Workers' Compensation Coverage

Massage Therapist: Independent Contractor or Covered Worker?

As a massage practitioner operating in the state of Washington, do you know your legal rights to workers' compensations benefits under state law?

It's common in this industry for employers to misclassify massage practitioners as independent contractors. Practitioners should understand their rights to workers' compensation benefits, including medical coverage and time-loss, in case of an occupational or workplace injury.

Some employers ask practitioners to sign documents stating they are independent contractors and therefore not entitled to workers' compensation coverage. Yet often the practitioner doesn't meet the criteria for being an independent contractor, and in fact, is an employee entitled to workers' comp coverage. No worker can exempt himself or herself, or waive the benefits of workers' compensation coverage, by contract or agreement per Washington State law (RCW 51.04.060).

Take the six-part test

The following six-part test will clarify if you are an independent contractor or a covered worker.

You are an independent contractor if you:

1. Work free from direction and control both in fact and contract.
2. Pass one of the following:
   - Perform a service which is outside the course of their business, or
   - Perform the service away from all their business locations, including all their job sites, or
   - Are responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed.
3. Pass one of the following:
   - Engage in your own business to provide the services which are of the same nature as those performed under the contract, or
   - Provide a principal place of business that qualifies for an IRS business deduction; the place must be used regularly and exclusively for business purposes.
4. File a business tax return under IRS rules.
5. Have an active account and an active unified business identifier number (UBI) with the Department of Revenue.
6. Maintain your own set of books and records showing business income and expenses.

Are you covered?

If you **did not pass** the six-part test, then you are a reportable worker under the business you work for and entitled to workers' comp coverage the same as any other covered worker in Washington.

As a covered worker the person or firm you are contracting with must report your hours worked and pay premiums on those hours to the Department of Labor & Industries (L&I). You are then entitled to medical and time-loss benefits should an occupational injury occur.

If you **passed** the six-part test, then you are indeed an independent contractor. You and the firm you

Washington State Department of Labor & Industries
Workers' Compensation Services

Upon request, foreign language support and formats for persons with disabilities are available. Call 1-800-547-8367. TDD users, call 711. L&I is an equal opportunity employer.

contract with are exempt from filing hours and paying workers' compensation premiums.

As a business owner, you can purchase optional owner's workers' comp coverage through L&I. You would be responsible to report your hours and pay premiums on yourself. To do this you will need to complete an Application for Elective Coverage, available at **www.Lni.wa.gov** or call 360-902-4817 to have an application sent to you. As an independent business owner, whether you choose to provide workers' compensation coverage for yourself or not is up to you.

Why are massage practitioners often misclassified?

The most common reason massage practitioners do not pass the six-part test is the first question concerning direction and control. Massage practitioners often sign contracts with non-compete clauses. They work hours set by the firm they contract with. Some are dependent on the contracting firm for insurance reimbursement. This gives the contracting firm control over the practitioners work and would not pass part one of the six-part test.

To be free of direction and control, you can work anywhere you want with any one you want, you set your hours and bill your customers.

What should you do?

If you feel you are being treated as an independent contractor and you do not pass the six-part test you should talk to the person you are contracting with and explain your concerns. You can get a reference guide online at **www.Lni.wa.gov/IndependentContractor** or you can call our outreach team at 360-902-4599.

Five tips for injury prevention

1. **Use a holistic approach to self-care.** The best body mechanics in the world won't protect you if you overload your schedule, or do too many hand-intensive activities in addition to massage. Think about the big picture as you take steps to stay healthy.
2. **Vary your techniques and postures throughout a session.** Alternate small, precision work with longer strokes and larger movements. Use different parts of your hands and arms to apply pressure, to avoid overusing your thumbs or hands.
3. **Think of continuing education as an opportunity to learn new techniques** to add variety to your massage sessions. It's also a chance to learn new ways of assessing clients so that you can work more efficiently.
4. **If a particular technique hurts, don't do it.** This is true for you and for your client. Nothing about massage work should be painful. You can serve your clients better by staying healthy, not by sacrificing yourself to please them.
5. **Get medical help for any symptoms of injury as soon as you recognize them.** Early treatment is more effective and it can help you avoid serious and expensive injuries. Avoid the temptation to self-diagnose and self-treat. It's hard to be objective when it's your own body.

L&I can help you keep safe and working.
Talk to a sprains and strains prevention specialist.

L&I's Ergonomists can help you spot causes of sprains and strains, and offer ideas to help prevent injuries and keep valuable employees on the job. Learn more at **www.Lni.wa.gov/Ergonomics** or call 360-902-5450.

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