

No. 35. An act relating to the regulation of professions and occupations.

(H.86)

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

* * * Office of Professional Regulation * * *

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

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board may exercise the following powers:

* * *

(5) Discipline any licensee or refuse to license any person who has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct.

* * *

(14) Grant an honorary license to those individuals having demonstrated outstanding service to a profession, at the discretion of the board. An honorary license shall not confer the right or privilege to practice the profession in this state.

* * *

(l) A board may grant a temporary renewal license pending the completion of the required continuing education.

(m) In any proceeding under this section which addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence of nor evidence of the reputation of the victim's sexual conduct shall be admitted.

Sec. 2. 3 V.S.A. § 129a(a) is amended to read:

(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 or not the conduct at issue was committed within or outside the state, shall constitute unprofessional conduct:

* * *

(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.

Sec. 2a. VERMONT BOARD OF BARBERS AND COSMETOLOGISTS;

LASER PROCEDURES; STUDY

The Vermont board of barbers and cosmetologists shall convene a committee to study the use of laser light and radio frequency devices and shall

provide a report and recommendation to the general assembly by January 15, 2010 on the current laws regulating the practice. The committee shall report on the education, training, supervision, and oversight necessary for the safe use of the various types of lasers and their uses in procedures related to skin treatments and care. The committee shall include a representative of the state board of medical practice, a representative of the board of barbers and cosmetologists, a registered nurse, a practicing dermatologist, a practicing esthetician, and other members of the public, or health and medical or skin care industry experts the board deems necessary to contribute to an informed discussion of the issues.

Sec. 2b. STATE BOARD OF PRIVATE INVESTIGATIVE AND

SECURITY SERVICES; DIGITAL FORENSICS STUDY

The state board of private investigative and security services shall study the profession of digital forensics and whether regulation of digital forensics is necessary to protect the public. The board may solicit the advice of practitioners of the profession and other industry experts the board deems necessary to contribute to an informed discussion of the issues and shall submit a report of recommendations to the general assembly by January 15, 2010.

* * * Pharmacists / Department of Health * * *

Sec. 3. 18 V.S.A. § 4605(a) is amended to read:

(a) When a pharmacist receives a prescription for a drug which is listed either by generic name or brand name in the most recent edition of the ~~federal~~

~~Food and Drug Administration's "Orange Book"~~ U.S. Department of Health and Human Services' publication Approved Drug Products With Therapeutic Equivalence (the "Orange Book") of approved drug products, the pharmacist shall select the lowest priced drug from ~~such~~ the list which is ~~chemically and therapeutically~~ equivalent as defined by the "Orange Book", unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, otherwise to pay the full cost for the higher priced drug.

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*** * * Accountants * * ***

Sec. 4. 26 V.S.A. § 13 is amended to read:

§ 13. DEFINITIONS

For the purposes of this chapter:

(1)(A) "Attest services" means providing the following financial statement services:

* * *

(iv) any engagement to be performed in accordance with the auditing standards ~~of~~ the Public Company Accounting Oversight Board (PCAOB).

* * *

(2) "Board" means the board of public accountancy.

(3) “Compilation” means providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presented in the form of financial statements or information that represents management or owners without expressing any type of assurance on the statements.

(4) “Disciplinary action” or “disciplinary cases” includes any action taken by a board against a licensee, registrant or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, excluding obtaining injunctions, but including issuing warnings, other similar sanctions and ordering restitution.

~~(4)~~(5) “Firm” means a sole proprietorship, a corporation, a partnership, association, or any other entity that practices public accountancy.

(6) “Foreign firm” means a firm not located in the United States, its territories, or possessions.

~~(5)~~(7) “Good character” means fiscal integrity, and a lack of any history of acts involving dishonesty, false statements, or fraud.

(8) “Home office” means the location specified by the client as the address to which a service described in subsection 74c(c) of this title is directed.

~~(6)~~(9) “Peer review” means a systemwide study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accounting that performs attest services by a person or persons who

are licensed under this chapter and who are not affiliated with the person or firm being reviewed.

~~(7)~~(10) “Practice of public accounting” means the performance or the offering to perform by a person or firm holding itself out to the public as being licensed ~~or~~, registered, or otherwise authorized under this chapter, for a client or potential client, of one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

(11) “Principal place of business” means the office location designated by the licensee for the purposes of substantial equivalency and reciprocity.

~~(8)~~(12) “Public accountant” means a certified public accountant or a registered public accountant until July 1, 2003, after which the title of registered public accountant will still exist for those licensed as registered public accountants or having received conditional credit toward licensure as a registered public accountant by that date, but will no longer be a title granted by the board.

~~(9)~~(13) “Report” when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm

issuing it has special knowledge or competence in accounting or auditing. A statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term “report” includes any form of language which disclaims an opinion when the form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing the language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

~~(10)~~(14) “State” includes the states of the United States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and other jurisdictions recognized by the National Association of State Boards of Accountancy (NASBA).

Sec. 5. 26 V.S.A. § 14 is amended to read:

§ 14. PROHIBITIONS

(a) No person or firm shall issue a report on financial statements of, or provide attest services for, any other person, firm, organization, or governmental unit unless the person or firm is licensed or registered under this chapter. This prohibition does not apply to:

(1) an individual with practice privileges set forth under section 74c of this title or a firm exempt from registration under section 74 of this title;

(2) an officer, partner, or employee of any firm or organization affixing their signature to any statement or report in reference to the financial affairs of ~~such~~ that firm or organization with any wording designating the position, title, or office that they hold therein;

(3) ~~nor prohibit~~ any act of a public official or employee in the performance of his or her duties as such;

(4) ~~nor prohibit~~ the performance by any persons of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon.

