

WAKEFIELD BOARD OF HEALTH

RULES AND REGULATIONS FOR
BODYWORK

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WAKEFIELD BOARD OF HEALTH
RULES AND REGULATIONS FOR BODYWORK

I. AUTHORITY

1.1 The Town of Wakefield hereby orders that the following Rules and Regulations are hereby adopted under authority of Section 31 of Chapter 111, §51 and 53, Chapter 140 of the Massachusetts General Laws.

II. PURPOSE

- 2.1 The Wakefield Board of Health finds it necessary to permit the practice of Bodywork to protect the public health and safety of the community, including patrons, employees, and owners of commercial businesses offering legitimate services. 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.

III. DEFINITIONS

1. Bodywork: The term bodywork shall include but not be limited to: Acupressure, Aromatherapy, Aryuredic, Body-Mind Centering, Body-oriented Psychotherapy; The FELDENKRAIS® Method; Five Element Shiatsu, Integrative Eclectic Shiatsu, Japanese Shiatsu, Macrobiotic Shiatsu, Neuromuscular Therapy; Oriental Bodywork Therapies including: AMMA Therapy®, Chi Nei Sang, Jin Shin Do®, Korean Bodywork, Okazaki Restorative Massage, Nuat thai, Polarity Therapy; Qi Gong, Reflexology, Reiki, Rolph Structural Integration, ROLFING®, Traditional Thai Massage or Bodywork, The TRAGER® approach, Tui na, Zen Shiatsu or other practices as they become known. Bodywork does not include massage as defined by MGL c. 112, s. 227.
2. Criminal Offender Record Information (CORI): Shall mean a record of criminal offenses committed as an adult or juvenile, as compiled by the Department of Criminal Justice Information Services.

3. Department: Unless otherwise specified, shall mean the Wakefield Health Department acting in its role as the agent for the Wakefield Board of Health.
4. Establishment: Shall mean the room or group of rooms, office, building, place of business, or premises where bodywork is practiced.
5. Off-premises: Shall mean the practice of bodywork at locations other than an establishment including but not limited to private homes, businesses, and events.
6. Patron: Shall mean a person with whom the bodywork practitioner 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.
7. Sanitization: Shall mean effective bacterial/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 table surfaces, instruments, and/or the general facility.
8. 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.
9. Student/Apprentice Practitioner: Shall mean any person during his/her course of study, engaged in a fieldwork practicum in bodywork; outside of a training facility or school for the purpose of meeting curriculum requirements and/or for compensation, hire, or reward. A student/apprentice practitioner shall maintain contact with a permitted, professional practitioner responsible for overseeing his/her fieldwork.
10. Administrative Revocation: Shall mean an administrative action with immediate effect taken by the Department for cause, such as when a permit holder fails to renew a permit or denies entry to an agent of the Department during the conduct of an inspection. A permit holder whose permit has been administratively revoked cannot lawfully continue to practice as a bodywork practitioner or to operate a bodywork establishment in the Town of Wakefield.

IV. EXEMPTIONS AND EXCLUSIONS

1. **Practitioner:** These regulations shall not apply to the following individuals while engaged in the regular performance of the duties of their respective professions:
 - A. Physicians, chiropractors, osteopaths, occupational practitioners or physical practitioners who are duly permitted to practice their respective professions in the Commonwealth of Massachusetts.
 - B. Athletic trainers duly permitted under the laws of the Commonwealth of Massachusetts.
 - C. Nurses who are registered or permitted under the laws of the Commonwealth of Massachusetts.
 - D. Barbers and beauticians who are duly registered under the laws of the Commonwealth of Massachusetts, except 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. An acupuncturist duly permitted under the laws of the Commonwealth of Massachusetts.
 - F. Teachers of the Alexander Technique.
 - G. Persons permitted to practice massage by the Commonwealth of Massachusetts as defined by MGL c. 112, s. 227.
2. **Establishment:** These regulations shall not apply to hospitals, nursing homes, convalescent homes, home health agencies, or other institutions similarly permitted by the Commonwealth of Massachusetts, bodywork practitioners working in such institutions within the city/town are required to obtain a permit or permit as provided herein unless excluded under Section 4.1
3. **Student/Apprentice:** A student or apprentice of bodywork who is gaining experience at a training facility or school for the purpose of meeting curriculum requirements and who is under the instruction of a permitted professional practitioner present in the training facility or school shall not be required to obtain a student/apprentice practitioner permit.

