

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

BOARD OF HEALTH

RULES AND REGULATIONS GOVERNING MASSAGE/MUSCULAR THERAPY, BODYWORKS, MOVEMENT EDUCATION

The Board of Health, City of Lowell Massachusetts acting under the authority of Massachusetts General Laws Chapter 111, Section 31, and Chapter 140, Section 51-53, both as amended, adopts the following:

Rules and Regulations governing the licensing and practice of massage/muscular therapy, bodyworks, movement education, the operation of an establishment to give massage/muscular therapy, bodyworks, movement education, and the operation of a school/training institute of massage/muscular therapy, bodyworks, movement education.

Section 1. Purpose :

- 1.1 The Lowell Board of Health finds it necessary to license the practice of massage/muscular therapy, bodywork, and movement education in order to protect the public's health and safety. The Lowell Board of Health also finds it necessary to license massage/muscular therapy, bodyworks, and movement education establishments and massage/muscular therapy, bodyworks, and movement education schools or training institutes to protect the public's health and safety. It is the Board's intent that only individuals, establishments, and schools or training institutes that meet and maintain minimum standards of competence and conduct may provide services to the public.

Section 2. Definitions:

- 2.1 **Acupressure** shall mean the treatment of symptoms by applying pressure with the fingers to specific pressure points of the body. An example of this technique is Shiatsu. Any person wishing to provide acupressure services within the City of Lowell must meet the requirements for licensure contained within these regulations.
- 2.2 **Acupuncture** shall mean the treatment of pain or disease by inserting the tips of needles at specific points on the skin. Any person wishing to provide acupuncture services must be duly licensed or registered under the Laws of the Commonwealth of Massachusetts and would therefore be exempt from these regulations for the practice of Acupuncture only.
- 2.3 **Administrative Revocation** shall mean an administrative action taken such as when a licensee fails to timely renew licensure. A licensee whose license has been administratively revoked is officially unlicensed and cannot lawfully continue to practice as a massage therapist or operate a massage establishment in the City of Lowell. Licenses administratively revoked may be reinstated upon meeting the conditions contained in these regulations.
- 2.4 **Agent** shall mean a person who has received delegation of authority from the Board of Health to perform functions subject to these regulations.
- 2.5 **Applicant** shall mean an individual, corporation, partnership, or other legal entity seeking licensure, who has submitted an official application and paid the current licensing application fee in effect.
- 2.6 **Application** shall mean the completed notarized application form approved by the Board of Health and Health Director, to include, but not be limited to the following: two (2) forms of positive identification, of which one must be a photo ID such as a valid state issued driver's license, a state identification card with a photo, or a passport. Additional proof of positive ID must be certified/notarized copies.

One (1) passport type photograph. Signed Authorization of Disclosure of Academic Record's form, which will provide an official transcript that indicates successful completion of a 500-hour course of study from an educational institution(s) mailed directly to the Health Department. Proof of licensure by the Commonwealth of Massachusetts (when applicable) must be submitted with initial and renewal applications. Certified document verifying successful completion of the National Certification Board for Therapeutic Massage and Bodywork examination (or appropriate national certification board). Applicant shall have verification of being a member of a state or national professional organization, association, or institute that requires continuing education hours. Two original letters of professional recommendation and two original letters of personal recommendation (which cannot be a relative) on character reference forms supplied by the Board of Health with application package. Applicants shall provide a letter of intent to hire on the licensed establishment's letterhead that is signed by the owner/principal managing officer. Both a signed physician's statement (completed by a physician or nurse practitioner) certifying the applicant has had a physical and is free from communicable disease (dated no more than six months prior to application) and a Tuberculosis Risk Assessment form which states the applicant is not at risk, must be submitted with initial and annual renewal applications. If deemed to be at risk, a Mantoux TB skin test must be performed. If the skin test is positive, applicant must submit proof of negative chest x-ray. The completed risk assessment form, Tuberculosis skin test date and/or date of negative chest x-ray shall not be more than six (6) months prior to the date of the application. Applicant must also submit signed release for a CORI (criminal offender record inquiry) by the Massachusetts Criminal History Board. Applicants shall provide proof of current liability insurance in an amount not less than \$1,000,000.00 (one million dollars) per occurrence for personal professional and comprehensive general business liability insurance and provide the Board of Health with an original insurance statement at the time of application and renewal. A non-refundable personal check or money order for current licensing application fee must be submitted at the time of application.

- 2.7 **Approved** shall mean approved by the Board of Health, City of Lowell.
- 2.8 **Apprentice** shall mean a student enrolled in a 500-hour course of study, engaged in the practice of Massage/Muscular Therapy, Bodyworks, or Movement Education as part of that course of study, and having accumulated more than two hundred fifty (250) hours but fewer than five hundred (500) hours in his/her course of study, engaged in a practicum in massage/muscular therapy, bodywork, movement education inside of a training facility or school for the purpose of meeting curriculum requirements of the required 500-hour course of study. A student/apprentice practitioner shall maintain contact with a licensed professional practitioner responsible for overseeing his/her practicum. Apprentice shall also be defined as an intern or as a student/apprentice practitioner. An apprentice must meet the requirements stated within Section 6 of these regulations.
- 2.9 **Board of Health** shall mean the Board of Health of the City of Lowell and shall sometimes be referred to herein as the Board.
- 2.10 **Business Activity** shall mean any place of business, which can demonstrate that massage/muscular therapy, bodyworks, or movement education is a viable adjunct to his/her activities and is approved by the Board of Health of Lowell. This would exclude establishments wherein massage/muscular therapy, bodyworks, or movement education for hire or reward, is administered or used as the primary use of the premises.
- 2.11 **Certification** shall mean successful completion of the requirements of the National Certification Board for Therapeutic Massage and Bodywork, or applicable national certifying board, which may be revised from time to time.
- 2.12 **Client** shall mean a person to whom the massage therapist provides massage/muscular therapy, bodyworks, or movement education services.
- 2.13 **Colonic Irrigation** shall mean a process of cleansing the colon by passing several gallons of water through it with the use of special equipment. It is similar to an enema but treats the whole colon, not just the lower bowel. It is also known as hydrotherapy of the colon, high colonic, entero-lavage, or simply colonic.

- 2.14 **CORI** shall mean Criminal Offender Record Information as obtained by the Lowell Health Department from the Massachusetts Criminal History Systems Board.
- 2.15 **Direct Supervision** shall mean a practicum conducted in the context of a 500-hour course of study with an instructor present to observe.
- 2.16 **Expired File** shall mean an administrative action, which renders an incomplete or denied file inactive.
- 2.17 **Fieldwork** shall mean a practicum conducted by a student/apprentice practitioner on his/her own without an instructor present to observe. Fieldwork hours may be required as part of a massage/muscular therapy, bodywork, movement education curriculum, and **shall be over and above** the 500-hour course of study. Fieldwork requirements as set by the school/training institute may be met during or after the 500-hour course of study. A licensed professional practitioner, in the field of therapy in which the applicant is requesting licensure, shall indirectly supervise fieldwork. Fieldwork shall not replace the practicum as required by the 500-hour course of study.
- 2.18 **Five Hundred (500) Hour Course of Study** shall mean study of massage/muscular therapy, or other discipline, taking place in a school/training institute approved by the State Board of Education and the American Massage Therapy Association (or applicable Association) with a direct supervision setting with a instructor, who is a duly licensed massage therapist present for observation of work. A duly licensed massage therapist must be present anytime hands-on training occurs within the facility. A minimum 500-hour course of study shall include but not be limited to the subjects of technique, anatomy and physiology, hands-on training, communications skills, business practices and ethics. This does not include fieldwork, which shall be over and above the 500-hour course of study. This course of study must include a curriculum inclusive of a minimum of six-months classroom instruction and a minimum of 30 hours of actual hands-on instruction/practicum (directly supervised by an instructor who is duly licensed in massage/muscular therapy, bodyworks, and movement education) and meets the conditions contained herein for licensing by the Board of Health.
- 2.19 **Grandfathered/Grandfathering**- Language that applies only to those individual massage therapists and massage therapy establishments who at the time of passage of these Regulations hold a current license as a massage therapy practitioner or massage therapy establishment issued by the Lowell Board of Health.
- 2.20 **Illegal Acts** shall mean any violation of the Massachusetts General Laws including any offense involving the use of force or violence upon another person that amounts to a felony; or any offense involving sexual misconduct; any offense involving narcotics, dangerous drugs or dangerous weapons that amount to a felony. Any activity determined by the Board of Health to be a substantial threat to the public health, and any violations of these rules and regulations shall also be considered an illegal act.
- 2.21 **Intern** shall mean the same as apprentice.
- 2.22 **License** this term shall be defined as a massage/muscular therapy, bodyworks, movement education practitioner's license in the case of an individual meeting all the requirements set forth in these regulations. Further, license shall be defined as a massage/muscular therapy, bodyworks, movement education establishment license in the case of a facility or school/training institute meeting all the requirements of these regulations.
- 2.23 **Licensee** shall mean a person holding a license to practice massage/muscular therapy, bodyworks, or movement education; or a facility license to operate a massage/muscular therapy, bodyworks, movement education establishment; or a massage/muscular therapy, bodyworks, movement education school/training institute within the City of Lowell. Where applicable, Licensee shall also include partnerships, corporations, or other legal entities.

