

Chapter 313: MASSAGE THERAPY AND RELATED SERVICES

[HISTORY: Adopted by the City Council of the City of Vineland 9-28-1976 by Ord. No. 1037 (Ch. 94 of the 1968 Code); amended in its entirety 3-14-2000 by Ord. No. 2000-17. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Violations and penalties — See Ch. 1, Art. II.
Department of Health — See Ch. 57.

§ 313-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

MASSAGE CENTER — Any establishment which offers service in the form of massage, baths, exercises or similar services in combination for a fee. The term "massage center" does not include:

- A. Hospitals, nursing homes, medical clinics or the offices or quarters of a physician, surgeon, osteopath or chiropractor.
- B. Exercise clubs exclusively for members or clientele of one sex alone where the services, without massage in any form, are performed by persons of the same sex as the members or clientele.
- C. Barbershops and beauty parlors.

MASSAGE PRACTITIONER, THERAPIST, TECHNICIAN — A person who practices any one or more of the arts of body massage, either by hand or mechanical apparatus; oil rubs; corrective gymnastics; mechanotherapy, including color therapy; dietetics; hot packs; and cabinet, tub, shower, sitz, steam or any other type of special bath.

§ 313-2. Declaration of policy.

It is hereby declared that the business of a massage center, as defined in this chapter, is a business affecting the public health, safety and general welfare.

§ 313-3. Compliance required.

It shall be unlawful for any person to engage in the business of a massage center without a permit or being in violation of any requirements or prohibitions set forth in this chapter or any regulation issued pursuant thereto.

§ 313-4. Permit requirements.

- A. No massage center shall operate without first obtaining a permit.
- B. No permit shall be issued to any massage center except to an owner or manager who is either a physician, a registered nurse with at least two years' nursing experience, a licensed practical nurse with at least four years' nursing experience, a registered physical therapist or a graduate of a course of study in body massage from an approved school as defined in § 313-5 of this chapter.
- C. It shall be unlawful for any person, as defined in Subsection I below, to own or manage a massage center, as defined herein, or to give a massage within the City of Vineland or to offer to give a massage elsewhere if such offer is made within the City of Vineland or for any massage practitioner,

therapist or technician to give or offer a massage without a valid nonsuspended permit issued pursuant to this chapter. Said permit must be conspicuously posted in the massage center so that the permit may be readily seen by persons entering the premises in the public room thereof, or, if said massage is to be given in other than a massage center, said permit must be available on request.

- D. It shall be unlawful for any person, as defined in Subsection I below, to establish, maintain or operate a massage center in which he or a massage practitioner, therapist or technician who does not have a valid nonsuspended permit pursuant to this chapter performs or offers to perform, or where it is offered to perform, massages or to offer a massage in the City of Vineland or elsewhere, except as provided for in this chapter.
- E. Any person desiring a permit hereunder shall make application to the Department of Licenses and Inspections on forms provided by the Director of the Department of Licenses and Inspections. Each permit application shall be accompanied by an application fee of \$50, payable to the City of Vineland. Each application shall contain the name, address, social security number, telephone number, last previous address, date of birth, height, weight and current and last previous employment of the applicant. In addition, such application shall include a sworn statement as to whether or not the applicant has, within the last five years, been convicted, pleaded nolo contendere or suffered a forfeiture on any high misdemeanor or misdemeanor charge or on a charge of violating any provisions included in N.J.S.A. 2C:34-1 through 2C:34-7 and N.J.S.A. 2C:14-1 through 2C:14-7, which laws relate to indecency, obscenity and sexual offenses, or on a similar charge in any other jurisdiction or on a charge of violating this chapter or a similar ordinance in any other jurisdiction. The application shall state thereon that "It is unlawful for any person to make a false statement on this application, and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit." Each applicant shall submit three recent photographs of the applicant which shall be approximately two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner. Each applicant shall be fingerprinted by the Chief of Police. Said photographs and fingerprints shall constitute a part of the application. The permit shall be valid for a period of three years, and it may be renewed for an additional three-year period upon the filing of a new application and payment of the application fee of \$50. Fingerprinting of renewal applicants shall not be required. All other provisions of this chapter shall apply to renewals, in the same manner as they apply to applications for and granting of initial permits.
- F. Upon receipt of the application and fee as provided for in the preceding subsection, the Director of the Department of Licenses and Inspections shall refer the application to the Chief of Police or the officer in charge of the Police Department, who shall make or cause to be made a thorough investigation relative to the application. The Director of the Department of Licenses & Inspections shall deny any application for a permit under this chapter after notice and hearing if the Chief or officer in charge of the Police Department finds that the applicant has, during the previous five years, been convicted, pleaded nolo contendere or suffered a forfeiture on any high misdemeanor or misdemeanor charge or on a charge of violating any provision included in N.J.S.A. 2C:34-1 through 2C:34-7 and N.J.S.A. 2C:14-1 through 2C:14-7, which laws relate to indecency, obscenity and sexual offenses, or on a similar charge in any other jurisdiction or on a charge of violating this chapter or a similar ordinance in any other jurisdiction. The making of a false statement on the application as provided for in this chapter shall also be grounds for denial of this permit. Noncompliance with § 313-5 hereof shall also be grounds for denial of this permit. Notice of a hearing before the Director of the Department of Licenses and Inspections for denial of this application shall be given in writing, setting forth the grounds of the proposed denial of permit and the time and place of the hearing. The Director of the Department of Licenses and Inspections shall submit his decision to the applicant within five days of his decision or within 45 days of his receipt of the application, whichever is sooner.
- G. The Director of the Department of Licenses and Inspections shall revoke the permit of any person after notice and hearing if the Chief or officer in charge of the Police Department finds that such person has, within the previous five years, been convicted, pleaded nolo contendere or suffered a forfeiture on any high misdemeanor or misdemeanor charge or on a charge of violating any provision included in N.J.S.A. 2C:34-1 through 2C:34-7 and N.J.S.A. 2C: 14-1 through 2C: 14-7, which laws relate to indecency, obscenity and sexual offenses, or on a similar charge in any jurisdiction. The

