1	H.644
2	Introduced by Representatives Clarkson of Woodstock, Jerman of Essex, and
3	Campion of Bennington
4	Referred to Committee on
5	Date:
6	Subject: Professions and occupations; massage therapists; licensure and
7	regulation
8	Statement of purpose of bill as introduced: This bill proposes to require the
9	licensure and regulation of massage therapists.
10	An act relating to the licensure and regulation of massage therapists
11	It is hereby enacted by the General Assembly of the State of Vermont:
12	Sec. 1. FINDINGS
13	Pursuant to the provisions of 26 V.S.A. § 3105, the General Assembly has
14	considered governmental and societal costs and benefits and finds that the
15	licensure and regulation of massage therapists is necessary because:
16	(1) it has been demonstrated that the unregulated practice of massage
17	therapy can clearly harm or endanger the health, safety, or welfare of the
18	public, including harm caused by human trafficking which has been known to
19	take place in unregulated massage therapy shops, and the potential for harm is
20	recognizable and not remote or speculative;

1	(2) the public can reasonably be expected to benefit from an assurance
2	of initial and continuing professional ability; and
3	(3) the public cannot be effectively protected by other means.
4	Sec. 2. 3 V.S.A. § 122 is amended to read:
5	§ 122. OFFICE OF PROFESSIONAL REGULATION
6	An Office of Professional Regulation is created within the Office of the
7	Secretary of State. The Office shall have a director who shall be appointed by
8	the Secretary of State and shall be an exempt employee. The following boards
9	or professions are attached to the Office of Professional Regulation:
10	* * *
11	(35) [Deleted.] Massage Therapists
12	* * *
13	Sec. 3. 26 V.S.A. chapter 95 is added to read:
14	CHAPTER 95. MASSAGE THERAPISTS
15	Subchapter 1. General Provisions
16	<u>§ 4901. DEFINITIONS</u>
17	As used in this chapter:
18	(1) "Director" means the Director of the Office of Professional
19	Regulation.
20	(2) "License" means a current authorization granted by the Director
21	permitting the practice of massage therapy.

1	(3) "Massage therapist" means a person who is licensed under this
2	chapter to engage in the practice of massage therapy.
3	(4) "Practice of massage therapy" means the provision, for a
4	consideration, of a system of structured touch, palpation, or movement of the
5	soft tissue of another person's body in order to enhance or restore the general
6	health and well-being of the recipient.
7	(5) "Shop" means a facility regularly used to offer or perform the
8	practice of massage therapy.
9	<u>§ 4902. PROHIBITIONS; OFFENSES</u>
10	(a) It shall be a violation of this chapter for any person, including any
11	corporation, association, or individual, to:
12	(1) sell or fraudulently obtain or furnish any massage therapy degree,
13	diploma, certificate of registration, license, or any other related document or
14	record or to aid or abet therein;
15	(2) practice massage therapy under cover of any degree, diploma,
16	registration, license, or related document or record illegally or fraudulently
17	obtained or signed or issued unlawfully or under fraudulent representation;
18	(3) offer or practice massage therapy unless duly registered and
19	currently licensed or otherwise authorized to do so under the provisions of this
20	<u>chapter;</u>

1	(4) represent himself or herself as being licensed or otherwise
2	authorized by this State to practice massage therapy or use in connection with a
3	name any words, letters, signs, or figures which imply that a person is a
4	massage therapist when not licensed or otherwise authorized under this
5	chapter;
6	(5) practice massage therapy during the time a license or authorization
7	issued under this chapter is suspended or revoked;
8	(6) employ an unlicensed or unauthorized person to practice as a
9	massage therapist; or
10	(7) offer or practice massage therapy in a shop not duly registered and
11	currently licensed or otherwise authorized under the provisions of this chapter.
12	(b) Any person violating this section shall be subject to the penalties
13	provided in 3 V.S.A. § 127(c).
14	<u>§ 4903. EXCEPTIONS</u>
15	This chapter does not prohibit:
16	(1) the furnishing of assistance in the case of an emergency or
17	disaster; or
18	(2) the practice of any other occupation or profession by a person duly
19	licensed or otherwise authorized under the laws of this State.