- 2.24 **Massage/Muscular Therapy Establishment** shall mean the licensed room or group of rooms, office, building, place of business, DOE certified training facility or school where massage/muscular therapy, bodyworks, or movement education is practiced or taught. Any health care facility licensed by an agency of the Commonwealth of Massachusetts, or the office of any health care professional licensed by the Commonwealth of Massachusetts wherein massage/muscular therapy, bodyworks, movement education services are not advertised or provided except on an occasional basis is not an establishment for the purposes of these regulations.
Any location within a licensed health care facility or health care professional's office which is dedicated to and maintained for the use of a massage/muscular therapy practitioner who performs occasional massage/muscular therapy, bodywork, or movement education services to the patients of the facility is a massage establishment for the purposes of licensure under these regulations and the portions of the facility or office wherein massage/muscular therapy, bodyworks or movement education services are provided must be in compliance with the standards established by these regulations.
- 2.25 **Massage/Muscular Therapist** shall mean any person who has been trained in the art of massage/muscular therapy, bodyworks, movement education and who has completed and graduated from a program of instruction in massage/muscular therapy, bodyworks, or movement education approved by the Board of Health, City of Lowell and meets the requirements for licensure contained within these regulations.
- 2.26 **Massage/Muscular Therapy, Bodywork, Movement Education** shall mean the act or technique of touching, moving, or manipulation of superficial or deep tissue, muscles, joints, or bones by rubbing, kneading, guiding, or the like by manual or mechanical means or as directed by the practitioner, with or without supplementary aids such as rubbing alcohol, liniments, oils, creams, lotions, powders or similar preparations, and power operated apparatuses including but not limited to mechanical beds and vibrating equipment, for the purpose of reducing tension, stimulating circulation and generally providing for an increase in a person's health and well-being. The term massage/muscular therapy, bodywork, movement education shall include but not be limited to: Body-Mind Centering; Body-Oriented Psychology; Reiki; FELDENKRAIS Method; Massage/Muscular Therapy; Neuromuscular Therapy; Oriental Bodywork Therapies including: Acupressure, Amma, Amma Chinei, Jin Shin Do, Okazaki Restorative Massage, Nuat Thai, Shiatsu and Tuina, Polarity Therapy, ROLFING, The TRAGER Approach. **Massage/Muscular Therapy** shall also mean and include therein the practice of "acupressure" for the purpose of licensing and other regulation thereof under these Rules and Regulations. For the purpose of these regulations the term massage/muscular therapy shall be inclusive of Massage/Muscular Therapy, Bodyworks, and Movement Education.
- 2.27 **National Certification Board for Therapeutic Massage and Bodywork** shall mean the nationally recognized credentialing organization, incorporated in the Commonwealth of Virginia, or its successor organization or equivalent organization(s) that provide certification based on a review of candidate qualifications and credentials, requires a minimum 500-hour course of study, and an examination of knowledge in the field of therapeutic massage with recertification requirements.
- 2.28 **National Certification Commission for Acupuncture and Oriental Medicine** shall mean the nationally recognized credentialing organization or its successor organization or equivalent organization(s) that provide certification based on a review of candidate qualifications and credentials, requires a minimum 500 hour course of study, and an examination of knowledge in the field of Asian Bodywork Therapy with recertification requirements.
- 2.29 **National Certification Exam** shall mean the Therapeutic Massage and Bodywork written exam (or applicable exam for other disciplines) created by the National Certification Board for Therapeutic Massage and Bodywork (or applicable certifying board) and administered at various national testing sites.

- 2.30 **National Professional Organization, Association, or Institute** shall mean an organization providing standards for practice, code of ethics and grievance procedure, and providing or approving a 500-hour course of study and requires continuing education hours for recertification. National professional associations or institutes meeting the above criteria include but shall not be limited to: American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professionals (ABMP), and American Organization for Bodywork Therapies of Asia (AOBTA), American Polarity Therapy Association (APTA), United States Association of Body Psychotherapy, Body-Mind Centering Association, Inc., The Feldenkrais Guild, The Rolf Institute, The Trager Institute.
- 2.31 **Nurse and Nurse Practitioner** shall mean a nurse registered or duly licensed under the laws of the Commonwealth of Massachusetts.
- 2.32 **Off Premises Location** shall mean the practice of massage/muscular therapy at locations other than a licensed establishment, and requires the issuance of a temporary license.
- 2.33 **Physician, chiropractor, osteopath, physical therapist or acupuncturist** shall mean any physician, chiropractor, osteopath, physical therapist, or acupuncturist duly licensed or registered under the laws of the Commonwealth of Massachusetts.
- 2.34 **Practicum** shall refer to a minimum of 30 hours hands-on instruction and training as part of a student's 500-hour course of study within a school/training institute of massage/muscular therapy, bodyworks, movement education and is conducted on the school/training institute grounds.
- 2.35 **Practitioner** shall mean any person who has graduated from a minimum 500-hour course of study in massage/muscular therapy, bodyworks, or movement education approved by the Board of Health, City of Lowell, which meets the standards of a national professional organization, association, or institute and has passed the National Certification Exam for Therapeutic Massage and Bodywork, or applicable national exam, and meets the requirements for licensure contained within these regulations, and receives a license from the Lowell Board of Health. Professionals who are exempted from these regulations are also exempted from the National Certification Exam requirement.
- 2.36 **Principal Managing Officer:** In the event that an applicant for a massage/muscular therapy establishment license is a corporation, the officers and/or directors of the corporation must name at least one of said officers or directors to be named "Principal Managing Officer". In the event that an applicant for a massage/muscular therapy establishment license is a partnership, the partners shall name at least one said partner to be named "Principal Managing Officer". The Principal Managing Officer will assume responsibility as the applicant to complete all license requirements as required under these regulations.
- 2.37 **Retired License** shall mean a license that has not been renewed for more than twelve (12) consecutive months.
- 2.38 **Risk Assessment Form** shall mean a form obtained from the Lowell Health Department to be completed by applicant's physician used to determine Applicant's level of risk for Tuberculosis infection.
- 2.39 **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 and instruments.
- 2.40 **School of Massage** shall mean any premises, facility, structure or building used to train individuals in Massage/Muscular Therapy, Bodyworks, Movement Education.

- 2.41 **State or National Professional Association or Institute** shall mean an organization providing standards for practice, code of ethics, and approval of a five hundred (500) hour course of study and requires continuing education hours for re-certification. State or national professional associations or institutes meeting the above criteria include but shall not be limited to: American Massage Therapy Association, American Oriental Bodywork Therapy Association, American Polarity Therapy Association, Body-Mind Centering Association, Inc., The Feldenkrais Guild, United States Association for Body Psychotherapy, Massachusetts Professional Bodywork Association, the Rolf Institute and the Trager Institute, American Organization for Bodywork Therapies of Asia (AOBTA), Associated Bodywork and Massage Professionals (ABMP).
- 2.42 **Student/Apprentice Practitioner** shall mean the same as apprentice.
- 2.43 **Temporary Massage/Muscular Therapy, Bodyworks, Movement Education Practitioner's License** shall be referred to as a temporary practitioner's license and shall mean a license issued to a therapist, currently holding a valid annual Massage/Muscular Therapy license from the City of Lowell or other Massachusetts community with comparable licensing requirements, and is for the purpose of participating in an event held at an off-premises location, or by physician order. A practitioner shall meet the requirements of these regulations.
- 2.44 **Therapeutic Bodywork** shall mean a variety of hands-on techniques with specific anatomical focus such as Shiatsu, Neuromuscular Therapy, Reiki, and Rolfing. This term will also refer to body-centered psychotherapies, meaning therapies which incorporate into the counseling/therapeutic process a range of massage, bodywork, and movement techniques to help address emotional issues such as but not limited to Bio-Energenics, Core Energies, and Hakomi.
- 2.45 **Therapeutic Massage** shall mean the act or technique of touching or manipulating soft tissue of the human body by manual or mechanical means, to stimulate circulation, increase flexibility, decrease tension, decrease pain and to increase a person's health and well being. Therapeutic massage includes Swedish massage and other similar forms of therapy, which can involve muscle, nerve, or joint manipulation.
- 2.46 **Training Facility or School** shall mean any premises, facility, structure or building used to train individuals to become professional practitioners of massage/muscular therapy, bodyworks, or movement education.

Section 3: Individual License and Application therefor:

- 3.1 No person shall practice massage/muscular therapy, bodyworks, or movement education or conduct an establishment for the giving of massage/muscular therapy, bodyworks, or movement education, or advertise or hold him/herself out as being engaged in the business of massage/muscular therapy, bodyworks, movement education in the City of Lowell without receiving a license therefore from the Board of Health.
- 3.2 Any instructor of massage/muscular therapy, or other discipline covered by these regulations, that is affiliated with a school or institute that teaches massage/muscular therapy or other discipline within the City of Lowell, is required to meet the criteria contained within these regulations and must obtain an annual license from the Health Department. This regulation does not apply to those instructors who do not teach hands-on classes such as business administration, etc.
- 3.3 The applicant must submit his/her completed application by the first Friday of the month a Board of Health meeting is being held, to be placed on that month's agenda. An application shall be considered complete if all information, documentation, and fees requested are properly provided.
- 3.4 The applicant shall provide ten (10) copies of his/her completed application with all required documentation of which one set shall be the required notarized/certified copy required in Section 3.9.

- 3.5 The fee for the initial professional license shall be accordance with the most recent fee schedule adopted by the Board. Upon passage and adoption of these Regulations, the licensure fee for an individual license shall be one hundred dollars (\$100.00). Such fee may be changed by vote of the Lowell Board of Health or the City Council of Lowell. Licensure fee is nonrefundable and shall not be prorated for less than one year's time. This fee is may be paid only by check or money order payable to the City of Lowell.
- 3.6 If application and payment is submitted and deemed to be incomplete, the Board of Health will notify the applicant by certified letter. Following notification of incomplete application, the applicant will have 30 days to reapply and be placed on the next available Board agenda. If, after 30 days from notification, the completing information has not been received, such application fee is forfeited to the Board of Health, and must be resubmitted to renew application process.
- 3.7 This license shall expire on September 30th annually.
- 3.8 Licenses issued under these regulations cannot be sold, assigned, or transferred from the licensee to another individual.
- 3.9 **Application for a Massage/Muscular Therapy Practitioner's License:**

Any person desiring to obtain a license to practice massage/muscular therapy or conduct an establishment for the giving of massage/muscular therapy shall make written application for such license on a form provided by the Board of Health. Each person practicing massage/muscular therapy at a massage/muscular therapy establishment shall be required to be individually licensed. The application for an original license shall include:

- a. Submittal of proof of licensure by the Commonwealth of Massachusetts (when applicable).
- b. Completed application form approved by the Lowell Board of Health inclusive of the definition of services to be provided.
- c. Satisfactory evidence that the applicant is eighteen (18) years of age or older, by presenting 2 forms of positive identification of which 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.
- d. CORI public record request form provided by the Criminal History Systems Board, including a certified copy of Birth Certificate and Social Security number. This requirement will apply to all therapists who have lived and worked in Massachusetts at any time after attaining the age of 17 (seventeen) including temporary stays, (for example: college), or lived and worked in any state contiguous with Massachusetts at any time after attaining the age of 17 (seventeen). For practitioners whose permanent residence is not Massachusetts (out of state and international), information may be obtained from the applicant's local Chief of Police, or other local authority with access to relevant information, a criminal record check, or its recognized equivalent. If a license is allowed to lapse for any period, a new criminal history check must be made. Sufficient evidence of such criminal conduct shall include criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts. The applicant shall be responsible for any fees or charges associated with such criminal history check.
- e. The applicant shall disclose the circumstances surrounding any of the following:
 1. 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.

