with a continuous flow device, soap, paper towels, a collection container for waste water and a waste receptacle; and
- (iii) Waste water shall be disposed of in a sanitary sewer

4.1.8. Fees may be waived by the Director for permitted establishments that are volunteering their time for a charitable event.

4.1.9. ~~**Massage Facility Plan Review.** A Massage Facility Permit applicant or Permit holder may be required to submit to the Department prior to the start of construction or remodeling properly prepared plans and specifications for review and approval before:~~

- ~~(i) The construction of a Massage Facility;~~
- ~~(ii) The conversion of an existing structure for use as a Massage Facility; or~~
- ~~(iii) The remodeling of a Massage Facility if the Department determines that plans and specifications are necessary to ensure compliance with this regulation.~~

4.2. **Plan Review and Construction and Operation Requirements for Massage Therapy Facilities Establishments.** Unless otherwise ordered or approved by the Department, each facility shall be constructed, operated, and maintained to meet the following minimum requirements:

4.2.1. A permit applicant or permit holder shall be required to submit to the Department properly prepared plans and specifications for review and approval before:

- (i) The construction of a new massage therapy establishment;
- (ii) The conversion of an existing structure for use as a massage therapy establishment; or
- (iii) The remodeling of a massage therapy establishment if the Department determines that plans and specifications are necessary to ensure compliance with this regulation.

4.2.2. Permit applicant or permit holder shall be required to submit a plan review prior to operating. The plan review shall include:

- (i) A scaled floor plan with massage therapy station locations;
- (ii) Location of restrooms;
- (iii) Location and intensity of light sources;
- (iv) A finish schedule (i.e. materials being used on floors, walls, counters, chairs, and tables); and
- (v) Backflow protection for plumbing fixtures as required in the Utah Plumbing Code.

4.2.3. **Physical Facilities.** Unless otherwise ordered or approved by the Department, each establishment shall be constructed to meet the following minimum requirements:

- (i) Restrooms shall have walls, floors, tables, counters, and other surfaces constructed of smooth, non-absorbent materials.
- (ii) Plumbing and plumbing fixtures shall be properly installed with hot and cold running water and maintained in conformity with Utah Code Ann. §15A -1-101, et seq., Utah State Construction and Fire Code.
- (iii) Restrooms shall be accessible to patrons and employees during all hours of operation. The restroom shall have a toilet, toilet paper, a hand wash sink with hot and cold running water, dispensable hand soap, single-use towels and a waste receptacle.

- (iv) Establishments located in a dwelling shall have one dedicated restroom as described in section 4.2.3 (iii) exclusively for the use of patrons and operators during business hours.
- (v) Massage therapy chairs and tables shall be constructed of smooth, non-absorbent materials.
- (vi) Establishments shall be provided with an artificial light source equivalent to at least 20 foot candles (215 lumens) three feet off the floor to allow for proper cleaning and disinfecting.
- (vii) Animals are not allowed in the establishment with the exception of service animals.
- (viii) ~~Each massage facility and temporary massage facility shall have a toilet and a hand washing sink with hot and cold water accessible to patrons provided with soap and single use towels. The toilet and hand washing facilities shall be thoroughly cleaned each day the establishment is in operation and kept in compliance with applicable state and local regulations.~~
- (ix) ~~A massage facility and temporary massage facility located in a dwelling shall have one dedicated restroom facility as described in subpart 4.2.1 (i) for the use of patrons and operators during business hours. Access to the restroom shall not be through the massage therapist's bedroom.~~
- (x) ~~The floors and walls in the toilet and hand washing areas must be constructed of smooth, non-absorbent material.~~
- (xi) ~~A massage facility or temporary massage facility located in a dwelling shall not be in the massage therapist's bedroom. Access to the massage facility or a temporary massage facility shall not be through the massage therapist's bedroom.~~
- (xii) ~~All rooms of a massage facility or temporary massage facility shall be capable of being illuminated to allow for proper cleaning and sanitizing.~~
- (xiii) ~~No room used for performing massage shall be used for eating, cooking, or sleeping by the massage therapist.~~

4.3. Mobile Massage Therapy Truck—Additional Provisions.

- 4.3.1. Mobile massage therapy trucks shall have a potable water tank, a wastewater tank, and a wastewater disposal plan.

