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Christopher D. Winters, Director

## MEMORANDUM

To: House Committee on Government Operations

From: Christopher D. Winters, Director (828-2458)  
Office of Professional Regulation

Date: January 17, 2014

Re: 2014 Professional Regulation Bill Summary

### Title 3

#### \*\*\*General OPR Provisions\*\*\*

**3 V.S.A. §122:** Cleans up the list of professions regulated through OPR.

**3 V.S.A. §128:** Correct the names of the existing AHS agencies who receive reports of unprofessional conduct under the mandatory reporting statute.

3 V.S.A. §129: Clarifies authority of the boards, allowing them to prevent renewal or reinstatement of licenses after a finding of unprofessional conduct and to “preliminarily deny” petitions for reinstatement, removal or modification of license conditions. This still affords an applicant a hearing if they appeal the preliminary determination.  
get to the director.

### Title 26

#### \*\*\*Profession Specific Provisions\*\*\*

#### \*\*\*Barbers and Cosmetologists\*\*\*

**26 V.S.A. §6281:** This fix comes in response to federal crackdowns on funding for post-secondary education. Federal scholarships will only be given to post-secondary programs endorsed / licensed by the state. This is usually done by the Department of Ed, but is also done by OPR for Nursing and Cosmetology school. This fix is needed to ensure that there is a distinction between high school and post secondary approvals so that the money can keep coming to the two cosmetology schools in the state (distinct from high school vocational programs)



**\*\*\*Funeral Service\*\*\***

**26 V.S.A. §§1211 – 1271:** Changes to allow for a limited services license for individuals and limited service establishments. That is a funeral license allowing an individual to specialize in certain body dispositions without requiring a preparation room, embalming, or many of the other services traditionally provided by a funeral director. These changes would also require a registration for crematory personnel and does provide an exception from regulation for the UVM anatomical gift program and research center.

**\*\*\*Nursing\*\*\***

**26 V.S.A. §§1583 - 1599:** Eliminates the licensing exception for recent graduates awaiting exams or exam results which is no longer necessary because exams are constantly available and results are instantaneous with computer testing centers. Allows the board to penalize employers for allowing their staff to work without a license. Strikes the LNA fees from their own section and puts them with the other nursing fees.

**\*\*\*Pharmacy\*\*\***

**18 V.S.A. §§ 4201 – 4215b:** Clarifies that when a prescription is communicated orally, it shall be promptly reduced to writing by the pharmacist. Adds a bit of reasonableness to the requirement that the pharmacist check ID and compare signatures every time a prescription for a controlled substance is dispensed.

**26 V.S.A. §§ 2022 - 2042a:** Defines “collaborative practice” for pharmacists. Adds national certification as a prerequisite to pharmacy tech licensure.

**\*\*\*Real Estate Brokers and Salespersons\*\*\***

**26 V.S.A. §§2211-2299:** Modifies when you place a deposit into an interest bearing account, eliminates the “sole proprietor” firm fee exception, requires salespeople to take particular courses within 90 days of licensure, updated office name change requirements and other general housekeeping matters.

**\*\*\*Opticians\*\*\***

Housekeeping amendment to the title of the subchapter.

**\*\*\*Psychology\*\*\***

**26 V.S.A. § 3001 – 3011a:** Eliminates the psychological trainee registration requirement which has led to too much confusion and allows those training to become psychologists to enter onto the roster of psychotherapists while gaining their experience.

**\*\*\*Private Investigative and Security Services\*\*\***

**26 V.S.A. §3162:** Clarifies the intent of the temporary part time security employee registration to ensure that after the initial 8 hours of training, a temporary employee cannot seasonally leave and come back to register once again, perpetually avoiding the 40 hour training requirement.

**\*\*\*Social Workers\*\*\***

**26 V.S.A. §3201 - 3213:** Creates two tiers of clinical social workers – licensed independent clinical social workers and licensed master’s social worker where before there was only one.

**\*\*\*Clinical Mental Health Counselors\*\*\***

**26 V.S.A. §3262a:** General cleanup and adding more flexibility to who can be on the board. This is needed due to difficulties in recruiting and retaining a psychotherapist member.