1	Subchapter 2. Administration
2	<u>§ 4921. DUTIES OF THE DIRECTOR</u>
3	(a) The Director shall:
4	(1) provide general information to applicants for licensure as massage
5	therapists;
6	(2) receive applications for licensure, approve examinations, and
7	provide licenses to applicants qualified under this chapter;
8	(3) administer fees as established by law;
9	(4) refer all disciplinary matters to an administrative law officer;
10	(5) renew, revoke, and reinstate licenses as ordered by an administrative
11	law officer; and
12	(6) explain appeal procedures to licensed massage therapists and to
13	applicants, and complaint procedures to the public.
14	(b) The Director may adopt rules necessary to perform his or her duties
15	under this chapter.
16	<u>§ 4922. ADVISOR APPOINTEES</u>
17	(a)(1) The Secretary of State shall appoint two massage therapists for
18	five-year staggered terms to serve at the Secretary's pleasure as advisors in
19	matters relating to massage therapy. One of the initial appointments shall be
20	for less than a five-year term.

1	(2) An appointee shall have not less than five years' experience as a
2	massage therapist immediately preceding appointment, shall be licensed as a
3	massage therapist in Vermont, and shall be actively engaged in the practice of
4	massage therapy in this State during incumbency.
5	(b) The Director shall seek the advice of the massage therapy advisor
6	appointees in carrying out the provisions of this chapter.
7	Subchapter 3. Licenses
8	<u>§ 4931. MASSAGE THERAPISTS; ELIGIBILITY FOR LICENSURE;</u>
9	LICENSURE BY ENDORSEMENT
10	(a) An applicant for licensure as a massage therapist shall:
11	(1) be at least 18 years of age;
12	(2) be a graduate of a professional massage therapy education program
13	consisting of at least 500 total hours of course and clinical work and approved
14	by the Director under standards the Director has adopted by rule; and
15	(3) pass within one year prior to his or her application the Massage &
16	Bodywork Licensing Examination (MBLEx) governed by the Federation of
17	State Massage Therapy Boards or another massage therapy examination
18	approved by the Director under standards the Director has adopted by rule.
19	(b)(1) A person who is licensed or certified as a massage therapist under
20	the laws of another jurisdiction may apply for licensure by endorsement in this
21	State.

1	(2) The Director shall issue a license by endorsement to a person
2	described in subdivision (1) of this subsection if the Director determines that
3	the requirements for licensure or certification in the jurisdiction in which the
4	person is licensed or certified are at least substantially equivalent to the
5	requirements for massage therapy licensure in this State.
6	§ 4932. SHOPS; LICENSURE AND INSPECTION
7	(a) An applicant for licensure as a shop shall meet standards adopted by the
8	Director by rule.
9	(b) A shop shall designate a person licensed under this chapter as a
10	massage therapist who shall be responsible for the overall cleanliness and
11	sanitation of the shop.
12	(c) The Director may inspect shops and a fee shall not be charged for an
13	initial inspection under this subsection. However, if the Director determines
14	that it is necessary to inspect the same premises under the same ownership
15	more than once in any two-year period, the Director may charge the shop a
16	reinspection fee of \$100.00. The Director may waive all or a part of the
17	reinspection fee in accordance with criteria adopted by the Director by rule.
18	<u>§ 4933. LICENSE RENEWAL</u>
19	(a)(1) A license issued under this chapter shall be renewed every two years
20	upon application and payment of the required fee. Failure to comply with the

1	provisions of this section shall result in suspension of all privileges granted to
2	the licensee, beginning on the expiration date of the license.
3	(2) A license which has lapsed shall be renewed upon payment of the
4	biennial renewal fee and the late renewal penalty.
5	(b) The Director may adopt rules necessary for the protection of the public
6	to assure the Director that an applicant whose license has lapsed or who has
7	not worked for more than three years as a massage therapist is professionally
8	qualified for license renewal. Conditions imposed under this subsection shall
9	be in addition to the requirements of subsection (a) of this section.
10	<u>§ 4934. APPLICATIONS</u>
11	Applications for licensure and license renewal shall be on forms provided
12	by the Director. Each application shall contain a statement under oath showing
13	the applicant's qualifications and other pertinent information and shall be
14	accompanied by the required fee.
15	<u>§ 4935. LICENSES GENERALLY</u>
16	(a) The Director shall issue or renew a license to an applicant who has
17	satisfactorily met all the requirements of this chapter upon payment of the fees
18	required under this chapter.
19	(b) A license issued under this chapter shall be conspicuously displayed for
20	clients in the licensee's principal office, place of business, or employment.

