



Office of Professional Regulation Notice

The Office of Professional Regulation provides Vermont licenses, certifications, and registrations for over 56,000 practitioners and businesses. Forty-six professions and occupations are supported and managed by this office. A list of professions regulated is found below.

Each profession or occupation is governed by laws defining professional conduct. Consumers who have inquiries or wish to obtain a form to register a complaint may do so by calling (802) 828-1505, or by writing to the Director of the Office, Secretary of State's Office, 89 Main Street, 3rd Floor, Montpelier, VT 05620-3402.

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.

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| Accountancy | Naturopaths |
| Acupuncture | Nursing |
| Architects | Nursing Home Administrators |
| Athletic Trainers | Occupational Therapists |
| Auctioneers | Opticians |
| Audiologists | Optometry |
| Barbers & Cosmetologists | Osteopathic Physicians and Surgeons |
| Boxing Control | Pharmacy |
| Chiropractic | Physical Therapists |
| Dental Examiners | Private Investigative & Security Services |
| Dietitians | Property Inspectors |
| Drug and Alcohol Counselor | Psychoanalyst |
| Electrolysis | Psychology |
| Professional Engineering | Psychotherapist, Non-licensed |
| Funeral Service | Radiologic Technology |
| Hearing Aid Dispensers | Real Estate Appraisers |
| Land Surveyors | Real Estate |
| Landscape Architects | Respiratory Care |
| Marriage & Family Therapists | Social Workers, Clinical |
| Clinical Mental Health Counselors | Tattooists |
| Midwives, Licensed | Veterinary |
| Motor Vehicle Racing | |

Chapter 78: Roster of Psychotherapists Who Are Nonlicensed

§ 4090. Disclosure of Information

The board shall adopt rules requiring persons entered on the roster to disclose to each client the psychotherapist's professional qualifications and experience, those actions that constitute unprofessional conduct, and the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the rostered psychotherapist and the client. The rules may include provisions for applying or modifying these requirements in cases involving institutionalized clients, minors and adults under the supervision of a guardian.



The Vermont Statutes Online

Title 3: Executive

Chapter 5: SECRETARY OF STATE

Sub-Chapter 3: Professional Regulation

3 V.S.A. § 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.
- (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.

(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.

(c) 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.)



§ 3016. Unprofessional conduct

Unprofessional conduct means the conduct listed in this section and in 3 V.S.A. § 129a:

- (1) Failing to make available, upon written request of a person using psychological services to succeeding health care professionals or institutions, copies of that person's records in the possession or under the control of the licensee.
- (2) Failing to use a complete title in professional activity.
- (3) Conduct which evidences moral unfitness to practice psychology.
- (4) Engaging in any sexual conduct with a client, or with the immediate family member of a client, with whom the licensee has had a professional relationship within the previous two years.
- (5) Harassing, intimidating, or abusing a client or patient.
- (6) Entering into an additional relationship with a client, supervisee, research participant, or student that might impair the psychologist's objectivity or otherwise interfere with the psychologist's professional obligations.
- (7) Practicing outside or beyond a psychologist's area of training or competence without appropriate supervision.
- (8) In the course of practice, failure to use and exercise that degree of care, skill, and proficiency which is commonly exercised by the ordinary skillful, careful, and prudent psychologist engaged in similar practice under the same or similar conditions, whether or not actual injury to a client or patient has occurred.
- (9) Conduct which violates the "Ethical Principles of Psychologists and Code of Conduct" of the American Psychological Association, effective December 1, 1992, or its successor principles and code.
- (10) Conduct which violates the "ASPPB Code of Conduct-1990" of the Association of State and Provincial Psychology Boards, or its successor code. (Added 1975, No. 228 (Adj. Sess.), § 2; amended 1981, No. 241 (Adj. Sess.), § 1; 1993, No. 98, § 7; 1993, No. 222 (Adj. Sess.), § 3; 1997, No. 145 (Adj. Sess.), § 50; 1999, No. 52, § 26; 1999, No. 133 (Adj. Sess.), § 24; 2013, No. 27, § 34.)



