



**State of Vermont**  
**Office of the Secretary of State**

[phone] 802-828-1505  
[fax] 802-828-2465  
[www.sec.state.vt.us](http://www.sec.state.vt.us)

**James C. Condos, Secretary of State**  
**Brian H. Leven, Deputy Secretary**

**Office of Professional Regulation**  
National Life Bldg., North FL2  
Montpelier, VT 05620-3402

**Christopher D. Winters, Director**

## MEMORANDUM

To: Senate Committee on Government Operations

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

Date: March 19, 2014

Re: 2014 Professional Regulation Bill Summary

### **Title 3**

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

Section 1, 3 V.S.A. §122:  
Housekeeping that cleans up the list of professions regulated through OPR.

Section 2, 3 V.S.A. §123:  
This section requires boards to adopt standards and processes for accepting military education, training and experience to count toward licensure. Also requires professions attached to the Secretary of State's Office to expedite licenses for military spouses who have also been subject to a military transfer. This language originated in H.275, a bill that was taken up last year by House General Housing and Military Affairs.

Section 3, 3 V.S.A. §128:  
Updates the names of the AHS agencies receiving reports of unprofessional conduct under the mandatory reporting statute.

### **Title 26**

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

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

Section 4, 26 V.S.A. §281:

This fix comes in response to the federal government's tightening of controls on funding for post-secondary education. Federal assistance will only be given to post-secondary programs

endorsed or licensed by the state. This is usually done by the Agency of Education, but is also done by the OPR for Nursing and Cosmetology schools. This fix is needed to ensure that there is a distinction between high school and post secondary program approvals by the Cosmetology Board so that the money can keep coming to the two cosmetology post-secondary schools in the state (distinct from high school vocational programs).

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

Sections 5-8, 26 V.S.A. §§1211 – 1271:

These changes allow for a “limited services” license for establishments. It 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 or funeral establishment. The change is in response to the evolving nature of the profession and the demand for more direct cremation services.

The amendments would also require a registration for the crematory personnel who handle bodies and does provide a specific exception from regulation for the UVM anatomical gift program and research center.

Fees for the crematory personnel and limited service establishments are established in Section 7 and are consistent with other fees for individual and establishment licenses.

Section 8 clarifies that the prepaid funeral arrangement statutes apply to the establishment not the individual.

### **\*\*\*Pharmacy\*\*\***

Sections 9 and 10, 18 V.S.A. §§ 4201 – 4215b:

Clarifies that when a prescription is communicated orally, it shall be promptly reduced to writing by the pharmacist. This is already common practice. Section 10 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 if the patient is personally known to the pharmacist.

Sections 11 and 12, 26 V.S.A. §§ 2022 and 2042a:

Defines and allows “collaborative practice” for pharmacists pursuant to rules adopted by the Board of Pharmacy and adds national certification as a prerequisite to pharmacy technician licensure.

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

Sections 13-19, 26 V.S.A. §§2211-2299:

These amendments are general housekeeping in Section 13, Section 14 modifies when you place a deposit into an interest bearing account only at the request of the depositor, 15 eliminates the “sole proprietor” firm fee exception and would have one person shops pay both an office and an individual fee. Section 16 cleans up registration language, Section 17 requires newly licensed salespeople to take particular courses designated by the Real Estate Commission within 90 days of licensure, sections 18 and 19 update the office name change requirements and further clean up language to conform to the generally accepted legislative council drafting rules.

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

Section 20

This is simply a housekeeping amendment to the title of the subchapter.

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

Sections 21-23, 26 V.S.A. § 3001–3011a:

Eliminates the psychological trainee registration requirement which has led to confusion among applicants and licensees and allows those training to become psychologists to enter onto the roster of nonlicensed and noncertified psychotherapists while gaining experience.

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

Section 24, 26 V.S.A. §3162:

Clarifies the intent of the temporary part time security employee registration. This section was there to allow a temporary part time person to only undergo 8 hours of training rather than the 40 required for all other security guards who engage in full time security work. This amendment helps to ensure that after the initial 8 hours of training, a temporary employee cannot seasonally leave and come back to register once again and only get 8 hours training again, perpetually avoiding the 40 hour training requirement for full time employees.

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

~~Sections 25–39, 26 V.S.A. §3201–3213:~~

~~Creates two branches of clinical social workers—licensed independent clinical social workers (LICSW) and licensed master’s social worker (LMSW). Currently there is only one category of licensure. This proposal does not take anything away from existing licensees who will all receive the LICSW designation. It does provide for a more direct path to licensure for new LMSW’s (1200 hours supervised practice) who may not choose to engage in independent clinical psychotherapy services. Those who do choose to practice independent psychotherapy must have additional supervised clinical training (3000 hours supervised practice). These sections also contain a significant number of housekeeping amendments,~~

Removed from the bill due to concerns expressed by UVM faculty. OPR will work through these issues and bring back a proposal next year.

AMENDMENT REQUESTED: We do wish to reinsert the supervision piece that was removed in the wholesale striking of these sections.