2. Disclosure of any conviction of any misdemeanor or felony occurring within the past five (5) years.
 3. Revocation, suspension or denial of a license to practice massage issued by any state or municipality.
 4. Loss or restriction of any licensure or certification by any municipality or other jurisdiction for any reason.
- f. The Lowell Board of Health shall determine whether an applicant's conduct, criminal or otherwise, shall disqualify that person from obtaining licensure. In making this determination, the Lowell Board of Health shall consider at least the following conduct:
1. Having a criminal conviction included in CORI report or engaging in, or having engaged in, any other conduct criminal or otherwise, determined by the Lowell Board of Health, to impair the applicant's ability to safely and reputably provide massage/muscular therapy, bodywork, movement education.
 2. Use of alcohol or drugs to an extent or in a manner that is determined by the Lowell Board of Health to impair his/her ability to safely and reputably provide massage/muscular therapy, bodywork, movement education.
- g. Documentation of competency, to consist of:
1. Documentary evidence that the applicant has satisfactorily completed a minimum 500-hour course with a minimum of six months of study and 30 hours of hands-on practicum training in Massage/Muscular Therapy (or applicable discipline) at an approved facility or institute which meets the standards of a national organization or institute (i.e., by the Association of Massage Practitioners (AMP) or American Massage Therapy Association (AMTA)), and is licensed by the Board of Education in the state where it is located. The applicant shall sign the Release of Academic Records form provided by the Health Department which will result in certified copies of diplomas and Official Sealed Course Transcripts to be sent directly from the school to the Board of Health; and
 2. Submit evidence of having a current National Certification.
 3. Applicants, who have previously been licensed by the Lowell Health Department as a massage/muscular therapist, or applicable discipline, shall be exempt the 30-hour hands-on practicum provision providing he/she has not allowed a lapse in licensure.
 4. Notwithstanding the provisions of subsection g., applicants for a massage/muscular therapy practitioner's license, who currently hold a license from the Lowell Board of Health as a massage/muscular therapist and who are in good standing with the Board as of the effective date of these regulations, shall be exempt from the requirement of possessing a current National Certification for so long as he/she remains in good standing without a lapse in licensure or any violations of these regulations.
- h. Applicant shall have verification of being a current member of a state or national professional organization, association, or institute. Such organization shall have standards for membership that include, but are not limited to, mandatory continuing massage/muscular therapy education for all members. Written documentation of current membership must be submitted by the applicant to the Board of Health with the initial application for license.
- i. One front faced photograph of at least two inches by two inches in size.

- j. Personal and professional references: Applicant must provide with initial application two professional and two personal references. The applicant shall utilize a character reference form to be supplied by the Health Department. At least one of the professional references, and at least one of the personal references, must be from a Massachusetts resident. The references must be from persons other than a relative.
 - k. A physician's certification, dated no earlier than six (6) months prior to the submittal of the application, stating that the applicant has had a physical examination and is free of communicable disease must be submitted with initial licensure applications.
 - l. For initial licensure completion of the Tuberculosis risk assessment form by the applicant's health care provider is required. If deemed to be at risk, a Mantoux TB skin test must be performed. If the skin test is positive, applicant must submit proof of negative chest x-ray. The completed risk assessment form, Tuberculosis skin test date and/or date of negative chest x-ray shall not be more than six (6) months prior to the date of the application.
 - m. Applicants shall provide proof of current liability insurance in an amount not less than \$1,000,000.00 (one million dollars) per occurrence for personal, professional and comprehensive general business liability insurance and provide the Board of Health with an original insurance statement at the time of initial application and upon annual renewal of insurance. This requirement may be met by providing proof of liability insurance through a national professional association such as AMTA, ABTA, etc.
 - n. 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 City. False statements shall constitute grounds for revocation or denial of an issued license.
 - o. Applicant must identify the name(s) of the licensed establishment(s) where he or she will practice massage/muscular therapy, bodywork, or movement education. Applicants shall provide a letter of intent to hire on the establishment's letterhead signed by the owner/principal managing officer.
- 3.10 Practice of Asian Bodywork. An applicant seeking a therapist license for practice limited to Asian Bodywork (including, but not limited to Acupressure, AMMA therapy®, Chi Nei Tsang, Five Element Shiatsu, Integrative Eclectic Shiatsu, Japanese Shiatsu, Jin Shin Do®, Bodymind Acupressure™, Macrobiotic Shiatsu, Shiatsu Amma Therapy, Traditional Thai Massage, Tuina, Zen Shiatsu and Reiki if applicable) shall have verification of being certified by the National Certification Commission for Acupuncture and Oriental Medicine or its equivalent or successor organization submitted directly to the Board of Health.
- 3.11 It is a violation of these regulations for any person who is not licensed in the manner described herein to represent being a licensed massage/muscular therapy, bodyworks, or movement education therapist or to hold himself/herself out to the public as being licensed by using a title on signs, mailboxes, address plates, stationary, announcements, telephone listings, calling cards, or other instruments of professional identification or advertisements of any sort.
- 3.12 All documents submitted for licensure purposes become the property of the Board of Health and will not be returned.
- 3.13 Board of Health prior to the issuance of any license shall evaluate each individual application by the information provided. The Board may also consider for evaluation any statements made by the applicant to the Board at any public meeting. The Board may place special conditions on any license that it issues.
- 3.14 False statements in said application shall be grounds for denial, suspension or revocation of a license.

- 3.15 Every person licensed to practice massage/muscular therapy will be issued a license to that effect and when requested shall show such license to any legally authorized public employee. Such license must be visibly posted at the facility where the applicant is employed.
- 3.16 A license issued to a professional practitioner cannot be sold, assigned, or transferred to another person.
- 3.17 A license issued to a professional practitioner may only be transferred to another location upon notification by the practitioner to the Health Department of the practitioner's change of employment, and submittal of an original letter of intent to hire from the new place of employment. All locations where applicant will be providing massage/muscular therapy, bodyworks, movement education must be listed at the time of application.
- 3.18 A license not renewed for 12 consecutive months shall be considered retired and is no longer eligible for the use of grandfathering language contained herein.

Section 4. Application Requirements for Renewal of Individual License

- 4.1 No person shall practice massage/muscular therapy, or conduct an establishment for the giving of massage/muscular therapy, or advertise or hold him/herself out as being engaged in the business of massage/muscular therapy in the City of Lowell without receiving a license therefore from the Board of Health.
- 4.2 This license shall expire on September 30th annually.
- 4.3 The applicant shall provide ten (10) copies of his/her completed renewal application with all required documentation.
- 4.4 The fee for each renewal license shall be in accordance with the most recent fee schedule adopted by the Board. Upon passage and adoption of these Regulations, the licensure fee for an individual license renewal shall be one hundred dollars (\$100.00). Such fee may be changed by vote of the Lowell Board of Health or the City Council of Lowell. Licensure fee is nonrefundable and shall not be prorated for less than one year's time. This fee is may be paid only by check or money order payable to the City of Lowell.
- 4.5 If application and payment is submitted and deemed to be incomplete, the Board of Health will notify the applicant by certified letter. Following notification of incomplete application, the applicant will have 30 days to reapply and be placed on the next available Board agenda. If, after 30 days from notification, the completing information has not been received, such application fee is forfeited to the Board of Health, and must be resubmitted to renew application process.
- 4.6 Application for License Renewal shall be made on a form provided by the Lowell Health Department. It shall be the responsibility of the Licensee to obtain renewal application prior to the expiration of the existing license. Licensed massage therapists must file an application on a form available from the Lowell Health Department for renewal not less than 60 (sixty) days (August 1st) prior to the expiration of his/her license, whereupon his/her existing license shall not expire until the Board of Health has determined the application's renewal status. At time of filing renewal application, the applicant shall submit satisfactory evidence of his/her current professional status.
- 4.7 It is the responsibility of all license holders to renew his/her license annually before September 30th of each year. If the application for renewal is not received by September 30th, the applicant must commence the application process from the beginning and all grandfathering language contained herein will no longer be applicable.

