

1 H.623

2 Introduced by Representative Casey of Montpelier

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; massage therapist licensure

6 Statement of purpose of bill as introduced: This bill proposes to repeal the
7 registration regime for massage therapists, bodyworkers, and touch
8 professionals, and replace it with a licensure regime for only massage
9 therapists. It also requires the licensing of massage therapy establishments.

10 An act relating to licensure of massage therapists

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

12 Sec. 1. 3 V.S.A. § 123 is amended to read:

13 § 123. DUTIES OF OFFICE

14 * * *

15 (j)(1) The Office may inquire into the criminal background histories of
16 applicants for initial licensure and for license renewal of any Office-issued
17 credential, including a license, certification, registration, or specialty
18 designation for the following professions:

19 * * *

1 (N) peer support providers and peer recovery support specialists
2 certified under 26 V.S.A. chapter 60; ~~and~~

3 (O) community-based perinatal doulas certified under 26 V.S.A. chapter
4 84-; and

5 (P) massage therapists licensed under 26 V.S.A. chapter 105.

6 Sec. 2. REPEAL

7 26 V.S.A. chapter 105 (Massage Therapists, Bodyworkers, and Touch
8 Professionals) is repealed on July 1, 2027.

9 Sec. 3. 26 V.S.A. chapter 105 is added to read:

10 CHAPTER 105. MASSAGE THERAPISTS

11 Subchapter 1. General Provisions

12 § 5401. DEFINITIONS

13 As used in this chapter:

14 (1) “Director” means the Director of the Office of Professional
15 Regulation.

16 (2)(A) “Establishment” means any place of business:

17 (i) that offers the practice of massage or where the practice of
18 massage is conducted on the premises of the business;

19 (ii) where two or more persons, regardless of employee or
20 contractor status, regularly engage in the practice of massage; or

1 (iii) that represents itself to the public by any title or description of
2 services incorporating the words “massage,” “massage therapy,” “massage
3 therapist,” “massage practitioner,” “massagist,” “masseur,” “masseuse,” or
4 other words defined by the Director in rules.

5 (B) A “place of business” includes any office, clinic, facility, salon,
6 spa, or other location not otherwise exempted under this chapter where two or
7 more persons engage in the practice of massage.

8 (3) “License” means a current authorization granted by the Director
9 permitting the practice of massage therapy.

10 (4)(A) “Massage” means systems of structured touch that are:

11 (i)(I) applied to the superficial, soft or deep tissue, muscle, or
12 connective tissue of another person by manual means, including friction,
13 gliding, rocking, tapping, kneading, and nonspecific stretching; or

14 (II) designed to affect the energy fields of the body for the
15 purpose of promoting and maintaining health and well-being; and

16 (ii) provided to clients in a manner in which the clients have a
17 reasonable expectation of privacy.

18 (B) “Massage” may include the use of therapies such as heliotherapy
19 or hydrotherapy; the use of moist, hot, and cold external applications; and the
20 use of oils or other lubricants.

1 (C) “Massage” does not include the diagnosis of illness, disease,
2 impairment, or disability.

3 (5) “Massage therapist” means a person who holds a license from the
4 Office to practice massage.

5 (6) “Practice of massage” means offering or engaging in massage in
6 exchange for consideration.

7 § 5402. PROHIBITIONS

8 (a) An individual shall not engage in or offer the practice of massage unless
9 the individual is licensed with the Office.

10 (b) It shall be a violation of this chapter for any individual to engage in the
11 practice of massage, or to offer to engage in the practice of massage, if the
12 individual’s license has been suspended or revoked.

13 (c) An individual shall not use in connection with the individual’s name
14 any letters, words, titles, or insignia indicating or implying that the individual
15 is offering or engaging in the practice of massage, including the term “massage
16 therapist,” unless the individual holds a license in accordance with this chapter.

17 § 5403. UNAUTHORIZED PRACTICE

18 It is unauthorized practice, punishable under 3 V.S.A. § 127:

19 (1) to engage in the practice of massage without an individual license
20 from the Office; or

21 (2) to own or operate an unlicensed establishment.

1 § 5404. EXEMPTIONS

2 The following individuals shall not require a license under this chapter:

3 (1) a student who is practicing massage as part of a professional
4 massage education program; or

5 (2) a professional who is licensed, registered, or certified under this title
6 and acting within the professional's scope of practice.

7 Subchapter 2. Administration

8 § 5405. DUTIES OF THE DIRECTOR

9 (a) Generally. The Director shall:

10 (1) provide general information to applicants for licensure as a massage
11 therapist or for a massage therapy establishment;

12 (2) receive applications for licensure and provide licenses to applicants
13 qualified under this chapter;

14 (3) administer fees as established by law;

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

16 (5) renew, revoke, and reinstate licenses as ordered by an administrative
17 law officer; and

18 (6) explain complaint procedures to the public.

19 (b) Rules.

1 (1) The Director shall adopt rules requiring an individual or
2 establishment licensee to disclose to each new client before the first treatment
3 the following information:

4 (A) the professional qualifications and experience of the licensee;

5 (B) actions that constitute unprofessional conduct;

6 (C) the method for filing a complaint against a licensee; and

7 (D) the method for making a consumer inquiry with the Office.

8 (2) The Director shall adopt rules regarding the display of:

9 (A) the licenses of employed or contracted massage therapists at an
10 establishment; and

11 (B) information regarding unprofessional conduct and filing
12 complaints with the Office.

13 (3) The rules described in this subsection shall include provisions
14 relating to the manner in which the information disclosed shall be distributed
15 or displayed and a requirement that a licensee and the client sign an
16 acknowledgement that the information was disclosed.

