

No. 38. An act relating to professions and occupations regulated by the Office of Professional Regulation.

(H.282)

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

* * * General Provisions * * *

Sec. 1. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

(a) In addition to the fees otherwise authorized by law, a board may charge the following fees:

~~(1) Late renewal penalty, \$25.00 for a renewal submitted less than 30 days late. Thereafter, a board may increase the late renewal penalty by \$5.00 for every additional month or fraction of a month, provided that the total penalty for a late renewal shall not exceed \$100.00. This penalty shall not preclude disciplinary action for practicing without a valid license.~~

~~(2) Reinstatement of revoked or suspended license, \$20.00.~~

~~(3) Replacement of license, \$20.00.~~

~~(4) Verification of license, \$20.00.~~

~~(5)~~(2) An examination fee established by the Secretary, which shall be no greater than the costs associated with examinations.

~~(6) [Repealed.]~~

(3) Reinstatement fees for expired licenses pursuant to section 127 (unauthorized practice) of this title.

* * *

Sec 2. 3 V.S.A. § 127 is amended to read:

§ 127. UNAUTHORIZED PRACTICE

* * *

(d)(1) A person whose license has expired for not more than one biennial period may reinstate the license by meeting renewal requirements for the profession, paying the profession's renewal fee, and paying the following nondisciplinary reinstatement penalty:

(A) if reinstatement occurs within 30 days after the expiration date, \$100.00; or

(B) if reinstatement occurs more than 30 days after the expiration date, an amount equal to the renewal fee increased by \$40.00 for every additional month or fraction of a month, provided the total penalty shall not exceed \$1,500.00.

(2) Fees assessed under this subsection shall be deposited into the Regulatory Fee Fund and credited to the appropriate fund for the profession of the reinstating licensee.

(3) A licensee seeking reinstatement may submit a petition for relief from the reinstatement penalty, which a board may grant only upon a finding of exceptional circumstances or extreme hardship to the licensee.

(4) Practice by a licensee with an expired license that continues for more than two years, or practicing at any time when the licensee knew or should have known the license was expired, may be prosecuted by the State as

unauthorized practice under this section or as unprofessional conduct pursuant to subdivision 129a(a)(3) of this title.

(e) A person practicing a licensed profession without authority shall not institute any proceedings in this ~~state~~ State for the enforcement of any right or obligation if at the time of the creation of the right or obligation the unlicensed person was acting without authority.

~~(e)~~(f) The provisions of this section shall be in addition to any other remedies or penalties for unauthorized practice established by law.

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

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

* * *

(f)(1) A board may appoint a hearing officer, who shall be an attorney admitted to practice in this State, to conduct a hearing ~~which~~ that would otherwise be heard by the board. A hearing officer appointed under this subsection may administer oaths and exercise the powers of the board properly incidental to the conduct of the hearing.

(2) When a hearing is conducted by a hearing officer, the officer shall report findings of fact and conclusions of law to the board. The report shall be made within 60 days of the conclusion of the hearing unless the board grants an extension. The provisions of section 811 of this title regarding proposals for decision shall not apply to the hearing officer report.

(3) The board may take additional evidence and may accept, reject, or modify the findings and conclusions of the hearing officer. Judgment on the findings shall be rendered by the board.

* * *

Sec. 4. 3 V.S.A. § 131 is amended to read:

§ 131. ACCESSIBILITY AND CONFIDENTIALITY OF DISCIPLINARY
MATTERS

* * *

(b) All meetings and hearings of boards shall be ~~open to the public, except in accord with 1 V.S.A. § 313~~ subject to the Open Meeting Law.

* * *

(d) Neither the Secretary nor the Office shall make public any other information regarding ~~disciplinary unprofessional conduct~~ complaints, investigations, proceedings or, and related records except the information required to be released under this section.

(e) ~~A licensee or applicant shall have the right to inspect and copy all information in the possession of the Office pertaining to the licensee or applicant, except investigatory files which have not resulted in charges of unprofessional conduct and attorney work product~~ The discovery rules for conduct complaints shall apply to and govern the provision of investigatory files to those charged with unprofessional conduct.

(f) ~~For the purposes of~~ As used in this section, “disciplinary action” means an action based on a finding of unprofessional conduct that suspends, revokes, limits, or conditions a license in any way, ~~and includes~~ including administrative penalties, warnings, and reprimands.

(g) Nothing in this section shall prohibit the disclosure of any information regarding disciplinary unprofessional conduct complaints pursuant to an order from a court of competent jurisdiction, or to state State or federal law enforcement agencies, the Department of Health, the Department of Disabilities, Aging, and Independent Living, or the Department of Financial Regulation in the course of their investigations, provided the agency or department agrees to maintain the confidentiality and privileged status of the information as provided in subsection (d) of this section.

