

S.220 Testimony - Rachelle Ackerman
Vermont Chapter of the American Massage Therapy Association (AMTA-VT)
House Government Operations Committee
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Thank you for the opportunity to address your committee. My name is Rachelle Ackerman. I am a massage therapist of 28 years, licensed in Washington state prior to moving to Vermont in 1992. I taught in the Community College of Vermont allied health massage program for three years, and currently serve as the financial administrator for the Vermont chapter of the American Massage Therapy Association. I live in Halifax, Vermont and maintain an office in Brattleboro.

I am here today to testify about regulation of massage therapists. The original regulatory bill, S.270, required licensure of massage therapists, which we wholeheartedly supported. Senate Government Operations amended the bill to require registration, not licensure, with the support of the OPR sunrise addendum. While we appreciate the willingness of OPR and the Senate to recommend some type of regulation, the regulatory oversight associated with registration is less than a complete solution and does not adequately address the myriad of public protection concerns associated with the Massage Therapy profession.

I urge you to consider licensure rather than merely registration for massage therapists. The bill under consideration, as written, does not adequately define scope of practice, lacks sufficient oversight and accountability, and most importantly, fails to establish a minimum education standard or continuing education requirement to ensure competency.

Forty-five states license massage therapists

45 states and the District of Columbia have enacted statewide regulation for massage therapy. Only California, Kansas, Minnesota, Vermont and Wyoming remain unlicensed, and legislation is pending in both Kansas and Minnesota. Vermont is the only state on the east coast without licensure.

States which started with registration found it to be less than comprehensive, and later enacted licensure. This was primarily due to disciplinary and accompanying public safety concerns and the lack of adequate oversight.

Importance of Licensing

Licensing is instrumental for public protection. In Vermont, anyone can declare themselves to be a massage therapist without fear of legal repercussion, regardless of their actual training or experience. There is no accountability to the public regarding practitioner competence and there is a heightened risk of physical and/or emotional harm. The Middlebury case, of which you are aware, is a perfect example of situations that can occur with lack of appropriate professional oversight.

Professional licensing of massage therapists would provide the following protective assurances to the public:

- Means of filing a complaint/grievance
- Empowered state regulatory body to enforce sanctions

- Means of differentiating licensed/unlicensed providers
- Protection against individuals moving to different towns or jobs if they injure someone or behave unprofessionally
- Clear scope of practice, educational requirements, and training
- Accountability to clients/patients.
- Portability for Vermont residents (particularly those who practice in nearby states).

The Field of Massage Therapy

Massage therapists work with a variety of people who have various pathologies and conditions. We work with people who are pre- and post-surgery and those battling chronic pain. Some people are recovering from car accidents or other forms of trauma. We treat people with nerve pathologies. We work with pregnant women and people battling cancer who may have contraindications about which we need to be educated.

Massage therapy is a growing profession. An increasing number of people, including veterans, are choosing massage therapy as an option to receive health care. Massage therapy is integrated into patient care for a wide range of conditions as part of a comprehensive integrative approach, including mitigating the overuse of opioids and as a non-pharmacologic approach to pain management (see the chart below for just a few examples).

| Chronic Pain Management | Behavioral Health Treatment | Care For Rehabilitation/ Physical Training | Acute Medical Treatment |
|-------------------------|---------------------------------|--|----------------------------|
| Back Pain | Anxiety and Stress | Performance training/ injury treatment | Cancer management |
| Neck and Shoulder pain | Depression | Ergonomics and job-related injuries | Post-operative pain |
| Headache | PTSD | Cardiac rehab | Lifestyle diseases |
| Carpal tunnel syndrome | Substance use disorder recovery | Joint replacement surgery | Maternity and newborn care |
| Osteoarthritis | | Scar management | |
| Fibromyalgia | | | |
| Hospice | | | |

- Approximately 361,683 massage therapists practice in the United States.
- 209 active Vermont chapter AMTA members, and an estimated 907 total practitioners statewide
- Approximately 47.5 million people had a total of 214 million massages in 2018.
- 62 percent of massage consumers had a massage in 2018 for health or medical reasons.
- 70 percent of Americans believe that massage should be considered a form of healthcare.

The Importance of Minimum Education and Potential for Harm

One of the reasons massage therapy is seeing increased recognition as a complimentary healthcare therapy is because it does have true physiological effects and is an invaluable benefit to many people. There is now a large body of research demonstrating the various effects of massage on body systems. I have had clients in my practice who suffer from severe chronic pain

that has failed to respond to a myriad of other treatments but improves with appropriate massage therapy. Skilled orthopedic massage can help avoid the need for surgery or speed post-surgical recovery.

