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Title: Amending Chapter 414 of the Legislative Code pertaining to Massage and Bodywork Practitioners.

Sponsors: Chris Tolbert

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Attachments: 1. McMahill email re Ord Chapters 412 & 414, 2. Mours email re Ord Chapter 414

Date	Ver.	Action By	Action	Result
4/28/2017	2	Mayor's Office	Signed	
4/26/2017	2	City Council	Adopted As Amended	Pass
4/19/2017	2	City Council	Public Hearing Closed; Laid Over to Fourth Reading/Final Adoption	Pass
4/5/2017	1	City Council	Laid Over to Public Hearing	Pass
3/22/2017	1	City Council	Laid Over to Final Adoption	Pass
3/15/2017	1	City Council	Laid Over to Final Adoption	Pass
3/8/2017	1	City Council	Laid Over to Third Reading/Public Hearing	
3/1/2017	1	City Council	Laid Over to Second Reading	

Amending Chapter 414 of the Legislative Code pertaining to Massage and Bodywork Practitioners.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

SECTION 1

Chapter 414 of the Saint Paul Legislative Code is hereby amended to read as follows:

Chapter 414. - Therapeutic Massage and Bodywork Practitioners

Amending Chapter 414 of the Saint Paul Legislative Code pertaining to Massage and Bodywork Practitioners

Sec. 414.01. - License required.

No person shall engage in providing services as a therapeutic massage or bodywork practitioner in Saint Paul without a license. Exception: Massage or bodywork services being conducted under the control of an Accredited School at a special event in which there are no fees or money being collected from the consumer for the massage services.

Sec. 414.011. - Definitions.

As used in this chapter, the terms defined in this section shall have the following meanings ascribed to them:

Accredited School means a school accredited by a government agency or an organization recognized for conducting accreditation by a government agency responsible for accrediting schools.

Director. Means the Director of the department of safety and inspections or his/her designee.

Licensed school means a private institution that offers occupational programs below the associate level and has obtained Private Career School Licensure as required by Minnesota Statute.

Massage or bodywork therapy means a course of treatment in which the practitioner applies massage or bodywork techniques, with the intention of positively affecting the health and well-being of the client.

Massage or bodywork therapy means any method of applying pressure on, or friction against, or the rubbing, stroking, kneading, tapping, effleurage or gliding; petrissage or kneading; vibration and jostling; friction; tapotement or percussion; compression; fascial manipulation; passive stretching within the normal anatomical range of motion or rolling of the external parts of the human body with the hands or with the aid of a mechanical or electrical apparatus, appliance or device with or without such supplemental aids as rubbing (isopropyl) alcohol, liniment, antiseptic oil, powder, cream, lotion, ointment or other similar preparation. The practice of massage or bodywork shall not include and is distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, and nurses who work under the direction of such persons are hereby expressly excluded from the requirements of this chapter, provided the massage or bodywork is administered in the regular course of a prescribed or authorized medical treatment and not provided as part of a separate and distinct massage or bodywork business. Beauticians, barbers and cosmetologists who do not give, or hold themselves out to give, massages or bodywork other than those customarily given in such shops or places of business for the purposes of beautification only, and persons who give massages or bodywork only incidentally to their general occupations and receive no compensation specifically for giving massages or bodywork shall also be excluded from the provisions of this chapter.

MBLEX Exam. Massage & Bodywork Licensing examination governed by the Federation of State Massage Therapy Boards. The MBLEX is designed to provide a standard examination for students of entry level massage.

Therapeutic Massage or bodywork practitioner means a person who practices massage or bodywork therapy as defined here in and conducts massage or bodywork services from a licensed therapeutic massage or bodywork center, a or licensed home location, or off-site massage or bodywork location pursuant to Chapter 412 of the Legislative Code.