Sec. 5. 3 V.S.A. § 133 is added to read:

§ 133. BUSINESS REGISTRATION

When professional services are required by law to be performed in or by a business entity registered with the Office, the business entity shall:

(1) register with the Corporations Division of the Office of the Secretary of State, if required by law; and

(2) separately register with the Office each name under which the business entity will conduct business, register licensees, and advertise in Vermont.

* * * Property Inspectors * * *

Sec. 6. 26 V.S.A. § 1091 is amended to read:

§ 1091. ELIGIBILITY FOR LICENSURE

(a) Each applicant for licensure as a property inspector shall meet the following minimum requirements:

* * *

~~(4) Complete a minimum number of property inspections incidental to a program of study in a property inspection training program administered by an independent, nationally recognized organization. The Director shall identify by rule the minimum number of inspections and acceptable organizations required by this subdivision (4). [Repealed.]~~

~~(5)(b) Provide proof Proof of certification issued by an independent, nationally recognized organization that provides certification for property inspectors satisfies the eligibility requirements set forth in subdivisions (a)(2) and (3) of this section. The Director shall identify by rule acceptable organizations for certification. The Director shall issue a license to practice to any person who in addition to the requirements of subdivision (a)(1) of this section is certified by an acceptable organization identified by the Director.~~

* * * Nursing * * *

Sec. 7. 26 V.S.A. chapter 28, subchapter 1 is amended to read:

Subchapter 1. ~~Registered and Licensed Practical Nursing~~

General Provisions

§ 1571. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this ~~state~~ State, ~~no~~ a person shall not practice, or offer to practice, registered or practical nursing or as a nursing assistant unless ~~currently~~ licensed under this chapter.

§ 1572. DEFINITIONS

As used in this chapter:

* * *

(3)(A) ~~“Licensed practical nursing”~~ means a directed scope of nursing practice ~~which that~~ includes, ~~but is not limited to:~~

(i)(A) ~~Contributing~~ contributing to the assessment of the health status of individuals and groups;

(ii)(B) ~~Participating~~ participating in the development and modification of the strategy of care;

(iii)(C) ~~Implementing~~ implementing the appropriate aspects of the strategy of care as defined by the ~~board~~. Board;

(iv)(D) ~~Maintaining~~ maintaining safe and effective nursing care rendered directly or indirectly;

~~(v)~~(E) ~~Participating~~ participating in the evaluation of responses to interventions;

~~(vi)~~(F) ~~Delegating~~ delegating nursing interventions that may be performed by others and that do not conflict with this chapter; and

~~(B)~~(G) A ~~licensed practical nurse functions~~ functioning at the direction of a registered nurse, advanced practice registered nurse, licensed physician, or licensed dentist in the performance of activities delegated by that health care professional.

(4) “Advanced practice registered nurse” or “APRN” means a licensed registered nurse authorized to practice in this ~~state~~ State who, because of specialized education and experience, is ~~endorsed~~ licensed and authorized to perform acts of medical diagnosis and to prescribe medical, therapeutic, or corrective measures under administrative rules adopted by the ~~board~~ Board.

(5) “License” means a current authorization permitting the practice of nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse, or the practice as a nursing assistant.

§ 1573. VERMONT STATE BOARD OF NURSING

* * *

(c) Each member of the ~~board~~ Board shall be a citizen of the United States, and a resident of this ~~state~~ State.

(1) The ~~registered nurse~~ licensed members shall have the following in their respective categories of licensure:

(A) ~~Hold a~~ An active license to practice ~~registered nursing~~ in Vermont;

(B) ~~Have at~~ At least five years' licensed experience ~~in the practice of registered nursing~~. Three of these five years shall have been immediately preceding appointment.

(2) ~~The licensed practical nurse members shall:~~

(A) ~~Hold a license to practice practical nursing in Vermont;~~

(B) ~~Have at least five years' experience in the practice of practical nursing. Three of these five years shall have been immediately preceding appointment.~~

(3) The public members shall not be members of any other health-related licensing boards, licensees of any health-occupation boards, or employees of any health agencies or facilities, and shall not derive primary livelihood from the provision of health services at any level of responsibility.

(d) ~~Any vacancy occurring on the board shall be filled for the unexpired term by appointment to be made by the governor~~ Six members of the Board shall constitute a quorum.

