

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
MASSAGE THERAPISTS, BODYWORKERS, AND TOUCH PROFESSIONALS**

In re: SHAWN C. ROCKWOOD
License No. 164.0000220

}
} Docket No. 2021-84
}

Appearances:

Prosecutor: Jennifer B. Colin, Esq.

Respondent: Appeared at the hearing but was not represented

Administrative Law Officer: George K. Belcher

**Summary Suspension Order
FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

This matter came before the Administrative Law Officer on a Request for a Summary Suspension. The hearing was held electronically on July 21, 2021, with the Attorney for the State, the Respondent, and witnesses, all participating by telephone or via electronic means pursuant to the Office of Professional Regulation Emergency Rules for Remote Hearings.

Findings of Fact

Based on the evidence presented at the hearing and the arguments of counsel, the Administrative Law Officer finds as follows:

1. The Respondent is licensed as a Massage Therapist in the State of Vermont. The Respondent is subject to the regulatory authority of this profession via the Office of Professional Regulations, 3 V.S.A. Sec. 127 and 129, 26 V.S.A. Chapter 105, and the Administrative Rules of the Office of Professional Regulation. 3 V.S.A. § 814(c) permits the Director or Regulatory Board to summarily suspend a license if it finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order.
2. The prosecutor has filed a "Request for Summary Suspension." A copy of the Request is attached to this Decision and Order. The Respondent was sent a notice of the hearing on July 9, 2021, at the Respondent's address which is on file with the Office of Professional Regulation. Notice was not contested or challenged, and the Respondent participated in the hearing.
3. The Respondent was licensed as a Massage Therapist in April 2021.
4. During the time in question the Respondent worked as a Massage Therapist at Absolute Wellness Healing Spa in South Burlington, Vermont.
5. The Respondent is male and provided scheduled massages to a female client (hereinafter referred to as "the Client") commencing on April 16, 2021, and continuing for two

- additional visits, weekly, until the fourth and final visit on May 14, 2021.
6. During the May 14, 2021, visit the Client was naked except for a sheet. The massage took place in a private room.
 7. The Respondent touched the Client's vagina during the course of the massage. The massage devolved into oral sex and sexual intercourse between the Respondent and the Client.
 8. At the end of the session, the Client paid for the massage.
 9. The Client scheduled no further massages with the Respondent.
 10. On June 11, 2021, the Respondent sent the Client a text message and suggested another massage
 11. The Client made a complaint to the Office of Professional Regulation on or about June 14, 2021.
 12. The complaint was investigated by OPR Investigator Paul Petralia who interviewed the Client and the Respondent.
 13. In the interview between Mr. Petralia and the Respondent, the Respondent initially denied sexual contact with a client, but as details were disclosed, the Respondent admitted the sexual contact with the Client. During the interview, the Respondent stated several times that the sexual contact was consensual.
 14. At the hearing, the Respondent did not contest that he had sexual relations with the Client under the circumstances described above.

Conclusions of Law

1. Where a licensing matter is referred for hearing in a profession which is governed by the Director of the Office of Professional Regulation with Advisor Appointees (rather than a regulatory board) the hearings are held by an Administrative Law Officer pursuant to 3 VSA Sec. 129(j).
2. The evidence established that the Respondent violated: 3 VSA Sec. 129a(b)(1) [Failure to practice competently by performance of unacceptable client care]; 3 VSA Sec. 129a(b)(2) [Failure to conform to the essential standards of acceptable and prevailing practice]; 3 VSA Sec. 129a(a)(15) [Failure to exercise independent professional judgment]; 3 VSA Sec. 129a(a)(26) [Failing to maintain professional boundaries]; and 26 VSA Sec. 5427(2) [Engaging in a sexual act with a client]. Vermont Law is quite clear that it is impermissible for a massage therapist to have sexual relations with a client. This law is understandably absolute given the nature of the profession, the vulnerability of the clients using this service, and the general expectations of the public using this regulated profession.
3. The evidence which was presented show facts which imperatively require emergency action for the public health, safety, and welfare. Specifically, summary suspension is necessary to prevent client harm, and to protect the public. While the Respondent argued that he has had no similar complaints since the May 14, 2021 incident, the breach of the basic statute gives no assurance that the Respondent can safely and legally continue his licensed profession without risk to the public. The law which was broken by the Respondent is a basic law for the protection of the public.
4. The Findings of Fact and Conclusions of Law in this Summary Suspension hearing are for purposes of deciding whether *at this time* there is an imperative need to take

emergency action. 3 V.S.A. § 814(c). The Findings of Fact and Conclusions of Law herein are for purposes of this Order only.

5. The Prosecutor's Request for a Summary Suspension is supported by the evidence presented. For purposes of this Summary Suspension Hearing, the Findings of Fact above do support Summary Suspension of Respondent's license. There is an imperative need to take emergency action. 3 V.S.A. § 814(c).
6. Vermont law requires that unprofessional charges be filed promptly with Respondent being afforded a prompt hearing. At any merits hearing in this matter, the prosecutor will bear the burden of proving unprofessional conduct. The Findings and Conclusions in this matter will not absolve the prosecution or Respondent from producing or challenging relevant evidence at a merits hearing. The Findings of Fact and Conclusions of Law at a contested hearing will be based exclusively on the evidence admitted at that hearing.

Order

The Request for Summary Suspension is **Granted**. Respondent's license is **Summarily Suspended** and shall not be subject renewal or reinstatement during the period of Summary Suspension without Hearing Authority approval pending proceedings. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

SO ORDERED.

