

1 Introduced by Committee on Government Operations and Military Affairs

2 Date:

3 Subject: Professions and occupations

4 Statement of purpose of bill as introduced: This bill proposes to modify the
5 misconduct discipline processes. It will add cosmetology to what State
6 correctional facilities may offer as courses of instruction without a certificate
7 of approval from the Director. It will modify biennial license renewal
8 requirements for osteopathic physicians. This bill will update duties and
9 abilities of pharmacy technicians and add specificity to what pharmacists may
10 prescribe regarding self-administered hormonal contraceptives and
11 vaccinations. It will exempt persons dispensing over-the-counter hearing aids
12 from provisions for audiologists and hearing aid dispensers. This bill will also
13 correct an incorrect cross-reference regarding the authority to perform notarial
14 acts in the State of Vermont.

15 An act relating to professions and occupations regulated by the Office of
16 Professional Regulation

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

18 * * * Office of Professional Regulation * * *

19 Sec. 1. 3 V.S.A. § 129 is amended to read:

20 § 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR

1 qualifications or met the standards required for licensure shall be a final
2 decision of the board or Director.

3 (A) Upon such a final decision by the board or the Director, the board
4 or Director shall send the applicant written notice of the decision by certified
5 mail. The notice shall include a statement of the reasons for the action and
6 shall advise the applicant that the applicant may appeal the decision of the
7 board or Director to deny the application by filing a notice of appeal with the
8 Director, who shall assign the case to an appellate officer.

9 (B) Appeals of decisions by the board or Director to deny an
10 application for licensure based on the qualifications of an applicant shall be
11 conducted in accordance with 3 V.S.A. § 130a. The record in the appeal shall
12 include the applicant’s application for the professional license, the written
13 notice of the decision to deny the application, and any other materials
14 established in rules adopted in accordance with 3 V.S.A. chapter 25.

15 * * *

16 (n)(1) A board may designate a hearing panel consisting of less than a
17 quorum of the board to conduct hearings that would otherwise be heard by the
18 full board. A hearing panel shall consist of at least three members, including at
19 least one professional member of the board and at least one public member of
20 the board. No member of the hearing panel shall have been a board member
21 who was assigned, in accordance with subdivision (c)(3) of this section, to

1 assist the Office investigators and prosecutor in relation to the investigation
2 and prosecution of the matter being heard. The Director shall establish by rule
3 the process for designating a hearing panel.

4 (2) If there is an insufficient number of board members to serve on a
5 hearing panel by reason of disqualification, resignation, vacancy, or necessary
6 absence, the Director may appoint ad hoc members to serve on the hearing
7 panel for that matter only.

8 (3) If a board is unable to convene in a timely manner to hear a
9 disciplinary matter or to appoint a hearing panel, the Director may designate a
10 hearing panel to hear a matter that would otherwise be heard by the full board.
11 If the Director appoints a hearing panel, the Director shall follow the
12 requirements of subdivisions (1) and (2) of this subsection.

13 (4) A hearing panel shall be designated solely upon the request and
14 decision of the board or the Director and in accordance with this subsection
15 and rules adopted by the Director in accordance with 3 V.S.A. chapter 25.

16 Sec. 2. 3 V.S.A. § 136 is amended to read:

17 § 136. UNIFORM CONTINUING EDUCATION EVALUATION; ~~SUNSET~~

18 REVIEW AND FORUM

19 (a)(1) If continuing education is required by law or rule, the Office shall
20 apply uniform standards and processes that apply to all professions regulated
21 by the Office for the assessment and approval or rejection of continuing

1 education offerings, informed by profession-specific policies developed in
2 consultation with relevant boards and advisor appointees.

3 ~~(b)(1)(2)(A)~~ Not less than once every five years, each profession attached
4 to the Office shall review its continuing education or other continuing
5 competency requirements. The review results shall be in writing and address
6 the following:

7 ~~(A)(i)~~ the renewal requirements of the profession;

8 ~~(B)(ii)~~ the renewal requirements in other jurisdictions, particularly in
9 the Northeast region;

10 ~~(C)(iii)~~ the cost of the renewal requirements for the profession's
11 licensees;

12 ~~(D)(iv)~~ an analysis of the utility and effectiveness of the renewal
13 requirements with respect to public protection; and

14 ~~(E)(v)~~ recommendations to the Director on whether the continuing
15 education or other continuing competency requirements should be modified.

16 ~~(2)(B)~~ The Director shall respond to the profession within 45 days ~~of~~
17 after its submitted review results. The Director may require a profession to
18 reduce, modify, or otherwise change the renewal requirements, including by
19 proposing any necessary amendments to statute or rule.

20 (b) When completion of continuing education is required for renewal of a
21 license regulated under this title, synchronous virtual continuing education

1 courses shall qualify as live, in-person training and be accepted for renewal of
2 the professional license.

3 * * * Barbers and Cosmetologists * * *

4 Sec. 3. 26 V.S.A. 281 is amended to read:

5 § 281. POSTSECONDARY SCHOOL OF BARBERING AND
6 COSMETOLOGY; CERTIFICATE OF APPROVAL

7 * * *

8 (b) Regional vocational centers may offer courses of instruction in
9 barbering or cosmetology without a certificate of approval from the Director,
10 and State correctional facilities may offer courses of instruction in barbering
11 and cosmetology without a certificate of approval from the Director; however,
12 hours for licensing shall only be given for courses that meet the Director's
13 standards for courses offered in postsecondary schools of barbering or
14 cosmetology certified by the Director.