(b) No individual person may use the title “certified public accountant,” “CPA,” “registered public accountant,” “RPA,” or “auditor” or any other title tending to indicate that he is a public accountant, unless he is licensed as a public accountant under this chapter or is an individual with practice privileges set forth under section 74c of this title.

(c) No firm may use the title “certified public accountant,” “CPA,” “registered public accountant,” “RPA,” “auditor” or any other title tending to indicate that it is composed of public accountants unless the firm is registered under this chapter, or is exempt from registration under section 74 of this title.

(d) No person may use the title “chartered accountant,” “enrolled accountant,” “licensed accountant,” “certified accountant,” “registered accountant,” “accredited accountant,” or any other title likely to be confused

with “certified public accountant” or “registered public accountant,” or the abbreviations “CA,” “EA,” “RA,” “LA,” or “AA,” or similar abbreviations likely to be confused with “CPA” or “RPA.” However, a person licensed under this chapter and individuals with practice privileges set forth under section 74c of this title may use the title “auditor.” The title “enrolled agent” or “EA” may be used only by an individual so designated by the Internal Revenue Service.

* * *

(h) No person or firm shall hold themselves out as public accountants while engaged in the practice of public accounting unless they:

- (1) hold a valid license or registration issued under this chapter;
- (2) qualify for practice privileges set forth under section 74c of this title;

or

- (3) are exempt from registration under section 74 of this title.

Sec. 6. 26 V.S.A. § 15 is amended to read:

§ 15. EXEMPTIONS

~~(a) A public accountant of another state, or any accountant who is qualified for the practice of public accounting in a foreign country may:~~

~~(1) use a title granted by that state or country, together with any suitable translation into English of that title, and, if a foreign country, the name of that country;~~

~~(2) temporarily practice public accounting after registering with the board under section 74a of this title;~~

~~(3) [Deleted.]~~

~~(b)~~ Nothing in this chapter ~~prohibits~~ shall prohibit:

(1) a federal, state, or municipal officer or employee from performing the lawful functions and duties of any office or service required.

~~(e)(2)~~ Nothing in this chapter ~~prohibits~~ an officer, employee, partner, or principal of any organization from:

~~(1)(A)~~ signing a statement or report in reference to the affairs of that organization, with wording designating the title held in the organization; or

~~(2)(B)~~ describing himself or herself by title.

~~(d)(3)~~ Nothing in this chapter ~~prohibits~~ a person from offering or rendering to the public bookkeeping and tax services, including devising and installing systems, recording and presenting financial information or data, preparing financial statements, schedules, reports, and exhibits, and similar services.

~~(e)(4)~~ Nothing in this chapter ~~prohibits~~ an individual person from using a title previously held as a public accountant licensed or certified in this or any other state, provided that the person's license or certificate was not revoked or suspended, and provided further that the person is not currently engaged in the practice of public accounting and does not use the title for the purpose of practicing public accounting.

~~(f)(5) Nothing in this chapter shall be construed to prohibit~~ other licensed or certified professionals from carrying on in the usual manner any of the functions of their professions.

(6) a firm, which does not hold a valid registration under section 74 of this title and which does not have an office in this state, from providing its professional services and from practicing public accounting in this state as long as the firm complies with the requirements of subsection 74(b) of this title.

Sec. 7. 26 V.S.A. § 56 is amended to read:

§ 56. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- | | |
|---|-----------|
| (1) Application for license | \$ 75.00 |
| (2) Biennial renewal of license | \$ 100.00 |
| (3) Firm registration <u>and biennial renewal of registration</u> | \$ 35.00 |
| (4) Registration of nonresident <u>foreign</u> firm for temporary practice | \$ 50.00 |

Sec. 8. 26 V.S.A. § 71a is amended to read:

§ 71a. LICENSE BY EXAMINATION

(a) A license as a “certified public accountant” shall be granted by the board to any person:

- (1) who is of good character;
- (2) who completes:

~~(A)(i) 120 or more semester hours of college credit at a college or university recognized by the board, including a minimum of 30 semester hours of accounting, auditing and related subjects as the board determines to be appropriate, and two years of experience in public accounting, meeting the requirements prescribed by board rule or other experience or employment which the board in its discretion considers substantially equivalent; or~~

~~(ii) a baccalaureate degree, including a minimum of 30 semester hours of accounting, auditing, and related subjects as the board determines to be appropriate, and two years of experience in public accounting, and meets the requirements prescribed by board by rule, or has other experience or employment, which the board in its discretion considers substantially equivalent; or~~

~~(iii)(ii) 150 or more semester hours of college credit at a college or university recognized by the board, including a baccalaureate degree and a minimum of 42 semester hours of accounting, auditing and related subjects as the board determines to be appropriate, and one year of experience in public accounting, meeting the requirements prescribed by board rule or other experience or employment which the board in its discretion considers substantially equivalent; and~~

~~(B)(3) who has passed the examination required under subsection (b) of this section.~~

(b) The board shall administer an examination using a nationally recognized uniform certified public accountants' examination and advisory grading service. ~~An applicant who has yet to earn a baccalaureate degree may sit for the examination if he or she has met the requirements of subdivision (a)(2)(A)(i) or (iii) of this section.~~

(c) ~~Beginning July 1, 2009, an applicant for licensure under subdivision (a)(2)(A)(i) or (iii) of this section shall have a baccalaureate degree from an institution recognized by the board~~ An applicant who has not yet completed a baccalaureate degree may sit for the exam upon the completion of 120 semester hours at an institution recognized by the board, including a minimum of 30 semester hours of accounting, auditing, and related subjects as the board determines to be appropriate.