1	<u>§</u> 4936.	FEES

- 2 Applicants and persons regulated under this chapter shall pay those fees set
- 3 <u>forth in 3 V.S.A. § 125(b).</u>
- 4 <u>§ 4937. UNPROFESSIONAL CONDUCT</u>
- 5 (a) Unprofessional conduct means the following conduct and the conduct
- 6 <u>set forth in 3 V.S.A. § 129a committed by a licensee, an applicant, or a person</u>
- 7 <u>who later becomes an applicant:</u>
- 8 (1) sexual harassment of a client;
- 9 (2) engaging in a sexual act as defined in 13 V.S.A. § 3251 with a client;
- 10 (3) practicing or offering to practice beyond the scope permitted by law;
- 11 (4) performing massage therapy responsibilities which the licensee
- 12 knows or has reason to know that he or she is not competent to perform;
- 13 (5) whether or not committed in this State, has been convicted of a
- 14 crime related to the practice of massage therapy or a felony which evinces an
- 15 <u>unfitness to practice massage therapy;</u>
- 16 (6) is unable to practice massage therapy competently by reason of any
- 17 <u>cause;</u>
- 18 (7) has willfully or repeatedly violated any of the provisions of this
- 19 <u>chapter or rules adopted under the provisions of this chapter;</u>
- 20 (8) is habitually intemperate or is addicted to the use of habit-forming
- 21 <u>drugs; or</u>

VVT LEG #293927 v.5

1	(9) engages in conduct of a character likely to deceive, defraud, or harm
2	the public.
3	(b) A person shall not be liable in a civil action for damages resulting from
4	the good faith reporting of information to the Director or the Office of
5	Professional Regulation about alleged incompetent, unprofessional, or
6	unlawful conduct of a massage therapist or shop.
7	Sec. 4. TRANSITIONAL PROVISIONS; LICENSING OF CURRENT
8	MASSAGE THERAPISTS AND ADOPTION OF RULES
9	(a) Licensing of current massage therapists.
10	(1) Prior to the effective date of Sec. 3 of this act, the Director of the
11	Office of Professional Regulation shall establish a procedure so that residents
12	of Vermont who have been engaged in the practice of massage therapy in
13	Vermont for at least five years, and who are not licensed as massage therapists
14	in another jurisdiction prior to the effective date of that section, may become
15	licensed without meeting the requirements of 26 V.S.A. § 4931(a)(2) and (3)
16	set forth in Sec. 3 of this act.
17	(2) A degree from a professional massage therapy education program
18	accredited by a national accreditation agency approved by the Director may
19	substitute for years of the massage therapy practice requirement set forth in
20	subdivision (1) of this subsection at the rate of two years of accredited
21	education for one year of massage therapy practice.

1	(3) The Director shall require such massage therapy applicants to
2	provide to the Director such evidence as the Director deems necessary
3	regarding the qualifications for licensure under this subsection.
4	(4) An applicant meeting the qualifications for licensure under this
5	subsection shall be issued a license to practice massage therapy on or before
6	the effective date of Sec. 3 of this act and shall thereafter be eligible for
7	licensure renewal as provided in 26 V.S.A. § 4932 set forth in Sec. 3 of
8	this act.
9	(b) Notwithstanding the effective date of Sec. 3 of this act, prior to that
10	effective date, the Director shall adopt any rules necessary to perform his or
11	her duties under that section.
12	Sec. 5. EFFECTIVE DATES
13	(a) This section and Secs. 1 and 4 of this act shall take effect on passage.
14	(b) Secs. 2 and 3 of this act shall take effect on February 1, 2015.