4.3.2. Mobile Water Tank Design. A mobile water tank on a mobile massage therapy truck shall be:

- (i) Enclosed from the filling inlet to the discharge outlet; and
- (ii) Sloped to an outlet that allows complete drainage of the tank.

4.3.3. Water Supply Tank Capacity. A mobile massage therapy truck water supply tank shall have a 30-gallon capacity or greater.

4.3.4. Mobile Tank Inlet. A mobile massage therapy truck's water tank inlet shall be:

- (i) 19.1mm (3/4 inch) in inner diameter or less; and
- (ii) Provided with a hose connection of a size or type that will prevent its use for any other service.

4.3.5. Sewage Holding Tank. A sewage holding tank in a mobile massage therapy truck shall be:

- (i) Sized 15 percent larger in capacity than the water supply tank; and
- (ii) Sloped to a drain that is 25 mm (1 inch) in. inner diameter or greater and equipped with a shut off valve.

4.3.6. Wastewater Disposal Plan. A mobile massage therapy truck shall have a written wastewater disposal plan that includes the location and method for wastewater disposal approved by the Department.

4.4. **Cleaning, Disinfecting, and Maintenance.**

4.4.1. ~~All Walls, floors, tables, counters, equipment, chairs, carpeting,~~ and other surfaces in the ~~massage facility and temporary massage facility~~ establishment and restrooms shall be kept clean and in good repair.

4.4.2. Prior to disinfection, non-electric re-useable equipment shall be cleaned using the following method:

- (i) Remove debris;
- (ii) Scrub using soapy water; and
- (iii) Rinse with clean water.

4.4.3. Reusable equipment shall be disinfected with a United States Environmental Protection Agency registered disinfectant, such as sodium hypochlorite or quaternary ammonia and used in accordance with the manufacturer's label.

~~Sanitization~~ Disinfection of reusable equipment shall be carried out using:

- (i) ~~U.S. Environmental Protection Agency (U.S. E.P.A.) registered sanitizer disinfectant(s), such as sodium hypochlorite and quaternary ammonia and in accordance with the U.S. E.P.A. approved manufacturer's label; or~~
 - (ii) ~~Dry heat and temperature of 338° Fahrenheit (170° Celsius) for at least one hour;~~
 - (iii) ~~Sodium Hypochlorite solution of 200 parts per million of chlorine for at least two minutes;~~
 - (iv) ~~Quaternary ammonium solutions of 1,000 parts per million for 10 minutes;~~
 - (v) ~~70 percent solution of alcohol for 20 minutes;~~
 - (vi) ~~Boiling water at 212° Fahrenheit (100° Celsius) for 15 minutes; or~~
 - (vii) ~~Steam sterilization at 15 pounds (one atmosphere) pressure at 248° Fahrenheit (120° Celsius) for 30 minutes.~~
- (i) ~~At the request of the patron, sanitizer and instructions on the proper use of such shall be provided by the operator.~~

4.4.4. ~~If used, establishments~~ Each massage facility and temporary massage facility shall have an adequate supply of clean towels and linens which shall be changed after each patron. All clean towels and linens shall be stored in a closed container.

4.4.5. Clean towels and linens shall be stored and transported in a closed single use container or a closed clean container.

4.4.6. ~~Soiled~~ Used towels and linens shall be placed in closed containers stored and transported in a container separate from clean towels and linens.

4.4.7. A massage therapy establishment or temporary massage therapy establishment shall have an adequate supply of disinfectant.

- (iv) ~~Oils, creams, lotions, or other preparations shall be sanitary and stored in clean, closed containers.~~
- (v) ~~Only single use applicators or spouts that preclude contamination of the contents shall be used for the dispensing of oils, creams, lotions, or other preparations.~~