§ 1573a. ~~APRN SUBCOMMITTEE~~

~~The board shall appoint a subcommittee to study and report to the board on matters relating to advanced practice registered nurse practice. The subcommittee shall be composed of at least five members. The majority shall be advanced practice registered nurses who are licensed and in good standing~~

~~in this state. At least one member shall be a member of the public, and at least one member shall be a physician designated by the board of medical practice. Members of the subcommittee shall be entitled to compensation at the rate provided in 32 V.S.A. § 1010. [Repealed.]~~

§ 1574. POWERS AND DUTIES

~~(a) The board~~ In addition to the powers granted by 3 V.S.A. § 129, the Board shall:

* * *

~~(2) Conduct business at any meeting only if five members are present to constitute a quorum; and keep a record of its proceedings which shall be a public record;~~ Adopt rules necessary to perform its duties under this chapter.

~~(3) Prescribe~~ Adopt rules setting standards for educational approval of nursing assistant and nursing education programs and approve such nursing education programs in Vermont as meet the requirements of this chapter and board rules; including all clinical facilities. The Board may require reimbursement for actual and necessary costs incurred for site surveys.

~~(4) Adopt rules for medication nursing assistant education and competency evaluation programs and survey and approve those programs that meet the rules.~~

~~(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.~~

(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.

~~(5) Establish~~ Adopt rules setting standards required for registration and licensure of individuals for the practice of as a nursing, including the assistant, practical nurse, registered nurse, or advanced practice registered nurse, and for endorsement of advanced practice registered those nurses and those in special areas of nursing practice which that require additional education and experience;

~~(5)(6) Examine, register, license, and renew the licenses of duly qualified applicants and keep a record of all persons registered by this state, all persons currently licensed as nursing assistants, practical nurses, registered nurses, and practical advanced practice registered nurses, and all persons meeting standards which may be established in defined special areas of nursing practice;~~

~~(6)(7) Adopt rules setting active practice requirements for licensure and renewal.~~

(8) Provide standards Adopt rules for and approve education programs for the benefit of nurses who are reentering practice following a lapse of five or more years;

~~(7)(9)~~ Investigate complaints ~~and charges~~ of unauthorized practice; or unprofessional conduct; or incompetency against any person and take proper action under section 1582 or 1584 of this ~~title~~ chapter, as the case may be;

~~(8)~~ ~~Compel the attendance of witnesses and the furnishing of evidentiary material in connection with a hearing by subpoenas issued by the executive officer of the board with the approval of the board; and~~

~~(9)(10)~~ Adopt rules ~~necessary to perform its duties under this subchapter, and may adopt rules~~ establishing a program to serve as an alternative to the disciplinary process for nurses and nursing assistants with chemical dependencies or other professional practice issues as designated by the ~~board~~ Board.

(b) In consultation with the Board, the Director of the Office of Professional Regulation may employ an Executive Director or the Board and contract for such persons as may be necessary to carry out the work of the Board.

§ 1575. ~~STAFF~~

~~With the approval of the board, the director of the office of professional regulation may employ or contract for such persons as may be necessary to carry on the work of the board. [Repealed.]~~

§ 1576. ~~REGISTERED NURSE AND PRACTICAL NURSE~~

~~REGISTRATION AND LICENSURE~~

~~(a) Qualifications of applicants. An applicant for registration and a license to practice registered or practical nursing shall submit to the Board evidence deemed satisfactory to it that the applicant has completed all requirements in an approved nursing education program preparing individuals for the practice of either registered or practical nursing.~~

~~(b) Registration and licensure by examination.~~

~~(1) The applicant shall be required to pass an examination in such subjects as the Board considers necessary to determine the ability of the applicant to practice registered or practical nursing.~~

~~(2) Upon passing the required examination, the Board shall register and issue to the applicant a current license to practice as a registered nurse (R.N.) or a licensed practical nurse (L.P.N.).~~

~~(3) The Board shall hold at least one examination annually for registered nurse candidates and one for practical nurse candidates at such place and at such time as the Board shall determine.~~

~~(4) Any qualified applicant shall be entitled to reexaminations.~~

~~(c) Registration and licensure by endorsement. The Board shall register and issue a current license to practice registered or practical nursing to an applicant who has been duly licensed by examination as a registered nurse or a practical nurse under the laws of another state, territory, or foreign country if~~

~~the applicant meets the qualifications required in this State and has previously achieved passing scores on the licensing examination required in this State or its equivalent as determined by the Board, and has met active practice requirements established by the Board by rule.~~

~~(d) Temporary licenses. The Board may issue a temporary license to practice nursing for a period not to exceed 90 days to a registered nurse or licensed practical nurse currently licensed in another jurisdiction of the United States and who has applied for licensure by endorsement in accordance with the rules of the Board.~~