15 * * *

16 * * * Osteopathy * * *

17 Sec. 4. 26 V.S.A. § 1836 is amended to read:

18 § 1836. BIENNIAL RENEWAL OF LICENSE; CONTINUING
19 EDUCATION

20 (a)(1) ~~Licenses shall be renewed every two years.~~ A license issued under
21 this chapter shall be renewed every two years upon application, payment of the

1 required fee, and proof of completion of required continuing education.

2 Failure to comply with the provisions of this section shall result in the
3 suspension of all privileges granted to the licensee, beginning on the expiration
4 date of the license.

5 (2) A license that has lapsed shall be renewed upon payment of the
6 biennial renewal fee and the late renewal penalty.

7 ~~(b) Biennially, the Board shall forward a renewal form to each licensee.~~
8 ~~Upon receipt of the completed form, evidence of compliance with the~~
9 ~~provisions of subsection (c) of this section, and the renewal fee, the Board shall~~
10 ~~issue a new license. The Director may adopt rules necessary for the protection~~
11 ~~of the public to assure that an applicant whose license has lapsed or who has~~
12 ~~not worked for more than three years as an osteopathic physician is~~
13 ~~professionally qualified for license renewal. Conditions imposed under this~~
14 ~~subsection shall be in addition to the requirements of subsection (a) of this~~
15 ~~section.~~

16 (c) As a condition of renewal a licensee shall complete a minimum of 30
17 hours of continuing medical education, ~~approved by the Board by rule,~~ during
18 the preceding two-year period. ~~At least 40 percent of these hours must be~~
19 ~~osteopathic medical education. The 30 hours of continuing medical education~~
20 ~~shall meet the requirements established by the Board by rule.~~

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* * * Pharmacy * * *

Sec. 5. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(14) “Pharmacy technician” means an individual who, only while assisting and under the supervision of a licensed pharmacist, performs tasks relative to dispensing ~~only while assisting and under the supervision and control of a licensed pharmacist~~ prescription drugs, administering immunizations, and performing tests for SARS-CoV. Pharmacy technicians shall administer immunizations and perform tests for SARS-CoV in compliance and accordance with section 2042a of this title.

* * *

(21) “Self-administered hormonal contraceptive” means a contraceptive medication or device approved by the U.S. Food and Drug Administration that prevents pregnancy by using hormones to regulate or prevent ovulation and that uses an oral, transdermal, subcutaneous, or vaginal route of administration.

Sec. 6. 26 V.S.A. § 2023 is amended to read:

§ 2023. CLINICAL PHARMACY; PRESCRIBING

* * *

(b) A pharmacist may prescribe in the following contexts:

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(2) State protocol.

(A) A pharmacist may prescribe, order, or administer in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

* * *

(v) self-administered hormonal contraceptives, including subcutaneous depot medroxyprogesterone acetate;

* * *

(vii) ~~influenza vaccines~~ for patients 18 years of age or older, vaccinations recommended by the Centers for Disease Control and Prevention’s Advisory Committee on Immunization Practices (ACIP) and administered consistently with the ACIP-approved immunization schedules, as may be amended from time to time;

* * *

Sec. 7. 26 V.S.A. § 2042a is amended to read:

§ 2042a. PHARMACY TECHNICIANS; QUALIFICATIONS FOR REGISTRATION

1 ~~least one year~~. A pharmacist who holds a restricted license may petition the
2 Board for permission to be a pharmacist manager, which may be granted by
3 the Board for good cause shown.

4 * * *

5 * * * Audiologists and Hearing Aid Dispensers * * *

6 Sec. 9. 26 V.S.A. § 3286 is amended to read:

7 § 3286. EXEMPTIONS

8 (a) The provisions of section 3285 of this chapter shall not apply to a
9 person enrolled in a course of study leading to a degree or certificate in
10 audiology at a school accredited by the American Speech-Language Hearing
11 Association, provided:

12 (1) the activities and services performed constitute part of a supervised
13 course of study;

14 (2) the person is designated by a title that clearly indicates the person's
15 student or trainee status; and

16 (3) the person is under the direct supervision of an audiologist licensed
17 in this State.

18 (b) In accordance with 21 C.F.R. § 800.30, persons dispensing over-the-
19 counter hearing aids, as defined in 21 C.F.R. § 800.30(b) and meeting the
20 standards established in 21 C.F.R. § 800.30(c)–(f), including self-fitting air-

1 conduction hearing aids, as defined in 21 C.F.R. § 874.3325, shall be exempt
2 from this chapter.

3 * * * Notaries * * *

4 Sec. 10. 26 V.S.A. § 5361 is amended to read:

5 § 5361. NOTARIAL ACTS IN THIS STATE; AUTHORITY TO PERFORM

6 (a) A notarial act, as defined in subdivision ~~5304(7)(A)~~ 5304(10) of this
7 chapter, may only be performed in this State by a notary public commissioned
8 under this chapter.

9 * * *

10 * * * Effective Date * * *

11 Sec. 11. EFFECTIVE DATE

12 This act shall take effect on passage.