- 4.5. **Equipment.** Items used to increase comfort of the patron (i.e. sheepskin, electric blanket, etc.) shall be protected by a barrier. The barrier or layer(s) above the barrier shall be disinfected or changed when contacted by a patron.
- 4.6. **Shower Massage Tables.** Shower massage tables used for massage therapy that has water that contacts a person shall be:
- 4.6.1. Located in a room with surfaces that are smooth, cleanable and non-absorbent.
 - 4.6.2. Installed in conformity with Utah Code Ann. §15A-1-101, et seq., Utah Plumbing Code.
 - 4.6.3. Equipped with a floor drain.
 - 4.6.4. Disinfected between uses.
- 4.7. **Oils, creams, lotions or other preparations:**
- 4.7.1. Shall be stored in clean, closed containers.
 - 4.7.2. Shall be transferred from one container to a single-use container or a clean container capable of being disinfected.
 - 4.7.3. Shall be dispensed to preclude any cross contamination.
- 4.8. Skin contact equipment surfaces shall be cleaned and disinfected between use.
- 4.9. **Hand Washing and Glove Use**
- 4.9.1. Operators shall wash their hands immediately before engaging in massage therapy activities.
 - 4.9.2. Operators shall wash their hands thoroughly with liquid hand soap and hot water for a minimum of 20 seconds.
 - 4.9.3. Operators shall dry their hands using single-use towels or other method approved by the Department.
 - 4.9.4. Operators shall wash their hands after:
 - (i) Using the restroom;
 - (ii) Smoking, eating, coughing, sneezing, using a disposable tissue or handkerchief
 - (iii) Handling soiled equipment; or

(iv) Engaging in other activities that contaminate the hands.

4.9.5. Operators with an open wound, cut, sore, burn, or other skin injury capable of coming into contact with a client's skin shall not perform a procedure without covering the wound, cut, sore, burn or skin injury with a suitable physical barrier such as a finger cot or single-use glove.

4.10. **Owners, Operators, ~~Massage Therapists,~~ and Patrons.**

4.10.1. Owners and operators of ~~a business~~ an establishment which employs individuals to perform massage therapy, either as employees or private contractors shall ensure that such individuals are licensed to perform massage therapy by ~~the Utah Division of Occupational and Professional Licensing~~ DOPL and a licensed operator shall be on site during all hours of operation.

4.10.2. DOPL Licenses shall be on site, prominently displayed in the area where the massage therapy procedure is being performed, and available upon request.

4.10.3. Owners and operators of a massage contracting business shall ensure that employees and contracted employees have a copy of the valid Health Department Massage Contracting Business Permit when performing massage therapy available upon request.

4.10.4. Operators shall wear clean outer clothing, maintain a high degree of personal cleanliness and conform to good hygienic practices.

4.10.5. Operators shall not perform a procedure if they know or suspect that they have any illness or infection capable of being transmitted to patrons.

4.10.6. If the Director has reasonable suspicion that a disease has been transmitted by an operator ~~massage therapist~~ in the course of performing a massage therapy procedure, the Director shall ~~make~~ conduct an investigation or examination as appropriate and take action as needed to protect and preserve the public health. In addition to other legal remedies, such action may include, but is not limited to:

(i) Exclusion of the ~~employee~~ operator or patron from the ~~massage facility~~ establishment; or

(ii) The ~~I~~ Immediate closure of the ~~facility~~ establishment.

4.10.7. A written report of any infection, complication, serious injury, or disease resulting from any procedure shall be forwarded to the Department within 24 hours of the owner or operator becoming aware of its occurrence. The report shall include:

(i) Name and address of the affected individual;

- (ii) Name and location of the operator and massage therapy establishment involved;
- (iii) Nature of the injury; and
- (iv) Any other information considered relevant to the situation.

4.10.8. Operators may deny service to patrons with skin diseases or other conditions posing public health concerns. If service is not denied, appropriate personal protective equipment shall be worn and the establishment shall be properly disinfected after the procedure.

- (v) ~~All massage therapists shall conform to good hygienic practices while on duty in a massage facility.~~
- (vi) ~~Massage therapists shall wash their hands thoroughly before and after performing each massage.~~
- (vii) ~~No massage therapist shall administer a massage or give treatment if they know or should know that they have any disease capable of being transmitted to another individual.~~
- (viii) ~~If the Director has reasonable suspicion that a disease has been transmitted by a massage therapist in the course of performing massage, the Director shall make investigation or examination as appropriate and take action as needed to protect and preserve the public health. In addition to other legal remedies, such action may include, but is not limited to:~~
 - a. ~~Exclusion of the employee or patron from the massage facility; or~~
 - b. ~~The immediate closure of the facility.~~
- (ix) ~~The Director may require medical testing or examinations if a contagious disease is suspected of being transmitted by a massage therapist.~~
- (x) ~~Massage therapists with an open wound, cut, sore, burn, or other skin injury capable of coming into contact with a client's skin shall not practice massage without covering the wound, cut, sore, burn or skin injury with a suitable physical barrier such as a finger cot or a latex glove.~~
- (xi) ~~Massage therapists may deny service to patrons with skin diseases or other conditions posing public health concerns.~~

4.11. Assignment of Responsibility.

The permit holder shall designate a person-in-charge and shall ensure that a person-in-charge is present at the massage therapy establishment during all hours of operation. The permit holder may designate themselves as the person-in-charge.