Sec. 9. 26 V.S.A. § 74 is amended to read:

§ 74. FIRMS; REGISTRATION AND OWNERSHIP

(a) ~~All firms that have~~ A firm shall be required to obtain registration pursuant to this section if the firm:

(1) has an office established or maintained in this state for the practice of public accounting; ~~shall be registered biennially with the board. Each office shall be under the supervision of a public accountant licensed in this state. The board shall adopt rules prescribing the procedure to be followed in carrying out the registrations.~~

(2) has an office established or maintained in this state that uses the title “CPA” or “CPA firm”; or

(3) does not have an office in this state but performs services described in subdivision 13(1)(A)(i), (iii), or (iv) of this title for a client with a home office in this state.

(b) A firm that does not have an office in this state may perform those services set forth in subdivision 13(1)(A)(ii) or (3) of this title for a client with a home office in this state may otherwise practice public accounting as authorized under this chapter, and may use the title “CPA” or “CPA firm” without a registration issued only if the firm:

(1) meets the qualifications set forth in subsections (c) and (d) of this section;

(2) meets the requirements of section 75c of this title; and

(3) performs services through an individual with practice privileges set forth under section 74c of this title.

(c) An applicant for initial registration or renewal under this section shall be required to show that, notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of equity, creditor and voting rights of all partners, officers, members, shareholders or managers, belongs to holders of a certificate who are licensed in some state, and such partners, officers, members, shareholders or managers, whose principal place of business is in this state, and who perform professional services in this state,

hold a valid license issued under this chapter. Although firms may include nonlicensee owners, the firm and its ownership must comply with the rules adopted by the board.

~~(e)~~(d) Any CPA or RPA firm as defined in this chapter may include nonlicensee owners, provided that:

(1) The firm designates a licensee of this state or, in the case of a firm which is required to have a registration pursuant to subsection (a) of this section, a licensee who meets the requirements set forth in section 74c of this title who is responsible for the proper registration of the firm, and identifies that individual to the board.

(2) All nonlicensee owners are active individual participants in the CPA or RPA firm or affiliated entities.

(3) The firm complies with ~~such~~ other requirements as the board may impose by rule.

~~(d)~~(e) Any individual licensee who is responsible for supervising attest services and signs or authorizes someone to sign the accountant's report on ~~the~~ financial statements on behalf of the firm, shall meet the experience ~~or~~ and competency requirements set out in the professional standards for such services.

~~(e)~~(f) ~~{Deleted.}~~ Any individual exercising practice privileges pursuant to section 74c of this title, and who is responsible for supervising attest services and signs or authorizes someone to sign the accountant's report on financial

statements on behalf of the firm, shall meet the experience and competency requirements set forth in the professional standards for those services.

(g) Each office in this state shall be under the supervision of a public accountant who is licensed in this state.

Sec. 10. 26 V.S.A. § 74a is amended to read:

§ 74a. ~~NONRESIDENT REGISTRATION~~ ~~NONRESIDENT FOREIGN~~
REGISTRATION

(a) ~~All nonresident firms and sole proprietorships~~ A foreign firm licensed or registered in another ~~state or country who desire~~ seeking to practice temporarily ~~practice~~ in the state ~~must~~ shall register with the board and pay the required fee. The board shall adopt rules prescribing the procedure to be followed in carrying out the registrations. Registrations under this section shall expire three months after issuance. “Firm” is as defined in subdivision 13(4) of this title.

(b) ~~All nonresident firms and sole proprietorships~~ A foreign firm providing public accounting services in the state of Vermont ~~must~~ shall be registered and obtain a firm registration number.

(c) An accountant qualified for the practice of public accountancy in a foreign country may:

(1) use a title granted by that country, together with any suitable translation into English of that title, and the name of that country;

(2) temporarily practice public accounting after registering with the board under section 74a of this title.

Sec. 11. 26 V.S.A. § 74c is added to read:

§ 74c. SUBSTANTIAL EQUIVALENCY

(a) An individual whose principal place of business is not in this state shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have the privileges of licensure of this state, without the need to obtain a license under section 72b of this title, if the individual:

(1) holds a valid license as a certified public accountant from a state the board determines has licensure requirements substantially equivalent to the requirements of the AICPA/NASBA Uniform Accountancy Act; or

(2) holds a valid license as a certified public accountant from any state, and the individual obtains verification from the NASBA National Qualification Appraisal Service that the individual's qualifications are substantially equivalent to the licensure requirements of the AICPA/NASBA Uniform Accountancy Act. An individual who passed the uniform CPA examination and holds a valid license issued by any state prior to January 1, 2012 shall be exempt from the education requirements of subdivision 5(c)(2) of the Uniform Accountancy Act for purposes of this section.

