

Massage Therapists, Body Workers, and Touch Professionals
OPR PUBLIC DISCLOSURE

As of April 1, 2021 all massage therapists, bodyworkers, and touch professionals are required to register with the Vermont Office of Professional Regulation (OPR), and to distribute either on paper or electronically, a public disclosure to all clients.

MBODY, LLC

Maria Rottinger

PROFESSIONAL QUALIFICATIONS & EXPERIENCE

- Ohio University, Bachelor's of Science in Nursing – 2015
- Uplifted 200-hour Yoga Teacher Training – 2021
- Balance Massage School in Waterbury, VT (700 hours) – 2022
- ICTA Contemporary Cupping Methods – 2022
- Howard Rontal Myofascial Release Massage, Levels 1 & 2 – 2022, 2023
- Lotus Palm Thai Yoga Massage, Level 1 – 2023

ACTIONS THAT CONSTITUTE PROFESSIONAL MISCONDUCT

26 V.S.A. § 5427

§ 5427. **Unprofessional conduct**

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

- (1) engaging in activities in violation of 13 V.S.A. § 2605 (voyeurism);
 - (2) engaging in a sexual act with a client;
 - (3) conviction of a crime committed while engaged in the practice of massage or the practice of bodywork;
 - (4) performing massage or bodywork that the massage therapist, bodyworker, or touch professional knows or has reason to know has not been authorized by a client or the client's legal representative; and
 - (5) engaging in conduct of a character likely to deceive, defraud, or harm the public.
- (Added 2019, No. 178 (Adj. Sess.), § 29, eff. April 1, 2021.)

3 V.S.A. § 129a

§ 129a. **Unprofessional conduct**

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute

unprofessional conduct:

- (1) Fraudulent or deceptive procurement or use of a license.
- (2) Advertising that is intended or has a tendency to deceive.
- (3) Failing to comply with provisions of federal or State statutes or rules governing the practice of the profession.
- (4) Failing to comply with an order of the board or violating any term or condition of a license restricted by the board.
- (5) Practicing the profession when medically or psychologically unfit to do so.
- (6) Delegating professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education, or licensing credentials to perform them, or knowingly providing professional supervision or serving as a preceptor to a person who has not been licensed or registered as required by the laws of that person's profession.
- (7) Willfully making or filing false reports or records in the practice of the profession, willfully impeding or obstructing the proper making or filing of reports or records, or willfully failing to file the proper reports or records.
- (8) Failing to make available promptly to a person using professional health care services, that person's representative, or succeeding health care professionals or institutions, upon written request and direction of the person using professional health care services, copies of that person's records in the possession or under the control of the licensed practitioner, or failing to notify patients or clients how to obtain their records when a practice closes.
- (9) Failing to retain client records for a period of seven years, unless laws specific to the profession allow for a shorter retention period. When other laws or agency rules require retention for a longer period of time, the longer retention period shall apply.
- (10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession. If an individual has a conviction of concern, the board or hearing officer shall consider the following in determining whether to deny or discipline a license, certification, or registration to the individual based on the following factors:
 - (A) the nature and seriousness of the conviction;
 - (B) the amount of time since the commission of the crime;
 - (C) the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession; and
 - (D) evidence of rehabilitation or treatment.
- (11) Failing to report to the Office a conviction of any felony or misdemeanor offense in a Vermont District Court, a Vermont Superior Court, a federal court, or a court outside Vermont within 30 days.
- (12) Exercising undue influence on or taking improper advantage of a person using professional services, or promoting the sale of services or goods in a manner that exploits a person for the financial gain of the practitioner or a third party.

