

148.6369 GROUNDS FOR DISCIPLINARY ACTION.

Subdivision 1. **Grounds listed.** (a) The commissioner may deny, revoke, suspend, limit, or condition the registration of a registrant or may otherwise discipline a registrant. The fact that massage therapy or Asian bodywork therapy may be considered a less customary approach to health care must not by itself constitute the basis for disciplinary action.

(b) The following are grounds for disciplinary action regardless of whether injury to a client is established:

(1) failing to demonstrate the qualifications or to satisfy the requirements for registration under sections 148.636 to 148.6377 or rules of the commissioner. In the case of an applicant, the burden of proof is on the applicant to demonstrate the qualifications or satisfy the requirements;

(2) advertising in a false, fraudulent, deceptive, or misleading manner, including but not limited to:

(i) advertising or holding oneself out as a "registered massage therapist," "RMT," "registered Asian bodywork therapist," "RABT," or any abbreviation or derivation thereof to indicate such a title, when such registration is not valid or current for any reason;

(ii) advertising or holding oneself out as a "registered massage therapist," "registered Asian bodywork therapist," or any abbreviation or derivation thereof to indicate such a title, except if the individual holds a registration in another state or jurisdiction and does not provide services in Minnesota;

(iii) advertising a service, the provision of which would constitute a violation of sections 148.636 to 148.6377 or rules established by the commissioner; and

(iv) using fraud, deceit, or misrepresentation when communicating with the general public, health care providers, or other business professionals;

(3) falsifying information in a massage therapy or Asian bodywork therapy registration or renewal application; attempting to obtain registration, renewal, or reinstatement by fraud, deception, or misrepresentation; or aiding and abetting any of these acts;

(4) engaging in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to a client, or engaging in sexual exploitation of a client, without regard to who initiates such behaviors;

(5) committing an act of gross malpractice, negligence, or incompetency, or failing to practice massage therapy or Asian bodywork therapy with the level of care, skill, and treatment that is recognized by a registrant as being acceptable under similar conditions and circumstances;

(6) having an actual or potential inability to practice massage therapy or Asian bodywork therapy with reasonable skill and safety to clients by reason of illness, as a result of any mental or physical condition, or use of alcohol, drugs, chemicals, or any other material. Being adjudicated as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction, inside or outside of this state, may be considered evidence of an inability to practice massage therapy or Asian bodywork therapy;

(7) being the subject of disciplinary action as a massage therapist or Asian bodywork therapist in another state or jurisdiction if the commissioner or advisory council determines that the cause of the disciplinary action would be a violation under this state's statutes or rules of the commissioner had the violation occurred in this state;

(8) failing to notify the commissioner of revocation or suspension of a credential, or any other disciplinary action taken by this or any other state, territory, or country, including any restrictions on the right to practice; or the surrender or voluntary termination of a credential during a commissioner investigation of a complaint, as part of a disciplinary order, or while under a disciplinary order;

(9) conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no-contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to engaging in massage therapy practices or Asian bodywork therapy practices. Conviction, as used in this clause, includes a conviction for an offense that, if committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor regardless of its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered;

(10) if a registrant is on probation, failing to abide by terms of probation;

(11) practicing or offering to practice beyond the scope of the practice of massage therapy or Asian bodywork therapy;

(12) managing client records and information improperly, including but not limited to failing to maintain adequate client records, comply with a client's request made according to sections 144.291 to 144.298, or furnish a client record or report required by law;

(13) revealing a privileged communication from or relating to a client except when otherwise required or permitted by law;

(14) providing massage therapy services or Asian bodywork therapy services that are linked to the financial gain of a referral source;

(15) obtaining money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud;

(16) engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws;

(17) failing to consult with a client's health care provider who prescribed a course of massage therapy treatment or Asian bodywork therapy treatment if the treatment needs to be altered from the original written order to conform with standards in the massage therapy or Asian bodywork therapy field or the registrant's level of training or experience;

(18) failing to cooperate with an investigation of the commissioner or the commissioner's representatives, including failing to: respond fully and promptly to any question raised by or on behalf of the commissioner relating to the subject of the investigation; execute all releases requested by the commissioner; provide copies of client records as reasonably requested by the commissioner to assist in the commissioner's investigation; and appear at conferences or hearings scheduled by the commissioner or the commissioner's staff;

(19) interfering with an investigation or disciplinary proceeding, including by willful misrepresentation of facts or by the use of threats or harassment to prevent a person from providing evidence in a disciplinary proceeding or any legal action;

(20) violating a statute, rule, order, or agreement for corrective action that the commissioner issued or is otherwise authorized or empowered to enforce;

(21) aiding or abetting a person in violating sections 148.636 to 148.6377;

(22) failing to report to the commissioner other massage therapists and Asian bodywork therapists who commit violations of sections 148.636 to 148.6377; and

(23) failing to notify the commissioner in writing of the entry of a final judgment by a court of competent jurisdiction against the registrant for malpractice of massage therapy or Asian bodywork therapy, or any settlement by the registrant in response to charges or allegations of malpractice of massage therapy or Asian bodywork therapy. The notice must be provided to the commissioner within 60 days after the entry of a judgment or date of settlement, and must contain the name of the court, case number, and the names of all parties to the action.

Subd. 2. Evidence. In disciplinary actions alleging a violation of subdivision 1, a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency must be admissible into evidence without further authentication and must constitute prima facie evidence of the violation.

Subd. 3. Examination; access to medical data. (a) The commissioner may take the following actions if the commissioner has probable cause to believe that grounds for disciplinary action exist under subdivision 1, paragraph (b), clause (6).

(b) The commissioner may direct the applicant or registrant to submit to a mental or physical examination or substance use disorder evaluation. For the purpose of this subdivision, when an applicant or registrant is directed in writing by the commissioner to submit to a mental or physical examination or substance use disorder evaluation, that applicant or registrant is considered to have consented and to have waived all objections to admissibility on the grounds of privilege. Failure of the applicant or registrant to submit to an examination when directed constitutes an admission of the allegations against the applicant or registrant, unless the failure was due to circumstances beyond the applicant's or registrant's control, and the commissioner may enter a default and final order without taking testimony or allowing evidence to be presented. A registrant affected under this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that the registrant can resume the competent practice of massage therapy or Asian bodywork therapy with reasonable skill and safety to clients. Neither the record of proceedings nor the orders entered by the commissioner in a proceeding under this paragraph may be used against a registrant in any other proceeding.

(c) The commissioner may, notwithstanding section 13.384, 144.651, or 595.02, or any other law limiting access to medical or other health data, obtain medical data and health records relating to an applicant or registrant without the applicant's or registrant's consent. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (i); an insurance company; or a government agency, including the Department of Human Services and Direct Care and Treatment. A provider, insurance company, or government agency shall comply with any written request of the commissioner under this subdivision and is not liable in any action for damages for releasing the data requested by the commissioner if the data are released pursuant to a written request under this subdivision unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private data on individuals as defined in section 13.02.

History: 2026 c 115 art 3 s 13