

# Chapter 329. Massages, Saunas and Other Types of Baths

[HISTORY: Adopted by the Board of Selectmen of the Town of Salem 6-24-1991 (Ch. 221 of the 1995 Code). Amendments noted where applicable.]

## Article I General Regulations

### § 329-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### APPLICANT

A person who has submitted to the Salem Health Division an application for license pursuant to this chapter.

[Amended by the Board of Selectmen 11-2-2015]

#### ATHLETIC TRAINER

An allied health professional who has successfully completed and met the athletic training curriculum requirements of an approved college or university and is able to provide proof of graduation. The athletic trainer carries out the practice of prevention, physical rehabilitation, or both, of injuries incurred by participating athletes at his educational institution, professional athletic organization or other bona fide athletic organization. The athletic trainer shall meet any present or future qualification requirements established by the Town of Salem and State of New Hampshire.

#### BOARD OF HEALTH

The Salem Board of Health or its duly appointed agent.

#### COMPENSATION

The receipt of:

- A. Money, goods, services, or other things of value; or
- B. A promise to deliver money, goods, services or other things of value.

#### LICENSEE

A person to whom a license has been issued pursuant to this chapter.

#### MASSAGE

To instill a system of activity in the muscular structure of the human body by applying, to the human body, pressure, friction, rolling, stroking, tapping, kneading, cupping, petrissage, rubbing, effleurage, tapotement, or vibration, by manual or mechanical means, and with or without appliances or external baths, for any purpose, including but not limited to improving muscle tone and circulation, body contouring, or maintaining good health or physical condition. The term includes but is not limited to oil rubs, salt glows, hot or cold packs, steam baths, cabinet baths, sauna baths, and sitz baths. The term shall not include colon irrigation.

#### MASSAGE ESTABLISHMENT

A place licensed by the Salem Board of Health under this chapter and RSA 328-B and RSA 328-H where massage is performed for compensation. A massage practitioner may visit a client's private residence for the purpose of conducting a massage so long as no more than one client is serviced during the visit at any one time.

[Amended by the Board of Selectmen 5-21-2018]

#### MASSAGE PRACTITIONER

A licensed individual who performs massage for compensation in a licensed massage establishment or a client's residence as provided in this chapter and RSA 328-B and RSA 328-H and who has certified proof of completion of massage training in a recognized school.

[Amended by the Board of Selectmen 5-21-2018]

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## **MASSEUR and MASSEUSE**

A person who massages or teaches other persons how to massage. Must meet all the requirements of this chapter and RSA 328-B and RSA 328-H.

[Amended by the Board of Selectmen 5-21-2018]

## **RECOGNIZED SCHOOL**

Any school or institution of learning which has for its purpose the teaching of the theory and practice, the method or work of massage, including anatomy, physiology, hygiene, and professional ethics, and which is either licensed by the agency designated in RSA 21-N:8-a or certified by the American Massage Therapy Association.

[Amended by the Board of Selectmen 11-2-2015]

## **§ 329-2 Statutory authority; purpose.**

This article is adopted pursuant to RSA 147:1 for the purpose of preserving the health, morals and general welfare of the Town of Salem and particularly to prevent an influx of patrons at massage establishments which would be detrimental to the public health, property values, commerce, reputation, atmosphere and land use planning goals of the Town of Salem.

## **§ 329-3 Exceptions.**

- A. This chapter shall not be construed so as to require a person who is licensed by this state pursuant to any Revised Statutes Annotated other than RSA 328-B and RSA 328-H, or any person employed by such a licensee to assist that licensee in the performance or pursuit of the occupation so licensed, to obtain a license pursuant to this chapter to do any act authorized to such a licensee, or such licensee's assistant, by those other chapters, or to subject such licensees to regulations under this chapter by reason of the doing of any such act.  
[Amended by the Board of Selectmen 5-21-2018]
- B. This chapter shall not apply to athletic trainers as defined in this chapter, to the extent that they are performing bona fide training services for an athletic team located or training within the Town of Salem.
- C. This chapter shall not apply to bona fide schools, hospitals, nursing homes, convalescent homes and other similar institutions and employees thereof.