17 (4) The Director may adopt other rules as necessary to perform the
18 duties under this chapter.

19 § 5406. ADVISOR APPOINTEES

20 (a) The Secretary of State shall appoint three advisors who are licensed
21 massage therapists who have been actively engaged in the practice of massage,

1 as described in this chapter, to advise the Director on matters relating to the
2 practice of massage.

3 (b) The Secretary shall appoint the advisors to serve, at the Secretary's
4 pleasure, for five-year staggered terms. To stagger the advisors' terms, the
5 Secretary may initially appoint two of the advisors for less than a five-year
6 term.

7 Subchapter 3. Licenses

8 § 5407. APPLICATION

9 An applicant for licensure as a massage therapist shall:

10 (1) be at least 18 years of age;

11 (2) be a graduate of a professional massage therapy education program
12 of 650 hours of instruction accredited by a national accreditation agency or
13 approved by the Director;

14 (3) pass an examination approved by the Director; and

15 (4) provide proof of current professional liability insurance, in
16 accordance with rules developed by the Director.

17 § 5408. LICENSURE BY ENDORSEMENT

18 The Director may issue a license to an individual under this chapter if the
19 individual holds a license or other authorization to practice massage therapy
20 from a U.S. or Canadian jurisdiction that the Director finds has requirements

1 for the practice of massage therapy that are substantially equivalent to those
2 under this chapter.

3 § 5409. ESTABLISHMENTS; LICENSURE AND INSPECTION

4 (a) Each establishment that employs or contracts with more than one
5 massage therapist shall apply for an establishment license under this chapter
6 and shall pay the required fee. An individual who is the sole person who
7 practices massage therapy in an establishment shall not be required to obtain
8 an establishment license for that establishment.

9 (b) An applicant for licensure as an establishment shall meet standards
10 adopted by the Director by rule. The Director may require that an application
11 for establishment licensure include:

12 (1) the ownership of the business;

13 (2) the name, location, and licensing history of any past or present
14 establishment under the same ownership;

15 (3) the location and ownership of the establishment's premises;

16 (4) proof of business licensure with the Secretary of State;

17 (5) proof of current professional liability insurance, in accordance with
18 rules developed by the Director; and

19 (6) other information required by the Director in rule.

20 (c) An establishment shall have a designated massage therapist licensed
21 under this chapter who shall be professionally responsible for the overall

1 cleanliness and sanitation of the establishment and for legal requirements
2 relating to the operation of the establishment and who shall ensure that the
3 establishment's license is conspicuously displayed for clients.

4 (d) A person authorized by the Director may enter any establishment for
5 the purpose of inspection. A fee shall not be charged for any inspection under
6 this subsection.

7 § 5410. LICENSE RENEWAL

8 (a) A license under this chapter shall be renewed every two years by
9 submission of a new, completed application and shall be accompanied by
10 payment of the required fee.

11 (b) A license that has lapsed shall be renewed upon payment of the biennial
12 renewal fee and the late renewal penalty.

13 (c) A licensee shall complete a number of continuing education hours as
14 determined by rule by the Director.

15 § 5411. FEES

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

18 § 5412. LICENSURE GENERALLY; DISPLAY OF LICENSE

19 (a) The Director shall issue a license or renew a license, upon payment of
20 the fees required under this chapter, to an applicant or licensee who has
21 satisfactorily met all the requirements of this chapter.

1 **(b) An individual and an establishment granted a license shall**
2 **conspicuously display the license for clients in the principal office, place of**
3 **business, or place of employment.**

4 **§ 5413. UNPROFESSIONAL CONDUCT**

5 **Unprofessional conduct means the conduct set forth in 3 V.S.A. § 129a and**
6 **the following:**

7 **(1) engaging in activities in violation of 13 V.S.A. § 2605 (voyeurism);**

8 **(2) engaging with a client in sexual conduct as defined in 13 V.S.A.**

9 **§ 2821:**

10 **(A) in an establishment; or**

11 **(B) while engaged in the practice of massage with a client;**

12 **(3) conviction of a crime committed while engaged in the practice of**
13 **massage;**

14 **(4) performing massage that the massage therapist knows or has reason**
15 **to know has not been authorized by a client or the client's legal representative;**

16 **(5) practicing massage therapy in an unlicensed establishment; and**

17 **(6) engaging in conduct of a character likely to deceive, defraud, or**
18 **harm the public.**

19 **Sec. 4. TRANSITIONAL PROVISIONS**

20 **(a) On or before July 1, 2026, the Director of the Office of Professional**
21 **Regulation shall establish a procedure so that an individual who has been**

1 engaged in the practice of massage therapy may become licensed on the
2 effective date of this act without meeting the education and examination
3 requirements for licensure set forth in this chapter if the Director, after due
4 consultation with the massage advisor appointees, determines that the
5 individual demonstrates through a peer-review process and production of such
6 documentation as the Director may require that the individual possesses both
7 significant experience and massage therapy competencies substantially
8 equivalent to those of an individual eligible for licensure pursuant to this
9 chapter.

10 (b) Any individual licensed under this section shall thereafter be eligible
11 for license renewal pursuant to 26 V.S.A. § 5410.

12 (c) The ability of an individual to become licensed under this section shall
13 expire on July 1, 2028.

14 Sec. 5. EFFECTIVE DATES

15 (a) This section and Sec. 4 (transitional provisions) shall take effect on
16 passage.

17 (b) The remaining sections shall take effect on July 1, 2027.