(b) An individual licensee of another state exercising the privileges afforded under this section and the firm that employs that licensee, as a condition of the exercise of this privilege, shall consent to the following:

(1) personal and subject matter jurisdiction and the disciplinary authority of the board;

(2) compliance with this chapter and the board's administrative rules and any other laws governing the practice of the profession in this state under the jurisdiction of the board;

(3) cease offering or rendering professional services in this state individually and on behalf of a firm in the event the license issued by the state of the licensee's principal place of business is no longer valid or is otherwise conditioned or restricted;

(4) the appointment of the state board or licensing authority, which issued its license, as the agent upon whom process may be served in any action or proceeding by the board against the licensee; and

(5) perform only those services within the scope of practice authorized by the state of the licensee's principal place of business.

(c) An individual practicing pursuant to this section and who performs services in this state, or an individual practicing pursuant to this section and who performs services for an entity with its home office in this state, may only provide the following services through a firm registered under section 74 of this title:

(1) a financial statement audit or other engagement to be performed in accordance with the Statements on Auditing Standards;

(2) an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements;

(3) an engagement to be performed in accordance with PCAOB Auditing Standards.

(d) An individual who qualifies for practice privileges under this section and who performs services for which a firm registration is required shall not be required to obtain a license from this state.

(e) A licensee of this state offering or rendering services or using its title in another jurisdiction shall be subject to disciplinary action in this state for acts of unprofessional conduct committed in another jurisdiction that would otherwise subject the licensee to discipline in this state. The board has the authority to investigate complaints made by persons of another state.

(f) Notwithstanding any provision of law to the contrary, an individual who performs professional services pursuant to this section shall not be assessed a fee or be required to provide notice to the board.

* * * Dentists and Dental Hygienists * * *

Sec. 12. 26 V.S.A. § 721(c) is added to read:

(c)(1) A dentist may administer nondental anesthesia if the dentist meets the following requirements:

(A) The administration of anesthesia occurs only in a hospital where the dentist is credentialed to perform nondental anesthesiology;

(B) The dentist holds an academic appointment in anesthesiology at an accredited medical school;

(C) The dentist has successfully completed a full anesthesiology residency in a program approved by the Accreditation Council for Graduate Medical Education;

(D) The dentist has a diploma from the National Board of Anesthesiology; and

(E) The dentist practicing nondental anesthesia is held to the same standard of care as a physician administering anesthesia under the same or similar circumstances.

(2) The board of dental examiners shall refer a complaint or disciplinary proceeding about a dentist arising from his or her administration of nondental anesthesiology to the board of medical practice, which shall have jurisdiction to investigate and sanction and limit or revoke the dentist's license to the same extent that it may for physicians licensed under chapter 23 of this title.

Sec. 12a. OFFICE OF PROFESSIONAL REGULATION; BOARD OF

DENTAL EXAMINERS; DENTAL HYGIENISTS

The director of the office of professional regulation shall file a report with the general assembly by January 1, 2010 that recommends whether to restructure the board of dental examiners to improve the regulation of dental hygienists. If the board determines that restructuring is necessary, it shall make appropriate recommendations.

* * * Professional Engineers * * *

Sec. 13. 26 V.S.A. § 1161(4) is amended to read:

(4) "Practice of professional engineering" means:

~~(A) using the title "professional engineer" or using the titles "licensed engineer," "certified engineer" or "registered engineer" in a manner tending to indicate that the person is licensed and permitted to practice under this chapter;~~
or

~~(B) providing, attempting to provide, or offering to provide~~
professional engineering services for a fee or other consideration.

Sec. 14. 26 V.S.A. § 1162 is amended to read:

§ 1162. PROHIBITION; ENFORCEMENT

(a) No person shall engage in the practice of professional engineering unless the person is licensed under or exempt from this chapter.

(b) No person shall use, in connection with the person's name any letters, words, or insignia indicating that the person is a professional engineer unless the person is licensed in accordance with this chapter. A person found guilty of violating this section shall be subject to the penalties provided in subsection 127(c) of Title 3.

~~(b)(c)~~ (c) In addition to the power of criminal enforcement, the attorney general ~~or~~ a state's attorney, or a prosecuting attorney from the office of professional regulation may bring a civil action to restrain continuing violations of this section.

Sec. 15. 26 V.S.A. § 1163(a) is amended to read:

(a) Persons exempt. Section 1162 of this title does not prohibit acts constituting the practice of engineering performed as a necessary part of the duties of:

* * *

~~(5) An officer or employee of a corporation engaged in interstate commerce as defined in the act of Congress entitled “An Act to Regulate Commerce” approved February 4, 1887, as amended.~~

~~(6)~~ An officer or employee of a corporation in interstate communications as defined in the act of Congress entitled “Communications Act of 1934” or of a telephone company under the supervision and regulation of the department of public service.

~~(7)~~(6) An employee of a professional engineer.

~~(8)~~(7) Students of engineering acting under the supervision of a professional engineer.

* * * Funeral Directors * * *

Sec. 16. 26 V.S.A. § 1212 is amended to read:

§ 1212. BOARD OF FUNERAL SERVICE; RULES; DUTIES

(a) The board of funeral service shall consist of five members appointed by the governor, three of whom shall be licensed funeral directors under this chapter with five years of experience as a funeral director, and two members shall represent the public. At least two of the funeral directors shall also be

licensed embalmers. The public members shall not have a direct or indirect financial interest in the funeral business. Each member shall be sworn before performing his or her duties.