## **§ 329-4 License required for establishment.**

- A. No firm, corporation or person shall maintain an establishment for the giving of massages or vapor, pool, shower or other baths for compensation or advertise or hold the establishment out as being engaged in the business of massage or giving of such baths without meeting all the licensing provisions of this chapter and of RSA 328-B and RSA 328-H and any subsequent changes made to any of these chapters and regulations.  
[Amended by the Board of Selectmen 5-21-2018]

## **§ 329-5 Application procedure; information required.**

The license application shall be made to the Salem Board of Health on an application furnished by the Board. The application shall set forth the following information and such other information as the Board of Health deems necessary in order to maintain the public health:

- A. The number of persons employed by the owner at the establishment.
- B. The names, addresses and telephone numbers of the manager of the establishment and persons giving massages or baths.
- C. Such evidence of training and/or experience on the part of the owner or manager in giving massages or baths as the Board of Health deems necessary. Proof of a current, valid individual license issued by the State of New Hampshire Office of

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Professional Licensure and Certification pursuant to RSA 328-B (“individual NH license”) for every individual working as a massage therapist practitioner at the establishment. No license shall be granted to any establishment without a individual NH licensed massage practitioner on site to administer such massage therapy. Every establishment owner is responsible for providing an updated individual NH license when a new employee is hired that requires an individual NH license or when a current employee’s individual NH license expires.

- D. The names, dates of birth, and addresses of all corporate stockholders, officers, and directors, if the applicant is a corporation, and the names, ages and addresses of owners if the applicant is not a corporation. If changes in the above occur prior to the expiration of the license, such changes, together with the requisite information, shall be reported in written form to the Board of Health within 14 days. If ownership of 50% or more of the application is transferred, the license will terminate at such time.
- E. Other information as requested on the application form.

## § 329-6 Conditions of license.

- A. Each license shall be in effect April 1 to March 31. Applicants will be notified of renewal within 30 days prior to due date.
- B. No license will be issued to an applicant if the applicant or, where the applicant is a corporation, if any of the directors or officers of the corporation or, if the applicant is a partnership or other business entity, if any of the principals or officers of the applicant have been convicted in this or any other state of a felony, or a sexually related crime, or a crime involving moral turpitude within 10 years immediately preceding the date of application, the record of which has not been annulled by a court.
- C. No license is transferable.
- D. The license must be displayed in a conspicuous location on the premises.
- E. No firm, corporation or person shall operate under any name or conduct business under any designation except that specified in the license.
- F. A licensee must notify the Board of Health prior to any change of address.
- G. The annual establishment license fee shall be as provided in § 329-11.  
[Amended by the Board of Selectmen 11-2-2015]

## § 329-7 Required facilities and equipment; restrictions on operation.

Any firm, corporation, or person maintaining an establishment for giving massages or vapor, pool, shower or other baths for compensation must maintain and operate such establishment as follows:

- A. The total massage establishment, including appliances and apparatus, shall be maintained in a clean and sanitary condition at all times.
- B. All employees and massage practitioners shall be modestly attired.
- C. Individual clean sheets and towels shall be provided for each patron to lie on during massage, and the patron's body shall be covered appropriately except for the portion being subject to massage.
- D. Single-service disposal items shall be utilized if washable sheets and towels are not used.
- E. Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- F. Massage as defined in this chapter and in RSA 328-B and RSA 328-B:1 shall be performed in a private one-room cubicle, booth or area within the establishment.

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- G.** No alcoholic beverage or drugs shall be displayed, served, ingested, or sold on the premises of a massage establishment. No food shall be sold on the premises.
- H.** A supply of hot and cold running water shall be available at all times during hours of operation. The waste disposal system shall be in compliance with Chapter 391, Sewage Disposal, Article I, or Chapter 398, Sewer Use, of this Code and all applicable New Hampshire Department of Environmental Services regulations.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1 General Provisions, Art. 1).*
- I.** Massage practitioners shall thoroughly cleanse their hands by washing them immediately before and after each massage.
- J.** Mechanical apparatus, such as heat lamps, hot and cold packs, tubs, special showers, cabinet baths, steam or dry heat baths, shall be utilized only by and under the constant, direct personal supervision of a licensed massage practitioner.
- K.** All equipment and materials utilized by massage practitioners shall be in safe and sanitary condition and maintained and operated to eliminate any danger or hazard to patron or practitioner.
- L.** No part of a percussor, vibrator, or other device (mechanical or otherwise) which cannot be sterilized or sanitized shall be applied directly to the skin of the patron, and the part of the body administered to shall be covered with a clean towel or napkin or else the device shall be covered in a similar manner.
- M.** Each massage establishment shall maintain a daily register identifying all patrons, hours of arrival, and the massage practitioner rendering services. The register shall be available at all times during business hours and subject to inspection by the Health Officer, Police Chief or their duly appointed agents and shall be kept on file for a minimum of one year.
- N.** Adverse reactions and accidents shall be recorded in the daily register and the Health Division shall be notified.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1 General Provisions, Art. 1).*
- O.** No patron who may be suspected of possibly having an infectious or contagious or communicable disease particularly of the body surfaces shall be provided with any service unless such patron shall have furnished a certificate from a licensed physician that the disease is not of transmissible nature.
- P.** Massage practitioners shall not diagnose or treat classified diseases, practice spinal manipulation, or prescribe medications of any kind.
- Q.** Colon irrigation and/or hydrotherapy shall be prohibited.
- R.** Temperatures of water baths, of any type, shall not exceed 105° F., and patrons shall not be subjected to exposures of more than 30 minutes at any one treatment period.
- S.** Dry heat cabinet shall not exceed 185° F., and patrons shall not be subjected to exposures of more than 30 minutes at any one treatment period.
- T.** Steam cabinet temperature shall not exceed 110° F., and patrons shall not be subjected to exposures of more than 30 minutes' duration at any one treatment period.
- U.** Each treatment room shall be properly lighted so that visual observation of the room is permitted, well ventilated and properly heated. At least one artificial light of not less than 580 lumens shall be lighted in each room at all times that the establishment is open.
- V.** Toilet and washing facilities shall be readily available to patrons and afford sufficient privacy. Male and female facilities shall be separate.
- W.** The building in which the establishment is located must meet all requirements of local, state, and federal laws, ordinances and regulations.
- X.** No establishment shall operate earlier than 9:00 a.m. or later than 11:00 p.m.