V. REQUIREMENTS FOR OBTAINING AND RENEWING A BODYWORK ESTABLISHMENT PERMIT

1. No person shall operate an establishment for the practice of Bodywork unless first having been issued a permit required pursuant to these regulations.
2. A permit issued to the operator of an establishment, a permit or permit issued to a professional or student/practitioner of bodywork, or a permit issued to conduct solely off-premises business is NOT transferable to another location or person.
3. Applicants for a Bodyworks Establishment permit must provide proof of liability insurance with a minimum coverage level of \$1,000,000, as well as workers' compensation insurance.
4. The applicant shall submit a high school diploma or its verifiable equivalent.
5. Applicants for a Bodywork Establishment permit 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.
6. All permits must be renewed by December 31st.
7. Any person or entity desiring to open a Bodywork Establishment shall obtain a Bodywork Establishment Permit from the Wakefield Health Department. The applicant understands that the Health Department and Board of Health have the discretion to grant or deny any requested permit.
8. Every operator of an establishment for Bodywork shall meet the following requirements:
 - A. Submit to the Wakefield Board of Health a completed application form containing all information therein requested. False statements in said application shall be grounds for revocation or denial of a permit.
 - B. Notify the Wakefield Board of Health at least fourteen (14) days prior to any change of name, address, or ownership.
 - C. Operate only under the same or designation specified on the permit or a change thereto as pursuant to paragraph B of this section.

- D. Employ or cause to be employed as a bodywork movement education practitioner(s) only a person(s) who has(have) a permit(s) or permit(s) for the practice of bodywork, from the Wakefield Board of Health.
- E. Perform or allow to be performed no illegal act on the premises. A violation of section may be grounds for revocation, suspension, or modification of the bodywork establishment permit.
- F. Display in a conspicuous place the current permit of the establishment and current permits of all bodywork practitioners conducting bodywork therein.
- G. Notify the Board of Health if an individual changes employment venue.
- H. File a renewal application not less than thirty (30) days prior to the expiration of the establishment permit, whereupon the existing permit shall not expire until the Wakefield Board of Health has finally determined the renewal application's status.
- I. Every establishment shall have one or more manager 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 must be permitted bodywork practitioners and may also be an owner of the Establishment.
- J. Apprentices and studentships are not permitted.

VI. REQUIREMENTS FOR OBTAINING AND RENEWING A BODYWORK PRACTITIONER PERMIT

- 1. No person shall be permitted to practice as a professional practitioner of bodywork in the Town of Wakefield unless he/she meets the following requirements:
 - A. Submit to the Department a complete application form as supplied by the Wakefield Health Department. False statements in said application shall be grounds for denial or revocation of a permit.
 - B. Provide satisfactory evidence that the applicant is eighteen (18) years of age or older, by presenting two forms of identification. One form must include a photograph such as a valid state driver's permit with a photo, a state identification card with a photo, and/or a

valid passport. The second form of identification may be a certified long-form birth certificate, a certified record of marriage, a certified copy of a Social Security Card, or other government-issued photo identification.

- C. Submit one face-front photograph at least two (2) inches in size taken within one year prior to the submission of the application.
- D. Submit a form authorizing the Town of Wakefield 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 Wakefield Health Department. All responses to the record checks shall be kept confidential. By signing the application or renewal form, the applicant gives authorization to the Town of Wakefield 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.

