

## Citation and Notification of Penalty

<b>To:</b> Walled Lake Massage & Spa and its successors 1332 South Commerce Road Walled Lake, MI 48390	<b>Inspection Number:</b> 1512941 <b>Inspection Date(s):</b> 02/01/2021 - 03/09/2021 <b>Issuance Date:</b> 03/23/2021
<b>Inspection Site:</b> 1332 South Commerce Road Walled Lake, MI 48390	<b>Reporting ID:</b> 0552652 <b>CSHO ID:</b> M6145 <b>Optional Report Number:</b>

**SUMMARY:** An inspection at the site noted above has revealed conditions we believe do not comply with the provisions of the Michigan Occupational Safety and Health Act, Act 154, of the P.A. of 1974, as amended (MIOSH Act). The nature of such alleged violation(s) is described on the citation(s) with reference to the applicable standards, rules, regulations, orders and provisions of the Act. Following is a list of items the employer must consider carefully, to resolve the issues alleged in the citation(s). Following this numbered summary is a more detailed explanation of the requirements.

1. The violation(s) alleged in the citation(s) must be corrected on or before the date(s) shown in the line marked "Date By Which Violation Must Be Abated". If the line is marked "Immediately Upon Receipt," the violation must be corrected on or before the date that the citation is received by the employer. If the violation was corrected during the inspection, the line will be marked "Abated." or "Corrected during inspection." Correcting a violation does not eliminate the requirement to pay the penalty nor does payment of the penalty negate having to correct the violation.
2. A copy of the citation(s) must be posted at or near the location of the violation(s) for a minimum of 3 days or until the item(s) have been corrected, whichever is later.
3. Documentation of abatement must be provided to the issuing division. Failure to provide such documentation may result in a follow-up inspection.
4. The employer may enter into a Penalty Reduction Agreement (PRA) that can result in a 50% reduction in any assessed penalties. The employer should apply for a PRA online at [www.michigan.gov/mioshapra](http://www.michigan.gov/mioshapra) within 5 workdays upon receiving a citation(s) if interested. An employer without access to a computer may contact the issuing division to request a PRA.
5. The employer may file a first appeal for modification or dismissal of a citation item and/or any proposed penalty or request an extension of time for abatement. **The appeal must be in writing and be postmarked within 15 workdays of receipt (workday is defined below).** The first appeal can also result in a penalty reduction of up to 50%. If an appeal is untimely, the citation(s) become a Final Order of the Board of Health and Safety Compliance and Appeals (Board) and is no longer subject to review by the issuing division. An employee or employee representative may appeal abatement dates.
6. Except under a PRA monetary penalties must be paid within 15 workdays of a citation becoming a Final Order of the Board.
7. The employer may file a request for an extension of time to abate a citation(s) that has become a Final Order of the Board. Such a request must be in writing and received or post marked no later than 1 working day following the abatement date.
8. It is unlawful to discriminate against an employee for exercising any of their rights under MIOSHA.

Note: As defined in statutes, "workday" or "working day" means any day other than a Saturday, Sunday, or state legal

holiday. The state legal holidays are:

January 1, New Year's Day  
The third Monday in January, Martin Luther King, Jr. Day  
February 12, Lincoln's birthday  
The third Monday of February, Washington's birthday  
The last Monday of May, Memorial or Decoration Day  
July 4, Independence Day  
The first Monday in September, Labor Day  
The second Monday in October, Columbus Day  
November 11, Veterans' Day  
The fourth Thursday of November, Thanksgiving Day  
December 25, Christmas Day

Please note whenever January 1; February 12; July 4; November 11; or December 25 fall on a Sunday, the next Monday following is deemed a public holiday (non-working day) for appeal purposes. However, there is no compensating day when one of the five dated holidays falls on a Saturday. Also, when computing the 15 working days, you do not count the date on which it is received; you start with the next working day. Additionally, the count is based on when the citation was received at the employer's location, not when it got to any particular person or office at the employer's location.