By: George K. Belcher
George K. Belcher
Administrative Law Officer

Date: July 22, 2021

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 7/22/2021

APPEAL RIGHTS

This is a final administrative determination by the Director of the Office of Professional Regulation. A party aggrieved by a final decision of a board or hearing authority may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 89 Main Street, Fl. 3, Montpelier, VT 05620-3402 within 30 days of the entry of this order. If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

**STATE OF VERMONT
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MESSAGE THERAPISTS, BODYWORKERS, AND
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IN RE:	)	
Shawn C. Rockwood	)	Docket No. 2021-84
License No. 164.0000220	)	

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont and hereby requests summary suspension of the Massage Therapist, Bodyworker, or Touch Professional License of Respondent Shawn C. Rockwood:

Authority

1. The Administrative Law Officer (“ALO”) has jurisdiction to hear matters involving allegations of unprofessional conduct by Massage Therapists, Bodyworkers, and Touch Professionals pursuant to 3 V.S.A. §127; 3 V.S.A. §129; 3 V.S.A. §129a; 3 V.S.A. §814; 26 V.S.A. Chapter 105; and the Rules of the Office of Professional Regulation.
2. The ALO is authorized by 3 V.S.A. §814 to summarily suspend the license of a Massage Therapist, Bodyworker, or Touch Professional upon finding that the public health, safety, or welfare imperatively requires emergency action.

Statement of Facts

3. Shawn C. Rockwood (the “Respondent”) of Bristol, Vermont is licensed by the State of Vermont as Massage Therapist, Bodyworker, or Touch Professional (“MT”) under license number 164.0000220. This license was originally issued on April 1, 2021 and expires on May 31, 2023.
4. During the relevant time, Respondent worked as an MT for Absolute Wellness Healing Spa in South Burlington, Vermont (“Facility”).
5. On May 14, 2021, Respondent provided massage therapy to a female client (“Client 1”).
6. Respondent provided massages to Client 1 on two recent occasions prior to May 14, 2021.
7. On May 14, 2021 during the scheduled massage therapy appointment with Client 1 at the Facility, Respondent engaged in oral sex with Client 1 and had sexual intercourse with Client 1.

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8. After the sexual contact, Client 1 did not schedule any further appointments with Respondent.
9. On June 11, 2021, Respondent initiated contact with Client 1 by text message, stating he had time open on his schedule that day and telling Client 1, "Seems like you're due for a massage by now."
10. Respondent also works as an MT at Elemental Massage Therapy in Shelburne, Vermont.

Violation One: 26 V.S.A. §5427(2) Engaging in a sexual act with a client.

11. The State re-alleges and incorporates Paragraphs 3 through 10 above.
12. Vermont law prohibits a massage therapist, bodyworker, and touch professional from engaging in sexual acts with a client.
13. Paragraphs 3 through 10 above demonstrate that Respondent engaged in sexual acts with Client 1.
14. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 26 V.S.A. §5427(2).

Violation Two: 3 V.S.A. §129a(a)(26) Failing to maintain professional boundaries.

15. The State re-alleges and incorporates Paragraphs 3 through 10 above.
16. Vermont law requires a licensed massage therapist, bodyworker, and touch professional to maintain professional boundaries.
17. Paragraphs 3 through 10 demonstrate that Respondent failed to maintain professional boundaries with Client 1 by engaging in sexual contact and intercourse with Client 1.
18. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(26).

Violation Three: 3 V.S.A. §129a(b)(1) 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.

19. The State re-alleges and incorporates Paragraphs 3 through 10 above.

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20. Vermont law requires a licensed massage therapist, bodyworker, and touch professional to perform safe and acceptable client care.
21. Paragraphs 3 through 10 demonstrate that Respondent failed to perform safe and acceptable client care by engaging in sexual contact and intercourse with Client 1.
22. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Four: 3 V.S.A. §129a(b)(2) 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: (2) Failure to conform to essential standards of acceptable and prevailing practice

23. The State re-alleges and incorporates Paragraphs 3 through 10 above.
24. Vermont law requires a licensed massage therapist, bodyworker, and touch professional to conform to essential standards of acceptable and prevailing practice.
25. Paragraphs 3 through 10 demonstrate that Respondent failed to conform to essential standards of acceptable and prevailing practice by engaging in sexual contact and intercourse with Client 1.
26. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Violation Five: 3 V.S.A. §129a(a)(15) Failure 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.

27. The State re-alleges and incorporates Paragraphs 3 through 10 above.
28. Vermont law requires a licensed massage therapist, bodyworker, and touch professional to exercised independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
29. Paragraphs 3 through 10 demonstrate that Respondent failed exercise independent professional judgment in the performance of licensed activities when that judgment was necessary to avoid action repugnant to the obligations of the profession by engaging in sexual contact and intercourse with Client 1.

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30. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(15).

Relief Requested

31. Members of the public, patients, and potential patients have no way of learning of Respondent's dangerous and egregious conduct and will remain unprotected during the pendency of these proceedings. The facts as set forth above establish that in order to protect the public health, safety, and/or welfare of the people of the State of Vermont, emergency action is imperative.

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. §814(c), Respondent's Massage Therapist, Bodyworker, and Touch Professional license number 164.0000220, be summarily suspended, pending hearing on the merits.

DATED this 9th day of July, 2021.

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SECRETARY OF STATE

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