permit shall also be revoked by the Director of the Department of Licenses and Inspections if he finds after notice and hearing that any permit holder has made a false statement on the application provided for herein. Noncompliance with § 313-5 hereof shall also be grounds for revocation of this permit. Notice of a hearing before the Director of the Department of Licenses and Inspections for revocation of the permit shall be given in writing, setting forth the grounds of the proposed revocation and the time and place of the hearing. Such notice shall be mailed by certified mail to the permit holder's last known address at least five days prior to the date set for the hearing.

- H. It shall also be unlawful for any person to purport to hold a valid permit when he does not, in fact, hold the same or to fail to display upon request to any police officer or Licenses and Inspections Department official corroborating identifying evidence that he or she is, in fact, the person displaying the permit or to fail to display the permit upon request by a police officer or Licenses and Inspections Department official. It shall likewise be an automatic cause for revocation of the permit of any owner or manager of a massage center should he or she have two or more violations of these provisions in his or her establishment within a twelve-month period.
- I. A person applying for a permit hereunder shall include a partnership, association or limited liability company and any partner or member thereof or, if the applicant is a corporation, shall include any officer, director or manager thereof or shareholder owning 10% or more of its stock and shall likewise include members of both sexes.
- J. In the event that the Director of the Department of Licenses and Inspections should deny or revoke any permit hereunder, the applicant shall have a right to appeal such denial or revocation to the City Council. The applicant or permit holder shall appeal such denial or revocation within 30 days of such denial or revocation by submitting to the City Clerk a written request for a hearing by the City Council, which request shall be made on a form provided by the City Clerk. The City Council shall hold a hearing with the same procedural guidelines established herein for the Director of the Department of Licenses and Inspections, within 30 days of the date of request for a hearing. The City Council shall direct the City Clerk to issue the Council's decision to the applicant or permit holder within five days of its decision or within 30 days of the hearing, whichever is sooner.

§ 313-5. Training of massage practitioner.

- A. Any person licensed in the State of New Jersey to practice medicine pursuant to N.J.S.A. 45:9-6 through 45:9-14.5, inclusive, or licensed in the State of New Jersey as a physical therapist pursuant to N.J.S.A. 45:9-37.11 et seq., is hereby exempt from all requirements of this section.
- B. No person, shall give or offer or hold oneself out to offer a massage as a massage practitioner, therapist or technician within the meaning of this chapter or employ or engage as an independent contractor any massage practitioner, therapist or technician who gives or offers or holds oneself out to offer a massage unless such person shall have satisfactorily completed a course or courses of study in body massage in an approved school of instruction or training within the criteria and guidelines set forth below:
 - (1) Said courses shall pertain to anatomy, physiology, hygiene, first aid, exercise therapy, massage techniques and related aspects of the art and science.
 - (2) A course of study in body massage shall constitute 200 hours of study in connection with an approved school.
 - (a) Two hundred hours of such course shall be accredited instructional hours pertaining to:
 - [1] Classroom or clinical training in therapeutic massage and reflexology techniques.
 - [2] Classroom or clinical instruction or contraindications for massage.
 - [3] Classroom or clinical or laboratory instruction to develop a knowledge of the anatomy and physiology of the systems of the body, with emphasis on the muscular and skeletal systems.