**I–CITATIONS:** The nature of the alleged violation(s) is described on the enclosed citation(s). These conditions must be corrected on or before the date(s) shown in the line marked "Date By Which Violation Must Be Abated." The issuing division may be contacted by telephone at the number indicated on the front of the citation for the purpose of discussing any issues related to the inspection or citation(s).

A copy of the citation(s) must be posted at or near the location of the violation for a minimum of 3 days or until the items have been corrected, whichever is later. The MIOASH Act provides for civil penalties of up to \$7,000 for each violation for failure to comply with posting requirements.

When compliance is achieved, a copy of the citation must be signed and returned to the issuing division along with documentation of abatement.

Documentation of abatement for citation items originally classified as "serious," "repeat," "fail-to-abate," "willful," or "instance-by-instance," require documentation as deemed appropriate by the issuing division. Examples of documentation for these violation classifications are:

- (a) A detailed description of how the violation was abated.
- (b) Work orders or an invoice indicating the corrective work that has been done.
- (c) Photographs of the abated conditions.
- (d) Other forms of conclusive evidence that your employees are no longer exposed to the hazard.

For citation items classified as "other," submitting to the issuing division a signed copy of the citation item indicating the item has been abated is acceptable documentation of abatement. Submitting a document in writing, certifying abatement of the particular citation item is also acceptable for citation items classified as "other."

If the employer does not provide adequate documentation of abatement, a re-inspection may be conducted. Failure to correct an alleged violation within the abatement period may result in new or additional proposed penalties.

Correcting a violation prior to the expiration of the abatement date does not eliminate the requirement to pay the penalty. Payment of the penalty does not eliminate the requirement of correcting the violation.

**II–PENALTY REDUCTION:** In addition to the appeal rights afforded by the MIOASH Act, the Michigan Occupational Safety and Health Administration has implemented a program for negotiating an expedited settlement of penalties with the employers known as a Penalty Reduction Agreement (PRA). This is a program designed to reach abatement of the hazard at the earliest possible opportunity and reduce the need for formal appeals. The penalty reduction (PRA) can result in a penalty reduction of 50% provided the issuing division and the employer agree to a number of specified conditions. These conditions include an agreement by the employer to accept all of the citations issued and to:

- (a) Not appeal further.
- (b) Abate all items within the abatement period.
- (c) Provide proof of abatement.
- (d) Pay all agreed upon penalties as required (within 15 working days of approval of the PRA.)
- (e) Abide by any other mutually agreed upon actions.

Inspections involving a fatality, the Severe Violator Enforcement Program (SVEP), or willful citations are not

eligible for the program. Construction citations must be confirmed as corrected by the issuing division before a penalty reduction agreement can be approved.

If you are interested in pursuing a PRA, you should apply online at [www.michigan.gov/mioshapra](http://www.michigan.gov/mioshapra) **within 5 workdays upon receipt of the citation(s)**, but no later than the 15th workday beyond receipt of the citation(s). If you do not have access to a computer, you should contact the issuing division within the same timeframe to request a PRA. If the employer wishes to accept the conditions stated above and the process can be completed within 15 workdays from receipt, then no appeal need be filed.

**III–CITATION APPEAL:** An employer may file a first appeal to the issuing division in writing for modification or dismissal of a citation item and/or any proposed penalty or an extension of time for abatement. The first appeal can also result in a penalty reduction of up to 50% providing the issuing division and the employer agree to the conditions (a) through (e) as stated in Section II, PENALTY REDUCTION (above).

An employee or employee representative may appeal in writing the reasonableness of the abatement date(s). The envelope containing an appeal must be postmarked no later than the 15th workday following receipt of the citation.

If a citation is not appealed within 15 workdays of receipt, then the citation becomes a Final Order of the Board of Health and Safety Compliance and Appeals (Board). Final Order citations are not subject to review by the issuing division unless the Bureau of Hearings establishes good cause for the late appeal.

