

# South Carolina Massage/Bodywork Panel

## South Carolina Massage/Bodywork Therapy

### INTERPRETATIONS OF THE MASSAGE PRACTICE ACT

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May 21, 2003

This is a statement of the Advisory Panel for Massage/Body Work as to what ethical practice is and should not be construed to control billing issues, insurance issues or employment contracts.

**PURPOSE:** The purpose of the interpretations is to help safeguard public health, safety and welfare by clarifying the use of certain terms that are used in the practice act and to provide guidelines for licensees that are consistent with accepted standards and practice in the profession.

#### INTERPRETATIONS OF SECTION 40-30-30 of the South Carolina Code

A. A person who advertises as a massage/bodywork therapist when a person uses or adopts any title or description, including but not limited to "massage practitioner," "massage therapist," "manual therapist," "muscle therapist," "massotherapist," "myotherapist," "bodywork therapist," "body therapist," "masseur," "masseuse," "massagist" or any other derivation of these terms implying the practice of massage/bodywork therapy.

B. A person who is licensed to practice massage/bodywork therapy shall not diagnose illness or disease, perform medical procedures, chiropractic adjustments, utilize electro-therapeutic devices as defined in Section 40-30-30, prescribe medicines, or engage in practices for which a license to practice medicine, chiropractic, nursing, physical therapy, occupational therapy, acupuncture or podiatry is required by law, unless the person is duly licensed in that profession.

C. In addition to the definitions provided in Section 40-1-20, as used in this chapter, unless the context indicates otherwise:

1. **"Electro-therapeutic device"** means a device that produces electrical conductivity. These devices include but are not limited to Functional Electrical Stimulation (FES), Neuromuscular Electrical Stimulation (NMES), Transcutaneous Electrical Nerve Stimulation (TENS), Microcurrent Electrical Stimulation (MENS), Interferential Current (IFC), Iontophoresis, Ultrasound, Diathermy, and Ultraviolet apparatus. The use of such devices, which are subject to regulation by other professions, are not within the scope of practice of a licensed massage therapist and are prohibited.

2. **"Massage device"** means a mechanical device, which mimics or enhances the actions possible by the hand, foot, forearm, or elbow by means of vibration. Vibrators, although driven by electricity, do not produce electrical conductivity.

3. **"Massage/bodywork therapist"** means a person licensed as required by this chapter, who administers massage/bodywork therapy for compensation. A person shall not practice or advertise as a massage/bodywork therapist as defined in this chapter without first applying for and receiving from the Department of Labor, Licensing and Regulation a license to engage in that practice.

4. **"Massage/bodywork therapy"** means the application of a system of structured touch of the superficial tissues of the human body with the hand, foot, arm, or elbow with or without aid by hydrotherapy, thermal therapy, massage devices, human hands, or the application of herbal preparations for therapeutic, relaxation, or educational purposes. It is further defined by pressure, friction, stroking, rocking, kneading, percussion, or passive active stretching within the normal anatomical range of movement. Complimentary methods including the external application of water, thermal therapy, hydrotherapy, lubricants, and other topical preparations, including but not limited to herbal remedies, body wraps and salt scrubs.

5. **"Sexual Activity"** means any direct or indirect physical contact or verbal communication by any person or between persons which is intended to erotically stimulate either person, or which is likely to cause such stimulation. Such activity includes but is not limited to sexual intercourse, fellatio, cunnilingus, masturbation and anal intercourse. As used herein, masturbation means the manipulation of any body with the intent to cause sexual arousal. Sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm or ejaculation has occurred. This includes the application of any oil, lotion or substance to any body with the intent to stimulate or cause sexual arousal.

6. **"Therapeutic, relaxation and educational purposes"** means purposes intended to positively affect the health and well being of a client and does not include sexual activity.

7. **"Thermal therapy"** means the use of ice or a heat lamp or moist heat on superficial tissues.