04/07/2003

VERMONT NOTICE FORM

Notice of Psychologists' Policies and Practices to Protect the Privacy of Your Health Information

THIS NOTICE DESCRIBES HOW PSYCHOLOGICAL AND MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

I. Uses and Disclosures for Treatment, Payment, and Health Care Operations

We may use or disclose your protected health information (PHI), for treatment, payment, and health care operations purposes with your consent. To help clarify these terms, here are some definitions:

- "PHI" refers to information in your health record that could identify you.
- "Treatment, Payment and Health Care Operations"
 - Treatment* is when we provide, coordinate or manage your health care and other services related to your health care. An example of treatment would be when we consult with another health care provider, such as your family physician or another psychologist.
 - Payment* is when we obtain reimbursement for your healthcare. Examples of payment are when we disclose your PHI to your health insurer to obtain reimbursement for your health care or to determine eligibility or coverage.
 - Health Care Operations* are activities that relate to the performance and operation of my practice. Examples of health care operations are quality assessment and improvement activities, business-related matters such as audits and administrative services, and case management and care coordination.
- "Use" applies only to activities within my [office, clinic, practice group, etc.] such as sharing, employing, applying, utilizing, examining, and analyzing information that identifies you.
- "Disclosure" applies to activities outside of my [office, clinic, practice group, etc.], such as releasing, transferring, or providing access to information about you to other parties.

II. Uses and Disclosures Requiring Authorization

We may use or disclose PHI for purposes outside of treatment, payment, and health care operations when your appropriate authorization is obtained. An "authorization" is written



permission above and beyond the general consent that permits specific disclosures. In those instances when we are asked for information for purposes outside of treatment, payment, and health care operations, we will obtain written authorization from you before releasing this information.

We will also need to obtain written authorization before releasing your **psychotherapy notes**. "*Psychotherapy notes*" are notes we have made about our conversation during a private, group, joint, or family counseling session, which we have kept separate from the rest of your medical record. These notes are given a greater degree of protection than PHI. Psychotherapy notes **do not include** medication prescription and monitoring, counseling session start and stop times, modalities and frequencies of treatment, the results of clinical tests, any summary of a diagnosis, functional status, treatment plans, symptoms, prognosis, or progress.

All requests for release of information should be directed to Synchronsaic, LLC or their representative for processing, we will respond to all requests without unreasonable delay.

You may revoke all such authorizations--of PHI or psychotherapy notes--at any time, provided each revocation is in writing. You may not revoke an authorization to the extent that (1) We have relied on that authorization; or (2) if the authorization was obtained as a condition of obtaining insurance coverage, and the law provides the insurer the right to contest the claim under the policy.

Reasons for Denied or Delayed Release of Clinical Records

- When the client's provider determines that releasing the information poses a threat of serious harm or threat to the life of the client or another person;
- After reasonable attempts, we are unable to reach the client due to an incomplete authorization or to verify a third-party request;
- If the request requires the requestor to pay a cost-based fee and no payment information is provided; NOTE: We will not charge fees that are prohibited by the HIPAA Privacy Rule or state law or based on electronic access that requires no manual effort to fulfill;
- If the request is for electronic health information (EHI) and one of the exceptions to the Information Blocking Rules applies (see Requests for Electronic PHI below);
- Notes taken in preparation for potential litigation or legal action; and
- Without express authorization or as determined by your provider, psychotherapy notes may be excluded from a request.

III. Requests for Electronic PHI

We believe that we are better able to treat clients when they are actively engaged in their care. To be engaged, they must have timely access to their health information. Electronic Health Information (EHI) typically includes electronic medical records and billing records used, in whole or in part, by providers to make decisions about client care.



We will respond to EHI requests without unreasonable delay. Every effort will be made to respond to an EHI request in the manner requested but we may need to discuss alternatives if we are technically unable to provide EHI as requested.

We may deny or limit access to EHI under the following circumstances:

- To prevent harm to the life or physical safety of a patient or another person;
- To protect an individual's privacy;
- To protect the security of EHI;
- If it is infeasible* to fulfill a request for EHI due to uncontrollable events or data that cannot be separated;
or
- If the electronic health record is unavailable due to routine maintenance or in response to an emergency.