- 4.8 Any person desiring to renew his/her massage/muscular therapy individual practitioner's license must previously have met the criteria set forth in these regulations in section 3. Such individual shall make written application for such license on a form provided by the Board of Health. Each person practicing massage/muscular therapy at a massage/muscular therapy establishment shall be required to be individually licensed. The application for a renewal license shall include:
- a. The applicant shall provide ten (10) copies of his/her completed application with all required documentation submitted by August 1st annually.
 - b. Submittal of proof of licensure by the Commonwealth of Massachusetts when applicable.
 - c. Completed application form approved by the Lowell Board of Health inclusive of the definition of services to be provided.
 - d. Applicant shall have verification of being a current member of a state or national professional organization, association, or institute. Such organization shall have standards for membership that include, but are not limited to, mandatory continuing massage/muscular therapy education for all members. Written documentation of current membership must be submitted by the applicant to the Board of Health with each yearly renewal application for license.
 - e. For renewal licensure completion of the Tuberculosis risk assessment form by the applicant's health care provider is required. If deemed to be at risk, a Mantoux TB skin test must be performed. If the skin test is positive, applicant must submit proof of negative chest x-ray. The completed risk assessment form, Tuberculosis skin test date and/or date of negative chest x-ray shall not be more than six (6) months prior to the date of the application.
 - f. Applicants shall provide proof of current liability insurance in an amount not less than \$1,000,000.00 (one million dollars) per occurrence for personal, professional and comprehensive general business liability insurance and provide the Board of Health with an current insurance statement at the time of application. This requirement may be met by providing proof of liability insurance through a national professional association such as AMTA, ABTA, etc. It is the responsibility of the applicant to provide the Lowell Health Department with current coverage as insurance renewal dates occur.
 - g. 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 City. False statements shall constitute grounds for revocation or denial of an issued license.
 - h. Applicant must identify the name(s) of the licensed establishment(s) where he or she will practice massage/muscular therapy, bodywork, or movement education. Applicants shall provide a letter of current employment on the establishment's letterhead signed by the owner/principal managing officer.
 - i. Copies of written licensed health care provider's orders allowing for a homebound client to receive massage/muscular therapy services from a licensed provider, licensed within the last licensure year, shall be submitted to the Board of Health at time of renewal. Copies must show client's last name, street address, health care provider's letterhead, health care provider's signature, frequency and duration of massage/muscular therapy service. Practitioners and establishments must maintain the original health care provider orders for two years after the completion of service.
- 4.9 Applicants must continue to meet all requirements contained within these regulations.
- 4.10 It is a violation of these regulations for any person who is not licensed in the manner described herein to represent being a licensed massage therapist or to hold himself/herself out to the public as being licensed by using a title on signs, mailboxes, address plates, stationary, announcements, telephone listings, calling cards, or other instruments of professional identification or advertisements of any sort.

- 4.11 All documents submitted for licensure purposes become the property of the Board of Health and will not be returned.
- 4.12 A license issued to a professional practitioner cannot be sold, assigned, or transferred to another person.
- 4.13 A license issued to a professional practitioner may only be transferred to another location upon notification by the practitioner to the Health Department of the practitioner change of employment, and submittal of an original letter of intent to hire from the new place of employment. All locations where applicant will be providing massage/muscular therapy, bodyworks, movement education must be listed at the time of application.
- 4.14 The Board of Health, whereas may not specifically require a CORI for the renewal of licensure, reserves the right to conduct a CORI check at any point of time on each holder of a Massage/Muscular Therapy practitioner's license.

Section 5. Temporary Individual Massage/Muscular Therapy License:

- 5.1 A temporary individual massage/muscular therapy license is required for all temporary off premises events or services lasting more than one (1) day not to exceed five (5) days, except in the case of a written order by a licensed health care provider. There will be no fee to a licensed massage/muscular therapist currently licensed by the City of Lowell. Qualified therapists not licensed within the City of Lowell shall be assessed a fifty dollar (\$50.00) per occurrence temporary license fee.
- 5.2 No licensed professional practitioner or instructor of massage/muscular therapy, bodyworks, or movement therapy shall engage in the practice of massage/muscular therapy in Lowell on a temporary basis unless first having been issued a temporary license pursuant to these regulations.
- 5.3 The applicant for a temporary license must show proof of current professional licensure from the City of Lowell or other Massachusetts community where licensing requirements are comparable.
- 5.4 A temporary off-premise license shall be required for any licensed Massage/Muscular therapy practitioner while engaged in the practice of Massage/Muscular therapy in the City of Lowell at a non-licensed establishment on a temporary basis. Any licensed practitioner seeking a temporary off-premise license must submit to the Department a completed application form as supplied by the Lowell Health Department.
- 5.5 There shall be no fee for a temporary off-premise license for a period of not longer than five (5) days. Temporary licensure fees for massage/muscular therapy services for periods longer than five (5) days shall be fifty dollars (\$50.00) per occurrence.
- 5.6 Therapists licensed by the City of Lowell may provide services off-site for single day events, such as health fairs and demonstrations without obtaining an additional temporary individual massage license, provided they notify the Department as least seven (7) business days prior to the one day event and there is no compensation for participating at the event.
- 5.7 A professional practitioner, while conducting business under a temporary license shall carry both the temporary and his/her Professional License issued by the City of Lowell, or other Massachusetts community with comparable licensing requirements, and comply with the requirements specified within these regulations.
- 5.8 A temporary off-premises license shall be issued for the practice of Massage/Muscular Therapy in private residences only upon receipt of a written order (prescription) for massage/muscular therapy services issued by a licensed health care provider (i.e. nurse practitioner, physician's assistant, physician or chiropractor). Such license will be issued without fee to a licensed massage/muscular therapist who is currently licensed by the City of Lowell. For massage therapists licensed in other Massachusetts

communities with comparable licensing requirements, such temporary license for health care provider ordered home visits must obtain a temporary license at the cost of fifty dollars (\$50.00) from the Lowell Board of Health. Written orders for above stated services must be submitted to the Lowell Health Department prior to commencement of services. Such written orders shall be kept on file for two years by the Lowell Health Department and by the practitioner. Home services are otherwise prohibited.

- 5.9 A person licensed to practice massage in any other city or town of the Commonwealth of Massachusetts may, at the written request of a health care provider attend patients in Lowell, provided a temporary license is issued by the Lowell Board of Health. The applicant shall provide a copy of such license to the Department and written confirmation of such request from the physician or health care provider prior to commencement of services. Copies of such written orders must be submitted annually to the Health Department with the renewal applications. Copies must show client's last name, street address, health care provider's letterhead, health care provider's signature, frequency and duration of massage/muscular therapy service. Such temporary licensure will be valid only for that period determined by the health care provider's order.

Section 6. STUDENT/APPRENTICE/INTERN GUIDELINES:

- 6.1 A student of massage therapy enrolled in a school program for massage/muscular therapy, bodyworks, movement education performing work as a required component of his/her course of study at such school is not required by the Lowell Board of Health to obtain a student/apprentice/intern license; provided, the student shall not hold himself out as holding a license for massage/muscular therapy from the City of Lowell or the Commonwealth of Massachusetts, and shall not receive compensation for such work performed.
- 6.2 No person shall practice as a student/apprentice practitioner of massage/muscular therapy for gaining practical experience outside the school practicum and/or for hire or reward or advertise or hold him/herself out as being engaged in the business of massage/muscular therapy in Lowell.
- 6.3 A practicum must be conducted at a school or training institute of massage/muscular therapy, bodyworks, movement education licensed by the City of Lowell.
- 6.4 A student/apprentice/intern practitioner shall maintain contact with a licensed professional practitioner responsible for overseeing his/her practicum.
- 6.5 Student/apprentice practitioners shall not misrepresent his/her training, experience, credentials, or title.
- 6.6 A student/apprentice/intern may practice only under the direct supervision of a licensed Massage Therapist instructor. Said instructor shall be present at all times said intern is practicing, and shall be responsible for ensuring that proper treatments are given.

Section 7. Conditions of Practitioner Licensure

- 7.1 No massage practitioner shall perform massage/muscular therapy services if either the practitioner, or a patron, has a communicable disease or exhibits any skin fungus, skin infection, skin inflammation, or skin eruption that the massage practitioner deems significant, unless a health care provider licensed in the Commonwealth of Massachusetts shall certify in writing that such person may be safely massaged, and defines the conditions under which such massage may be performed, and shall certify further that any communicable disease, fungus, infection, inflammation, or eruption is not of a contagious or transmissible character through the practice of massage or through close contact ordinarily associated with the practice of massage.
- 7.2 A massage practitioner, who operates a vibrator or other mechanical instrument in proximity to any body location where scalp hair can be pulled into its moving parts, shall cover or wrap a patron's hair in a manner that will protect the hair from such moving parts.

- 7.3 No licensed therapist, 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 massage establishment, or to make arrangements to engage in sexual activity with any client.
- 7.4 Massage/Muscular therapy practitioners must wash his/her hands with soap and water immediately before and after administering massage to any person.
- 7.5 Practitioners 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 female breast or any portion of the pubic hair, cleft of the buttocks, or genitals.
- 7.6 All practitioners shall follow universal precautions within the facilities.
- 7.7 Practitioners may not diagnose disease, prescribe medicine or perform any procedure that requires a license from the Commonwealth of Massachusetts including but not limited to psychotherapy, chiropractic, acupuncture and colonic hydrotherapy.
- 7.8 Practitioners may not operate an x-ray, fluoroscope, diathermy or other similar equipment unless licensed by the Commonwealth of Massachusetts to practice a profession requiring the use of such equipment.
- 7.9 Practitioners may not conduct spinal or joint manipulations.
- 7.10 Practitioners may not use, or allow to be used, alcoholic beverages or illegal or controlled drugs on the licensed premises.
- 7.11 The individual practitioner's license is restricted to a licensed massage establishment in the City of Lowell. Any changes in the business location of the licensee must be reported within fourteen (14) days of the change.
- 7.12 The Health Department shall indicate on the license all the addresses where the massage/muscular therapy practitioner conducts business. The practitioner will submit the required letter of intent to hire for each establishment. In the event a massage practitioner is hired at an additional location during the course of the license year, the practitioner shall bring to the Health Department his/her original license and an original intent to hire letter from the new facility. The Health Department will add the new address to the license.
- 7.13 For practitioners who conduct business at more than one location, the original license shall be posted at the first address indicated on the license. The practitioner shall post at the additional addresses, a copy of the license to which an original Health Department stamp has been placed.
- 7.14 Massage practitioners must prominently display his/her license in the waiting room of the licensed establishment where employed.
- 7.15 The use of aliases by practitioners and apprentices are prohibited.
- 7.16 Only for the purpose of these regulations and compliance with such regulations by all Massage/Muscular Therapy Practitioners, all such practitioners licensed by the Health Department shall be deemed to be employees of the Massage/Muscular Therapy Establishment where they practice and shall not be considered to be independent contractors. All practitioners are responsible for submitting the original physician orders for homebound clients to the establishment where they are licensed. All practitioners shall keep 2 copies of the written physician orders. One copy must be submitted to the Health Department upon renewal application. The practitioner is to keep the second copy for two years from last date of service per client. In the event a practitioner does not renew their practitioner license with the City of Lowell, or does not complete the licensure year, the practitioner shall be responsible for submitting to the Lowell Health Department a copy of the written licensed health care provider's orders for the licensure year that was just completed.