An appeal must specify the item(s) appealed and that portion of the item (e.g., violation, abatement date, penalty) which is being appealed and include a certification that the appeal has been posted or given to affected employees or their representatives. If the issuing division meets with the employer to discuss an appeal, the issuing division will notify the employee representative and allow attendance at the meeting.

The issuing division will notify an employer of its decision within 15 workdays of the receipt of the employer's written appeal. The decision must be posted at the location of the subject citation.

If an employer, employee or employee representative is not satisfied with this decision then they may file a second appeal. The appeal must be in writing and the envelope containing the second appeal must be postmarked within 15 workdays of the receipt of the issuing division's decision on the first appeal. If the issuing division's decision is not appealed then the citation becomes a Final Order of the Board.

**IV–PAYMENT OF MONETARY PENALTIES:** Unless subject to a PRA, payment must be made within 15 workdays of the date a proposed penalty of a citation becomes a Final Order of the Board. This would be the 30th workday after receipt of each citation item that is not appealed. For payment of a penalty, make a check or money order payable to the "State of Michigan" and remit to the issuing division at the address shown on the citation. Please record the inspection number, citation and item number on the check, money order or transmittal letter.

**V–EMPLOYEE DISCRIMINATION:** Section 65 of the MIOSH Act, prohibits discrimination by an employer against an employee for filing a complaint or exercising any rights under the MIOSH Act, as amended. If an employee believes that he or she was discharged or otherwise discriminated against as a result of filing a complaint, they may file a complaint with the MIOSHA Employee Discrimination Section within 30 days after the violation occurs.

**VI–STATE CONSULTATION EDUCATION AND TRAINING SERVICES:** The MIOSHA Consultation Education and Training (CET) Division offers a wide range of services to help businesses with their health and safety practices. CET services include: helping employers create a Safety and Health Management System, seminars and workshops, onsite consultations, hazard surveys, an equipment loan program and information material. The majority of CET services are provided free of charge to Michigan employers and employees. For information on these services, contact the CET Division at (517) 284-7720 or visit their web site at [www.mi.gov/miosha](http://www.mi.gov/miosha).

**Michigan Department of Labor  
and Economic Opportunity**  
530 West Allegan Street  
P.O. Box 30644  
Lansing, MI 48909  
Phone: (517) 284-7750 Fax: (517) 284-7755

**Inspection Number:** 1512941  
**Inspection Date(s):** 02/01/2021 - 03/09/2021  
**Issuance Date:** 03/23/2021  
**Optional Reporting Number:**

### **Citation and Notification of Penalty**

**Company Name:** Walled Lake Massage & Spa and its successors

**Inspection Site:** 1332 South Commerce Road, Walled Lake, MI 48390

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#### **Citation 1 Item 1a**

Type of Violation: **Serious**

Rule 3(1): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

The employer shall evaluate routine and reasonably anticipated tasks and procedures to determine whether there is actual or reasonably anticipated employee exposure to SARS-CoV-2.

(The employer did not evaluate routine and reasonably anticipated tasks and procedures to determine whether there is actual or reasonably anticipated employee exposure to SARS-CoV-2.)

**Date By Which Violation Must be Abated:**

**March 29, 2021**

**Proposed Penalty:**

**\$700.00**

#### **Citation 1 Item 1b**

Type of Violation: **Serious**

Rule 4(1): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

The employer shall develop and implement a written COVID-19 preparedness and response plan, consistent with the current guidance for COVID-19 from the US Centers for Disease Control and Prevention (CDC) and recommendations in "Guidance on Preparing Workplaces for COVID-19," developed by the Occupational Health and Safety Administration (OSHA).

(The employer did not develop a written preparedness and response plan consistent with the current guidance for COVID-19 from the CDC and recommendations in "Guidance on Preparing Workplaces for COVID-19," developed by OSHA.)

**Date By Which Violation Must be Abated:**

**March 29, 2021**

**Proposed Penalty:**

**\$0.00**

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#### **Citation 1 Item 1c**

Type of Violation: **Serious**

Rule 5(6): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

The employer shall use Environmental Protection Agency (EPA)-approved disinfectants that are expected to be effective against SARS-CoV-2 based on data for harder to kill viruses.

