



## **Licensed Massage Establishments – Rule Changes effective 1/1/09**

**Advertising** - All advertisements must now include the massage establishment's license number (e.g. ME1234).

§140.306. Advertising.

(c) When an assumed name is used in a person's practice as a massage therapist, the full legal name of the massage therapist or license number of the massage therapist must be listed in each advertisement and each time the business name or assumed name appears in writing. The license number of a massage establishment must be listed in conjunction with the assumed or legal name of the massage establishment. An assumed name used by a massage therapist must not be false, misleading, or deceptive.

**List of Employees** – A list of all current employees and/or contractors must be maintained and made available to the department's inspector upon request. Previous lists must be maintained for a period of two years.

§140.361. General Requirements for Massage Establishments.

(i) A massage establishment shall:

(1) properly maintain and secure for each client the initial consultation documents, all session notes, and related billing records;

(2) maintain a current list of all establishment employees and/or contractors at all times which includes:

- (A) full name;
- (B) address;
- (C) job title;
- (D) license number and expiration date (if licensed as a massage

therapist); and

(E) start date of employment/contract.

(3) make available to the department on request, including during an announced or unannounced site inspection, the information kept as provided by paragraph (1) of this subsection and the current and all previous lists for the previous two years as provided by paragraph (2) of this subsection.

**Employee Files** – Specific documents must now be kept in employee files and produced upon request.

§140.361. General Requirements for Massage Establishments.

(a) A massage establishment shall employ or contract with only licensed massage therapists to perform massage therapy or other massage services. Documentation of the employment or contract relationship and verification that the licensed massage therapist is a United States citizen or a legal permanent resident with a valid work permit shall be maintained by the massage establishment and made available during an inspection or investigation. Required documentation for each person providing massage therapy or other massage services shall include:

- (1) a copy of the current massage therapist license;
- (2) proof of eligibility to work in the United States; and
- (3) if an employee, a completed I-9 form, or if under an independent contractor

or contract labor agreement, a copy of the contract signed by both the owner or operator and the licensed massage therapist.

**Consultation Document** – the required wording has changed slightly. Please note that an initial consultation document is required for all massage therapy and other massage services, including chair massage.

§140.304. Consultation Document.

(a) A licensee shall provide an initial consultation to each client(s) prior to the first massage therapy session and obtain the signature of the client on the consultation document. The consultation document shall include:

- (1) the type of massage therapy services or techniques the licensee anticipates using during the massage therapy session;
- (2) the parts of the client's body that will be massaged or the areas of the client's body that will be avoided during the session, including indications and contraindications;
- (3) a statement that the licensee shall not engage in breast massage of female clients without the written consent of the client;
- (4) a statement that draping will be used during the session, unless otherwise agreed to by both the client and the licensee;
- (5) a statement that if uncomfortable for any reason, the client may ask the licensee to cease the massage and the licensee will end the massage session; and
- (6) the signature of both the client and the licensee.

(b) If the client's reason for seeking massage therapy changes at any time and any of the information in subsection (a)(1) - (4) of this section is modified, the licensee must provide an updated consultation reflecting any changes and modifications to the techniques used or the parts of the client's body to be massaged.

Changes which apply only to new applicants:

**Changes to Initial Application Form** – Effective January 1, 2009, new applicants for a massage establishment license (including current owners who apply for a license at a new location) will be required to provide additional information regarding their employees and/or contractors.

**Jurisprudence Exam** – Effective June 1, 2009, new applicants for a massage establishment license (including current owners who apply for a license at a new location) must pass an online jurisprudence exam on the Texas law and rules governing massage therapy.

§140.360. Massage Establishment Application Procedures and Licensure.

(c) An applicant must file an application and license fee with the department. The application shall contain:

(6) a current list of all establishment employees and/or contractors which includes:

- (A) full name;
- (B) address;
- (C) job title;
- (D) license number and expiration date (if licensed as a massage therapist);
- (E) birth date;
- (F) social security number; and
- (G) start date of employment/contract.

(12) effective June 1, 2009, proof of passing the jurisprudence examination.