- 7.17 Massage practitioners may not administer massage to a minor without the written consent of the minor's parent or guardian. In addition, a health care provider licensed in the Commonwealth of Massachusetts must provide written or documented referral for minors seeking services for issues other than general relaxation, stress reduction, health maintenance, or muscle tension. No massage practitioner shall administer a massage to a minor child under the age of 18 unless a parent or guardian is in direct visual contact with the minor child, except with the written consent of a parent.
- 7.18 All massage practitioners shall conduct themselves in accordance with the standards of The National Certification Board for Therapeutic Massage and Body Works or applicable certifying board.
- 7.19 All licensees shall notify the Department of a change of name and/or home address within fourteen (14) days.
- 7.20 All licenses for massage/muscular therapy are restricted to the locations listed on the license, with the exception of one-day off site events as mentioned in Sections 5. Licensees must notify the Health Department of change in employment and receive a new license at no cost within the current licensing period.
- 7.21 All licensees shall notify the Department of any criminal complaint brought against him/her within seven (7) days. Failure to do so may result in administrative revocation of licensure.

Section 8. Practitioner Licensing Exceptions and Exclusions:

- 8.1 The licensing provisions of these regulations shall not apply to the following classes of individuals while engaged in the performance of the duties of his/her respective profession:
 - a. Any physician, surgeon, chiropractor, osteopath, registered and licensed nurses, physical therapists, occupational therapists, or acupuncturists operating within the scope of his/her license or registration issued by the Commonwealth of Massachusetts and not representing himself/herself as a massage therapist shall be exempt from these regulations.
 - b. Athletic trainers duly licensed under the laws of the Commonwealth of Massachusetts and not representing himself/herself as a massage therapist shall be exempt from these regulations.
 - c. An acupuncturist duly licensed under the laws of the Commonwealth of Massachusetts and not representing himself/herself as a massage therapist shall be exempt from these regulations.
 - d. Barbers and Beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts while engaging in practices within the scope of his/her license, except that this provision shall apply solely to the massaging of the neck, face, and or scalp of the customer or client for cosmetic and/or beautifying purposes.
 - e. Health Care Personnel in hospitals, nursing homes or other health care facilities licensed by the Commonwealth of Massachusetts (provided that such facilities are exempt from licensure under these regulations.) However, massage/muscular therapy, bodywork, movement education practitioners working in such institutions within the City of Lowell are required to obtain a license as provided herein unless excluded under section 8.1.
 - f. These regulations shall not apply to the following: hospitals, nursing homes, convalescent homes, home health agencies or other institutions similarly licensed by the Commonwealth of Massachusetts. However, massage/muscular therapy, bodywork, movement education practitioners working in such institutions within the City of Lowell are required to obtain a license as provided herein unless excluded under Section 8.1

- g. Exceptions in cases of housebound patients: A patient who is house bound because of sickness or infirmity may be attended in his or her home by a massage therapist who is licensed to practice in the City of Lowell, or any other city or town of the Commonwealth with comparable licensing requirements, provided that a licensed health care provider issues a written order or prescription for massage/muscular therapy. A copy of the health care provider's order or prescription shall be submitted to the Board of Health prior to commencement of services. For annual renewal of practitioner's license, applicant must state if any homebound or bed-ridden clients were attended to within the past year. Any massage/muscular therapy services rendered to a homebound client must meet the requirements of section 4.8.h and section 5.9.
 - h. If a visiting sports team or entertainer performing in the City of Lowell has a massage therapist on staff, and said therapist will not be providing services to the public, a temporary practitioner's license is not required.
- 8.2 A temporary off-premises license shall be issued for the practice of Massage/Muscular Therapy in private residences only upon receipt of a written order (prescription) for massage/muscular therapy services issued by a licensed health care provider (i.e. nurse practitioner, physician's assistant, physician or chiropractor). Such license will be issued without fee to a licensed massage/muscular therapist who is currently licensed by the City of Lowell. For massage therapists licensed in other Massachusetts communities with comparable licensing requirements, such temporary license for health care provider ordered home visits must obtain a temporary license at the cost of fifty dollars (\$50.00) from the Lowell Board of Health. Written orders for above stated services must be submitted to the Lowell Health Department prior to commencement of services. Such written orders shall be kept on file for two years by the Lowell Health Department and by the practitioner. Home services are otherwise prohibited.

Section 9. Massage/Muscular Therapy Establishment Licensing Requirements:

- 9.1 No person shall operate an establishment for the practice of massage/muscular therapy unless first having been issued a license required pursuant to these regulations. The owner/operator of said establishment is responsible for verifying that each person conducting massage/muscular therapy holds a valid license issued by the City of Lowell Board of Health.
- 9.2 Any person, partnership, corporation, or other legal entity desiring to obtain a license to conduct an establishment for the giving of massage/muscular therapy shall make written application for such license on a form provided by the Board of Health. The application for an original and renewal license (except where specifically excluded) shall include:
 - a. Completed application form approved by the Lowell Board of Health inclusive of the definition of services to be provided.
 - b. Satisfactory evidence that the applicant is eighteen (18) years of age, by presenting 2 forms of positive identification of which 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.
 - c. The location, mailing address, and all telephone numbers where the business is to be conducted.
 - d. The name, residential address, and telephone number of each applicant:
 - 1. If the applicant is a corporation, the names and telephone numbers and residential addresses of each of the officers and directors of said corporation and the address of the massage/muscular therapy establishment, and the name of the Principal Managing Officer.

2. If the applicant is a partnership, the names, telephone numbers and residential addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the massage/muscular therapy establishment, and the name of the Principal Managing Officer.
 3. It is the responsibility of the establishment's owner/operator to notify the Lowell Health Department within 14 days of a change in the Principal Managing Operator. Upon the hiring of a new Principal Managing Operator, a new CORI public records request form must be completed.
- e. The name and address of any massage/muscular therapy business or establishment owned or operated by any person whose name is required to be given in section 9.2 wherein the business or profession of massage/muscular therapy is carried on.
 - f. The massage/muscular therapy or similar business license history of the applicant, whether such person has previously operated in this or another town or state, has had a business license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
 - g. A description of any other business to be operated on the same premises or on adjoining premises owned, controlled, or leased by the applicant in conformance with the City of Lowell Zoning Ordinances.
 - h. The potential number of employees to be utilized at the establishment.
 - i. The name and address of each massage therapist who is or will be employed in said establishment. It is the responsibility of the establishment owner/operator to notify the Lowell Health Department within 14 days whenever a massage therapist is no longer in the employ of said establishment.
 - j. CORI public record request form provided by the Criminal History Systems Board, including a certified copy of Birth Certificate and Social Security number. This requirement will apply to all individuals who have lived and worked in Massachusetts at any time after attaining the age of 17 (seventeen) including temporary stays, (for example: college); or lived and worked in any state contiguous with Massachusetts at any time after attaining the age of 17 (seventeen). For practitioners whose permanent residence is not Massachusetts (out of state and international), information may be obtained from the applicant's local Chief of Police, or other local authority with access to relevant information, a criminal record check, or its recognized equivalent. If a license is allowed to lapse for any period, a new criminal history check must be made. Sufficient evidence of such criminal conduct shall include criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts. The applicant shall be responsible for any fees or charges associated with such criminal history check.
 - k. The applicant shall disclose the circumstances surrounding any of the following:
 - a. 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.
 - b. Disclosure of any conviction of a misdemeanor or felony within the past five (5) years.
 - c. Revocation or denial of a license to practice massage or conduct business as a massage/muscular therapy, bodyworks, or movement therapy establishment issued by any state or municipality.
 - d. Loss or restriction of any licensure or certification by any municipality or other jurisdiction for any reason.

- I. The Lowell Board of Health shall determine whether an applicant's conduct, criminal or otherwise, shall disqualify that person from obtaining licensure. In making this determination, the Lowell Board of Health shall consider at least the following conduct:
 1. Having a criminal conviction included in CORI report or engaging in, or having engaged in, any other conduct criminal or otherwise, determined by the Lowell Board of Health, to impair the applicant's ability to safely and reputably conduct business as a massage/muscular therapy; bodywork; movement education establishment.
 2. Use of alcohol or drugs to an extent or in a manner that is determined by the Lowell Board of Health to impair his/her ability to safely and reputably conduct a business of massage/muscular therapy; bodywork; movement education.
- m. One front faced photograph of the applicant of at least two inches by two inches in size; if the applicant is a corporation, one front faced photograph at least two by two inches of all officers and managing agents of said corporation; if the applicant is a partnership, one front faced photograph at least two by two inches of each partner, including a limited partner in said partnership.
- n. Applicants shall provide proof of current liability insurance in an amount not less than \$1,000,000.00 (one million dollars) per occurrence for personal, professional, and comprehensive general business liability insurance and provide the Board of Health with a copy of the insurance statement at the time of application and annual renewal of insurance binder.
- o. Applicants shall provide proof of Workers' Compensation Coverage in accordance with Mass General Laws, Chapter 152, Section 25.
- p. For renewal applications, applicants must state if any home-bound or bed-ridden clients were attended to within the past year by practitioners working at each establishment.
- q. Written declaration by the applicant, or where applicable the Principal Managing Officer, 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 City. False statements shall constitute grounds for revocation or denial of an issued license.
- r. For initial licensure a scaled drawing of the physical layout of the establishment and room where the Massage Therapist will practice must be provided with application. Said scale shall be no smaller than ¼ inch = 1 foot, and show that each room to be used for massage/muscular therapy meet the minimum size as required in these regulations. A scaled drawing must be included with a renewal application if any changes have occurred to the physical layout initially reported to the Board of Health.
- s. Provide proof that the establishment has registered as a business in Lowell with the City Clerk's Office as required in M.G.L., c.110 §5.
- t. Provide with initial application, proof that the proposed location complies with all City of Lowell Zoning Ordinances. Applicant must submit proof of any variances approved by the Zoning Board of Appeals or Planning Commission by submitting copies with an original stamp from the appropriate Board. The location of the Massage/Muscular Therapy establishment under the current City of Lowell Zoning Ordinance must be authorized by a special permit from the Board of Appeals as required under the Lowell Zoning Ordinance passed December 7, 2004 Article VII, entitled Special Regulations, and must conform with Section 7.4, the Table of Use, and Section 6.1.4 entitled Table of parking requirements.