~~(e) Notwithstanding the provisions of this section and any other provision of law, a nurse who holds an unrestricted license in all jurisdictions in which the nurse is currently licensed, who certifies to the Vermont Board of Nursing that he or she will limit his or her practice in Vermont to providing pro bono services at a free or reduced fee clinic in Vermont and who meets the criteria of the Board, shall be licensed by the Board within 60 days of the licensee's certification without further examination, interview, fee, or any other requirement for Board licensure. The nurse shall file with the Board, on forms provided by the Board and based on criteria developed by the Board, information on nursing qualifications, professional discipline, criminal record, malpractice claims, or any other such information as the Board may require. A license granted under this subsection shall authorize the licensee to practice nursing on a voluntary basis in Vermont. [Repealed.]~~

§ 1577. FEES

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

(1) Nursing Assistants

(A) Application \$ 20.00

(B) Biennial renewal \$ 45.00

(2) Practical Nurses and Registered Nurses

(A) Application \$ 60.00

~~(2)~~(B) Registered nurse application by endorsement \$ 150.00

~~(3)~~(C) Biennial renewal \$ 140.00

~~(4)~~ Limited temporary license \$ 25.00

~~(5)~~(3) Advanced Practice Registered Nurses

(A) Initial endorsement of advanced practice registered nurses \$ 75.00

~~(6)~~(B) Biennial renewal of advanced practice registered nurses \$ 75.00

§ 1578. ~~EXISTING LICENSES~~

~~Any person registered or licensed to practice registered or practical nursing by the board on or before July 1, 1980 shall retain all rights and privileges granted thereunder as if registered or licensed under this chapter. [Repealed.]~~

§ 1579. ~~RENEWAL~~ ISSUANCE AND DURATION OF LICENSE

LICENSES

(a) Licenses and endorsements shall be renewed by the board for periods of up to every two years on a schedule determined by the Office of Professional Regulation.

~~(b) Any registrant who has held a valid license and practiced nursing within the past five years may apply for renewal without further examination or qualifying requirements not otherwise imposed on current licensees.~~

~~(c) All applicants for renewal of a license to practice shall have practiced nursing within the last five years as defined in section 1572 of this title or comply with the requirements for updating knowledge and skills as defined by board rules.~~

* * *

§ 1581. ~~NURSING EDUCATION PROGRAMS~~

~~(a) The board shall, by rule, establish standards for the creation and conduct of nursing education programs, including all clinical facilities used for learning experiences. The board shall survey programs and approve those programs which meet the requirements of this subchapter and the board rules.~~

~~(b) A postsecondary educational institution within the state of Vermont desiring to conduct a nursing education program shall apply to the board and submit evidence that its nursing program is designed to meet the standards established by the board. If upon investigation, the board finds that the~~

~~program meets the established standards for nursing education programs, it shall approve the applicant program.~~

~~(c) The board shall periodically survey and evaluate approved nursing education programs and shall publish a list of approved programs. A nursing education program shall reimburse the board for actual and necessary costs incurred for site surveys.~~

~~(d) The board may deny or withdraw approval or take such action as it deems necessary when nursing education programs fail to meet the standards established by the board, provided that such action shall be in accordance with this chapter, board rules, and the Administrative Procedure Act.~~

~~(e) Reinstatement of approval. The board shall reinstate approval of a nursing education program based on satisfactory evidence that the program meets the standards established by the board. [Repealed.]~~

§ 1582. REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) The ~~board~~ Board may deny an application for ~~registration, licensure, or relicensure~~ renewal, or reinstatement; revoke or suspend any license to practice ~~nursing~~ issued by it; or discipline or in other ways condition the practice of a ~~registrant~~ an applicant or licensee upon due notice and opportunity for hearing ~~in compliance with the provisions of 3 V.S.A. chapter 25~~ if the person engages in the following conduct or the conduct set forth in 3 V.S.A. § 129a:

(1) ~~Has made~~ making or ~~caused~~ causing to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license ~~to practice nursing~~;

(2) ~~Whether or not committed in this state, has been convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing~~;

(3) ~~Is unable to practice nursing competently by reason of any cause~~;

(4) ~~Has willfully or repeatedly violated any of the provisions of this chapter~~;

(5) ~~Is habitually intemperate or is addicted to the use of habit-forming drugs~~;

(6) ~~Has a mental, emotional, or physical disability, the nature of which interferes with ability to practice nursing competently~~ diverting or attempting to divert drugs or equipment or supplies for unauthorized use;

(7)(3) ~~Engages~~ engaging in conduct of a character likely to deceive, defraud, or harm the public;

(8)(4) ~~Has willfully omitted~~ willfully failing to file or record, or ~~has willfully impeded~~ impeding or ~~obstructed a~~ obstructing filing or recording, or ~~has induced~~ inducing another person to omit to file or record medical reports required by law;

(9)(5) fraudulent or deceitful submission of any information or records to the Board;

