

Proposal: Expand NRS 640C.100

This proposal would expand NRS 640C.100 code to include persons who administer posterior back, shoulder and neck rubs to patrons while in licensed erotic dance establishments. This would allow independent contractors to perform “Bikini Back Rubs” exclusively while working on the premises of a licensed and legal erotic dance establishment.

NRS 640C.100 with Expansion (i):

NRS 640C.100 Applicability of chapter; preemption of certain local regulation; exception. [Effective January 1, 2022.]

1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy, reflexology or structural integration is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an advanced esthetician, esthetician, esthetician’s apprentice, hair designer, hair designer’s apprentice, hair braider, shampoo technologist, cosmetologist or cosmetologist’s apprentice pursuant to chapter 644A of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an advanced esthetician, esthetician, esthetician’s apprentice, hair designer, hair designer’s apprentice, hair braider, shampoo technologist, cosmetologist or cosmetologist’s apprentice pursuant to that chapter.

(d) A person licensed or registered as a nail technologist or nail technologist’s apprentice pursuant to chapter 644A of NRS if the person is massaging, cleansing or stimulating the hands, forearms, feet or lower legs within the permissible scope of practice for a nail technologist or nail technologist’s apprentice.

(e) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy, reflexology or structural integration on athletes.

(f) Students enrolled in a school of massage therapy, reflexology or structural integration recognized by the Board.

(g) A person who practices massage therapy, reflexology or structural integration solely on members of his or her immediate family.

(h) A person who performs any activity in a licensed brothel.

(i) A person who performs a back, shoulder, or neck rub in a licensed erotic dance establishment.

Massage therapy is defined as “the application of a system of pressure to the molecular structure and soft tissues of the human body for *therapeutic purposes*”, which later in the definition includes for the “purpose of *maintaining good health and establishing and maintaining good physical condition.*” (NRS 640C.060)

Erotic dance establishments, and those who work as entertainers in them, seek to “*arouse or excite the patron’s sexual desires*” (6.160.030(d)) (Ord. 1140 § 1 (part), 1989) through a “protected form of expression” (6.160.020) (Ord. 1483 § 1, 1993: Ord. 1140 § 1 (part), 1989).

A “Bikini Back Rub” falls squarely between these two differing purposes. The provision of this service would be neither for “therapeutic/health related” purposes, nor for the “sexual desires” of the patron via erotic performances and dance interactions. Entertainment is often requested through more informal and neutral touch. The ability to provide this service would address the demand for an interaction that is less sexual than an erotic dance, and less clinical than a professional massage.

Use of terms “Massage” or “Massage Therapist” (or any variation of the terms) for marketing or any other purpose is strictly prohibited pursuant to:

NRS 640C.910--Certain acts prohibited without license; penalties.

(b) Use in connection with his or her name the words or letters “L.M.T.,” “licensed massage therapist,” “licensed massage technician,” “M.T.,” “massage technician,” “massage therapist,” “licensed reflexologist,” “reflexologist,” “licensed structural integration practitioner” or “structural integration practitioner,” or any other letters, words or insignia indicating or implying that he or she is licensed to practice massage therapy, reflexology or structural integration, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word “massage,” “reflexology,” “structural integration” or represent himself or herself as licensed or qualified to engage in the practice of massage therapy, reflexology or structural integration; or

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his or her name or the name of his or her company under the heading “massage,” “massage therapy,” “massage therapist,” “massage technician,” “reflexologist,” “structural integration practitioner” or any other term that indicates or implies that he or she is licensed or qualified to practice massage therapy, reflexology or structural integration.

Sales of the Bikini Back Rub service would be done solely in person and within the erotic dance establishment (no outside marketing either written or verbal) and would not use any of the above indicated terms to elicit the sale. The independent contractors will not pose as licensed massage professionals when offering the service.