

Chapter 12 - MASSAGE ESTABLISHMENTS

***Cross reference**—Obscenity and nudity, § 13-84 et seq.; adult businesses, § 14-181 et seq.; license tax, § 20-350 et seq.

ARTICLE I. - IN GENERAL

Sec. 12-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beauty salon means an establishment not located in a residence which provides one or more of the following services in exchange for consideration: hair care, skin care, makeovers, facials, manicures, pedicures or body waxing.

Care facility means a hospital, nursing home, convalescent care facility, assisted living facility, life care facility or group care facility.

Certified massage therapist means any person who administers a massage to a patron, in exchange for consideration, and who is qualified as a certified massage therapist pursuant to the requirements of Code of Virginia, §§ 54.1-3000 and 54.1-3029.

Health club means an establishment which provides health and fitness equipment and programs for its patrons' use. A health club may be located in a hotel or motel but not in a guest room in a hotel or motel.

Massage.

(1) The term "massage" means the treatment of soft tissues for therapeutic purposes by the application of massage and body work techniques based on the manipulation or application of pressure or stroking, kneading, rubbing, tapping, pounding, vibrating, or manipulating the external parts of the body with the hands or with the aid of any mechanical or electrical apparatus or instrument, with or without such supplementary aids as rubbing alcohol, liniment, antiseptics, oils, powers, creams, lotions, ointments, or similar preparations or by the application of air, liquid or vapor baths of any kind.

(2) The term "massage" shall not include placing hands on, touching, fondling or massaging the sexual or genital parts of another or exposing one's sexual or genital parts to any other persons.

(3) The term "massage" also shall not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic therapy, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

Massage establishment means a fixed place of business where a certified massage therapist gives a patron a massage.

Patron means the person receiving the massage.

Public gathering means any event occurring in the county that is open to the general public and involves more than 50 persons.

Seated massage means a massage of the upper body or feet while the massage patron is fully clothed and seated in a chair.

Sexual or genital parts means the genitals, pubic area, buttocks or anus of any person and the breasts of a female person.

Tanning salon means an establishment which has as its primary business the provision of tanning services in exchange for consideration.

(Code 1980, § 13-1; Code 1995, § 12-1; Ord. No. 983, § 1, 11-24-1998)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 12-2. - Exemptions from chapter provisions.

This chapter shall not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

- (1) Physicians, surgeons, chiropractors and osteopaths who are duly licensed to practice their respective professions in the state and their employees acting under their direction and supervision in connection with the practice of medicine, chiropractic or osteopathy by recognized means.
- (2) Physical therapists who are duly licensed to practice physical therapy by the state.
- (3) Employees of nursing homes and hospitals which are duly licensed by the state, provided that the employees are acting at the direction and under the supervision of licensed health care professionals.
- (4) Nurses who are registered under the laws of the state.
- (5) Trainers of any amateur, semiprofessional or professional athlete or athletic team.
- (6) Barbers and beauticians who are duly licensed under the laws of the state and who administer massage only to the scalp, face, neck or shoulders.

(Code 1980, § 13-9; Code 1995, § 12-2; Ord. No. 983, § 2, 11-24-1998)

Sec. 12-3. - Display of certificate.

Each certified massage therapist shall conspicuously post his current certificate issued by the state board of nursing in a public area at his massage establishment.

(Code 1980, § 13-4; Code 1995, § 12-3; Ord. No. 983, § 3, 11-24-1998)

Sec. 12-4. - Unlawful acts by certified massage therapists or patrons.

- (a) It shall be unlawful for a certified massage therapist to:
 - (1) Place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of a patron;
 - (2) Expose his sexual or genital parts or any portion thereof to a patron;
 - (3) Expose the sexual or genital parts or any portion thereof of a patron; or
 - (4) Fail to conceal with a fully opaque covering the sexual or genital parts of his body while in the presence of a patron.
- (b) It shall be unlawful for a patron to:
 - (1) Place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of a certified massage therapist;
 - (2) Expose his sexual or genital parts or any portion thereof to a certified massage therapist;
 - (3) Expose the sexual or genital parts or any portion thereof of a certified massage therapist; or
 - (4) Fail to conceal with a fully opaque covering the sexual or genital parts of his body while in the presence of a certified massage therapist.

(Code 1980, §§ 13-2, 13-8(b), 13-22; Code 1995, § 12-7; Ord. No. 983, § 7, 11-24-1998)

Secs. 12-5—12-26. - Reserved.

ARTICLE II. - WHEN AND WHERE MASSAGE MAY BE GIVEN

Sec. 12-27. - When and where massage may be given.

(a) It shall be unlawful for any person to give a massage in exchange for consideration within the county unless:

- (1) The massage is given for medical, relaxation, remedial or hygienic purposes; and
- (2) The person giving the massage is a certified massage therapist.

(b) A certified massage therapist may give a massage in the county only at the following locations and under the following conditions, provided that, regardless of location, the certified massage therapist shall possess his certificate issued by the state board of nursing:

- (1) At a massage establishment;
- (2) At the regular place of business, not located in a residence, of the massage patron during the regular business hours of such business, provided that a certified massage therapist may only give a seated massage at this location;
- (3) At a beauty salon;
- (4) At a care facility;
- (5) At a health club;
- (6) At a public gathering;
- (7) At a tanning salon; and
- (8) Except as otherwise prohibited in this section, at a residence.

(Code 1980, § 13-15; Code 1995, § 12-52; Ord. No. 983, § 15, 11-24-1998)

State law reference—Qualifications for a certified massage therapist, Code of Virginia, § 54.1-3029.