- (6) leaving a nursing assignment without properly advising appropriate personnel;
- (7) violating confidentiality by inappropriately revealing information or knowledge about a patient or client;
- (8) Has knowingly aided or abetted knowingly aiding or abetting a health care provider who is not legally practicing within the ~~state~~ State in the provision of health care services;
- ~~(10)~~(9) Has permitted his or her permitting one's name or license to be used by a person, group, or corporation when not actually in charge of or responsible for the treatment given;
- ~~(11)~~(10) Has failed failing to comply with the patient bill of rights provisions of 18 V.S.A. § 1852 or other statutes governing the profession; or
- ~~(12)~~(11) Has committed any sexual sexual misconduct that exploits the provider-patient relationship, including sexual contact with a patient, surrogates, or key third parties;
- (12) abusing or neglecting a patient or misappropriating patient property;
- (13) failing to report to the Board any violation of this chapter or of the Board's rules; or
- (14) failing to take appropriate action to safeguard a patient from incompetent health care.

(b) ~~Procedure.~~ ~~The board shall establish a discipline process based on this chapter and the Administrative Procedure Act.~~

(c) ~~Appeals.~~ ~~Any person or institution aggrieved by any action of the board under this section or section 1581 of this title may appeal as provided in 3 V.S.A. § 130a.~~

(d) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the ~~board~~ Board about incompetent, unprofessional, or unlawful conduct of a ~~nurse~~ licensee.

§ 1583. ~~EXCEPTIONS~~ EXEMPTIONS

This chapter does not prohibit:

(1) ~~The furnishing of~~ Rendering assistance in the case of an emergency or disaster.

(2) The practice of nursing ~~which~~ that is incidental to their program of study by persons enrolled in approved nursing education programs approved by the ~~board~~, or graduates of approved nursing education programs pending the results of the first licensing examination scheduled by the ~~board~~ following graduation. Graduates shall so practice under supervision of a professional nurse and shall have an application for registration and licensure by examination on file Board.

* * *

(9) A person holding an unencumbered license in another United States jurisdiction from practicing nursing for no more than 30 days in any calendar

year under the supervision of a Vermont licensed registered nurse as part of an educational offering.

* * *

Sec. 8. REPEAL

26 V.S.A. chapter 28, subchapter 2 (nursing assistants) (§§ 1591–1601) is repealed.

Sec. 9. 26 V.S.A. chapter 28, subchapter 3 is amended to read:

Subchapter ~~3~~ 2. Advanced Practice Registered Nurses

§ 1611. ADVANCED PRACTICE REGISTERED NURSE LICENSURE

To be eligible for an APRN license, an applicant shall:

(1) ~~have~~ Have a degree or certificate from a Vermont graduate nursing program approved by the ~~board~~ Board or a United States graduate program approved by a state or a national accrediting agency that includes a curriculum substantially equivalent to Vermont programs approved by the ~~board~~ Board.

The educational program shall meet the educational standards set by the national accrediting board and the national certifying board. Programs shall include a supervised clinical component in the role and population focus of the applicant's certification. The program shall prepare nurses to practice advanced nursing in a role as a nurse practitioner, certified nurse midwife, certified nurse anesthetist, or clinical nurse specialist in psychiatric or mental health nursing and shall include, at a minimum, graduate level courses in:

(A) advanced pharmacotherapeutics;

(B) advanced patient assessment; and

(C) advanced pathophysiology;

~~(2) hold a degree or certificate from an accredited graduate level educational program preparing the applicant for one of the four recognized APRN roles described in subdivision (1) of this section and have educational preparation consistent with the applicant's certification, role, population focus, and specialty practice; and~~

~~(3) hold~~ Hold current advanced nursing certification in a role and population focus granted by a national certifying organization recognized by the ~~board~~ Board.

§ 1611a. FEE WAIVER; PRO BONO PRACTICE

(a) An advanced practice registered nurse who holds an unrestricted license in all jurisdictions in which the nurse is currently licensed, who certifies to the Board that he or she will limit his or her practice in Vermont to providing pro bono services at a free or reduced fee clinic, and who meets the requirements for licensure shall be licensed by the Board without payment of the licensing application fee.

(b) A license granted under this section shall authorize the licensee to practice advanced practice registered nursing on a voluntary basis in Vermont.

§ 1612. PRACTICE GUIDELINES

(a) APRN licensees who intend to or are engaged in clinical practice as an APRN shall submit for review individual practice guidelines and receive board

Board approval of the practice guidelines. Practice guidelines shall reflect current standards of advanced nursing practice specific to the APRN's role, population focus, and specialty.

(b) Licensees shall submit for review individual practice guidelines and receive ~~board~~ Board approval of the practice guidelines:

(1) prior to initial employment;

(2) if employed or practicing as an APRN, upon application for renewal of an APRN's registered nurse license; and

(3) prior to a change in the APRN's employment or clinical role, population focus, or specialty.