2. The applicant shall disclose the circumstances surrounding any of the following convictions or permit revocations:

- A. Disclosure of any conviction for any sexual-related offense, including prostitution or sexual misconduct.
- B. Disclosure of any conviction of any misdemeanor or felony occurring within the past ten (10) years.
- C. Disclosure of open criminal charges that are pending judicial action.
- D. Revocation, suspension, or denial of a permit to practice bodywork or massage issued by any state, county, or municipality.
- E. Loss or restriction of any licensure or certification by any municipality or other jurisdiction for any reason.

3. The Wakefield Police and Health Departments shall determine whether an applicant's conduct, criminal or otherwise, shall disqualify that person from obtaining a permit. Any convictions or permit revocation as outlined in Section 6.2 shall result in an automatic denial of the application.

4. Applicants must identify the name(s) of the permitted establishment(s) where he or she will practice bodywork therapy.
5. Applicants shall obtain a healthcare provider's letter dated no earlier than six months prior to the submittal of the application stating that the applicant has a physical examination and to the best of their knowledge is up to date with the current MA Department of Public Health's recommended adult immunizations and free from communicable diseases or condition that may be transmitted due to close physical contact. In addition, the examination report shall include whether a Tuberculosis (TB) screening is indicated, and, if indicated, a written negative result obtained.
6. Agree to follow all rules and regulations specified herein and conduct him/herself in accordance with the standards of practice and ethical guidelines of his/her state or national professional association or institute. Professional practitioners shall not misrepresent their training, experience, credentials, or title.
7. File an application for renewal not less than thirty (30) days prior to the expiration of his/her permit. A bodywork practitioner shall provide to the Department a completed renewal application, including a new Massachusetts physician's letter as specified in section 6.5, a new CORI acknowledgement form, annual license fee, and an updated front-facing digital photo, to be posted with the permit, as renewed, if granted. The fee for each permit renewal shall be in accordance with the most recent Wakefield Health Department fee schedule.
8. Any bodywork practitioner permits 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 Wakefield Health Department fee schedule is received. Any permit not renewed by the expiration date shall be deemed a retired permit and it may only be reinstated upon approval of a completed application for a new license.
9. At no time shall a bodywork practitioner conduct or run a business from a residence, condominium, hotel, motel, mobile home, or other residential setting defined by the Board of Health.

VII. REQUIREMENTS AND STANDARDS OF BODYWORK ESTABLISHMENTS

1. All room(s) used for bodywork shall be equipped with a door and have at least seventy (70) square feet of floor space.

2. All room(s) used for Bodywork shall not have doors with locks nor be capable of being locked in any way.
3. Establishments must remain closed between the hours 10:00 PM to 8:00 AM.
4. Establishments shall maintain a written record of all services that include the date, the name of the client, the Bodywork Practitioner providing service, the service provided, and the charges imposed in adherence to standard business practices. These business records shall be kept for at least three (3) years.
5. No room or section of an Establishment shall be used as a bedroom, for sleeping purposes, or as a domicile.
6. 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.
7. A sink with running hot and cold water (minimum hot water temperature of 110°F) must be located in an easily accessible area within the permitted establishment.
8. Sanitizing chemicals/equipment on-site must be labeled with the ingredients it contains. All furniture and equipment in each room shall be kept clean and sanitary at all times.
9. Restrooms must be made available to customers/employees and shall be located in an easily accessible area within or near the permitted establishments.
10. Non-disposable instruments shall be sanitized after use on each person in a manner sufficient to maintain cleanliness. No equipment or instruments shall be applied directly to the skin of a patron unless sanitized prior.
11. 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.

12. Non-latex gloves must be available on site. If latex-containing products are to be used, a sign shall be conspicuously posted stating all clients are advised that latex containing products are in use.
13. No items of sexual nature may be stored or displayed within the establishment or on the grounds.
14. Establishments shall not install a shower or other amenities that would allow the employees of such establishment to live at the facility.
15. Establishments must comply with Town of Wakefield zoning requirements.

