

Enforcing Persons: Plymouth Board of Health and its designees
Plymouth Police Department

F – SEVERABILITY If any provision of this by-law is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force.

§ 87-3. Bodywork [Adopted 10-18-2014 by Article 6]

PLYMOUTH BODYWORK BY-LAW

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1.0 PURPOSE:

The purpose of this by-law is to maintain a standard of health minded practices, as well as, to protect victims of human trafficking who are exploited within commercial businesses offering legitimate services such as Bodyworks, Therapy, Reflexology, Spa Services, and others. This by-law is intended to help protect the health, safety, and consumer interests of all residents and visitors of these establishments, as well as, protect the employee or potential victims of human trafficking who typically endure psychological and physical impacts due to the conditions in which they are held.

3.0 DEFINITIONS:

Agent: shall mean a person employed by the Town of Plymouth who has received authority from the Health Department to perform functions subject to these regulations.

Applicant: shall mean an individual seeking licensure that has submitted; an official application as provided by the Plymouth Health Department, two forms of identification, a CORI/SORI record request form, has paid the application fee, and has posed for digital photograph.

Application: shall mean the application form provided by the Plymouth 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 the practice of Reflexology and/or Bodywork (including, but not limited to: Acupressure, AMMA Therapy®, Body-Mind Centering, Chi Nei Tsang, Feldenkrais Method, Five Element Shiatsu, Integrative Eclectic Shiatsu, Japanese Shiatsu, Jin Shin Do®, Bodymind Acupressure™, Polarity, Macrobiotic Shiatsu, Rolph Structural Integration, Shiatsu Amma Therapy, Traditional Thai Massage, Trager Approach, Tui Na, Qi Gong, Zen Shiatsu, Ayurvedic Medicine,) The Plymouth Health Department will maintain a list of treatment and therapy modalities considered Bodywork for the purposes of this by-law.

CORI: shall mean a record of criminal offenses committed as an adult, as compiled by the Criminal History Systems Board.

Establishment: shall mean any location, or portion thereof, 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.

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 Plymouth. 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.

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.

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

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

BODYWORK ESTABLISHMENT & INDIVIDUAL BODYWORK THERAPIST LICENSES

Any person desiring to open or conduct a commercial business practicing Bodywork Therapy shall obtain a Bodywork Establishment License from the Plymouth 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 here in:

Completed application form, with all required documentation, provided by the Plymouth Health Department.

The applicant shall submit a non-refundable application fee according to the Plymouth Health Department fee schedule.

The applicant shall provide supporting documentation that they are eighteen (18) years of age or older, by presenting 2 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 photo ID.

The applicant shall authorize the Plymouth Police Department to run a criminal history check. All responses to these record checks are kept confidential and are not maintained by the Plymouth Police Department. By signing the application or renewal form, the applicant gives authorization

to the Plymouth Police to run a CORI/SORI background check, which will consist of the information pertaining to all convictions, non-convictions, and pending criminal case information. This information will not necessarily disqualify the applicant.

The applicant shall disclose the circumstances surrounding any of the following convictions or license revocations:

Disclosure of any conviction for any sexual-related offense, including prostitution or sexual misconduct, rape as well as other felony against persons occurring within the past ten (10) years.

Disclosure of any conviction of any misdemeanor or felony occurring within the past five (5) years.

Revocation, suspension or denial of a license to practice bodywork issued by any state or municipality.

Loss or restriction of any licensure or certification by any municipality or other jurisdiction for any reason.

Any convictions or license revocations as outlined in Section 4.0, Sub-Section 5, - a through d shall disqualify an applicant from obtaining a license pursuant to this by-law.

Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated, signed, and notarized in the Town. .

The Health Department, prior to the issuance of any license, shall evaluate each individual application by the information provided. The Plymouth Health Department may place special conditions on any license that it issues.

False statements in said application shall be grounds for denial, suspension or revocation of a license.

Applicants for a Bodyworks Establishment License shall provide proof of professional liability and workers compensation insurance.

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.

The holder of the Bodywork Establishment License shall be ultimately responsible for the physical facility, instruments, advertising, postings, and employee's compliance with these regulations.