Off-site massage or bodywork services means massage or bodywork services conducted away from a licensed massage or bodywork center or home location licensed under Chapter 412 of the Legislative Code. Such off-site massage or bodywork service locations shall include, but not be limited to, businesses, and private homes, and other off-site locations and shall also include health/sports clubs licensed pursuant to Chapter 427 of the Legislative Code and steam room/bath houses licensed pursuant to Chapter 428 of the Legislative Code.

Off-site massage or bodywork location means any location where massage or bodywork services are incidental to the activities at the location. In an off-site massage or bodywork location, services do not represent a significant portion of the activity, services are incidental to the activities at the location and are infrequent. Off-site massage or bodywork service locations shall include, but not be limited to, businesses, and private homes, and other off-site locations and shall also include health/sports clubs licensed pursuant to Chapter 427 of the Legislative Code and steam room/bath houses licensed pursuant to Chapter 428 of the Legislative Code.

Sec. 414.02. - Fee.

(a) *License fee.* The fee required for the therapeutic massage *or bodywork therapy practitioner* licenses shall be established by ordinance as specified in section 310.09(b) 310.18 (f) Enforcement Level 6 of the Legislative Code.

Sec. 414.03. - Licensing requirements.

(a) *Application.* A therapeutic massage *or bodywork practitioner* applicant shall apply to the city for a license to provide services by paying the license fee specified in section 414.02 at the department of safety and inspections and by completing an application form prepared by the director of the department of safety and inspections. Such application shall include:

- (1) The name, age and address of the applicant;
- (2) The length of experience in this occupation and the past places of employment and position held;
- (3) A description of any crime or other offense, including the time, place, date and disposition, for which the applicant has been arrested and convicted; and
- (4) A statement as to whether the individual has had any license denied, revoked or suspended in the city or the state, the reason therefor and the business activity or occupation of the individual subsequent to such suspension, revocation or denial.

The license application shall thereafter be reviewed by the department of safety and inspections, Saint Paul Police Department, and such other departments as shall be deemed necessary. Such departments will thereafter submit their reports and recommendations to the Director of the department of safety and inspections, who will consider all of the reports and recommendations of the other departments, and shall either grant or deny the license.

(b) Educational requirements.

(1) Each applicant for a massage therapist *or bodywork practitioner* license after May 1, 2017, shall furnish with the application one (1) of the following:

a. Verification that the applicant has passed the national certification examination in therapeutic massage and bodywork within two (2) years prior to the date of the application; Proof of a valid Saint Paul

Massage Practitioner License in the past 5 years: or

b. ~~Successful completion of an examination sponsored by the city as to the qualifications and competence of said applicant for the practice of massage. Said examination shall be given by the director of the department of safety and inspections or by such persons as he or she may designate and shall consist of a written and practical examination, so as to determine whether the applicant has sufficient knowledge, skill, training and experience to safely and competently administer massages to the general public. Such examination shall test the applicant's:~~

- ~~1. Knowledge of massage and public health statutes, ordinances, rules and regulations;~~
- ~~2. Knowledge of anatomy;~~
- ~~3. Knowledge of the theory of massage; and~~
- ~~4. Knowledge and ability in practical massage.~~

~~The practical examination shall be graded on a pass/fail basis.~~

b. Proof of the ability to have been licensed as a Massage Practitioner in the City of Saint Paul based on successful completion of national certification examination(s) in therapeutic massage and bodywork as previously stipulated in Saint Paul City Ordinance; or within two (2) years prior to the date of the application; or

c. Successful completion of the MBLEX examination and completed a postsecondary course of study that included 500 contact hours at an accredited or licensed school.

(c) *Insurance.* Every application for a license shall be accompanied by proof of general and professional liability insurance executed by an insurance company authorized to do business in the state, in an amount to be determined by the risk manager pursuant to ~~section 7.02~~ of the Saint Paul Legislative Code. The insurance shall be conditioned that the insurer shall defend, indemnify and hold the city and its officers, employees and agents harmless from and against all claims, damages or liability resulting from the grant or renewal of a license under this chapter, or operations or business of such license. All insurance policies hereunder shall provide for at least thirty (30) days' prior notice to the department of safety and inspections before the cancellation thereof is effective, and shall continue to provide coverage as to all matters arising during the term of the insurance policy whether or not later canceled.