4.12. Person-In-Charge—Duties. The person-in-charge shall ensure and demonstrate knowledge that:

4.12.1. All massage therapy procedures are performed by persons that have the required DOPL License;

4.12.2. Persons performing massage therapy are effectively washing their hands;

4.12.3. The establishment and reusable equipment are properly maintained, cleaned and disinfected; and

4.12.4. The establishment is maintained in good repair;

4.13. Prohibited Acts

4.13.1. No person shall perform any massage therapy without a valid permit and the required DOPL License.

4.13.2. Massage therapy procedures shall not be conducted on skin surfaces that have a rash, pimple, boil, infection or if the patron manifests symptoms of a communicable skin disease.

4.13.3. Operators shall not engage in eating, cooking, drinking or sleeping in areas where massage therapy procedures are performed or while disinfecting or handling equipment.

4.13.4. Operators shall not diagnose medical conditions.

4.13.5. No massage therapy establishment may be open without a DOPL licensed massage therapist on-site.

5. LICENSES, PERMITS, & REGULATORY FEES

5.1. The Department may establish and collect appropriate fees for licenses and permits as set out in this regulation. The Department may collect appropriate fees as set out in this regulation for the performance of services, including plan reviews. If information on a license or permit application changes, the applicant shall notify the Department in writing within 20 calendar days.

5.2. **Massage Facility Therapy Establishment Permit Fee (Includes Out-call Massage Therapy and Mobile Massage Therapy Truck).** Any applicant who applies for ~~The~~ fees for a Massage Facility Therapy Establishment Permit as required in part section

~~4.1.1 of this regulation shall be paid remit to the Department a Massage Therapy Establishment Permit Fee in the amount as provided for or as approved by the Director in the Department's fee schedule upon application, at the time of application. It shall be based upon the reasonable expenses incurred by the Department to review plans and specifications, conduct inspection(s), and act upon the permit application. The annual fee for a Massage Facility Therapy Establishment Permit shall be \$100.00 plus \$5.00 for each personal service station.~~

- 5.3. **Massage Therapy Establishment Permit Renewal Fee.** A massage therapy establishment permit holder shall remit to the Department a Massage Therapy Establishment Permit Renewal Fee in the amount as provided for or as approved by the Director in the Department's fee schedule at time of permit renewal.
- 5.4. **Temporary Massage Facility Therapy Establishment Permit Fees.** Any applicant who applies for Temporary Massage Therapy Establishment Permit as required in ~~part~~ section 4.1.1 of this regulation shall remit to the Department a Massage Therapy Establishment Permit Fee in the amount as provided for or as approved by the Director in the Department's fee schedule upon application. ~~The fees for a Temporary Massage Facility Therapy Establishment Permit required in part 4.1.1 (ii) of this regulation shall be paid to the Department at the time of application. It shall be based upon the reasonable expenses incurred by the Department to conduct inspection(s), and act upon the permit application. The fee for a Temporary Massage Facility Therapy Establishment Permit shall be \$50.00.~~
- 5.5. **Massage Therapy Contracting Business Permit Fee.** Any applicant who applies for a massage therapy contracting business permit as required in section 4.1.2 of this regulation shall remit to the Department a Massage Therapy Contracting Business Permit Fee in the amount as provided for or as approved by the Director in the Department's fee schedule upon application.
- 5.6. **Massage Therapy Establishment Plan Review Fee.** The fee for a Massage Therapy Plan Review required in section 4.2 of this Regulation shall be remitted to the Department at the time that plans are submitted for review in the amount as provided for or as approved by the Director in the Department's fee schedule, upon application.
- 5.7. **Massage Facility Therapy Follow-Up Inspection Fee.** The Department will charge a follow-up fee to a Massage Facility Therapy Establishment permit holder or to a Temporary Massage Therapy Establishment permit holder when conditions found during an inspection or complaint investigation require a follow-up inspection to ensure compliance. The owner or permit holder shall remit the massage therapy follow-up fee to the Department in the amount as provided for or as approved by the Director in the Department's fee schedule, following a follow-up inspection. ~~The fee for a Massage facility Therapy Establishment follow-up inspection is \$100.~~
- 5.8. **Late Fees.**