- (13) Performing treatments or providing services that the licensee is not qualified to perform or that are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice.
- (14) Failing to report to the Office within 30 days a change of name, e-mail, or mailing address.
- (15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
- (16)(A) Impeding an investigation under this chapter or unreasonably failing to reply, cooperate, or produce lawfully requested records in relation to such investigation.
- (B) The patient privilege set forth in 12 V.S.A. § 1612 shall not bar the licensee's obligations under this subsection (a) and a confidentiality agreement entered into in concluding a settlement of a civil claim shall not exempt the licensee from fulfilling his or her obligations under this subdivision (16).
- (17) Advertising, promoting, or recommending a therapy or treatment in a manner tending to deceive the public or to suggest a degree of reliability or efficacy unsupported by competent evidence and professional judgment.
- (18) Promotion by a treatment provider of the sale of drugs, devices, appliances, or goods provided for a patient or client in such a manner as to exploit the patient or client for the financial gain of the treatment provider, or selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes.
- (19) Willful misrepresentation in treatments or therapies.
- (20) Offering, undertaking, or agreeing to cure or treat a disease or disorder by a secret method, procedure, treatment, or medicine.
- (21) Permitting one's name or license to be used by a person, group, or corporation when not actually in charge of or responsible for the professional services provided.
- (22) Prescribing, selling, administering, distributing, ordering, or dispensing any drug legally classified as a controlled substance for the licensee's own use or to an immediate family member as defined by rule.
- (23) For any professional with prescribing authority, signing a blank or undated prescription form or negligently failing to secure electronic means of prescribing.
- (24) For any mental health care provider, use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.
- (25) For providers of clinical care to patients, failing to have in place a plan for responsible disposition of patient health records in the event the licensee should become incapacitated or unexpectedly discontinue practice.
- (26) Sexually harassing or exploiting a patient, client, or consumer, or doing so to a coworker in a manner that threatens the health, safety, or welfare of patients, clients, or consumers; failing to maintain professional boundaries; or violating a patient, client, or consumer's reasonable expectation of privacy.

(27) For a health care practitioner, failing to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell or stem cell-related products not approved by the U.S. Food and Drug Administration.

(28) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

(b) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes:

(1) performance of unsafe or unacceptable patient or client care; or

(2) failure to conform to the essential standards of acceptable and prevailing practice.

(c) The burden of proof in a disciplinary action shall be on the State to show by a preponderance of the evidence that the person has engaged in unprofessional conduct.

(d)(1) After hearing, and upon a finding of unprofessional conduct, a board or an administrative law officer may take disciplinary action against a licensee or applicant, including imposing an administrative penalty not to exceed \$5,000.00 for each unprofessional conduct violation.

(2)(A) Any money received under this subsection shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this chapter for the purpose of providing education and training for board members and advisor appointees.

(B) The Director shall detail in the annual report receipts and expenses from money received under this subsection.

(e) In the case where a standard of unprofessional conduct as set forth in this section conflicts with a standard set forth in a specific board's statute or rule, the standard that is most protective of the public shall govern. (Added 1997, No. 40, § 5; amended 2001, No. 151 (Adj. Sess.), § 2, eff. June 27, 2002; 2003, No. 60, § 2; 2005, No. 27, § 5; 2005, No. 148 (Adj. Sess.), § 4; 2009, No. 35, § 2; 2011, No. 66, § 3, eff. June 1, 2011; 2011, No. 116 (Adj. Sess.), § 5; 2017, No. 48, § 4; 2017, No. 144 (Adj. Sess.), § 6, eff. July 1, 2019; 2019, No. 30, § 4; 2021, No. 61, § 2; 2021, No. 69, § 4; 2021, No. 69, § 20, eff. June 8, 2021.)

FILING A COMPLAINT WITH OPR

Any of the above are grounds for filing a complaint. Complaints can be filed with OPR [here](#).

Upon receipt of a complaint, an administrative review determines if the issues raised are covered by the applicable professional conduct statute. If so, a committee is assigned to investigate, collect information, and recommend action or closure to the appropriate governing body. All complaint investigations are confidential. Should the investigation conclude with a decision for disciplinary action against a professional's license and ability to practice, the name of the license holder will then be made public.

Complaint investigations focus on licensure and fitness of the licensee to practice. Disciplinary action, when warranted, ranges from warning to revocation of license, based on the circumstances. You should not expect a return of fees paid or additional unpaid services as part of the results of this process. If you seek restitution of this nature, consider consulting with the Consumer Protection Division of the Office of the Attorney General, retaining an attorney, or filing a case in Small Claims Court.

For information about what happens after a complaint is filed, click [here](#).

You can also find more information about registered massage therapists, bodyworkers, and touch professionals in the state of Vermont [here](#).

*Please note that the above is the current state of the law. Rulemaking on disclosures will begin soon and the law may change. These rules will provide more information about the nature, format, timing and other matters regarding the disclosure. The rulemaking process will include at least one public hearing and members of the public are welcome to provide comments on the rules at any time. Information about the draft rules, meetings and the rulemaking process will be available [here](#).