(d) A 14 day temporary Massage or Bodywork License may be obtained provided the applicant:

1) has a current license from another municipality, county or state with license provisions substantially similar to those contained within this chapter,

and

2) will be providing massage or bodywork services for a period of less than 15 days in a calendar year,

and

3) provides proof of general and professional liability.

Sec. 414.04. - Adverse action; grounds for denial, revocation or suspension.

(a) It shall be grounds for denial of the application or for revocation or suspension of the license if the applicant or licensee is not complying with or has a history of violations of the laws and ordinances that apply to public health, safety and morals.

(b) It shall be grounds for the denial, revocation or suspension of the license if the licensee is convicted of any violation, reasonably related to the licensed activity and/or occurring on the licensed premise, of any city ordinance or federal or state statute.

(c) It shall be grounds for the denial, revocation or suspension of the license if there is fraud or deception involved in the license application.

(d) It shall be grounds for the denial, revocation or suspension of the license if the licensee is found to be in control or possession of any alcoholic beverages or narcotic drugs and controlled substances on the premises for which they are licensed to operate, possession of which is illegal as defined by Minnesota Statutes or city ordinances.

(e) It shall be grounds for the denial, suspension or revocation of the license if the licensee has evidenced in the past willful disregard for health codes and regulations.

(f) It shall be grounds for the denial, suspension or revocation of the license if the applicant fails to provide all the information and certificates required by this chapter.

(g) It shall be grounds for the denial, suspension or revocation of the license if the licensee shall refuse to permit any authorized police officers or authorized member of the department of safety and inspections to inspect the premises or the operations.

(h) It shall be grounds for the denial, suspension or revocation of the license if the licensee is found to be violating provisions of this chapter.

Sec. 414.041. - Sanitation; appointment calendar; rules and regulations.

(a) *Sanitation.* All licensed massage therapists or bodywork practitioners conducting off-site massage or bodywork services shall establish and maintain a supply storage facility containing any and all materials used in conducting off-site massage or bodywork services. The license inspector or his or her authorized representative shall have the right to enter and inspect the storage facility at all reasonable times. Rules as to required sanitation and storage shall be adopted in accordance with section 414.041(c) herein.

(b) *Appointment calendar.* All licensed massage ~~therapists~~ or bodywork practitioners shall keep a record of all off-site massage or bodywork services performed. The record shall be legible, written in ink and in the English language. It shall include the name of the massage or bodywork practitioner, the name of the person(s) receiving the massage or bodywork service, the address where the massage or bodywork service was performed and the date and time of such service. The record shall be maintained for a period of two (2) years from the date the massage or bodywork service was performed. Such record shall be open for inspection by the license inspector or his or her authorized representative at all reasonable times.

(c) *Rules and regulations.* The director of the department of safety and inspections may upon notice and hearing promulgate such rules as he or she deems necessary to carry out the provisions and purposes of this chapter, to protect the public health, to provide for safe and sanitary operation of licensed ~~therapeutic~~ massage or bodywork centers, to provide for the safety of ~~therapeutic~~ massage or bodywork and related massage or bodywork equipment, and for the proper training of persons employed in the operation of such massage or bodywork centers. Notice of the promulgation of such rules and the hearing date shall be given to all licensees and notice of the hearing date published once in the legal newspaper. The notice shall advise that at the hearing written or oral comments on proposed rules will be received, and how a copy of the proposed rules can be obtained. Such rules shall be effective after such hearing when filed in the office of the city clerk. Violations of such rules shall be sufficient grounds for adverse action against licenses issued under this chapter.

Sec. 414.05. - Term of license; renewal.

The term of license issued by the City of Saint Paul for providing services as a ~~therapeutic~~ massage or bodywork practitioner, unless revoked, is for a period of not more than twelve (12) months. A renewal application shall be made in the same manner as provided for the original application.

SECTION 2

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.