- 5.8.1. The Department may impose upon any party subject to this regulation penalties and charges for failure to timely pay service and license or permit fees as set out in this regulation. Attorney's fees and collection fees may also be applied.
- 5.8.2. Fees unpaid to the Health Department after ~~30 calendar days~~ one month of the due date will be assessed a penalty of 10% of the outstanding balance. Failure to pay the fees and additional charges after ~~60 days~~ two months of the due date will be assessed an additional penalty of 15% of the outstanding balance including previous penalties. Failure to pay the fees and additional charges after 100 days of the due date will result in suspension of the permit and the right to operate. A \$40.00 charge will be assessed for each returned check.
- 5.8.3. Unless otherwise provided for in this regulation or approved by the Director in the Department's Fee Standard, all fees collected by the Department are non-refundable. All licenses and permits issued by the Department are non-transferable.

5.9. Denial, Suspension, or Revocation of License or Permit. Any permit or license applied for or issued pursuant to this regulation may be denied, suspended, or revoked by the Director for any of the following reasons:

- 5.9.1. Failure of the permit application, plans, or specifications to show that the massage ~~facility~~ therapy establishment will be operated or maintained in accordance with the requirements and standards of this regulation.
- 5.9.2. Submission of incorrect or false information in the permit application, plans, or specifications;
- 5.9.3. Failure to construct, operate or maintain the massage ~~facility~~ therapy establishment in accordance with the permit application, plans, and specifications approved by the Director;
- 5.9.4. Failure of the owner or operator of a massage ~~facility~~ therapy establishment to permit or allow the Department to conduct inspections as necessary to determine compliance with this Regulation;
- 5.9.5. Operation of the massage ~~facility~~ therapy establishment in a way that causes or creates a nuisance or hazard to the public health, safety, or welfare;
- 5.9.6. Violation of this regulation or any other restrictions required by the Director;
- 5.9.7. Violation of any condition upon which the permit was issued;
- 5.9.8. Failure to pay the permit fee or any late fees within 100 days of the permit fee's due date;

5.9.9. Failure of the owner or operator to prevent persons from performing massage therapy without a DOPL license.

5.9.10. Failure to have a DOPL licensed person, for massage therapy, on-site during hours of operation.

5.9.11. Failure to supply updated information as required in subsection 5.1.

5.9.12. Performing massage therapy without a DOPL License.

5.10. **Progressive Permit Suspension and Revocation.**

5.10.1. Receipt of the first permit suspension shall result in suspension of the Massage Therapy Establishment permit until the Department has verified that identified violations of this regulation have been corrected.

5.10.2. Receipt of a second permit suspension within two (2) years of the first permit suspension, as set forth in section 5.10.1, shall result in suspension of the Massage Therapy Establishment permit for a period of a minimum of seven (7) days.

5.10.3. Receipt of a third permit suspension within two (2) years of the second permit suspension, as set forth in section 5.10.2, may result in the Massage Therapy Establishment permit being revoked. The owner of the said establishment may be restricted from operating a massage therapy establishment for a minimum of 30 days, at which time the owner may be required to make application and submit a plan review etc., as if the establishment was a new establishment. Additional conditions may be imposed by the Department for approval of the establishment to operate.

5.10.4. Receipt of a permit suspension by an owner that previously had their permit revoked in accordance with section 5.10.3 may result in immediate revocation of the current permit for a minimum of 30 days.

5.10.5. Permit suspension and revocation shall reset after two (2) years from the last suspension for a history of compliance with all provisions of this regulation.

6. INSPECTIONS & INVESTIGATIONS

6.1. To ensure compliance, the Department has the authority to perform inspections, investigations, reviews, and other actions as necessary.

6.2. Authority for Department to Enter Premises.

6.2.1. Regulated Commercial Premises. Upon presenting proper identification, authorized representatives of the Department may enter upon the premises of properties regulated by the Department to perform routine inspections to ensure

compliance with rules, standards, regulations, and ordinances adopted by the Board of Health, the Departments of Health & Environmental Quality, county or municipal governing bodies, or the division of Occupational and Professional Licensing.

