

1 H.461

2 Introduced by Representative Jewett of Ripton

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; Office of Professional Regulation;

6 massage therapists and massage therapy shops; registration

7 Statement of purpose of bill as introduced: This bill proposes to require

8 massage therapists and massage therapy shops to register with the Office of

9 Professional Regulation in order to offer massage therapy.

10 An act relating to requiring massage therapy registration

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 3 V.S.A. § 122 is amended to read:

13 § 122. OFFICE OF PROFESSIONAL REGULATION

14 An Office of Professional Regulation is created within the Office of the

15 Secretary of State. The Office shall have a director who shall be appointed by

16 the Secretary of State and shall be an exempt employee. The following boards

17 or professions are attached to the Office of Professional Regulation:

18 * * *

19 (43) Property Inspectors

20 (44) Massage Therapists.

1 Sec. 2. 26 V.S.A. chapter 97 is added to read:

2 CHAPTER 97. MASSAGE THERAPY

3 Subchapter 1. General Provisions

4 § 5001. DEFINITIONS

5 As used in this chapter:

6 (1) “Director” means the Director of the Office of Professional
7 Regulation.

8 (2) “Massage therapist” means a person who is registered under this
9 chapter to engage in the practice of massage therapy.

10 (3) “Practice of massage therapy” means the provision, for a
11 consideration, of a system of structured touch, palpation, or movement of the
12 soft tissue of another person’s body in order to enhance or restore the general
13 health and well-being of the recipient.

14 (4) “Shop” means a facility regularly used to offer or perform the
15 practice of massage therapy.

16 § 5002. PROHIBITIONS; OFFENSES

17 (a) It shall be a violation of this chapter for any person, including any
18 corporation, association, or individual, to:

19 (1) sell or fraudulently obtain or furnish any massage therapy degree,
20 diploma, certificate of registration, or any other related document or record or
21 to aid or abet another person to do so;

1 (2) practice massage therapy under cover of any degree, diploma,
2 registration, or related document or record illegally or fraudulently obtained or
3 signed or issued unlawfully or under fraudulent representation;

4 (3) offer or practice massage therapy unless currently registered or
5 otherwise authorized to do so under the provisions of this chapter;

6 (4) represent himself or herself as being registered or otherwise
7 authorized by this State to practice massage therapy or use in connection with a
8 name any words, letters, signs, or figures that imply that a person is a massage
9 therapist when not registered or otherwise authorized under this chapter;

10 (5) practice massage therapy during the time a registration or
11 authorization issued under this chapter is suspended or revoked;

12 (6) employ an unregistered or unauthorized person to practice as a
13 massage therapist; or

14 (7) offer or practice massage therapy in a shop not currently registered
15 or otherwise authorized under the provisions of this chapter.

16 (b) Any person violating this section shall be subject to the penalties
17 provided in 3 V.S.A. § 127.

18 § 5003. EXEMPTIONS

19 This chapter does not prohibit:

20 (1) the furnishing of assistance in the case of an emergency or
21 disaster; or

1 (2) the practice of any other occupation or profession by a person duly
2 licensed or otherwise authorized under the laws of this State.

3 Subchapter 2. Administration

4 § 5021. DUTIES OF THE DIRECTOR; CONSULTATION WITH THE
5 COMMISSIONER OF HEALTH

6 (a) The Director shall:

7 (1) provide general information to applicants for registration as massage
8 therapists or as a massage therapy shop;

9 (2) receive applications for registration and provide registration to an
10 applicant qualified under this chapter;

11 (3) administer fees as established by law;

12 (4) refer all disciplinary matters to an administrative law officer;

13 (5) renew, revoke, and reinstate registrations as ordered by an
14 administrative law officer; and

15 (6) explain appeal procedures to registered massage therapists and
16 massage therapy shops and to applicants, and complaint procedures to the
17 public.

18 (b) The Director, after consulting with the Commissioner of Health, shall
19 adopt rules relating to infection control procedures and public health practices
20 to be followed in the practice of massage therapy in order to protect the public
21 from communicable diseases.

1 (c) The Director shall adopt rules requiring massage therapists to disclose
2 to each new client before the first treatment the massage therapist's
3 professional qualifications and experience, the infection control procedures and
4 public health practices to be followed to protect the public from communicable
5 diseases, the actions that constitute unprofessional conduct, the method for
6 filing a complaint or making a consumer inquiry, and provisions relating to the
7 manner in which this information shall be displayed and signed by both the
8 massage therapist and the client.

9 (d) The Director may adopt rules necessary to perform his or her duties
10 under this chapter.

11 § 5022. ADVISOR APPOINTEES

12 (a)(1) The Secretary of State shall appoint two massage therapists for
13 five-year staggered terms to serve at the Secretary's pleasure as advisors in
14 matters relating to massage therapy. One of the initial appointments shall be
15 for less than a five-year term.