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

Section 40, 26 V.S.A. §3262a:

General cleanup of the section and this amendment also adds more flexibility to who can be on the board. This is needed due to difficulties in recruiting and retaining a nonlicensed, noncertified psychotherapist member because that member often moves on to become licensed in another profession and is then technically not qualified to remain on the board.

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

Sections 41 and 42, 26 V.S.A. §3314 and 3319:  
Provides for background checks of real estate appraisers pursuant to federal requirements and cleans up a reference to a previously stricken section.

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

Sections 43-45, 26 V.S.A. §§4102 – 4105:  
Housekeeping with no real substantive changes.

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

Section 46, 26 V.S.A. §4125:  
Codifies the existing interdisciplinary committee that meets to advise the director on matters relating to the prescribing authority of naturopathic physicians.

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

Section 47, 26 V.S.A. §4185:  
Another interdisciplinary committee designed to advise the director and help bridge the gap among the teams of health care professionals needed to complete birth mother and infant care.

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

Sections 48 - 50, 26 V.S.A. §§4402 - 4404:  
Creates a special endorsement for laser hair removal and allows for rules necessary to ensure that electrologists are properly trained before using lasers.

**\*\*\*Speech Language Pathologists and Audiologists\*\*\***

**AMENDMENT REQUESTED:** Sections XX, 26 V.S.A. §§4451 - 4464

The OPR will seek amendments to transfer licensure from the Agency of Education to the Office of Professional Regulation. Current law has the Agency of Education licensing all of these professionals, regardless of whether they practice in the educational setting or not. Today, approximately half of the speech language pathologists practice in a clinical setting outside of a school and the vast majority of audiologists work in private practice rather than in schools.

The existing regulatory structure splits enforcement between the Agency of Education and OPR for unprofessional conduct occurring in schools versus conduct outside of schools. This structure, put in place many years ago, has led to confusion among licensees and the public and has made these programs more difficult to administer. It makes more sense to treat these professionals the same way we treat other non-teacher professionals in schools, such as school nurses and school psychologists: original licensure should be with OPR for all licensees, and for those working in schools, the Agency of Education will issue an endorsement to practice with their additional requirements of a background check and educator course requirements.

These changes were initiated when the OPR performed a sunrise review on whether Speech Language Pathology Assistants should be subject to regulation. During the public hearing and

comment process, the need to move and reform SLP and AUD licensure was raised many times, leading to these amendments. A proposal to regulate SLPAs will be brought forward next year after further public hearings and additional vetting by the OPR. The OPR, the Agency of Education, and the licensed professionals themselves are all in favor of this move.

Section 51 Effective Dates

July 1, 2014

**AMENDMENT REQUESTED:** Sections X-X regarding speech-language pathologists takes effect on September 1, 2014 to allow for transition time between agencies and synchronization of license renewal dates.

**AMENDMENT REQUESTED:** Motor Vehicle Racing lowering the age of those allowed in the pit area from 14 to 10.

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

**Dental Practitioners** sunrise – no further review with this committee is necessary.

**Speech Language Pathology Assistants** sunrise – As explained above, the sunrise report concluded that SLPAs should be subject to regulation to protect the public. OPR will move forward with a proposal next year after further vetting of the issue. Also arising from these discussions was the idea of moving all of the regulatory program from the Agency of Education to OPR. All parties agree this would be a logical decision. However, due to the late timing of this amendment to the Bill, the House declined to add it to the OPR bill and suggested it could be added by the Senate.

**Home inspectors** – H.227 has passed the House and you will be taking up that bill in the coming days. 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.

**Precious metal dealers** – (S.308) the summer study committee recommended they come to OPR for regulation through a registry. OPR's position has been that this is very different than anything else OPR does and that because this is intended to solve a criminal problem and the database would be used primarily by law enforcement, that it would make more sense to house that list with the Department of Public Safety. The Senate committee has amended the bill to require the Department of Public Safety to create the system of certification for precious metal dealers. The bill is currently on the Senate floor calendar.

**Massage therapists** (H.644) – Another push for regulation of this profession, this time based largely 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. The House Government Operations committee has declined to take up the professional regulation bill on this issue.

**Foresters** – There has been a request for sunrise review from Rep. Clarkson and Senator Lyons. House Government Operations has agreed to ask the OPR to do this via a formal letter of request and OPR will begin the sunrise review process soon.

**Educators** – Vermont NEA has raised this as a legislative priority. They seek to reform and simplify educator licensing and have suggested it could go to OPR. The Secretary of State's Office is not advocating for this transition but has remained open to discussions about consolidating similar licensing functions in the interest of efficiencies and good government.

**Military licensing** – (H. 275/ H.681) as introduced would require boards to adopt standards for accepting military experience to count toward licensure and processes to expedite spouse licensure as well. This most frequently applies to nursing. The H.275 language was incorporated into Section 2 of the OPR Bill. H.681 has broader reach to multiple licensing agencies (DMV, DPS, AOE). OPR already does significantly comply with the intent of both of these bills and is happy to do so.

**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.

**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**