6.2.2. Private Dwellings. Inspections of private dwellings are made by consent of owner or otherwise responsible party or upon a warrant issued by a court.

6.2.3. Consent by License or Permit: The Department may require licensees or permittees to consent to access for inspections as part of their license or permit. Failure to allow access for inspections as set out in the license or permit may result in the suspension or revocation of the license or permit.

6.3. The owner or other responsible person may request information gathered by the Department during an investigation, inspection or review as authorized by the Government Records Access and Management Act, §§ 63-2-101 to 63-2-1001 Utah Code Ann., 1953 as amended.

7. ENFORCEMENT MECHANISMS. If the Department has investigated or inspected any property or ~~facility~~ establishment and believes the property owner or other responsible party is in violation of this regulation or the division has other reasonable grounds to believe that there has been a violation of any part of this regulation or that the property owner or otherwise responsible party is not in compliance with this regulation, the division may take civil enforcement action as authorized by statute, rule, ordinance, and regulation and may also refer the matter for criminal prosecution. Civil enforcement may involve court or administrative actions, injunctive actions, and closures and may involve cost recovery, penalties, and other remedies. Civil and criminal actions may be brought simultaneously. A person does not need to be first adjudged liable in a civil matter before facing criminal charges.

7.1. Criminal Enforcement Actions. The Department may recommend criminal prosecution for violations either alone or in conjunction with civil enforcement. Criminal prosecutions for violations of state or federal law may be filed by the District Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity. Factors that the Department may consider in recommending criminal enforcement include the following factors and any other relevant factors.

7.1.1. The nature and seriousness of the offense including the immediacy of the threat of danger to the life or safety of another or the harm or threatened harm to human health or;

7.1.2. The degree to which the violation was designed to provide economic gain or cost avoidance or it involved a pattern of conduct or a common attitude of illegal conduct;

- 7.1.3. The degree to which the offender is a known violator and has avoided prior actions by the Department;
- 7.1.4. The degree to which prosecution might deter future violations;
- 7.1.5. The person's actual culpability in connection with the offense including the presence in connection with the offense including the presence of criminal intent;
- 7.1.6. The person's willingness to cooperate in the investigation including whether the violator has attempted to conceal evidence or prosecution of others;
- 7.1.7. The appropriateness of referring the case to other agencies having prosecutorial interest; and
- 7.1.8. Possibilities of civil remedies which would be more appropriate than initiating the criminal justice process.

7.2. Civil Enforcement Actions.

- 7.2.1. The Department may request that the District Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

7.3. Administrative Actions.

- 7.3.1. The Department may, at its discretion, issue a Notice of Violation & Order of Compliance (NOV).
- 7.3.2. **Service of NOV.** The Department may provide notice to the owner of the property or otherwise responsible person by sending the NOV via first class mail to the last known address of the owner of the property or other responsible person. If notice is returned undeliverable, the owner of the property or other responsible person may be personally served or be given notice by other methods reasonably calculated to give actual notice to the owner or other responsible party.
- 7.3.3. **Contents of NOV.** The NOV shall:
 - (i) Describe the property and the persons believed to be in violation;
 - (ii) Describe the violation;
 - (iii) Describe remedial action that will comply with the provisions of this regulation;
 - (iv) Set a reasonable time for the performance of any required remedial action(s);

- (v) Describe the procedure to contest the NOV and the time limits for such a contest; and
- (vi) Notify the owner or other responsible person that if no written contest is filed within the time required, the NOV will become final and unappealable to any administrative entity or court.

7.3.4. **Challenging an NOV.** As detailed in the SLVCoHD's Department's Adjudicative Hearing Procedures, a party aggrieved by an NOV may request a departmental conference, departmental hearing, or departmental appeal in writing within ten (10) days of the date of the NOV.