* * *

§ 1615. ADVANCED PRACTICE REGISTERED NURSES;

REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) ~~The board~~ In addition to the provisions of 3 V.S.A. § 129a and section 1582 of this chapter, the Board may deny an application for licensure ~~or~~, renewal, or reinstatement, or may revoke, suspend, or otherwise discipline an advanced practice registered nurse upon due notice and opportunity for hearing ~~in compliance with the provisions of 3 V.S.A. chapter 25~~ if the person engages in the following conduct ~~set forth in 3 V.S.A. § 129a or section 1582 of this title or any of the following:~~

* * *

(9) Administering or promoting the sale of medication, devices, appliances, or other patient goods and services in a manner that exploits the patient.

(10) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes.

(11) Agreeing with clinical or bioanalytical laboratories to make payments to such laboratories for individual tests or test series for patients, unless the APRN discloses on the bills to patients or third party payers the name of such laboratory, the amount or amounts to such laboratory for individual tests or test series, and the amount of his or her processing charge or procurement, if any, for each specimen taken.

(12) Willful misrepresentation in treatments.

(13) Permitting one's name or license to be used by a person, group, or corporation when not actually in charge of or responsible for the treatment given.

* * *

§ 1615a. APRN SUBCOMMITTEE

(a) The Board shall appoint a subcommittee to study and report to the Board on matters relating to advanced practice registered nurse practice.

(b) The subcommittee shall be composed of at least five members.

(1) The majority shall be advanced practice registered nurses who are licensed and in good standing in this State.

(2) At least one member shall be a member of the public, and at least one member shall be a physician designated by the Board of Medical Practice.

(c) Members of the subcommittee shall be entitled to compensation and reimbursement of expenses as provided in 32 V.S.A. § 1010.

Sec. 10. REPEAL

26 V.S.A. chapter 28, subchapter 4 (sexual assault nurse examiners) (§§ 1621–1624) is repealed.

Sec. 11. 26 V.S.A. chapter 28, subchapter 3 is added to read:

Subchapter 3. Registered Nurses and Practical Nurses

§ 1621. REGISTERED NURSE LICENSURE BY EXAMINATION

To be eligible for licensure as a registered nurse by examination, an applicant shall complete:

(1) an approved United States registered nursing education program meeting requirements set by the Board by rule; and

(2) examinations as determined by the Board;

§ 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT

To be eligible for licensure as a registered nurse by endorsement, an applicant shall:

(1) hold a current license to practice registered nursing in another United States jurisdiction based on education in a United States nursing program; and

(2) meet practice requirements set by the Board by rule.

§ 1623. LICENSURE FOR REGISTERED NURSES EDUCATED

OUTSIDE THE UNITED STATES

To be eligible for licensure under this chapter, a registered nurse applicant who was educated outside the United States shall:

- (1) hold a current registered nurse license from a country outside the United States;
- (2) complete secondary education;
- (3) graduate from a registered nursing education program meeting the requirements of rules set by the Board;
- (4) demonstrate English language proficiency, if the nursing education program was conducted in a language other than English; and
- (5) complete examinations as determined by the Board.

§ 1624. REGISTERED NURSE LICENSE RENEWAL

To renew a license, a registered nurse shall meet active practice requirements set by the Board by rule.

§ 1625. PRACTICAL NURSE LICENSURE BY EXAMINATION

To be eligible for licensure as a practical nurse by examination, an applicant shall:

- (1) complete an approved United States practical nursing education program meeting requirements set by the Board by rule; and
- (2) complete examinations as determined by the Board;

§ 1626. PRACTICAL NURSE LICENSURE BY ENDORSEMENT

To be eligible for licensure as a practical nurse by endorsement, an applicant shall:

- (1) hold a current license to practice practical nursing in another United States jurisdiction based on education in a United States nursing program; and
- (2) meet practice requirements set by the Board by rule.

§ 1627. LICENSURE FOR PRACTICAL NURSES EDUCATED OUTSIDE THE UNITED STATES

To be eligible for licensure under this chapter, a practical nurse applicant who was educated outside the United States shall:

- (1) hold a current practical nurse license from a country outside the United States;
- (2) complete secondary education;
- (3) graduate from a practical nursing education program meeting the requirements of rules set by the Board;
- (4) demonstrate English language proficiency if the nursing education program was conducted in a language other than English; and
- (5) complete examinations as determined by the Board.

§ 1628. PRACTICAL NURSE LICENSE RENEWAL

To renew a license, a practical nurse shall meet active practice requirements set by the Board by rule.