(b) The board shall:

* * *

(6) adopt rules regarding:

(A) minimum standards for crematory establishments, including standards for permits and documentation, body handling, containers, infectious diseases, pacemakers, body storage, sanitation, equipment, and maintenance, dealing with the public and other measures necessary to protect the public; and

(B) the transaction of its business as the board deems necessary;

(7) conduct at least one examination each year if there are candidates for examination;

(8) hold meetings as frequently as the efficient discharge of its duties requires. A majority of the members present shall constitute a quorum for the transaction of business.

Sec. 17. 26 V.S.A. § 1215 is amended to read:

§ 1215. PENALTIES, JURISDICTION OF OFFENSES

(a) A person who engages in the practice of funeral services without a license shall be subject to the penalties provided in subsection 127(c) of Title 3.

(b) No person shall embalm or introduce any fluid into a dead human body unless the person is a licensed embalmer or is an apprentice and performs under the direction of an embalmer in his or her presence. A person who is not duly licensed as provided in this chapter may not practice or hold himself or herself out to the public as a practicing embalmer and shall be subject to the penalties provided in subsection 127(c) of Title 3.

Sec. 18. 26 V.S.A. § 1252 is amended to read:

§ 1252. APPLICATION; QUALIFICATIONS

(a)(1) Funeral director. ~~Any person who desires to engage in the business of a funeral director shall make written application to the board of funeral service for a license to engage therein. The applicant shall have attained the age of majority and hold a high school or general educational development diploma or its equivalent. The application for a license shall be sworn to and shall state the name, age and residence of the applicant. The board of funeral service may prescribe by regulation the forms for the applications, and all applicants shall furnish such information relative to prior experience, employment and qualifications as the board shall require. The application shall be accompanied by an examination fee. Any person holding a high school certificate or its equivalent shall be entitled to take an examination as a funeral director provided that he or she has:~~

(A) graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of

instruction of not less than two academic years, or graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than one academic year or its equivalent as determined by the board, with 30 additional credit hours in subjects approved by the board and obtained in a college or university approved by the board; and

(B) completed a traineeship of 12 months of full-time employment or its equivalent under the direct supervision of a person duly licensed for the practice of funeral service within a licensed funeral establishment not connected with a school. The duration of the traineeship and the work performed shall be verified by affidavit as required by the board; and

(C) submitted a written application and the required application fee.

(2) The board may waive the educational and traineeship requirements for examination as a funeral director, provided the applicant possesses a valid license from another state with licensure requirements substantially similar to those required by this chapter.

(b)(1) Embalmer. Any person holding a high school certificate or its equivalent shall be entitled to take an examination in embalming provided that he or she has:

(A) graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than two academic years, or graduated from a school of

funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than one academic year or its equivalent as determined by the board, with 30 additional credit hours in subjects approved by the board and obtained in a college or university approved by the board;

(B) served a traineeship of 12 months of full-time employment or its equivalent under the direct supervision of a person duly licensed for the practice of funeral service, within a licensed funeral establishment not connected with a school. The duration of the traineeship and the work performed shall be verified by affidavit as required by the board; and

(C) submitted a written application and the required application fee.

(2) The board may waive the educational and traineeship requirements for examination as an embalmer, provided the applicant possesses a valid license from another state with licensure requirements substantially similar to those required by this chapter.

~~(b)~~(c) Funeral establishment. A person, partnership, association, or other organization desiring to operate a funeral establishment, shall apply, in writing, to the board of funeral service for a license. The applicant, if a corporation, partnership, association or other organization, must have a manager or co-owner who is a licensed funeral director. The application for a license shall be sworn to by the individual, a partner or a duly authorized officer of a corporation, and shall be on the form prescribed and furnished by the board of

funeral service, and the applicant shall furnish such information as required by rule or regulation of the board. The application shall be accompanied by ~~an examination~~ a licensing fee.

~~(e)~~(d) Crematory establishment. A person, partnership, corporation, association, or other organization desiring to operate a crematory establishment shall apply, in writing, to the board of funeral service for a license. The applicant, if a partnership, corporation, association, or other organization, must have a designated manager or co-owner who is responsible for the operation of the establishment. The application for a license shall be sworn to by the individual, or a partner or a duly authorized officer of a corporation, shall be on the form prescribed and furnished by the board, and the applicant shall furnish information, as required by rule. The application shall be accompanied by a licensing fee. However, the applicant shall not be required to pay the fee under this subsection if the applicant pays the fee under subsection (b) of this section.

~~(d)~~(e) Removal personnel. Any person who desires to engage in removals shall register with the board of funeral service and pay the fee established in subsection 1256(d) of this title. The applicant shall have attained the age of majority and be directly employed by a licensed funeral or crematory establishment. The board may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in infectious diseases in programs approved by the board. Registrants

under this section are authorized to perform removals only, as defined by this chapter. Unregistered personnel may accompany registered personnel to assist in removals so long as they have been instructed in handling and precautionary procedures prior to the call.

Sec. 18a. LICENSED FUNERAL DIRECTORS; GRANDFATHERING

Individuals who hold a valid license as a funeral director prior to July 1, 2009 shall not be required to meet the requirements of 26 V.S.A. § 1252(a)(1) as amended by this act.