**\*\*\*Real Estate Appraisers\*\*\***

**26 V.S.A. §3319:** Cleanup of a reference to a previously stricken section.

**\*\*\*Tattooists and Body Piercers\*\*\***

**26 V.S.A. §§4102 – 4105:** General cleanup and no real substantive changes.

**\*\*\*Naturopathic Physicians\*\*\***

**26 V.S.A. §4125:** Codifies the existing interdisciplinary committee to advise the director on matters relating to the prescribing authority of naturopathic physicians.

**\*\*\*Midwives\*\*\***

**26 V.S.A. §4185:** Another interdisciplinary committee designed to help bridge the gap among the teams of health care professionals needed to complete birth mother and infant care.

**\*\*\*Electrologists\*\*\***

**26 V.S.A. §§4402:** Creates a special endorsement for laser use.

**Other bills and discussions arising outside the OPR Bill:**

**Dental Practitioners sunrise** -- Proponents filed a sunrise review petition. Our conclusion is that the profession has to exist before you do a sunrise. This is a policy question for the Legislature on whether or not to create them in Vermont to help solve the care shortage. We will participate in drafting of the regulatory structure if the Legislature decides to create the profession here. See H.273 and S.35 (in Senate Gov Ops).

**Speech Language Pathology Assistants sunrise** – We are still awaiting Department of Education input, but will be recommending regulation, which will bring up whether the entire SLP and Audiologist programs ought to come to the SOS. The answer is probably “yes.”

**Landscape Architects** – sunset review of this profession built onto the law passed a few years ago. Requires OPR to look to see if regulation has provided a “public benefit.” As public benefit is described in the sunset language, the answer is yes and we recommend continued regulation.

**Psychotherapists** – the profession may be seeking two tiers of regulation, one with more experience so that they can get insurance reimbursement. The Board of Allied Mental Health has concerns about this. It is financially driven and may confuse mental health licensing requirements further. There are other avenues open to practitioners who want to get a license and perform reimbursable services.

**Home inspectors** – there will be more action this year on H.227. last year, General Housing and Military Affairs agreed to put off until this year because of some opposition from within and my indication that a licensing overhaul involving DPS may be forthcoming. This is a relatively good fit with OPR’s other real estate professions, but OPR needs resources to deal with the complaints that are sure to follow.

**Licensed Alcohol and Drug Abuse Counselors (LADC)** – Health and Welfare Committee has a nondescript bill (H.69). The health department has advocated for OPR to take this over. The regulatory structure needs a serious overhaul first.

**Precious metal dealers** – (S.308) study committee recommends they come to OPR for regulation through a registry. This is very different than anything else OPR does which should start an interesting conversation in the Gov Ops committees about what they believe OPR to be. OPR believes this is a law enforcement issue and that additional criminal justice resources are the answer, not necessarily licensing. If OPR takes on this profession as well, we must have the resources discussion and should understand how this opens the door to other non-professional registrations. OPR is at risk of being overwhelmed with new professions to the detriment of our existing professions and work we do.

**Massage therapists** – another push for regulation based on criminal activity (human trafficking and prostitution). Again, OPR must drive the conversation toward public protection from licensed professionals, not solving a criminal problem, which is a different issue. Law enforcement / local solutions should be thoroughly explored before licensing is mandated. The profession itself is still divided about regulation. If it does come to OPR, adequate resources are the key to success.

**Foresters** – request for sunrise review from Rep. Clarkson and Senator Lyons.

**Educators** – Vermont NEA has raised this as a legislative priority. Seeks to reform licensing and send it to OPR. There are 18,000 educator licensees.

**Military licensing** – (H. 275) requiring boards to adopt standards for accepting military experience to count toward licensure. Most frequently applies to nursing.

**Barbering and Cosmetology** bill (S.24) proposing a crossover study to facilitate moving from a cosmetology license to a barber license. The board is already under way with this.

**Medical practice board investigators** – (H.350) in House Health Care and would require all investigators be law enforcement (OPR opposes this) and would require a certification course in professional licensing investigations be taught at the police academy )OPR also opposes this).

**2014 Fee Bill:**

- Lower fees for **Chiropractic** due to retired deficits that have turned into surpluses
- Lower fees for **Optometry** due to retired deficits that have turned into surpluses
- Small fee increase for **Engineers**
- Large fee increase for **Funeral Services**
- Large fee increase for **Nursing** due to elimination of international nurse licensure
- Moderate fee increase for **Real Estate**