



DEVAL L. PATRICK  
GOVERNOR  
TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR  
DANIEL O'CONNELL  
SECRETARY OF HOUSING  
AND ECONOMIC DEVELOPMENT

Commonwealth of Massachusetts  
Division of Professional Licensure  
239 Causeway Street • Boston • Massachusetts • 02114

DANIEL C. CRANE  
DIRECTOR, OFFICE OF  
CONSUMER AFFAIRS & BUSINESS  
REGULATION  
GEORGE K. WEBER  
DIRECTOR, DIVISION OF  
PROFESSIONAL LICENSURE

January 30, 2008

**RE: Preemption of local boards of health from licensing and regulating  
massage therapists under M.G.L. c. 140, § 51**

Dear Municipal Health Authority:

It has come to the attention of the Division of Professional Licensure (“DPL”) and the Board of Registration of Massage Therapy (“the Board”) that there is some confusion among several of the local boards of health regarding the applicability of the recently enacted massage therapy statutes to the cities’ and towns’ abilities to license and regulate massage therapists. As the General Counsel of the DPL, I am writing this letter to clarify and reiterate the DPL’s and the Board’s position that local boards may no longer grant licenses and/or regulate the massage therapy field pursuant to M.G.L. c. 140, § 51. Under new legislation enacted in 2006, local boards of health are now **preempted** from licensing and regulating massage therapists.

On June 27, 2006, the State Legislature enacted Chapter 135 of the Acts of 2006, “An Act Relative to the Licensure of Massage Therapists.” This legislation amended M.G.L. c. 13 to add two new sections, sections 98 and 99. M.G.L. c. 13, § 98 creates the new state Massage Therapy Board. M.G.L. c. 13, § 99 provides the Board with the following exclusive powers and duties:

*“...to administer and enforce sections 227 to 236, inclusive, of chapter 112; (ii) to adopt rules and regulations governing the licensure of massage therapists, the practice of massage therapy and the operation of massage schools to promote the public health, welfare and safety of citizens of the commonwealth; (iii) to establish standards of professional and ethical conduct; (iv) to establish standards for continuing education reflecting acceptable national standards; and (v) to investigate complaints, conduct inspections, review billing and treatment records and set and administer penalties as defined in sections 61 to 65E, inclusive, and sections 232 to 236, inclusive, of chapter 112 for fraudulent, deceptive or professionally incompetent and unsafe practices and for violations of rules and regulations promulgated by the board.”*

Prior to the enactment of Chapter 135 of the Acts of 2006, the boards of health were given express authority to regulate and license the massage therapists and the massage therapy establishments located in their respective cities and towns under M.G.L. c. 140, § 51. Specifically, M.G.L. c. 140, § 51 stated that “No person shall practice massage...or advertise or hold himself out as being engaged in the business of massage...without receiving a license therefore from the board of health of the town where said occupation is to be carried on...” Chapter 135 of the Acts of 2006, however, amended M.G.L. c. 140, § 51 by striking out the above referenced language and replacing it with express language that “**No person shall practice massage therapy unless licensed in accordance with sections 227 to 236, inclusive, of chapter 112.**” The statute further states that “**Local boards of health may regulate other fields not licensed as massage therapy under said sections 227 to 236, inclusive, of said chapter 112.**”



Given the unambiguous language of Chapter 135 of the Acts of 2006, it is clear that the state Legislature intended to create a uniform system of licensure and regulation of massage therapists throughout the Commonwealth to replace the existing system of regulation that differs from town to town. Consequently, by the clear terms of Chapter 135 of the Acts of 2006, the state has expressly preempted the field of licensure and regulation of massage therapists. Cities and towns are no longer authorized through their local boards of health or otherwise, to issue massage therapy licenses and/or regulate the field.

Please do not hesitate to contact my office in the event that you have any questions or comments, or wish to further discuss this matter. I am also more than happy to speak to your town counsel or city solicitor regarding any aspect of this correspondence.

Very truly yours,

A handwritten signature in blue ink, appearing to read "C. Walker, Jr.", with a long horizontal flourish extending to the right.

Charles E. Walker, Jr.  
General Counsel