(The employer did not use Environmental Protection Agency (EPA)-approved disinfectants for effective cleaning against SARS-CoV-2 as required.)

**Date By Which Violation Must be Abated:**

**March 29, 2021**

**Proposed Penalty:**

**\$0.00**

#### **Citation 1 Item 1d**

Type of Violation: **Serious**

Rule 6(1): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

The employer shall conduct a daily entry self-screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature screening.

(The employer did not conduct daily entry self-screening protocol for all employees or customers entering the workplace as required.)

**Date By Which Violation Must be Abated:**

**March 29, 2021**

**Proposed Penalty:**

**\$0.00**

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#### **Citation 1 Item 1e**

Type of Violation: **Serious**

Rule 7(3): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

The employer shall keep everyone on the worksite premises at least 6 feet from one another to the maximum extent possible and to reduce congestion, including using ground markings, signs, and physical barriers, as appropriate to the worksite.

(The employer did not keep everyone at the worksite premises at least 6-ft from one another to the maximum extent possible through the use of ground marking or signs to reduce congestion.)

**Date By Which Violation Must be Abated:**

**March 29, 2021**

**Proposed Penalty:**

**\$0.00**

#### **Citation 1 Item 1f**

Type of Violation: **Serious**

Rule 10(1): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

The employer shall provide training to employees on SARS-CoV-2 and COVID-19.

(The employer did not provide training on SARS-CoV-2 and COVID-19.)

**Date By Which Violation Must be Abated:**

**March 29, 2021**

**Proposed Penalty:**

**\$0.00**

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### **Citation and Notification of Penalty**

**Company Name:** Walled Lake Massage & Spa and its successors

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#### **Citation 1 Item 2a**

Type of Violation: **Serious**

29 CFR 1910.1200(h)(1): OH PART 430, HAZARD COMMUNICATION [REF 325.77002]

Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new chemical hazard the employees have not previously been trained about is introduced into their work area. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and safety data sheets.

(Effective information and training was not provided to employees who are required to use cleaning chemicals for COVID-19.)

**Date By Which Violation Must be Abated:**

**April 23, 2021**

**Proposed Penalty:**

**\$400.00**

#### **Citation 1 Item 2b**

Type of Violation: **Serious**

29 CFR 1910.1200(g)(8): OH PART 430, HAZARD COMMUNICATION [REF 325.77002]

The employer shall maintain in the workplace copies of the required safety data sheets for each hazardous chemical, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). (Electronic access and other alternatives to maintaining paper copies of the safety data sheets are permitted as long as no barriers to immediate employee access in each workplace are created by such options.)

(There were no safety data sheets readily accessible to the employees during the work shift for required hazardous chemicals used to clean the facility.)

**Date By Which Violation Must be Abated:**

**April 23, 2021**

**Proposed Penalty:**

**\$0.00**



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**Inspection Number:** 1512941  
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**Issuance Date:** 03/23/2021  
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### **Citation and Notification of Penalty**

**Company Name:** Walled Lake Massage & Spa and its successors

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#### **Citation 1 Item 2c**

Type of Violation: **Serious**

1910.1200(e)(1): OH PART 430, HAZARD COMMUNICATION [REF 325.77002]

Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, safety data sheets, and employee information and training will be met, and which also includes the following:

(A written hazard communication program was not developed, implemented and maintained at the facility as required.)

**Date By Which Violation Must be Abated:**

**April 23, 2021**

**Proposed Penalty:**

**\$0.00**

#### **Citation 2 Item 1a**

Type of Violation: **Other-than-Serious**

Rule 7(5): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

The employer shall require face coverings to be worn when employees cannot consistently maintain 6 feet of separation from other individuals in the workplace and consider face shields when employees cannot consistently maintain 3 feet of separation from other individuals in the workplace.

(The employer did not require face masks to be worn when employees cannot consistently maintain 6 feet of separation from other individuals in the workplace.)