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Y. All main entrance doors and doors to all treatment rooms shall remain unlocked during normal business hours.

## § 329-8 Proof of individual state license required.

No person shall practice massage or give baths in an establishment for giving massages or vapor, pool, shower or other baths unless such person has proof of a current, valid individual NH license. Establishments, and their employees, are responsible for providing updated individual NH licenses when a new employee is hired that requires an individual NH license or when a current employee's individual NH license expires.

## § 329-9 Inspections.

The Board of Health or its agents may inspect an establishment at any time that the establishment is open for business or at any other reasonable time without prior notification to the establishment.

## § 329-10 Rescission or suspension of license.

The Board of Health or its duly appointed agent may suspend or rescind any license granted hereunder for violation of any provision of this chapter or for any other good cause. Any firm, corporation or person whose license has been suspended or revoked may request, in writing, a hearing within 10 days of such suspension or rescission. In such event, the Board of Health shall schedule a hearing which, if the licensee requests, shall be held not later than three days after receipt of the request in writing for such hearing.

## § 329-11 License fees. <sup>[1]</sup>

License fees, as adopted by the Board of Selectmen, are on file with the Health Division and on the Town of Salem website.<sup>[2]</sup>

<sup>[1]</sup> *Editor's Note: Added at time of adoption of Code (see Ch. 1 General Provisions, Art. 1).*

<sup>[2]</sup> *Editor's Note: Original § 221-10, Actions for enforcement; violations and penalties, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1 General Provisions, Art. 1).*

## § 329-12 Violations and penalties. <sup>[1]</sup>

The Board of Health may seek whatever legal redress it deems appropriate in the courts of the State of New Hampshire in the enforcement of this chapter. Whoever violates any provision of this chapter shall be subject to fines and fees equal to the maximum penalty allowed pursuant to RSA 147, for each offense, to inure to the general fund of the Town of Salem, and in addition may be enjoined from violating the provisions of this chapter. Each day on which a violation of this chapter exists shall be considered a separate offense.

<sup>[1]</sup> *Editor's Note: Amended at time of adoption of Code (see Ch. 1 General Provisions, Art. 1).*

## § 329-13 Exceptions.

This article shall not apply to:

- A. Physicians, physical therapists, chiropractors, podiatrists and chiropractors, if registered or licensed under the statutes of the State of New Hampshire.
- B. Barbers, hairdressers, beauticians and apprentices, operators and students in such occupations, if registered or licensed under the statutes of the State of New Hampshire, insofar as such persons perform facial or scalp massages.
- C. Bona fide schools, hospitals, nursing homes, convalescent homes and other similar institutions, and employees thereof.

## § 329-14 Prohibited acts.

No firm, corporation, or person shall maintain or conduct an establishment for the giving of massages for hire or reward or advertise or hold the establishment out as being engaged in the business of massage in the Town of Salem without satisfying the provisions of this Chapter.<sup>[1]</sup>

<sup>[1]</sup> *Editor's Note: Original § 221-15, Violations and penalties, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1 General Provisions, Art. 1). See now § 329-12*

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## **§ 329-15 Effect on other regulations.**

This chapter shall not be construed as repealing any other ordinance, bylaw or regulation of the Town of Salem. In the event that any section, paragraph, sentence, clause or phrase of this chapter shall be deemed invalid, either in general or as applied to a particular case, all other ordinances, bylaws or regulations of the Town of Salem, including the remaining provisions of this chapter, and particularly the Salem Board of Health regulations for the operation of massage parlors, shall be applicable and shall be enforced.

Revisions approved and adopted by the Salem Board of Selectmen on April 6, 2021.