#### INTERPRETATIONS OF SECTION 40-30-230. South Carolina Code of Laws : MISCONDUCT.

A. The following constitute misconduct and are grounds for the department denying initial licensure to practice massage/bodywork therapy or for a disciplinary panel to take immediate disciplinary action against a person who:

1. **used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act in applying for licensure under this chapter;**

- 2. has had his or her license to practice massage/bodywork from another state or jurisdiction canceled, revoked, suspended, or otherwise restricted;**
3. has violated a provision of this chapter, a regulation promulgated under this chapter, or an order of the department or the disciplinary panel;
- 4. has intentionally or knowingly, directly or indirectly, aided or abetted in the violation or conspiracy to violate this chapter or a regulation promulgated under this chapter;**
- 5. has intentionally used a fraudulent statement in a document connected to the practice of massage/bodywork or has made false, deceptive, or misleading statements in the practice of massage/bodywork or in advertising;**
- 6. has obtained fees or assisted in obtaining fees under intentionally fraudulent circumstances;**
- 7. has committed dishonorable, unethical, or unprofessional conduct that is likely to deceive, defraud, or harm the public; such conduct includes**
  - (a) altering or defacing a license;**
  - (b) participating in "sexual activity" with a client**
    - (1) when the practice of massage and bodywork therapy is being conducted;**
    - (2) in any location where the practice of massage and bodywork therapy is conducted, or use such location to make arrangements to engage in sexual activity; or**
    - (3) with the use of the therapist-client relationship to engage in sexual activity with any client or make arrangements to engage in sexual activity with any client.**
8. lacks the professional or ethical competence to practice massage/bodywork;
9. has been convicted of or has pled guilty to or nolo contendere to a felony or a crime which directly relates to the practice or ability to practice massage/bodywork;
10. has practiced massage/bodywork while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him or her unfit to practice massage/bodywork;
11. has sustained a physical or mental disability, as determined by a physician, which renders further practice by the licensee dangerous to the public.

**The following are interpretations that are not referred to in the current bill. The Panel would like for these issues to be addressed.**

#### **Frequently Asked Questions B. Standards of Conduct**

1. **Draping of Clients:** Licensees shall provide a clean drape for each client for the purpose of maintaining professional standards, and to ensure the clients safety, comfort, and privacy. The areas that must be draped are the gluteal and genital areas for male and female clients, and the breast area for female clients. The drape may be adjusted in order to perform therapeutic treatment to the gluteal and breast tissue.
2. **Breast Massage:** For the protection of the client and the massage therapist, massage of the breasts must be performed in a professional and ethical manner and with prior written consent from the client or physician referral on file. When medical reasons are involved and contraindications may be an issue, a physician's referral is necessary.

**C. Scope of Practice :** Animal Massage (including Equine Massage) is under the jurisdiction of the Board of Veterinary Medicine and not within the scope of practice of massage/bodywork therapy as defined in this chapter although animal massage can be preformed by anyone who has obtained authorization from the animals veterinarian.

**D. Exemptions from Licensure :** The Department considers exempt those persons engaging in a profession with established standards and ethics in which touch is limited to that which is essential for affecting the human energy system, provided that their services are not within the scope of practice of massage/bodywork therapy as defined. Further, their services cannot be designated or implied to be massage or massage/bodywork therapy as defined.

## ARTICLE IV. - HEALTH CLUBS AND MASSAGE PARLORS

### Sec. 11-101. - Purpose of article.

The purpose of this article is to protect the general health, safety, welfare and morals of the public by the regulation of businesses, trades or professions commonly known as health clubs, massage parlors, spas, physical culture clubs and similar establishments, and the persons therein engaged in the bathing, physical treatment or manipulation of the human body, commonly known as massage, by prescribing minimum health standards, and to define and prohibit certain lewd conduct therein as being unlawful and a public nuisance.

(Code 1979, § 9-7001)

### Sec. 11-102. - License.

Any person desiring to engage in the operation of a health club, massage parlor, spa, physical culture club or similar establishment shall, before engaging in such business, obtain a city business license, which may be issued only upon presentation of a certificate of compliance with this article issued by the health department and compliance with the city zoning ordinance, fire prevention code, building code and business license ordinances.

(Code 1979, § 9-7002)

**State Law reference**— Licensing by state law enforcement division, forwarding to local governing body, S.C. Code 1976, § 40-29-50.

### Sec. 11-103. - Certificate of compliance.

- (a) Any applicant for a business license as provided for in section 11-102 must obtain a certificate of compliance with this article from the health department by submission of an application which shall contain written evidence that all applicable health ordinances, rules and regulations of the city have been met, including the following:
- (1) The application shall contain the correct legal name and address of the owner or principal officer of the owner, the proposed business location within the city, the manager at that location, and the owner of the real property at that location.
  - (2) The applicant shall list the names and addresses of all other similar businesses owned or operated by the applicant within the city.
  - (3) A complete description of the building, proposed use of space therein, equipment and facilities shall be furnished.
  - (4) The name, address, history of past similar experience, and health history, including detailed information on any past or present communicable disease, shall be furnished for each person who will engage in giving massages or baths in the business, and the same information shall be furnished for each new employee prior to the giving of a massage or bath by such employee.
  - (5) A list of all previous convictions within the preceding ten years for violations of health, prostitution, obscenity or lewdness laws, rules or regulations of any jurisdiction shall be furnished for each applicant and each employee.
  - (6) A health certificate of a medical doctor dated within one month of the date of the application and based upon actual physical examination, including a chest X-ray and serological test for syphilis,

shall be furnished for each person who will engage in giving massages or baths. Such certificate shall be renewed at least each six months thereafter and shall be displayed in the work area of the certificate holder.