The holder of a Bodywork Establishment License shall also obtain an Individual Bodywork Therapist License, if the individual will conduct bodywork.

All applicants for an Individual Bodywork Therapist License shall allow one front faced digital photograph to be taken by the Plymouth Health Department at the time of license application submittal. This photograph will be attached to the license, if granted.

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 initial application, stating that the applicant has had a physical examination and is free of known communicable diseases. In addition, the examination report shall include whether a TB screening is indicated and, if indicated, a written negative result obtained.

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 Plymouth Health Department if the individual changes employment venue within the town.

It is a violation of this by-law for any person who is not licensed in this manner described herein to operate a Bodywork Establishment or as an Individual Bodywork Therapist.

LICENSE RENEWAL

This license shall expire on December 31st annually.

The applicant shall provide his/her completed renewal application, in person to the Plymouth Health Department, with all required documentation and shall be digitally photographed for their license.

The fee for each renewal license shall be in accordance with the most recent Plymouth Health Department fee schedule.

CONDITIONS OF BODYWORK LICENSE

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.

Bodywork therapists must wash his/her hands with soap and water immediately before and after administering services to any person.

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 breast or any portion of the pubic hair, cleft of the buttocks, or genitals.

Clients must be clothed in appropriate attire or draped with clean linen, 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.

Therapists may not perform services they are not specifically licensed to do, 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 use, such as; x-ray, fluoroscope, diathermy, or other similar equipment.

Therapists may not use, or allow patrons to use, alcoholic beverages, illegal drugs, or controlled drugs on the licensed premises.

The individual license to conduct bodywork or bodywork establishment license is non-transferable. Any changes in the business location of the licensee must be reported within fourteen (14) days of the change

The Plymouth Health Department shall attach the therapists photograph, as well as, the addresses where the therapist conducts business on the license.

Bodywork therapists must prominently display his/her license in a conspicuous location of the licensed establishment where employed.

The use of aliases by practitioners and apprentices is prohibited.

Therapists may not administer a massage, unless the individual is properly licensed by the Massachusetts Board of Registration of Massage Therapy.

Therapists may not administer treatment to a person less than 18 years of age without the written permission of either a parent or guardian.

All therapists shall have a valid form of identification on them at all times within the establishment.

All licensees shall notify the Plymouth Health Department of a change of name and/or home address within fourteen (14) days.

All licensees shall notify the Plymouth Health Department of any criminal complaint brought against him/her within seven (7) days. Failure to do so may result in revocation of licensure.

PROHIBITIONS

Sexual contact and/or sexual relationships. No person licensed by Plymouth 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 bodywork establishment, or to make arrangements to engage in sexual activity with any client.

At no time shall a licensee operate a bodywork business as a door-to-door enterprise.

CRIMINAL ACTS

Sexual activity by any person or persons in any establishment is prohibited.

As used in this by-law, “sexual activity” means any direct or indirect physical contact or communication by any person or between persons which is intended to erotically stimulate either person or both or which is likely to cause such stimulation and include: sexual intercourse, fellatio, cunnilingus, masturbation (or “hand release”), or anal intercourse. For the purpose of this by-law, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. As used herein, sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation occurs.

FACILITY and EQUIPMENT

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.

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.

No room or section to an Establishment shall be used as a bedroom or for sleeping purposes, or as a domicile.

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.

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.

Any room used by any person licensed to practice bodyworks shall have ready access to an adequate supply of hot and cold water and sanitizing chemicals/equipment. All furniture and equipment in each room shall be kept clean and sanitary at all times.

Non-disposable instruments shall be sanitized after use on each person in a sufficient manner.

The facility shall have adequate equipment for disinfecting and sanitizing non-disposable instruments and materials used in administering bodywork. No owner or operator, manager, responsible managing employee, or licensee in charge of or in control of an establishment or business may employ or permit a person to act as a therapist who is not in possession of a valid license issued under this by-law.

No un-sanitized part of an instrument (i.e. Hot Stones) shall be applied directly to the skin of a patron.

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.

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".

All oils, creams, lotions, talc, or other preparations used in administering bodywork shall be kept in a clean and closed condition. All such containers shall be stored in appropriate cabinets or shelving.