Sec. 19. 26 V.S.A. § 1253 is amended to read:

§ 1253. EXAMINATIONS

An applicant for a funeral director's or embalmer's license shall be examined by the board. The examinations shall be in writing and upon forms approved by the board containing questions on ~~such~~ subjects as the board by rule ~~or regulation~~ may require to determine the qualifications of the applicant. ~~The board may also conduct any oral examination of the applicant as it deems necessary.~~

Sec. 20. 26 V.S.A. § 1254 is amended to read:

§ 1254. ISSUANCE OR DENIAL OF LICENSE

If, upon review, it is found that the applicant possesses sufficient skill and knowledge of the business and has met the application and qualification requirements set forth in this chapter, the board shall issue to him or her a license to engage in the business of funeral director, embalmer, funeral

establishment, crematory establishment, or removal personnel. All applications shall be granted or denied within 90 days from the making thereof.

Sec. 21. 26 V.S.A. § 1256 is amended to read:

§ 1256. RENEWAL OF REGISTRATION OR LICENSE

(a)(1) One month before renewal is required, the board or the office of professional regulation shall notify, by mail, every licensee of the date on which his or her or its license will expire.

(2) Biennially, every licensee shall renew his or her or its registration or license by paying the required fee.

~~(3) Upon the receipt of the fee, the board or the office of professional regulation shall issue to the licensee a receipt showing his or her number, name, and the year for which the fee is paid.~~

(b) Upon request of the board of health or a person authorized to issue burial or removal permits, a licensee shall show ~~the receipt mentioned in subdivision (a)(3) of this section~~ proof of current licensure.

* * *

(d) Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for license \$ 70.00
- (2) Biennial renewal of license
 - (A) Funeral director \$ 260.00
 - (B) Embalmer \$ 260.00

(C) Funeral establishment	\$ 475.00
(C) (D) Crematory establishment	\$ 475.00
(D) (E) Removal personnel	\$ 75.00

(e) In addition to the provisions of subsection (a) of this section, an applicant for renewal as a funeral director or embalmer shall have satisfactorily completed continuing education as required by the board. For purposes of this subsection, the board shall require, by rule, not less than six nor more than ten hours of approved continuing education as a condition of renewal and may require up to three hours of continuing education for removal personnel in the subject area of universal precautions and infectious diseases.

Sec. 22. 26 V.S.A. § 1272 is amended to read:

§ 1272. RULES; PREPAID FUNERAL FUNDS

The board, with the assistance of the office of professional regulation, shall adopt rules to carry out the provisions of this subchapter to insure the proper handling of all funds paid pursuant to a prepaid funeral agreement and to protect consumers in the event of default. The rules shall include provisions relating to the following:

(1) The timely establishment of escrow accounts and verification of the establishment of an account. An escrow account shall be maintained by a federally insured depository institution, but shall not be required to be maintained by a trust department, an insurance company licensed to do business in Vermont that is a member of the Vermont's Property and Casualty

Insurance Guaranty Association established by subchapter 9 of chapter 101 of Title 8, or a trust company chartered by the state of Vermont, if that insurance or trust company is a federally insured depository.

* * *

(5) Information to be provided the escrow agent by the funeral director and information regarding the escrow account or the prepaid funeral that shall be made available to the buyer on request and ~~periodically~~ annually in a format as determined by the board.

* * *

* * *

Sec. 23. 26 V.S.A. § 1273(a) is amended to read:

(a) Each prepaid funeral arrangement shall be expressed in a written contract. The board shall adopt rules for standard provisions to be included in all pre-need trust forms and may adopt a standard form which every funeral director accepting prepaid funeral arrangements shall use. Those provisions shall include:

* * *

Sec. 24. 26 V.S.A. § 1276 is added to read:

§ 1276. EMBALMING FLUIDS AND COMPOUNDS; SALE OR USE;

PROHIBITION

The sale or use for embalming purposes of any fluid containing arsenic, zinc, mercury, copper, lead, silver, antimony, chloral, or cyanogen, or of any

compound containing any of these, or any poisonous alkaloid, shall be prohibited, and all brands of embalming compounds used within the state shall be tested and approved under direction of the state board of health.

Sec. 25. 26 V.S.A. § 1277 is added to read:

§ 1277. SUSPICIOUS CASES

A person shall not embalm or introduce any fluid into a body of a person who has died under suspicious circumstances or when a criminal cause of death is suspected until after a legal investigation has determined the facts. An embalmer shall forthwith report any such case to the office of the chief medical examiner and obtain permission to embalm the body.

* * * Nursing * * *

Sec. 26. NURSING EDUCATION PROGRAMS; FACULTY;

EDUCATIONAL EXPERIENCE

A member of the nurse faculty of a baccalaureate or associate degree nursing education program shall hold at least a master's degree with a major in nursing and clinical experience relevant to the areas of responsibility unless the individual was a member of the faculty prior to March 1, 2004, provided that he or she meets all other requirements of the Vermont state board of nursing rules and has either acquired a master's degree in education or is currently in the process of obtaining a master's degree in nursing.

* * * Optometry * * *

Sec. 27. 26 V.S.A. § 1703(1) is amended to read:

- (1) “Board” means the state board of optometry ~~board~~.