**Date By Which Violation Must be Abated:**

**March 29, 2021**

**Proposed Penalty:**

**\$0.00**



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#### **Citation 2 Item 1b**

Type of Violation: **Other-than-Serious**

Rule 9(7): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

All businesses or operations that provide barbering, cosmetology services, body art services (including tattooing and body piercing), tanning services, massage services, or similar personal-care services must:

- (a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
- (b) Post signs at all entrances informing customers not to enter if they are or have recently been sick.
- (c) Restrict entry to customers, to a caregiver of those customers, or to the minor dependents of those customers.
- (d) Limit waiting-area occupancy to the number of individuals who can be present while staying 6 feet away from one another and ask customers, if possible, to wait in cars for their appointment to be called.
- (e) Discard magazines in waiting areas and other non-essential, shared items that cannot be disinfected.
- (f) Mark or arrange waiting rooms to enable 6 feet of social distancing (e.g., by placing X's on the ground and/or removing seats in the waiting room).
- (g) Require employees and customers to wear a face covering at all times, except that customers may temporarily remove a face covering when receiving a service that requires its removal. During services that require a customer to remove their face covering, an employee must wear a face shield or goggles in addition to the face covering.

(The employer did not post signs at all entrances instructing customers to wear face covering when inside the facility; as well as not to enter the facility if they are or have recently been sick.)

**Date By Which Violation Must be Abated:**

**March 29, 2021**

**Proposed Penalty:**

**\$0.00**

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02/01/2021 - 03/09/2021

**Issuance Date:**

03/23/2021

**Optional Reporting Number:**

**Citation and Notification of Penalty**

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**Citation 2 Item 2**

Type of Violation: **Other-than-Serious**

1910.132(d)(2): OH PART 433, PERSONAL PROTECTIVE EQUIPMENT [REF 325.60001]

The employer shall verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

(No hazard assessment was performed through a written certification that identifies the workplace evaluation for PPE as required.)

**Date By Which Violation Must be Abated:**

**April 23, 2021**

**Proposed Penalty:**

**\$0.00**

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**Authorized Signature**

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**CSHO ID:** M6145

## PROPOSED PENALTY INVOICE

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**Company Name:** Walled Lake Massage & Spa and its successors  
**Inspection Site:** 1332 South Commerce Road  
Walled Lake, MI 48390

### Summary of Penalties for Inspection Number: 1512941

Citation 1 Item 1a, Serious	\$700.00
Citation 1 Item 1b, Serious	\$0.00
Citation 1 Item 1c, Serious	\$0.00
Citation 1 Item 1d, Serious	\$0.00
Citation 1 Item 1e, Serious	\$0.00
Citation 1 Item 1f, Serious	\$0.00
Citation 1 Item 2a, Serious	\$400.00
Citation 1 Item 2b, Serious	\$0.00
Citation 1 Item 2c, Serious	\$0.00
Citation 2 Item 1a, Other-than-Serious	\$0.00
Citation 2 Item 1b, Other-than-Serious	\$0.00
Citation 2 Item 2, Other-than-Serious	\$0.00

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**TOTAL PROPOSED PENALTIES:** **\$1,100.00**

Correcting a violation prior to the expiration of the abatement date does not eliminate the requirement to pay the penalty.  
Payment of the penalty does not eliminate the requirement of correcting the violation.

The state does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Payment must be made within 15 working days of the date a proposed penalty of a citation item becomes a final order of the board. This would be the thirtieth (30<sup>th</sup>) working day after receipt of each citation item which is not appealed. For the payment of any penalty, make a check or money order payable to the "State of Michigan" and remit to the Department of Labor and Economic Opportunity at the address shown on the citation. **PLEASE RECORD THE APPLICABLE INSPECTION NUMBER, CITATION NUMBER(S) AND ITEM NUMBER(S) ON THE CHECK, MONEY ORDER OR YOUR TRANSMITTAL LETTER.**

**Enclose this invoice page (or a copy thereof) with your payment.**

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**Authorized Signature**