7.3.5. ~~**Departmental Conference, Settlement Agreements, and Stipulations & Orders.**~~

- ~~(i) After issuance of the NOV, the alleged violator has the option to request and attend a Departmental Conference to discuss the NOV and settlement with the Department and its legal counsel. No hearing officer will be present. The process of requesting a Departmental Conference are more fully described in the SLVCoHD's Department's Adjudicative Hearing Procedures.~~
- ~~(ii) If the parties agree to a settlement, the Department will prepare, in conjunction with the District Attorney's Office, a binding Settlement Agreement or Stipulation & Consent Order which may require the payment of penalties and the costs of investigation. Parties may also agree to a settlement at any time subsequent to the Departmental Conference. After signing a Settlement Agreement or Stipulation & Consent Decree, the parties waive all rights to further department and court hearings or appeals. Settlement Agreements or Stipulation & Consent orders may be enforced in state courts.~~

7.3.6. ~~**Hearings & Appeals.**~~ Parties Aggrieved by an NOV may also request a Departmental Hearing or a Departmental Appeal. A hearing officer is present at these proceedings and makes a written determination. The methods of challenging an NOV are more fully described in the SLVCoHD's Department's Adjudicative Hearing Procedures. Departmental Hearing Orders and Departmental Appeal Orders may be appealed to the entities and within the time limits set out in the SLVCoHD's Adjudicatory Department's Adjudicative Hearing Procedures.

7.3.7. ~~**Failing to respond to an NOV.**~~ If a party fails to respond to an NOV within the required time, the NOV becomes a final order unappealable to any administrative entity or court. The Department may then enforce the order in state court.

7.4. Additional Administrative Enforcement Authority.

- 7.4.1. The Department may declare unsanitary conditions a nuisance and cause every nuisance affecting the public health to be abated.
- 7.4.2. Variances. Any variance allowed by the Department to the requirements of this regulation shall be only by written approval of the Board of Health.
- 7.4.3. **Exercise of Physical Control.** The Department may establish, maintain, and exercise physical control over property and over individuals as the Department finds necessary for the protection of the public health including but not limited to closing theaters, schools, and other public or private places and prohibit public gatherings. The order shall be effective immediately. Any person to whom the order is directed shall comply immediately but may petition the Director for a hearing in accordance with the Salt Lake ~~Valley~~ County Health Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this regulation, the Director shall continue the order in effect or modify or revoke it.
- 7.4.4. **Emergency Enforcement.** If the Director finds that an emergency exists that requires immediate action to protect the public health, he or she may without notice or hearing issue an order declaring the existence of an emergency and requiring that action be taken as he or she deems necessary to meet the emergency. The order shall be effective immediately. Any person to whom the order is directed shall comply and abate the nuisance immediately; but may petition the Director for a hearing in accordance with the Salt Lake ~~Valley~~ County Health Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this regulation, the Director shall continue the order in effect or modify or revoke it. If circumstances warrant because of the seriousness of the hazard, the Department may act to correct or abate the emergency without issuance of an order or directive or without waiting for the expiration of compliance time previously given in an order.

8. CRIMINAL, CIVIL & ADMINISTRATIVE PENALTIES

8.1. Criminal Penalties.

- 8.1.1. Any person who is found guilty by a court of violating any of the provisions of this regulation, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Section 26A-1-123, Utah Code Annotated, 1953, as amended.
- 8.1.2. Each day such violation is committed or permitted to continue shall constitute a separate violation.

8.1.3. Each similar subsequent violation occurring within two years of the initial violation may constitute a class A misdemeanor.

8.2. Civil & Administrative Penalties.

8.2.1. Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:

- (i) The violator's history of compliance or non-compliance;
- (ii) The violator's economic benefit of non-compliance;
- (iii) The documented costs associated with environmental or health damage;
- (iv) The violator's degree of willfulness or negligence; and
- (v) The violator's good faith efforts to comply and cooperate.

8.2.2. The Director may multiply the penalty by the number of days the violation occurred

8.3. Recovery of Investigation & Abatement Costs

8.3.1. The Department may recover its inspection, investigative and abatement expenses and costs from owners or other responsible person.

8.3.2. The Department may record a judgment lien on a violator's property to recover its expenses and costs.

9. **EFFECTIVE DATE.**

9.1. This regulation shall become effective upon its enactment by the Salt Lake ~~Valley~~ County Board of Health.

APPROVED AND ADOPTED this _____ day of _____, 2016~~9~~.

SALT LAKE ~~VALLEY~~ COUNTY BOARD OF HEALTH

By: _____
~~William S. Kidder, D.D.S.~~
Dr. William Cosgrove

ATTEST:

By: _____
GARY L. EDWARDS, M.S.
Executive Director
Salt Lake ~~Valley~~ County Health Department