Sec. 28. 26 V.S.A. § 1708 is amended to read:

§ 1708. POWERS AND DUTIES

(a) The board shall:

(1) Adopt rules under chapter 25 of Title 3 necessary for the performance of its duties, ensuring that at least the following are established by statute or rule:

(A) A definition of the behavior for which a license is required;

(B) Explanations of appeal and other significant rights given by law to licensees, applicants and the public; ~~and~~

~~(C) Rules of practice in disciplinary cases, including provisions regarding representation and evidence at hearings and provisions regarding subpoenas and witness fees.~~

~~(2) Conduct any necessary hearings in connection with the issuance, renewal, suspension or revocation of a license or otherwise related to the disciplining of a licensee;~~

~~(3) Receive complaints and charges of unprofessional conduct against any holder of a license. The board shall investigate all complaints in which there are reasonable grounds to believe that unprofessional conduct has occurred.~~

(b) The board may:

(1) ~~Issue subpoenas and administer oaths in connection with any authorized investigation, hearing, or disciplinary proceeding~~ exercise authority granted under chapter 5 of Title 3;

(2) ~~Take or cause depositions to be taken as needed in any investigation, hearing or proceeding~~ use the administrative services provided by the office of professional regulation under chapter 5 of Title 3;

* * *

Sec. 29. 26 V.S.A. § 1715 is amended to read:

§ 1715. ~~QUALIFICATIONS FOR EXAMINATION~~ LICENSURE BY EXAMINATION

(a) ~~Upon payment of the fee required by section 1718 of this title, an applicant shall be examined by the board to determine his qualifications. The board may grant a license to an applicant shall be a person who:~~

(1) has attained the age of majority;

(2) ~~who~~ is a graduate of an optometric school or college accredited by a regional or professional accreditation organization approved by the board;

(3) ~~If the applicant passes the~~ has successfully completed an examination, he shall receive a biennial license approved by the board; and

(4) ~~upon payment of the~~ has paid the fee required by section 1718 of this title.

(b) ~~Any person duly licensed and of record before July 1, 1980, shall not be required to pass the standard examination in order to retain his license.~~

(e) A failed examination may be retaken once free of charge and each examination thereafter shall be subject to payment of a fee.

Sec. 30. 26 V.S.A. § 1716 is amended to read:

§ 1716. ~~LICENSURE WITHOUT EXAMINATION~~ BY ENDORSEMENT

The board may issue a license ~~without a written examination to a qualified~~ an applicant who is licensed and currently in good standing in a state, territory or district of the United States jurisdiction having license requirements which are substantially equivalent to the requirements of this chapter; ~~provided the applicant has been engaged in the licensed practice of optometry for at least 500 hours during each of the two years immediately preceding application. At its discretion, the board may give an oral or practical examination to any person qualifying for licensure under this section. The provisions of this section shall apply regardless of whether an applicant comes from a state which does not grant a similar privilege to Vermont applicants.~~

Sec. 31. 26 V.S.A. § 1716a is amended to read:

§ 1716a. RENEWAL

Licenses shall be renewed every two years upon payment of the required fee, provided that the person applying for renewal completes at least 20 hours of continuing education, approved by the board, during the preceding two-year period. If the applicant has a special endorsement for the use of

pharmaceutical agents as provided in section 1729 of this title, the applicant shall, during the preceding two-year period, complete at least 40 hours of continuing education, approved by the board, of which at least 20 hours shall be related to the use of therapeutic pharmaceutical agents. The board may specify particular areas of study which must be completed to satisfy the requirements of this section. The board may, by rule, adopt continuing education requirements for those who renew their licenses after less than a full two-year period.

Sec. 32. 26 V.S.A. § 1729 is amended to read:

§ 1729. ~~APPLICATION; EXAMINATION~~ ENDORSEMENTS AND REQUIREMENTS

* * *

* * * Pharmacy * * *

Sec. 33. 26 V.S.A. § 2032 is amended to read:

§ 2032. POWERS, DUTIES, LIMITATIONS

* * *

(b) The board of pharmacy shall supervise the practice of pharmacy in this state including the following:

* * *

(3) The board shall establish an internship program which shall have the following elements by July 1, 1983, or an internship shall no longer be required:

* * *

(C) Allowance of up to ~~1,000~~1,240 hours of the program to be “concurrent time” or internship time served under the supervision of, concurrent with, or part of an educational course requirement leading to a pharmacy degree, as defined by board rule, or by equivalent service in any branch of the United States armed forces, as defined by board rule.

* * *

Sec. 33a. 26 V.S.A. § 2042(a) is amended to read:

(a) To obtain a license to engage in the practice of pharmacy, an applicant for licensure by examination shall:

(1) Have attained the age of majority;

(2) ~~Not have engaged in acts which directly affect the ability to practice pharmacy, including~~

~~(A) any past felony conviction related to the practice of pharmacy under United States law or the laws of any state or any other sovereign nation;~~
and

~~(B) any suspension, revocation, or restriction of a license issued by any state to practice a health related regulated profession which may have occurred within the preceding five years;~~

(3) Have graduated and received the professional undergraduate degree from a school or college of pharmacy which has been approved by the board of pharmacy, or, for foreign-trained applicants, have successfully passed an

examination demonstrating that their education was equivalent to the education at a board-approved school or college;

~~(4)~~(3) If required by subdivision 2032(b)(3) of this title, have completed any internship program established by the board or demonstrated experience in the practice of pharmacy which meets or exceeds any internship requirement established under this chapter;

~~(5)~~(4) Have successfully passed an examination required by the board of pharmacy;

~~(6)~~(5) Paid the fees specified by this chapter.