Along with the good news that massage and bodywork really can help, is the flip-side that it can also harm. Although serious adverse effects from massage are very rare, they can and do happen. Among the potential negative effects of massage if applied inappropriately or without regard to contraindications are:

- Bruising
- Soft tissue damage
- Nerve damage
- Disc herniation
- Changes in the pain receptors resulting in higher levels of ongoing/chronic pain
- Vertigo
- Spread of systemic and/or localized infection
- Release of a blood clot, potentially resulting in pulmonary embolism or stroke
- Spleen rupture
- Missed or delayed appropriate medical care
- Psychological harm

In an article published on [painscience.com](https://www.painscience.com), Paul Igraham explains several examples of adverse events from misapplied massage therapy and cites studies verifying his claims.

(<https://www.painscience.com/articles/massage-therapy-side-effects.php>)

This is why a minimum and continuing education requirement is imperative in the regulation of massage therapy as a profession.

Licensure v. Registration

With a rising number of people seeking the services of massage therapists, as well as the increased use of massage therapy to treat health care conditions, it is more important than ever that consumers have confidence in the safety and efficacy of the treatment they are seeking. Safety and efficacy can be most effectively achieved with regulatory oversight by OPR through licensing. Registration is not as viable an alternative; it will not address professional competency, as there is no required education/credentials/training.

Minimal education requirements, a mandate to carry liability insurance, and ethics continuing education are critical.

Public safety is our primary concern

Adequately educated, trained and vetted professionals are a cornerstone of public protection. A knowledge of contraindications (i.e., reasons to withhold how a procedure can impact a patient with a preexisting health condition), ethics and boundaries is critical and a central component of proper education and training. Registration contradicts the notion of public protection due to the potential risk of client injury or harm. Registration does not address potential risk of client injury or harm.

Individuals who have had their license revoked in another state or a relevant conviction could exploit the registration system, as that requirement would be to self-report any criminal history, thereby posing a public safety risk.

Costs

Reasonable expenses should not pose a barrier to public protection in Vermont. While we appreciate the cost to the state to regulate, we have also evaluated the cost to massage therapists to be regulated. Costs to massage therapists associated with licensure have not posed a barrier to the practice of massage therapy in other states. In fact, the profession of massage therapy is thriving in the nation. These costs are minimal in comparison to other health professions and far outweigh the costs associated with improper training, such as injury to a patient or the cost of litigation.

The costs differential to the state between licensure and registration is minimal. At the low estimate for registration, the state would require approximately 1.5 FTEs and, at the high estimate for licensure, the state would require 2.5 FTEs. This could be covered by realistic licensing fees, without any need for appropriation from the state.

The Impact of COVID-19

The pandemic and the utter confusion within the profession interpreting state guidance underscores the need for licensure. Most massage therapists consider themselves to be healthcare professionals. As mentioned, some clients rely on massage therapy as their only effective pain management. Under state guidance, acute pain management therapies were listed as an essential exemption to the stay home order, causing some practitioners to believe they were able to continue seeing their medically necessary clients. My own direct inquiry to the department of commerce met with a vague response leading me to believe the question was open to interpretation. Later, our AMTA board was able to clarify that the state classified the profession under health and beauty and we were not exempted; in fact, as a close-contact profession we were among the last authorized to reopen. However, it wasn't until the last week of May, days before the authorization date to reopen, that massage therapy was named at all in the industry-specific guidance.

Massage therapists provide essential medical services, which they were unable to do, as they were not recognized as members of the health care sector. Some practitioners violated these guidelines unknowingly and in good faith, others willfully; but without licensure, there was no mechanism for disciplinary action against the latter.

Shortcomings of S220

As currently written, there are several specific shortcomings in the language of S220 with regard to bodywork and massage therapy:

- Definitions and exemptions—
 - modalities that do not require the removal of street clothing are exempted from regulation. Many modalities that can use deep pressure and have potential for harm work through clothing: Thai massage, shiatsu, and workplace chair massage, for example. Removal of clothing should not be a determining factor in defining the profession.

- Energy work is poorly defined and ill-considered for inclusion.
- Unprofessional Conduct—is not comprehensive enough. AMTA and ABMP, the leading national professional associations, have established comprehensive professional conduct guidelines that can be used as models.
- Prohibitions—there is no prohibition against a practitioner who has been barred from practice in another state registering in Vermont.
- There is no minimum education requirement.
- There is no continuing education requirement.
- There is no Ethics requirement.
- There is no requirement of carrying liability insurance.
- Lacks regulatory provision to bar future practice in cases of violation of professional conduct.

Conclusion

It is time for Vermont to license the massage therapy profession, ensure protection is the chief priority, and close the loophole in New England permitting massage therapists barred in neighboring states to practice in our state.

Thank you for your consideration of this crucial issue.