"Required Affiliation. Massage therapy establishments, not otherwise exempt, must be affiliated with and be physically located at the same site as, the following, and only the following, listed salon and professions:

 - i. Salons for hair, nails, or tanning;
 - ii. Licensed professions engaging in the practice of medicine, chiropractic, osteopathy, or physical therapy;
 - iii. Health and fitness clubs.

- 9.3 The fee for the initial establishment license, and for each renewal license, shall be accordance with the most recent fee schedule adopted by the Board. Upon the passage and adoption of these regulations the licensure fee for a massage establishment license shall be one hundred dollars (\$100.00). Such fee may be changed without amendment by vote of the Lowell Board of Health or the City Council of Lowell. Licensure fee is nonrefundable and shall not be prorated for less than one year's time.
- 9.4 This license shall expire on September 30th annually.
- 9.5 The applicant must submit his/her completed initial application by the first Friday of the month a Board of Health meeting is being held, to be placed on that month's agenda. An application shall be considered complete if all information, documentation, and fees requested are properly provided.
- 9.6 It shall be the responsibility of the Licensee to submit a completed renewal application no less than sixty (60) days (August 1st) prior to the expiration of the existing license.
- 9.7 It is a violation of these regulations for any person, partnership, corporation, or other legal entity who is not licensed in the manner described herein to represent themselves as conducting a licensed massage establishment or to hold himself/herself out to the public as being a licensed massage establishment by using a title on signs, mailboxes, address plates, stationary, announcements, telephone listings, calling cards, or other instruments of professional identification or advertisements of any sort.
- 9.9 All documents submitted for licensure purposes become the property of the Board of Health and will not be returned.
- 9.10 At the time of license renewal such establishment shall provide the Board of Health with a current roster of all employees and his/her current job titles and shall further provide individual licenses for all practitioners of said establishment.
- 9.11 The Board of Health, prior to the issuance of any massage/muscular therapy establishment license, shall evaluate each individual application by the information provided. The Board may also consider for evaluation any statements made by the applicant to the Board at any public meeting. The Board may place special conditions on any license that it issues.
- 9.12 The Board of Health may issue a license for a massage/muscular therapy establishment after all requirements, terms, and conditions, including the following, have been met and complied with:
- a. The correct license fee has been tendered to the Health Department.
 - b. The applicant has no criminal history of an offense involving sexual misconduct.
 - c. The applicant has no criminal history of an offense involving narcotics, dangerous drugs or dangerous weapons that amount to a felony.
 - d. The Board may issue a license to any person with a criminal history of any of the above-mentioned crimes, upon review of the following factors:
 1. Time since the offense (for convictions of a sexual nature, 10 years, for other convictions 5 years);
 2. Age of the applicant at the time of the offense or conviction;
 3. Seriousness and specific circumstances of the offense or conviction;
 4. Relationship of the criminal act to the nature of the license being sought;
 5. Number of offenses;
 6. Any relevant evidence of rehabilitation or lack thereof, and;
 7. No subsequent criminal offenses or convictions of any nature.

- 9.13 False statements in said application shall be grounds for denial, suspension or revocation of a license.
- 9.14 A license issued to a massage/muscular therapy establishment cannot be sold, assigned, or transferred to another person, partnership, corporation or other legal entity. However, upon death or incapacity of an establishment licensee, the Board may allow the massage/muscular therapy establishment to continue in business for a reasonable period of time to permit an orderly conclusion of affairs or to permit a successor of operation to achieve licensure. Any person desiring to undertake continued operation under the terms of this paragraph must request permission from the Board within fourteen (14) days after the original licensee's death or incapacitation. In no case shall the reasonable time allowed for continued operation extend more than sixty (60) days past the death or incapacity of the original licensee.
- 9.15 A licensee shall notify the Health Department of any changes in name, home or business address, or ownership within fourteen (14) days of the change. Establishment licenses do not automatically transfer to a new location. The Health Department must approve in writing any changes of location and a new license must be obtained from the Health Department at no cost within the current licensing period.
- 9.16 For initial establishment licensure, the applicant shall provide ten (10) copies of his/her completed application with all required documentation of which one set shall include the originals of the required notarized/certified copy required. For renewal of establishment licensure, the applicant shall provide ten (10) copies of his/her completed application with all required documentation. A notarized copy is not required for renewal applications.
- 9.17 If application and payment is submitted and deemed to be incomplete, the Board of Health will notify the applicant by certified letter. Following notification of incomplete application, the applicant will have 30 days to reapply and be placed on the next available Board agenda. If, after 30 days from notification, the completing information has not been received, such application fee is forfeited to the Board of Health, and must be resubmitted to renew application process.
- 9.18 The Board may refer copies of the application to the Fire Department, Police Department or other City enforcement or regulatory bodies as deemed appropriate. The City Departments may inspect the premises proposed to be operated as a massage/muscular therapy establishment and make recommendations to the Board concerning compliance with the regulations, statutes of the Commonwealth of Massachusetts, and the City of Lowell Ordinances. A Certificate of Occupancy as required shall accompany the original application.
- 9.19 The applicant's failure or refusal to promptly give any information relevant to the investigation of the application, the applicant's failure or refusal to appear at any reasonable time and place for examination or inquiry regarding the application, or the applicant's refusal to submit to or cooperate with any inspection required by this section shall be grounds for denial of the application.
- 9.20 All licensees shall notify the Department of any criminal complaint brought against him/her within seven (7) days. Failure to do so may result in administrative revocation of licensure.
- 9.21 Upon receipt of the recommendations of the respective City Departments that may have inspected the applicant's premises and with the information contained in the application, together with additional information supplied under the provisions of this section, the Board may issue the requested license, unless it shall find:
- a. The operation of the massage establishment as proposed by the applicant, would not comply with the applicable laws of the Commonwealth of Massachusetts or the City of Lowell; or
 - b. the owner, applicant, operator, or practitioners in the massage establishment have been convicted of a violation of any pertinent health and safety law or criminal law; or
 - c. the owner, applicant, operator, or practitioner has been convicted in any other state of any pertinent offense which, if committed or attempted in the Commonwealth, would have been punished as one or more of such offenses; or
 - d. the owner, applicant, operator, or a practitioner in the massage establishment has committed an act that would be grounds for suspension or revocation of the license under these regulations.

Section 10. Massage/Muscular Therapy Establishment Operating Requirements

10.1 Establishment standards:

- a. All establishments initially licensed after the effective date of these regulations must contain a waiting area for clients within the establishment.
- b. The establishment shall maintain properly installed smoke detectors and fire extinguishers in accordance with City of Lowell Ordinances and Massachusetts General Laws.
- c. Massage/muscular therapy may be conducted only in rooms, which are adequately lighted and ventilated, and so constructed that they can be kept clean. Floors, walls, ceilings and windows must be kept free of dust, soil, and other unclean substances.
- d. Massage room doors shall not have locks on them, nor be capable of being locked in any way.
- e. Massage rooms shall have at least one hundred (100) square feet of floor space for all establishments licensed after the effective date of these regulations. No room or section of an establishment shall be used as a bedroom, or for sleeping, or as a domicile.
- f. Smoking is prohibited anywhere on the premises.
- g. Every establishment shall have accessible rest room facilities, including at least one toilet with toilet tissue provided, a hand sink with soap, covered waste receptacle with foot pedal, and disposable towels provided.
- h. Every establishment shall have hand-washing facilities for therapist use. Said facilities shall provide an adequate supply of hot water of at least 110 degrees but no more than 120 degrees Fahrenheit.
- i. Hand washing facilities for establishments licensed after the effective date of these regulations shall be accessible and located no more than 50 feet from the treatment area. Soap and disposable towels and adequate covered waste receptacles with a foot pedal, shall be provided at all times. Therapists are required to wash hands thoroughly with proper soap or disinfectant and hot water immediately before and after performing a massage/muscular therapy/bodywork session.
- j. Toilet and hand washing facilities shall meet the requirements of the State Plumbing Code and shall be maintained in good repair, well lighted and adequately ventilated, kept in a clean and sanitary condition and free of vermin.
- k. Every establishment shall provide for safe and unobstructed passage in the public areas of the premises.
- l. Appropriate waste receptacle shall be provided for the storage and removal of garbage, waste, and refuse.
- m. Any flammable or hazardous materials in the establishment shall be stored in a safe manner in accordance with City of Lowell Ordinances and Massachusetts General Laws.

- 10.2 Each massage/muscular therapy establishment must maintain a record of dates, names, and addresses of all patrons for two years from the date of each visit. This record shall be made available to the Lowell Health Department, the Massachusetts Department of Public Health only in the event of a reportable, communicable disease believed to have been brought to, or transmitted through or from the massage/muscular therapy/bodywork practitioner or the establishment.