16 (2) An appointee shall have not less than five years' experience as a
17 massage therapist immediately preceding appointment, shall be registered as a
18 massage therapist in Vermont, and shall be actively engaged in the practice of
19 massage therapy in this State during incumbency.

20 (b) The Director shall seek the advice of the massage therapy advisor
21 appointees in carrying out the provisions of this chapter.

1 Subchapter 3. Registrations

2 § 5031. MASSAGE THERAPISTS; REGISTRATION

3 (a) An applicant for registration as a massage therapist shall be at least
4 18 years of age.

5 (b) A person granted a massage therapy registration shall conspicuously
6 display the registration for clients in his or her principal office, place of
7 business, or place of employment.

8 § 5032. SHOPS; REGISTRATION AND INSPECTION

9 (a) An applicant for registration as a shop shall meet standards adopted by
10 the Director by rule.

11 (b) A shop shall designate a person registered under this chapter as a
12 massage therapist who shall be responsible for the overall cleanliness and
13 sanitation of the shop, and who shall ensure that the shop's registration is
14 conspicuously displayed for clients.

15 (c) The Director may inspect shops, and a fee shall not be charged for an
16 initial inspection under this subsection. However, if the Director determines
17 that it is necessary to inspect the same premises under the same ownership
18 more than once in any one-year period, the Director may charge the shop a
19 reinspection fee of \$100.00. The Director may waive all or a part of the
20 reinspection fee in accordance with criteria adopted by the Director by rule.

1 § 5033. REGISTRATION RENEWAL

2 (a) A registration issued under this chapter shall be renewed every two
3 years upon application and payment of the required fee. Failure to comply
4 with the provisions of this section shall result in suspension of all privileges
5 granted to the registrant, beginning on the expiration date of the registration.

6 (b) A registration that has lapsed shall be renewed upon payment of the
7 biennial renewal fee and the late renewal penalty.

8 § 5034. FEES

9 Applicants and persons regulated under this chapter shall pay those fees set
10 forth in 3 V.S.A. § 125(b).

11 § 5035. UNPROFESSIONAL CONDUCT

12 (a) Unprofessional conduct means the following conduct and the conduct
13 set forth in 3 V.S.A. § 129a committed by a registrant, an applicant, or a
14 person who later becomes an applicant:

15 (1) sexual harassment of a client;

16 (2) engaging in a sexual act as defined in 13 V.S.A. § 3251 with a client;

17 (3) performing massage therapy responsibilities that the registrant
18 knows or has reason to know that he or she is not competent to perform;

19 (4) whether or not committed in this State, has been convicted of a
20 crime related to the practice of massage therapy or a felony that evinces an
21 unfitness to practice massage therapy;

1 (5) is unable to practice massage therapy competently by reason of
2 any cause;

3 (6) has willfully or repeatedly violated any of the provisions of this
4 chapter or rules adopted under the provisions of this chapter;

5 (7) is habitually intemperate or is addicted to the use of habit-forming
6 drugs; or

7 (8) engages in conduct of a character likely to deceive, defraud, or harm
8 the public.

9 (b) A person shall not be liable in a civil action for damages resulting from
10 the good faith reporting of information to the Director of the Office of
11 Professional Regulation about alleged incompetent, unprofessional, or
12 unlawful conduct of a massage therapist or shop.

13 Sec. 3. TRANSITIONAL PROVISIONS; REGISTRATION OF CURRENT
14 MESSAGE THERAPISTS AND MESSAGE THERAPY SHOPS

15 (a) Prior to the effective date of Sec. 2 of this act, the Director of the Office
16 of Professional Regulation shall establish a procedure so that persons who have
17 been engaged in the practice of massage therapy in Vermont and Vermont
18 massage therapy shops may become registered on the effective date of and in
19 accordance with the provisions of Sec. 2 of this act.

20 (b) Notwithstanding the provisions of 26 V.S.A. § 5022(a)(2) (advisor
21 appointees; qualifications) in Sec. 2 of this act that require a massage therapist

1 advisor appointee to be registered, the Secretary of State shall appoint the
2 initial advisor appointees prior to the effective date of Sec. 2 of this act and
3 who are therefore not yet registered, so long as those appointees otherwise
4 meet the requirements of 26 V.S.A. § 5022(a)(2).

5 (c) Notwithstanding the effective date of Sec. 2 of this act, prior to that
6 effective date, the Director shall adopt any rules necessary to perform his or
7 her duties under that section.

8 Sec. 4. EFFECTIVE DATES

9 (a) This section and Sec. 3 (transitional provisions) shall take effect on
10 passage.

11 (b) Secs. 1 and 2 shall take effect on July 1, 2016.