§ 1629. FEE WAIVER; PRO BONO PRACTICE

(a) A nurse who holds an unrestricted license in all jurisdictions in which the nurse is currently licensed, who certifies to the Board that he or she will limit his or her practice in Vermont to providing pro bono services at a free or reduced fee clinic, and who meets the requirements for licensure shall be licensed by the Board without payment of the licensing application fee.

(b) A license granted under this section shall authorize the licensee to practice nursing on a voluntary basis in Vermont.

Sec. 12. 13 V.S.A. chapter 167, subchapter 5 is added to read:

Subchapter 5. Sexual Assault Nurse Examiners

§ 5431. DEFINITION

As used in this subchapter, "SANE" means a sexual assault nurse examiner.

§ 5432. SANE BOARD

(a) The SANE Board is created for the purpose of regulating sexual assault nurse examiners.

(b) The SANE Board shall be composed of the following members:

(1) the Executive Director of the Vermont State Nurses Association or designee;

(2) the President of the Vermont Association of Hospitals and Health Systems;

(3) the Director of the Vermont Forensic Laboratory or designee;

(4) the Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(5) an attorney with experience prosecuting sexual assault crimes, appointed by the Attorney General;

(6) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(7) a law enforcement officer assigned to one of Vermont's special units of investigation, appointed by the Commissioner of Public Safety;

(8) a law enforcement officer employed by a municipal police department, appointed by the Executive Director of the Vermont Criminal Justice Training Council;

(9) three sexual assault nurse examiners, appointed by the Attorney General;

(10) a physician whose practice includes the care of victims of sexual assault, appointed by the Vermont Medical Society;

(11) a pediatrician whose practice includes the care of victims of sexual assault, appointed by the Vermont Chapter of the American Academy of Pediatrics;

(12) the Coordinator of the Vermont Victim Assistance Program or designee;

(13) the President of the Vermont Alliance of Child Advocacy Centers or designee;

(14) the Chair of the Vermont State Board of Nursing or designee; and

(15) the Commissioner for Children and Families or designee.

§ 5433. SANE PROGRAM CLINICAL COORDINATOR

A grant program shall be established by the Vermont Center for Crime Victim Services, subject to available funding, to fund a clinical coordinator position for the purpose of staffing the SANE program. The position shall be contracted through the Vermont Network Against Domestic and Sexual Violence. The Clinical Coordinator shall consult with the SANE Board in performing the following duties:

(1) overseeing the recruitment and retention of SANEs in the State of Vermont;

(2) administering a statewide training program, including:

(A) the initial SANE certification training;

(B) ongoing training to ensure currency of practice for SANEs; and

(C) advanced training programs as needed;

(3) providing consultation and technical assistance to SANEs and hospitals regarding the standardized sexual assault protocol; and

(4) providing training and outreach to criminal justice and community-based agencies as needed.

§ 5434. SANE BOARD DUTIES

(a) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification as a sexual assault nurse examiner if he or she

demonstrates compliance with the requirements for specialized certification as established by the SANE Board by rule.

(b) The SANE Board shall adopt the following by rule:

(1) educational requirements for obtaining specialized certification as a sexual assault nurse examiner and statewide standards for the provision of education;

(2) continuing education requirements and clinical experience necessary for maintenance of the SANE specialized certification;

(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses;

(4) a system of monitoring for compliance; and

(5) processes for investigating complaints, revoking certification, and appealing decisions of the Board.

(c) The SANE Board may investigate complaints against a sexual assault nurse examiner and may revoke certification as appropriate.

Sec. 13. RECODIFICATION

(a) 26 V.S.A. chapter 28, subchapter 4 (sexual assault nurse examiners) is recodified as 13 V.S.A. chapter 167, subchapter 5. During statutory revision, the Office of Legislative Council shall revise accordingly in the Vermont Statutes Annotated any references to 26 V.S.A. chapter 28, subchapter 4 or the statutes therein.

(b) Any references in session law and adopted rules to 26 V.S.A. chapter 28, subchapter 4 as previously codified shall be deemed to refer to 13 V.S.A. chapter 167, subchapter 5.

Sec. 14. 26 V.S.A. chapter 28, subchapter 4 is added to read:

Subchapter 4. Nursing Assistants

§ 1641. DEFINITIONS

As used in this subchapter:

(1) “Medication nursing assistant” means a licensed nursing assistant who:

(A) is under the supervision of a nurse holding a currently valid endorsement authorizing the delegation to the nursing assistant of tasks of medication administration performed in a nursing home;

(B) has completed a Board-approved medication administration education program and an examination as set forth by rules adopted by the Board; and

(C) is endorsed by the Board and authorized to administer medication in a nursing home.

