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Int. No. 844

By Council Members Thomas-Henry, Krishnan, Hankerson, Epstein, Brooks-Powers, Joseph, Salaam and Riley

A Local Law to amend the administrative code of the city of New York, in relation to licensing massage therapy businesses

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 38 to read as follows:

SUBCHAPTER 38

MASSAGE THERAPY BUSINESSES

§ 20-565 Definitions. Whenever used in this subchapter:

Massage therapy business. The term "massage therapy business" means a business that provides or offers massage in a fixed location, excluding any business:

1. Owned by a sole individual who is also the sole individual providing massage at such business;

2. Licensed as an appearance enhancement business, as defined in section 400 of the general business law;

3. That is a medical institution licensed or chartered by the state of New York;

4. That is a school or institute of massage therapy registered by the state department of education; or

5. That exclusively provides massage in circumstances where the individuals who provide massage are not required to have a license to practice massage therapy pursuant to section 7805 of the education law.

§ 20-565.1 Massage therapy business license. a. License required. It is unlawful for any person to own or operate a massage therapy business without obtaining a license for such business in the manner provided in

this subchapter for each place of business where a massage therapy business operates.

b. License application. To obtain or renew a license required pursuant to this subchapter, an applicant shall submit an application on the application form prescribed by the commissioner and provide such information as the commissioner shall require by rule.

c. Fee and license term. 1. The fee for a massage therapy business license is $350.

2. All licenses expire 4 years from the date of issuance.

3. No license is assignable or transferrable except as authorized by rules promulgated by the commissioner.

d. Conspicuous posting of license. Each massage therapy business shall conspicuously post a license issued pursuant to this subchapter in the place of business where it operates.

§ 20-565.2 Individuals providing massage and recordkeeping. a. License or exemption required. No massage therapy business shall employ or retain as an independent contractor any person to provide massage unless such person (i) has a valid license to practice massage therapy issued pursuant to article 155 of the education law or (ii) is exempt from the requirement to have such a license pursuant to section 7805 of the education law.

b. Recordkeeping. A massage therapy business shall keep records at its place of business of each person employed or retained to provide massage at such place of business. Such records shall include, for each such person, either (i) a copy of such person's license to practice massage therapy issued pursuant to article 155 of the education law or (ii) if such person is exempt pursuant to section 7805 of the education law, documents establishing that such person qualifies for an exemption, including copies of any relevant certifications or licenses.

§ 20-565.3 Penalties. a. Any person who violates any provision of section 20-565.1, or any rule promulgated pursuant thereto, is liable for a civil penalty of not more than $1,500 for the first violation and a civil penalty of not less than $2,500 or more than $5,000 for each succeeding violation.

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b. Any person who violates subdivision a of section 20-565.2, or any rule promulgated pursuant thereto, is liable for a civil penalty of not more than $500 for the first violation and a civil penalty of not less than $1,500 or more than $3,000 for each succeeding violation. The department may also notify the state education department of any violation of article 155 of the education law.

c. Any person who violates subdivision b of section 20-565.2, or any rule promulgated pursuant thereto, is liable for a civil penalty of not more than $250 for the first violation and a civil penalty of not less than $750 or more than $1,500 for each succeeding violation.

§ 2. This local law takes effect 120 days after it becomes law; provided, however, that the commissioner of consumer and worker protection shall take all actions necessary for its implementation, including the promulgation of rules, before such date.

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