*If responding to a request for EHI is infeasible, we will notify the requestor within ten (10) business days of the request with a written explanation.

IV. Uses and Disclosures with Neither Consent nor Authorization

We may use or disclose PHI without your consent or authorization as required by law in the following circumstances:

- **Child Abuse:** If we have reasonable cause to believe that a child has been abused or neglected, we are required by law to report such information within 24 hours to the Commissioner of Social and Rehabilitation Services or its designee.
- **Adult and Domestic Abuse:** If we have reasonable cause to believe that an elderly or disabled adult has been abused, neglected, or exploited, we are required by law to report this information to the Commissioner of Aging and Disabilities.
- **Health Oversight:** If we receive a subpoena for records from the Vermont Board of Psychological Examiners in relation to a disciplinary action, we must submit such records to the Board.
- **Judicial or administrative proceedings:** If you are involved in a court proceeding and a request is made for information about the professional services that we have provided you and/or the records thereof, such information is privileged under state law, and we must not release this information without written authorization from you or your legally appointed representative, or a court order. This privilege does not apply when you are being evaluated for a third party or where the evaluation is court ordered. We will inform you in advance if this is the case.
- **Serious Threat to Health or Safety:** If we know that you pose a serious risk of danger to an identifiable victim, We are required by law to exercise reasonable care to protect such victim. This may include disclosing



your relevant confidential information to those people necessary to address the problem. Also, we may disclose your confidential information if we judge disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by you on yourself or another person.

V. Patient's Rights and Psychologist's Duties

Patient's Rights:

- *Right to Request Restrictions* You have the right to request restrictions on certain uses and disclosures of protected health information about you. However, we are not required to agree to a restriction you request.
- *Right to Receive Confidential Communications by Alternative Means and at Alternative Locations* — You have the right to request and receive confidential communications of **PHI** by alternative means and at alternative locations. (For example, you may not want a family member to know that you are seeing me. Upon your request, we will send your bills to another address.)
- *Right to Inspect and Copy* - You have the right to inspect or obtain a copy (or both) of PHI in my mental health and billing records used to make decisions about you for as long as the PHI is maintained in the record. On your request, we will discuss with you the details of the request process.
- *Right to Amend* — You have the right to request an amendment of PHI for as long as the **PHI** is maintained in the record. We may deny your request. On your request, we will discuss with you the details of the amendment process.
- *Right to an Accounting* — You generally have the right to receive an accounting of disclosures of **PHI** regarding you. On your request, we will discuss with you the details of the accounting process.
- *Right to a Paper Copy* — You have the right to obtain a paper copy of the notice from me upon request, even if you have agreed to receive the notice electronically.

Psychologist's Duties:

- We are required by law to maintain the privacy of PHI and to provide you with a notice of my legal duties and privacy practices with respect to **PHI**.
- We reserve the right to change the privacy policies and practices described in this notice. Unless we notify you of such changes, however, we are required to abide by the **terms** currently in effect.
- If we revise these policies and procedures, we will discuss this with you.



VI. Complaints

If you are concerned that we have violated your privacy rights, or you disagree with a decision we made about access to your records, you may contact the proprietor of Synchronsaic LLC or the Office of Professional Regulation at (802) 828-2367.

You may also send a complaint to the Secretary of the U.S. Department of Health and Human Services Office for Civil Rights:

Online: www.hhs.gov/ocr/privacy/hipaa/complaints

By Phone: (877) 696-6775

By Mail: U.S. Department of Health and Human Services Office for Civil Rights, 200 Independence Avenue, S.W., Washington, D.C. 20201

VII. Effective Date, Restrictions and Changes to Privacy Policy

This notice will go into effect on April 13, 2003

We will limit the uses or disclosures that we will make as follows: Disclosure of minimum information necessary to effect business with your insurance carrier.

We reserve the right to change the terms of this notice and to make the new notice provisions effective for all PHI that we maintain. If the terms of this notice are changed, we will provide you with a revised notice in writing.