- (b) Each person presently employed as a massage practitioner in accordance with this chapter and possessing less than 200 hours of study shall annually accrue an additional 10 hours of continuing education credits until the maximum of 200 hours has been obtained.
 - (c) The training of each massage practitioner, therapist or technician shall be reviewed annually, and each shall be required to provide proof of compliance with the training section of this chapter with the Director of the Department of Licenses and Inspections.
- C. Any school or educational institution licensed to do business as a school or educational institution in the state in which it is located and providing requisite training herein provided for shall constitute an approved school.
- D. Any school recognized or approved by or affiliated with the American Massage and Therapy Association, Inc., or any equivalent professionally recognized and approved school determined acceptable by the Directors of the Departments of Health and Licenses and Inspections shall constitute an approved school.
- E. Compliance with this section shall first be determined by the Chief of Police or officer in charge of the Police Department with the same rights of appeal and hearing to the City Council as elsewhere granted in this chapter.
- F. For persons presently employed as massage practitioners, therapists or technician in the City of Vineland, this section shall not apply until one year (present employment shall be established by sworn affidavit from the employer), after which time such person must be actively engaged, enrolled or participating in a course of study designed to fulfill the requirements of this section and which is certified to by an official of the approved school. The burden of establishing such active engagement, enrollment or participation shall be upon the person seeking a permit herein. For persons not so employed, this section shall be effective upon passage.
- G. In no event shall any person within the purview of this chapter act as aforesaid without satisfying the training requirement set forth above.
- H. Each massage practitioner, therapist or technician shall have malpractice insurance with a reputable insurance company licensed to do business in the State of New Jersey in an amount not less than \$100,000 and shall submit proof thereof to the Director of the Department of Licenses and Inspections annually.

§ 313-6. Equipment standards.

- A. All tables, tubs, shower stalls and floors, except reception and administrative areas, shall be made of nonporous materials which may be readily disinfected.
- B. Closed containers shall be provided for wet towels and waste materials.

§ 313-7. Building structure and layout.

- A. No massage center shall begin operations until the building occupied or to be occupied shall have been approved by the Director of the Department of Licenses and Inspections, who shall establish procedures for investigation and report pursuant to the regulations of this chapter.
- B. An applicant for a permit to operate a massage center shall submit to the Director of the Department of Licenses and Inspections plans and specifications of the quarters proposed to be occupied. Such plans shall show details of entrances, partitions, windows, openings, ventilation, plumbing fixtures, water supply and waste and vent connections.
- C. Each massage center shall be equipped with toilet and lavatory facilities for patrons and separate

readily available toilet and lavatory facilities for personnel. Each operating area shall be equipped with a hand lavatory.

§ 313-8. Sanitation and hygiene.

- A. All equipment, shower stalls, toilets, lavatories and any other such accouterments of the establishment shall be regularly treated with disinfectants and shall be maintained in a clean and sanitary condition at all times.
- B. Health, plumbing, electric and other inspectors shall be given access to any part of the quarters of a massage center for purposes of inspection at all reasonable times.
- C. No person shall practice any of the services of a massage center without a certificate of good health issued by a duly licensed physician, commensurate with the nature of the services rendered. Such certificate shall be renewed every six months.
- D. No massage center shall knowingly serve any patron infected with any fungus or other skin infections, nor shall service be performed on any patron exhibiting skin inflammation or eruptions, provided that a duly licensed physician may certify that a person may be safely served, prescribing the conditions thereof.
- E. All personnel shall wash their hands in hot running water, using a proper soap or disinfectants before giving any service or treatment to each separate patron.
- F. All towels and tissues and all sheets or other coverings shall be used singularly for each patron and discarded for laundry or disposal immediately after use.
- G. Nondisposable tools of the trade shall be disinfected after use upon one patron.

§ 313-9. Sleeping quarters.

No part of any quarters of any massage center shall be used for or connected with any bedroom or sleeping quarters, nor shall any person sleep in such massage center except for limited periods incidental to and directly related to a massage or bath. This provision shall not preclude the location of a massage center in separate quarters of a building housing a hotel or other separate businesses or clubs.

§ 313-10. (Reserved)

§ 313-11. Prohibited acts; liability of owner or manager.

- A. No owner or manager of a massage center shall tolerate in his establishment any activity or behavior prohibited by the laws of the State of New Jersey, particularly, but not exclusive of N.J.S.A. 2C:34-1 through 2C:34-7 and N.J.S.A. 2C:14-1 through 2C:14-7, nor shall any owner or manager tolerate in his or her establishment any activity or behavior which violates this chapter, particularly but not exclusive of those sections which parallel or relate to the state statutes on immorality, obscenity and other sexual offenses detailed above.
- B. Any conviction of any employee of a massage center of a violation of the aforementioned statutes and codes shall devolve upon the owner or manager of such center, it being specifically declared hereby that, following such a conviction of an employee, the owner or manager of the center shall be prosecuted as an accessory to such violation.