All non-disposable instruments and devices designed or used for direct application to the skin shall be kept in a clean location.

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.

Conducting of bodywork therapy shall be limited between the hours of 7:00am and 10:00pm.

Patrons shall be granted access to inspect all oils, creams, lotions, talc, or other preparations treatment substances before use on the individual.

The facility shall have a conspicuously placed sign in the lobby which reads "Report any inappropriate actions to the Plymouth Police Department at (508) 830 -4218".

Smoking is prohibited within a bodywork establishment or on the grounds, thereof.

A Department of State – "Know Your Rights" pamphlet shall be displayed prominently in employee areas, in all languages spoken by on-site personnel.

INSPECTIONS

The purpose of inspections is to verify the compliance of this by-law.

Denial of access to any part of an establishment, by the licensee, by a bodywork therapist, or their employee shall result in immediate revocation of the license.

Applicants will be subject to periodic inspections by the Plymouth Health Department, Plymouth Police Department, or their authorized agents.

ADVERTISING

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.

DEPARTMENT OF STATE – KNOW YOUR RIGHTS PAMPHLET

Any place of employment reported by the National Human Trafficking Resource Center to be a common location of human trafficking, 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 the employee's primary language.

As of the date this by-law is 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 Plymouth Health Department has the right to include more business locations that are common locations for human trafficking as they become known to the Plymouth Health Department, Plymouth Police Department, or the National Human Trafficking Resource Center.

This pamphlet is available free of charge at the following web address:
<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/temporary-workers.html>

GENERAL ENFORCEMENT

This by-law may be enforced by the Plymouth Health Department, Inspectional Services Department, Plymouth Fire Department, and Plymouth Police Department, except that only the Plymouth Health Department may grant, deny, revoke, suspend or modify permits pursuant to this by-law.

The grounds on which the Plymouth Health Department may, after a hearing, deny renewal, revoke, suspended, or modify any permit or certification issued pursuant to these regulations include, but are not limited to:

Refusal to permit an agent of the Plymouth Health Department or other government official to inspect the facility;

Interference with an agent of the Plymouth Health Department or other government official in the performance of their duty;

A criminal conviction of the license holder relating to the operation of the establishment;

Failure of the license holder to submit the appropriate documentation;

Failure to pay the required license fees or assessed fines or penalties;

The establishment's owner, operator, or employee's failure to comply with these regulations;

Committing a Prohibited or Criminal Act per sections 7.0 and 8.0 of this document.

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 authorize the Plymouth Health Department, after a hearing, to suspend, modify or revoke a license.

Such action by the Plymouth 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 G.L. will be enforced by the Plymouth Police Department. In addition, the Plymouth Police Department or Plymouth Health Department may issue fines per this ordinance on top of penalties accessed by the appropriate criminal court.

FINES for VIOLATIONS of ORDERS and SUSPENSIONS

Any person or entity violating any term or condition of these regulations, or any Plymouth Health Department suspension or order enforcing these regulations, shall be subject to a fine for each violation of not less than fifty dollars (\$50) and up to three hundred dollars (\$300) for each day that such violation continues.

Enforcement via noncriminal disposition, in accordance with M.G.L. c.40, section 21D, shall be punishable by a fine of \$100 for a first offense, \$200 for a second offense, and \$300 for a third or subsequent offense.

EXEMPTIONS

Any Physician, chiropractor, osteopath, nurse, physical therapist, massage therapists or acupuncturist operating within the scope of his/her Commonwealth of Massachusetts license or registration and not representing him/herself as a bodywork therapist shall be exempt from this by-law.

Hospitals, long-term care facilities, and home health agencies licensed or certified under the laws of the Commonwealth of Massachusetts shall be exempt from this by-law.

SEVERABILITY

If any chapter, section, paragraph, sentence, clause, phrase, or word of this by-law 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 this by-law are hereby declared severable.

TRANSITIONAL RULES

Existing bodywork establishments, as well as, individuals who conduct bodywork shall submit applications for licensure to the Plymouth Health Department within thirty (30) days of the effective date of this by-law.