Sec. 34. 26 V.S.A. § 2045 is amended to read:

§ 2045. REINSTATEMENT

(a) The board may renew a license which has lapsed upon payment of the required fee and the late renewal penalty, provided all the requirements for renewal, ~~including continuing education set by the board by rule~~, have been satisfied. The board shall not require payment of renewal fees for years during which the license was lapsed.

(b) ~~Allowing a license to lapse for a period of longer than five years may, after opportunity for hearing, be grounds for revocation.~~ As a condition of renewal, the board may ~~require that licensees establish that they have satisfied continuing education requirements~~ by rule set reinstatement requirements for those whose licenses have lapsed for more than five years.

Sec. 35. 26 V.S.A. § 2063(a) is amended to read:

(a) All licensed drug outlets shall report to the board of pharmacy within 48 hours, the occurrence of any of the following changes:

(1) Permanent closing;

(2) Change of ownership, management, location, or ~~employed~~ pharmacist manager;

(3) Any and all other matters and occurrences as the board may properly require by rules and regulations.

Sec. 36. 26 V.S.A. § 2069 is amended to read:

§ 2069. DENIALS BASED ON PUBLIC INTEREST

The board shall grant licensure to an applicant who satisfies the requirements of section ~~2068~~ 2061 of this title unless the board determines that licensure would not be in the public interest. To determine whether licensure would not be in the public interest, the board shall consider, at a minimum, the following factors:

* * *

Sec. 37. 26 V.S.A. § 2072 is amended to read:

§ 2072. LICENSE RENEWAL

Licenses and registrations shall be renewed biennially on a schedule as determined by the office of professional regulation. ~~On or before the first day of the month in which the license expires, the board shall mail each licensee an application for renewal. If an application for renewal, together with the~~

~~required fee, is not received by the board before the first day of the following month, the existing license shall lapse and become null and void upon the last day of that month.~~

* * * Psychologists * * *

Sec. 38. 26 V.S.A. § 3001(10) is amended to read:

(10) “Professional psychology training program” means a ~~post graduate~~ postgraduate training program that:

(A) is a planned program of study, defined by the board by rule, which reflects an integration of the science and practice of psychology and emphasizes assessment, intervention, psychopathology, statistical methods and professional ethics, including practice and internship; ~~and~~ or

(B) is designated as a doctoral program in psychology by the Association of State and Provincial Psychology Boards and the National Register of Health Service Providers in Psychology, or is accredited by the American Psychological Association or the Canadian Psychological Association; or

(C) is a master’s program in psychology that is offered by an educational institution that is a full member of the Council of Applied Master’s Programs in Psychology (CAMPP).

* * * Sunrise Review of Licensing Statutes * * *

Sec. 39. 26 V.S.A. § 3105 is amended to read:

§ 3105. CRITERIA AND STANDARDS

* * *

(e) After the review of a proposal to regulate a profession, the office of professional regulation may decline to conduct an analysis and evaluation of the proposed regulation if it finds that:

(1) the proposed regulatory scheme appears to regulate fewer than 250 individuals; and

(2) the office previously conducted an analysis and evaluation of the proposed regulation of the same profession, and no new information has been submitted that would cause the office to alter or modify the recommendations made in its earlier report on the proposed regulation of the profession.

* * * Electrologists * * *

Sec. 40. 26 V.S.A. § 4406 is amended to read:

§ 4406. ELIGIBILITY

To be eligible for licensure as an electrologist, an applicant:

(1) shall not be in violation of any of the provisions of this chapter or rule adopted in accordance with the provisions of the chapter;

(2) shall:

(A) have satisfactorily completed a course of study of at least 600 hours at a school of electrolysis approved by the director in consultation with

the advisor appointees which meets or exceeds the standards set by the American Electrology Association, and have passed the examination described in section 4407 of this title;

(B) possess a current license or certification in good standing in another jurisdiction having requirements substantially equivalent to those in this state;

~~(C) have been certified by the state of Vermont as an electrologist prior to July 1, 2005 and be in good standing;~~

~~(D) have obtained three years' work experience as an electrologist immediately preceding July 1, 2005. To qualify, such work must have consisted of at least 500 hours per year as a practicing electrologist.~~

~~Applications for licensure under this subdivision shall be received by the office of professional regulation prior to January 1, 2006; or~~

~~(E) have passed the examination required by section 4407 of this title within the three years prior to January 1, 2006.~~

* * * Repeal * * *

Sec. 41. REPEAL

(a) 26 V.S.A. § 72a(c) (provision for applicants for accountant license who have good character and meet the education requirements or who expects to meet them within 60 days following the examination); chapter 17 (regulation of embalmers); §§ 1163(e) (temporary practice for professional engineers); 1709(f) (per diems for members of the state board of optometry); 1714

(procedures for examination of optometrists); 1721 (remedies; appeals of disciplinary actions for optometrists); 1725 (applications and examinations for optometrist use of diagnostic pharmaceutical agents); 2427 (temporary licenses for veterinarians); and 2595(d) (temporary permits for land surveyors) are repealed.

(b) 26 V.S.A. § 71a(a)(2)(A)(i) shall be repealed on July 1, 2014.

(c) Sec. 26a of this act shall be repealed on July 1, 2013.

Approved: May 23, 2009