- 10.3 The establishment shall prominently display in the waiting area, the massage/muscular therapy establishment license. Additionally, each individual practitioner license must be prominently displayed in the waiting area of the facility.
- 10.4 In an establishment where shower facilities are not provided, the establishment owner/operator shall conspicuously post a sign in the waiting area which shall read:
- “NOTICE TO MASSAGE CLIENTS:
THIS ESTABLISHMENT DOES NOT PROVIDE A SHOWER FOR USE AFTER MASSAGE. IF YOU BELIEVE YOU ARE ALLERGIC TO LOTIONS, OILS, OR POWDERS, PLEASE NOTIFY THE MASSAGE THERAPIST PRIOR TO THE MASSAGE. THEY WILL NOT BE USED. IF REQUESTED, THE MASSAGE THERAPIST WILL USE RUBBING ALCOHOL OR SOAP AND WARM WATER TO REMOVE OILS, LOTIONS, OR POWDER USED DURING MASSAGE.”
- The letters in the first two lines shall be at least one inch (1”) in height. Hypoallergenic soap, water, and rubbing alcohol (70% Isopropyl, by volume) shall be available in the establishment at all times when a shower is not provided.
- 10.5 If any latex-containing products are used, a sign shall be conspicuously posted in the waiting area so stating and all clients shall be advised that latex-containing products are used.
- 10.6 No person in an establishment, including but not limited to, owners, operators, managers, massage practitioners, employees, or agents of an establishment or business, or patron shall expose his or her sexual or genital areas to any other person or touch or handle the sexual or genital areas of his or her body or any other person or engage, offer, or attempt to offer or engage any other person in sexual activity.
- 10.7 The owner/operator of a massage/muscular therapy/bodyworks establishment shall ensure that massage practitioners do not touch or work with a client, when either the client or practitioner is afflicted with any rash, lesion, or visible sign of infection that could be spread through massage/muscular therapy or through close contact ordinarily associated with massage/muscular therapy.
- 10.8 The owner/operator or any therapist within the facility shall not diagnose disease, prescribe medicine or perform any procedure, which requires a license from the Commonwealth of Massachusetts, including but not limited to psychotherapy, chiropractic, acupuncture, and colonic hydrotherapy.
- 10.9 No person in an establishment, including but not limited to, owners, operators, managers, massage practitioners, employees, or agents of an establishment or business, or patron may not use, or allow to be used, alcoholic beverages or illegal or controlled drugs on the licensed premises.
- 10.10 Any establishment serving food shall obtain a food service establishment permit under the provisions of Chapter 10 of the Massachusetts Sanitary Code (105 CMR 59.000).
- 10.11 The owner/operator of a massage/muscular therapy/bodyworks establishment shall ensure that massage practitioners do not administer massage to a minor without the written consent of the minor’s parent or guardian. In addition, a health care provider licensed in the Commonwealth of Massachusetts must provide written or documented referral for minors seeking services for issues other than general relaxation, stress reduction, health maintenance, or muscle tension. No massage practitioner shall administer a massage to a minor child under the age of 18 unless a parent or guardian is in direct visual contact with the minor child, except with the written consent of a parent.
- 10.12 All equipment and supplies used in the performance of massage shall be maintained in a safe and clean manner. All tables and other cleanable surfaces that come into contact with clients shall be cleaned by the regular application of a cleanser and sanitized with an EPA registered sanitizer. “Regular application” as used herein means a thorough cleansing of the massage table between clients in addition to whenever oils, lotions, or other substances visibly accumulate on client contact surfaces.

- 10.13 Massage/muscular therapy establishments shall at all times be equipped with an adequate supply of single use disposable towels coverings and linens, which shall be stored so as to protect them from contamination.
- 10.14 Each client shall receive a separate, clean covering for use on the massage table.
- 10.15 Disposable towels and coverings shall be deposited in separate covered receptacles and shall be disposed of as often as necessary in an approved sanitary manner.
- 10.16 All instruments and devices used by any person licensed to practice massage/muscular therapy or conduct an establishment for the giving of massage/muscular therapy, for direct application to the bodies of clients, or for holding materials to be applied to the body, shall be kept cleaned and sanitized. Adequate provisions shall be made for cleaning and sanitizing the same.
- 10.17 Universal precautions are to be followed to prevent exposure to all communicable diseases.
- 10.18 Therapists must maintain a sufficient level of personal cleanliness and be clothed in clean and appropriate attire.
- 10.19 No establishment licensed for the giving of massage/muscular therapy shall be kept open or operate except between the hours of 7 o'clock AM and 10 o'clock PM unless authorized in writing by the City of Lowell Health Department.
- 10.20 The conduct or operation of the business for which the license is requested, and the place set forth in the application, will not violate any law, regulation or ordinance of the City of Lowell or the Commonwealth of Massachusetts.
- 10.21 Every person licensed to practice massage/muscular therapy or to operate an establishment for the giving of massage/muscular therapy will be issued a license to that effect which shall bear the signature of the licensee, and the licensee shall have this license in his/her possession whenever and wherever he/she may be engaged in the practice of massage/muscular therapy, and when requested shall show such license to any legally authorized public employee.

Section 11. Special Requirements for Training Facilities or Schools of Massage.

No person shall be licensed to operate a School of Massage unless they meet the following requirements:

- (a) Submit to the Board of Health a completed application as supplied by the Board.
 - (b) Provide a scaled drawing of the physical layout of the School. Said scale shall be no smaller than ¼ inch = 1foot.
 - (c) Provide detailed information on the proposed curriculum.
 - (d) Provide proof of approval to run a school from the Massachusetts Board of Higher Education.
 - (e) Provide with initial application, proof that the proposed location complies with all City of Lowell Zoning Ordinances. Applicant must submit proof of any variances approved by the Zoning Board of Appeals or Planning Commission by submitting copies with an original stamp from the appropriate Board. The location of the Massage/Muscular Therapy training facility or school under the current City of Lowell Zoning Ordinance must be authorized by a special permit from the Board of Appeals as required under the Lowell Zoning Ordinance.
- 11.1 The Board may refer copies of the application to the Fire Department, Police Department or other City enforcement or regulatory bodies as deemed appropriate. The City Departments may inspect the premises proposed to be operated as a massage/muscular therapy training facility or school, and make recommendations to the Board concerning compliance with the regulations, statutes of the Commonwealth of Massachusetts, and the City of Lowell Ordinances. A Certificate of Occupancy as required shall accompany the original application.
 - 11.2 The initial application shall include ten (10) copies of the required application, of which one shall be the necessary certified document as required for a massage/muscular therapy establishment described in Sections 9 and 10 of these regulations.

- 11.3 All instructors of hands-on Massage/Muscular Therapy shall be licensed as Massage Therapists. Those who teach non-hands on classes only, such as biology, anatomy and physiology, and business classes, may be exempted from this requirement.
- 11.4 A licensed massage therapist within the facility at all times hands on lessons are being taught.
- 11.5 All student/apprentice/interns practicing hands on work shall meet the requirements of Section 6.
- 11.6 All training facilities or schools of massage must meet the requirements and obtain an establishment license as described in Section 9 and Section 10 of these regulations.

Section 12. Procedures for Complaints Against a Practitioner, Student/Apprentice, Establishment, or School of Massage/Muscular Therapy, Bodyworks, Movement Education.

- 12.1 The Procedures to evaluate complaints against a licensed practitioner, or student/apprentice/intern of massage/muscular therapy; or against an establishment or school of massage/muscular therapy shall be as follows:
 - A. The Lowell Board of Health using these Rules and Regulations shall decide the validity of the complaint and determine if said complaint warrants suspension, revocation, or modification of the license.
 - B. When the Lowell Board of Health cannot, for any reason, determine the status or validity of a complaint, the Board of Health shall contact the Lowell Police Department, the Board of Registration for the Commonwealth of Massachusetts, or the appropriate enforcement and/or regulatory agency.

Section 13. Prohibitions

- 13.1 Colonic Hydrotherapy. A massage/muscular therapy, bodywork, movement education license does not qualify the practitioner to practice colonic hydrotherapy.
- 13.2 Sexual conduct and/or sexual relationships. No person licensed by the Lowell Health Department to perform massage/muscular therapy, bodywork, movement education, 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 massage establishment, or to make arrangements to engage in sexual activity with any client. Sexual activity shall be presumed if there is a conviction of, plea of guilty for or no contest to a charge of criminal sexual activity, including, but not limited to prostitution, rape and/or sexual assault.
- 13.3 Acupuncture - A massage/muscular therapy, bodywork, movement education license does not qualify the practitioner to practice acupuncture.
- 13.4 At no time shall a practitioner of massage/muscular therapy conduct any business, or list as a business, his/her home address. Additionally, at no time may clients be seen at the practitioner's residence unless it is zoned appropriately and the business of massage/muscular therapy is an adjunct to the businesses allowed to conduct massage/muscular therapy as required in the City of Lowell Zoning Ordinances.
- 13.5 At no time shall a practitioner run a massage/muscular therapy business as a door-to-door enterprise. Home visits must be prescribed by a licensed health care provider's order and such record must be kept for two years. Additionally, the Health Department must be informed that such visits for massage/muscular therapy are being conducted and a temporary off premises license is issued prior to commencement of services.
- 13.6 For renewal applications, applicants must state if any homebound or bed-ridden clients were attended to within the past year.

Section 14: Reciprocity and Grandfathering.

- 14.1 Any practitioner issued a license to practice massage/muscular therapy, bodywork, movement education by any city or town in the Commonwealth of Massachusetts may qualify for a temporary off site license from the City of Lowell provided that the city/town of original licensing has equivalent standards, especially with respect to competency. Such off site licenses will be issued only for the purpose of home visits ordered by a licensed health care provider's written order. The fee for such license shall be \$50.00.
- 14.2 Practitioners holding a current, valid license to practice massage/muscular therapy, bodywork, movement education within the City of Lowell who are currently not nationally certified and/or credentialed members of a national/state massage/muscular therapy or bodywork organization shall be grandfathered from these requirements provided at no time there is a lapse of licensure. In the event that the license is allowed to lapse, the grandfathering provisions no longer apply and applicants will have to provide proof of national certification and membership in a national/state professional organization as required within these regulations.
- 14.3 Establishments holding a current, valid license to practice massage/muscular therapy, bodywork, movement education shall be exempt from section 10.1.i which requires that handwashing facilities be no more than fifty (50) feet from the treatment area. If any establishment exempted under this section undergoes substantial renovation or change of location, said renovated or relocated establishment must comply with Section 10.1.i.
- 14.4 Establishments holding a current, valid license to practice massage/muscular therapy, bodywork, movement education within the City of Lowell must initially complete the application form as required under these regulations. Thereafter, the requirements for a scaled drawing and compliance with zoning regulations will not be required to be submitted for each renewal of an establishment license. The requirements for a scaled drawing and compliance with zoning regulations will be required for substantial renovations to facility.

Section 15: Enforcement of Massage/Muscular Therapy Regulations.