VIII. REQUIREMENTS AND STANDARDS OF BODYWORK PRACTITIONERS

1. Every operator of a Bodywork establishment shall meet the following requirements:
 - A. No Bodywork Practitioner 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 permitted practitioner shall use the practitioner-client relationship to solicit for or engage in sexual activity with any client, whether consensual or otherwise, whether within or outside the bodywork establishment, or to make arrangements to engage in sexual activity with any client.
 - C. Disallow any and all illegal acts on the premises. A violation of this section may be grounds for revocation or suspension of establishment permit.
 - D. At no time shall a practitioner of bodywork therapy conduct any business at, or list as a business, his/her address. Additionally, at no time may clients be seen at the Bodywork Practitioner's residence or run a bodywork business as a door-to-door enterprise.
 - E. Bodywork Practitioners must wash his/her hands with soap and water immediately before and after administering services to any person.
 - F. Practitioners must maintain a sufficient level of personal cleanliness and be clothed in clean and appropriate attire.

- G. Practitioners must ensure all clients are properly clothed in appropriate attire or draped with cleaned towels.
- H. Practitioners 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.
- I. Practitioners may not use, or allow patrons to use, alcoholic beverages, illegal drugs, illicit drugs, marijuana, whether for medical or recreational usage, or controlled substances on the licensed premises.
- J. Practitioners may not administer 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.
- K. Bodywork practitioners may not administer treatment to a person younger than eighteen (18) years of age, provided that a parent or guardian signs an intake form for the client younger than eighteen (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.
- L. All practitioners shall have a valid form of identification on them at all times within the establishment.

IX. INSPECTIONS

- 1. Establishments are subject to inspection by the Department or its authorized agent(s) during all times of operation. A minimum of two (2) inspections are required over the course of each calendar year.
- 2. Denial of access to an agent of the Department shall result in the immediate administrative revocation of the permit to operate a Bodywork establishment.
- 3. If, upon inspection, conditions are found that do not comply with the provisions set forth in these regulations, both the operator and any bodywork practitioner responsible for violating these regulations may be subject to enforcement proceedings and penalties pursuant to Chapter XI.

4. Re-inspection shall take place when an establishment does not pass inspection. A re-inspection fee as determined by the Board, may be required if corrective action is not followed.

X. ADVERTISEMENTS

1. Establishments and therapists shall be mindful of professional ethics when placing advertisements. As used in this section, advertisements shall include, but not be limited to, service offerings or promotions in or on newspapers, periodicals, television, radio, any form of print media, or any form of internet or web-based marketing. Advertisements that appeal to prurient interests or advertising in a manner that uses exotic, sexual or provocative language and/or pictures to promote business may be construed as a breach of proper standards of bodywork.
2. Any person who is not permitted in the manner described herein may not represent him/herself as being a permitted or licensed bodywork practitioner or to hold him/herself out to the public as being permitted or licensed by using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional identification or advertisements of any sort.
3. Unless all bodywork practitioners within the establishment possess individual permits to practice bodywork in the Town of Wakefield, any person operating a bodywork establishment may not present his/her establishment as a permitted or licensed bodywork establishment or to hold his/her establishment out to the public as being permitted or licensed by using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional or advertisements of any sort.
4. The use of aliases is prohibited. If the therapist or establishment operator wishes to use a name other than that which appears on a permit, both names must be used together in all advertising and representations.

XI. ENFORCEMENT

1. These regulations may be enforced by the Department, the Wakefield Police Department, the Wakefield Fire Department, or agencies supporting the Town of Wakefield, except that only the Department and/or Wakefield Board of Health may grant/deny, revoke, suspend, or modify permits or variances of these regulations. The grounds on which the Department may deny, revoke, suspend, 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 Department, Police, or other government official to inspect the facility.
 - B. Interference with the Department, Police, or other government official in the performance of their duty.
 - C. A criminal conviction of the permit holder related to the operation of the establishment.
 - D. Failure of the permit holder 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 the regulations.
 - G. Committing a prohibited or criminal act.
 - H. Keeping or submitting any misleading or false record or documents related to the operation of the establishment or practicing bodywork.
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- 2. 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 Department may include ordering corrections of any violations of the provisions of these regulations.
 - 3. These regulations may be enforced through appropriate criminal or civil process, including, but not limited to, those specified at M.G.L c. 40, section 21D, in any court of competent jurisdiction.
 - 4. All criminal acts or violations of M.G.L will be enforced by the Wakefield Police Department. In addition, the Wakefield Police Department or Wakefield Public Health Department may issue fines per this ordinance on top of penalties assessed by the appropriate criminal court.