- (b) The contents of the application for a certificate of compliance shall be considered a part of the application for a business license.

(Code 1979, § 9-7003)

Sec. 11-104. - Health regulations.

The city shall promulgate rules and regulations related to sanitation of the premises and equipment, the hygiene of persons giving massages or baths, and the minimum required lavatory, bath, toilet, ventilation, plumbing and electrical equipment and facilities for the safe and healthy operation of an establishment to be licensed pursuant to section 11-102. Compliance with such rules and regulations shall be a prerequisite to the issuance of the certificate required by section 11-103.

(Code 1979, § 9-7004)

Sec. 11-105. - Patronage by minors.

- (a) It shall be unlawful for any person under the age of 18 years to receive a massage or bath of any portion of the body in any establishment licensed as provided for in section 11-102 without a written prescription for such treatment signed by a licensed physician.
- (b) It shall be unlawful for any person to give a massage or bath to any portion of the body of a person under the age of 18 years in any establishment licensed as provided for in section 11-102 without a written prescription for such treatment signed by a licensed physician. It shall be the duty of the operator of the business to determine the age of the person served.

(Code 1979, § 9-7005)

Sec. 11-106. - Prohibited services and facilities.

No person working in an establishment licensed pursuant to section 11-102 shall:

- (1) Allow any portion of the premises to be used for or have direct access to any sleeping quarters, bedroom, kitchen or restaurant; or
- (2) Engage in or permit the sale, distribution or exhibition of any printed matter, film, recordings or photographs on the premises without a separate business license;
- (3) Engage in or permit any live entertainment, modeling or demonstrations on the premises without a separate business license; or
- (4) Engage in or permit the sale, distribution or consumption of any goods, products, wares, devices, merchandise, wearing apparel, beauty products, medication, hygiene aids, tobacco products, beverages, or similar or related products without a separate business license, except nonalcoholic beverages served to patrons without charge and lotions, ointments and cleansing materials actually used in a bath or massage on the premises without additional charge.

(Code 1979, § 9-7006)

Sec. 11-107. - Lewd acts prohibited.

- (a) Any act performed within an establishment licensed as provided for in section 11-102 which involves the touching of the genitals of a person for the purpose of sexual arousal or masturbation is a lewd act and is unlawful and prohibited. All parties to such an act shall be subject to prosecution for a misdemeanor, punishable, upon conviction, in accordance with section 1-5.
- (b) Any establishment in which a lewd act as defined in subsection (a) of this section is performed is hereby declared to be a public nuisance subject to abatement as provided by law for bawdy houses and places used for lewdness. This remedy shall be cumulative to license revocation procedures and the imposition of penalties provided by law.

(Code 1979, §§ 9-7007, 9-7008)

Sec. 11-108. - Inspections.

Representatives of the police department, building and inspection divisions, community development department, fire department and business license division of the finance department shall be permitted at all reasonable times to enter premises licensed under this article for the purpose of inspecting for any public health or safety hazards or nuisances, and for possession of required licenses and certificates. A written report of any such inspection shall be furnished to the operator of the business and the owner of the real property, noting any conditions which require correction. Failure to correct any noted condition within 24 hours after notice shall constitute grounds for revocation of the business license, in addition to other penalties provided by law or action to abate nuisances.

(Code 1979, § 9-7009)

Sec. 11-109. - Posting of regulations.

The entire contents of this article and all rules and regulations promulgated by the city physician pursuant to this article shall be posted in a conspicuous place in the reception area of each establishment licensed pursuant to section 11-102.

(Code 1979, § 9-7010)

Sec. 11-110. - Penalties.

The violation of any provision of this article shall be a misdemeanor, punishable in accordance with section 1-5. Conduct of business contrary to the provisions of this article shall be grounds for revocation of the business license upon a showing to the business license division that such conduct is contrary to the health, safety, welfare or morals of the people of the city.

(Code 1979, § 9-7011)

Secs. 11-111—11-130. - Reserved.