Section 15.1 Violation by a Massage/Muscular Therapy, Bodyworks, Movement Education Practitioner

- a. A Massage/Muscular Therapy Practitioner License shall be temporarily suspended by the Department immediately upon written notice of such suspension to the subject Massage/Muscular Therapy Practitioner when, in the sole discretion of the Health Director of the City of Lowell, said Health Director has reason to believe that, due to a condition or practice of the subject Massage/Muscular Therapy Practitioner, an imminent threat to the public health and/or welfare exists. Said temporary suspension shall be subject to review forthwith by the Lowell Board of Health upon notice and hearing;
- b. When the condition or practice believed to cause such threat to the public health and/or welfare is abated or corrected to the satisfaction of the Health Director, the Health Director may terminate the temporary suspension of the Massage/Muscular Therapy Practitioner License of the subject Massage/Muscular Therapy Practitioner and reinstate the same upon written notice to the subject Massage/Muscular Therapy Practitioner and the Massage/Muscular Therapy Practitioner License of such Massage/Muscular Therapy Practitioner shall remain in full force and effect until the expiration of the same or until the subsequent suspension, termination, revocation, or modification thereof by the Lowell Board of Health;
- c. In all other instances of a violation of these Massage/Muscular Therapy Regulations by a Massage/Muscular Therapy Practitioner, the Department shall serve upon the subject Massage/Muscular Therapy Practitioner written order of notice detailing the condition, event or practice determined by the order of notice shall instruct the Massage/Muscular Therapy Practitioner that he or she shall have five (5) business days to abate or correct such condition, event or practice to the satisfaction of the Health Director; and

- d. Should a Massage/Muscular Therapy Practitioner, subject to an order of notice pursuant to section 15.1.(c) fail to abate or correct the condition, event or practice which is the subject of an order to notice, or to otherwise comply with an order of notice, the Lowell Board of Health, after notice and hearing, may suspend, terminate, revoke or modify the License held by such Massage/Muscular Therapy Establishment or Training Facility License held by such Massage/Muscular Practitioner License for no less than 3 (three) days and no more than one (1) year.

Section 15.2 Violation by an Owner/Operator of a Massage/Muscular Therapy Establishment or Massage/Muscular Therapy Training Facility.

- a. A Massage/Muscular Therapy Establishment License or a Massage/Muscular Therapy Training Facility License shall be temporarily suspended by the Department immediately upon written notice of such suspension to the subject Owner/Operator when, in the discretion of the Board of Health or its Agents, due to a condition of or practice in the Massage/Muscular Therapy/ Establishment/Training Facility, the Board or its Agents have reason to believe that an imminent threat to the public health and/or welfare exists. Said temporary suspension, shall be subject to review forthwith by the Lowell Board of Health upon notice and hearing;
- b. When the condition or practice believed to cause such threat to the public health and/or welfare is abated or corrected to the satisfaction of the Board or its Agents, the Health Director may terminate the temporary suspension of the Massage/Muscular Therapy Establishment/Training Facility License of the subject Owner/Operator and reinstate the same upon written notice to the subject Owner/Operator. The Massage/Muscular Therapy Establishment/Training Facility License of such Massage/Muscular Therapy Establishment/Training Facility shall remain in full force and effect until the expiration of the same or until the subsequent suspension, termination, revocation or modification thereof by the Board of Health or its Agents.
- c. In all other instances of a violation of these Massage/Muscular Therapy Regulations by an Owner/Operator of a Massage/Muscular Therapy Establishment or Training Facility, the Department shall serve upon the subject Owner/Operator written order of notice detailing the condition, event or practice determined by the Board or its Agents to be in violation of these Massage/Muscular Therapy Regulations and such order of notice shall instruct the Owner/Operator that he or she shall have five (5) business days to abate or correct such condition, event or practice to the satisfaction of the Board of Health or its Agents; and
- d. Should an Owner/Operator, subject of an order of notice pursuant to section 15.2 fail to abate or correct the condition, event, or practice which is the subject of an order of notice, or to otherwise comply with an order of notice, the Lowell Board of Health, after notice and hearing, may suspend, terminate, revoke, or modify the Massage/Muscular Therapy Establishment License or Training Facility License held by such Owner/Operator or school held by such Operator for no less than three (3) days and no more than one (1) year.

Section 15.3 Grounds for Denial of License, Revocation of License, or Refusal to Renew:

- a. The Lowell Board of Health may deny a license, revoke a license, or refuse to renew a license on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew:
 - 1. Any actions which would indicate that the health or safety of the public would be at risk;
 - 2. Fraud, deceit, or misrepresentation in obtaining a license, or its renewal;
 - 3. Criminal conduct which the Board determines to be of such a nature so as to render the establishment, training facility, practitioner, or applicant unfit to practice Massage/Muscular Therapy as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere, or an admission of sufficient facts;

4. Any present or past violation of the Board's regulations, or failure to abide by the current regulations governing the practice of Massage/Muscular Therapy;
 5. Practicing Massage/Muscular Therapy while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 6. Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
 7. Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a license;
 8. Continuing to practice while his/her license is lapsed, suspended, or revoked;
 9. Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations; and
 10. Other just and sufficient cause that the Board may determine would render the establishment, practitioner or applicant unfit to practice Massage/Muscular Therapy.
- b. The Board shall notify an applicant, establishment, or practitioner in writing of any violation of the Board's regulations for which the Board intends to deny, revoke, or refuse to renew a license. The applicant, establishment, or practitioner shall have five (5) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke, or refuse to renew a license, if the applicant, establishment, or practitioner fails to comply after said five (5) days.
- c. Applicants denied a license may reapply at any time after denial; and
- d. Actions by the Board under this section are a supplement to, and not a substitution for, any others specified in these Regulations.

Section 15.4 Procedures for Hearings:

(a) Suspension of a Permit

1. After a Board suspension of a permit, a hearing shall be initiated pursuant to 801 CMR 1.00 *et seq.* (Standard Adjudicatory Rules of Practice and Procedure), no later than twenty-one (21) calendar days after the effective date of the suspension;
2. Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the license by the Board; and
3. In cases of suspension of a license; the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to, or at the time of, the suspension an immediate and serious threat to the public health, safety, or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

(b) Denial, Revocation, or Refusal to Renew a License

1. If the Board determines that a license shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801 CMR 1.00 *et seq.*
2. Following the hearing, the hearing officer shall issue a written decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

Section 15.5 Unauthorized Practice of Massage/Muscular Therapy:

The Department shall refer to the appropriate District Attorney, Attorney General, or other law enforcement official, any incidents of unauthorized practice of Massage/Muscular Therapy.

Section 15.6 Criminal Prosecution:

At the discretion of the Enforcement Officials of these Regulations, whoever violates any provision of these Body Art Regulations may be penalized pursuant to a criminal complaint brought in District Court. Such criminal complaint or any non-criminal disposition under Section 15 shall not preclude any other action by the Department under these Massage/Muscular Therapy Regulations regarding violations thereof.

Section 15.7 Fine for Violation – Each Day a Separate Offense:

The fine for a violation of any provision of these Massage/Muscular Therapy Regulations shall be no more than \$300.00 (three hundred dollars) per offense. Each day that a violation continues shall be deemed to be a separate offense.

Section 15.8 Non-Criminal Disposition:

- (a) Notwithstanding the fines imposed by these regulations, under normal District Court criminal dispositions for violations hereof, said violations may be handled by non-criminal disposition, if so elected by the Enforcement Officials hereunder;
- (b) Under the non-criminal disposition procedure, any person or establishment that violates any provision of these regulations may be penalized by a non-criminal disposition as provided under Section 1-16 of the Code of the City of Lowell and M.G.L. c.40 §21D, as amended; and
- (c) In case of non-criminal disposition, Enforcement Officials shall issue a "Notice to Appear in Court" as defined under said c. 40 §21D, as amended, and the matter shall be handled as provided under said §21D.

Section 16. Miscellaneous Provisions

16.1 Penalty:

Whoever violates any provision of these rules and regulations shall be punished by a fine of not more than three hundred dollars (\$300.00) for each offense, or by imprisonment for not more than 6 months or both, as provided for in Chapter 140, Section 53 Massachusetts General Laws.

16.2 Severability:

If any provision of these regulations 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 these regulations are hereby declared severable.

16.3 Administration and Enforcement:

Agents of the State Department of Public Health, agents of the Lowell Department of Health, or members of the Lowell Police Department as provided in M.G.L., Chapter 140, Section 52, may enter an establishment licensed for the giving of massage/muscular therapy at any reasonable time for the purpose of making an inspection to ascertain whether the establishment is in compliance with these regulations. Refusal to allow entry to authorized persons shall be sufficient reason to revoke the license issued under these regulations, after notice and hearing. These Massage/Muscular Therapy, Bodyworks, Movement Education Regulations shall be administered and enforced by the Board of Health of the City of Lowell established pursuant to M.G.L., c. 111, §26, as amended by Special Acts. Other officials of the City of Lowell with authority to enforce these Massage/Muscular Therapy Regulations shall be the Health Director and all Agents of the Lowell Board of Health as so designated under M.G.L., c.111 §30 and other applicable regulations.

16.4 Amendments:

The Board of Health reserves the right to amend the rules and regulations following public notice and hearing thereon.

16.5 Effective Date:

These rules and regulations shall be effective as of the date of adoption hereof by the Board of Health of the City of Lowell.

Section 17. Revocation of Prior Rules and Regulations Governing Massage/Muscular Therapy.

The Board of Health of the City of Lowell, by the enactment of these Rules and Regulations Massage/Muscular Therapy, Bodyworks, Movement Education, revokes and cancels, in their entirety, the Rules and Regulations Governing Massage/Muscular Therapy adopted by said Lowell Board of Health on July 26, 1995, last amended March 30, 1999.

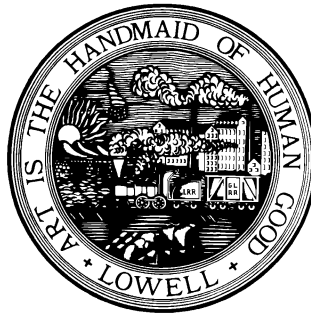
The above regulations are hereby adopted by the Board of Health of the City of Lowell after notice and public hearing thereon this 24th day of May 2006.

A True Copy Attest

/s/ _____

Donna Cox

Secretary to Lowell Board of Health



CITY OF LOWELL
MASSAGE/MUSCULAR THERAPY/BODYWORKS/
MOVEMENT EDUCATION REGULATIONS
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