5. Any person aggrieved by an action of the Department may request a hearing before the Board of Health by submitting a written request to the Department within seven (7) days of receipt of the order or notice. Upon receipt of such request, the Department shall inform the petitioner thereof in writing of the time and place of said hearing, which shall commence within a reasonable time.

XII. PENALTIES

1. Whoever violates any provision of these Rules and Regulations, as stated herein, under authority of, and as pertaining to Section 31 of Chapter 111 and Sections 51 and 53 and Chapter 140 of the Massachusetts General Laws shall be punished by a fine of not more than \$1000.00.
2. Any person who fails to comply with any order issued pursuant to the provisions of these regulations and is issued a ticket pursuant to MGL c.40 Section 21D and Town of Wakefield By-Law Section 1-7 shall pay a fine of \$50 for the first offense, \$100 for the second offense, \$150 for the third and each additional offense. Each section of these regulations shall constitute a separate violation. Each day's failure to comply with an order shall constitute a separate violation.

XIII. SEVERABILITY

1. If any section, paragraph, sentence, clause, phrase, or word of the Rules and Regulations shall be declared invalid for any reason whatsoever, which shall not affect any other portion of the Rules and Regulations, which shall remain in full force and effect; and to this end, so shall the provisions of these Rules and Regulations.

XIV. TRANSITIONAL RULES

1. Existing bodywork establishments as well as individuals who conduct bodywork shall submit applications for licensure to the Wakefield Health Department within sixty (60) days of the effective date of these regulations.

XV. PERMIT OR PERMIT REVOCATION, SUSPENSION OR MODIFICATION AND APPEALS

1. The Board of Health may suspend, revoke, or modify a professional practitioner or establishment permit for any violation of these rules and regulations or the performance of any illegal act on the premises by serving an order in writing to the person(s) responsible for the violation.
2. The person(s) to whom an order has been served may request a hearing before the Board of Health within 7 days after the day the order was served. Upon receipt of such petition, the Board of Health shall set a time and place for such hearing and shall inform the petitioner thereof in writing. The hearing shall commence not later than thirty (30) days after the day on which the order was served. The thirty (30) day period may be extended if, in the opinion of the Board of Health, the petitioner has submitted a good and sufficient reason for such postponement.
3. At the hearing, the petitioner shall be allowed to be heard and to show why the order should be modified or withdrawn. After the hearing, the Board of Health shall sustain, modify, or withdraw the order and shall inform the petitioner in writing of this decision.

XVI. VARIANCE

1. Any person(s) may submit a written request to the Board of Health for a variance in the Application of any provision of these Rules and Regulations when the enforcement thereof would do manifest injustice. The Board of Health shall respond in writing within fourteen days.
2. Any person(s) who has been refused a granting of a variance may request a hearing before the Wakefield Board of Health within 7 days after the day the refusal was served. Upon receipt of such petition, the Board of Health shall set a time and place for such hearing and shall inform the petitioner thereof in writing. The hearing shall commence not later than thirty (30) days after the day on which the refusal was served. The thirty (30) day period may be extended if, in the opinion of the Wakefield Board of Health, the petitioner has submitted a good and sufficient reason for such postponement.
3. At the hearing, the petitioner shall be heard and be able to show why the variance should be granted. After the hearing, the Board of Health shall sustain, modify or withdraw the order and shall inform the petitioner in writing of this decision.

XVII. RECIPROCITY

1. Any practitioner issued a permit or permit to practice bodywork by any municipality in the Commonwealth of Massachusetts may qualify for a permit in the Town of Wakefield without additional evaluation of qualifications provided that the original municipality has a comparable regulatory standard.

XVIII. EFFECTIVE DATE

These regulations will take effect on April 1st, 2024.