(2) “Nursing assistant” means an individual who performs nursing or nursing-related functions under the supervision of a licensed nurse.

(3) “Nursing or nursing-related functions” means nursing-related activities as defined by rule, which include basic nursing and restorative duties for which a nursing assistant is prepared by education and supervised practice.

§ 1642. NURSING ASSISTANT LICENSURE BY EXAMINATION

The Board may issue a license to practice as a nursing assistant to an applicant who:

- (1) is no less than 16 years of age;
- (2) has completed an approved nursing assistant education program; and
- (3) has successfully completed the competency examination.

§ 1643. NURSING ASSISTANT LICENSURE BY ENDORSEMENT

The Board may issue a license to practice as a nursing assistant to an applicant who:

- (1) is licensed or registered in another United States jurisdiction; and
- (2) who has met the practice requirements set by the Board by rule.

§ 1644. PROHIBITIONS; OFFENSES

(a) A person shall not use any letters, words, or insignia in connection with the person's name that indicate or imply that the person is a nursing assistant unless the person is licensed in accordance with this subchapter.

(b) A person shall not practice nursing or nursing-related functions as defined in section 1641 of this subchapter without being licensed by the Board.

(c) A person who violates this section shall be subject to the penalties set forth in 3 V.S.A. § 127.

§ 1645. RENEWAL

To renew a license, a nursing assistant shall meet active practice requirements set by the Board by rule.

§ 1646. EXEMPTIONS

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

(b) This subchapter does not prohibit the performance of nursing or nursing-related functions that are incidental to their program of study by persons enrolled in approved nursing assistant education and competency evaluation programs.

(c) Nothing in this subchapter shall be construed to conflict with the administration of medication by nonlicensees pursuant to the residential care home licensing rules adopted by the Department of Disabilities, Aging, and Independent Living.

* * * Osteopathic Physicians * * *

Sec. 15. 26 V.S.A. § 1752 is amended to read:

§ 1752. PROHIBITION; PENALTY

(a) ~~Ne~~ A person shall not perform any of the following acts:

* * *

(b) A person violating any of the provisions of subsection (a) of this section shall be subject to the penalties provided in ~~3 V.S.A. § 127(e)~~ 3 V.S.A. § 127.

Sec. 16. 26 V.S.A. § 1791 is amended to read:

§ 1791. COMPOSITION OF THE BOARD; QUALIFICATIONS; TERM OF
OFFICE

* * *

(b)(1) Three members of the ~~board~~ Board shall be osteopathic physicians licensed and in good standing in this ~~state~~ State who are graduates of an accredited school of osteopathic medicine and who reside and have resided and actively practiced osteopathic medicine in this ~~state~~ State during the two years immediately preceding their appointments.

(2) Two members shall be public members. A public member shall not ~~be a member of any other health-related licensing board,~~ nor have a financial interest personally or through a spouse, parent, child, brother, or sister in the activities regulated under this chapter, other than as a consumer or possible consumer of osteopathic medical services.

* * *

Sec. 17. 26 V.S.A. § 1792 is amended to read:

§ 1792. POWERS; DUTIES

* * *

(b) The ~~board~~ Board may:

(1) ~~Adopt~~ adopt rules necessary for the performance of its duties.

(2) ~~Issue subpoenas to compel the attendance of witnesses at any investigation or hearing.~~

~~(3) Issue orders relating to discovery in the same manner as a judge under the Vermont Rules of Civil Procedure.~~

~~(c) The board shall lack the power to condition, limit, or alter in any way the express terms of this chapter.~~

Sec. 18. 26 V.S.A. § 1830 is amended to read:

§ 1830. ~~APPLICATION~~

~~To apply for licensure as an osteopathic physician a person shall apply to the board on a form furnished by the board. The application shall be accompanied by payment of the required fees and evidence of eligibility as requested by the board. [Repealed.]~~

Sec. 19. 26 V.S.A. § 1832a is amended to read:

§ 1832a. LICENSURE WITHOUT EXAMINATION

* * *

(b) A person shall be entitled to licensure without examination if, at the time of application, he or she produces satisfactory evidence of the following and, in the judgment of the ~~board~~ Board, he or she is qualified in all respects for a license:

(1) ~~Licensure~~ licensure in another state United States or Canadian jurisdiction whose requirements are substantially equivalent to the requirements of this chapter; and

(2) ~~The~~ the person has been granted a diploma by an accredited school or college of osteopathic medicine.

(c) ~~Applicants for licensure under subsection (b) of this section may be required to appear for a personal interview before the board. [Repealed.]~~

Sec. 20. 26 V.S.A. § 1834 is amended to read:

§ 1834. LIMITED TEMPORARY LICENSE

(a) An applicant for a limited temporary license shall meet the following requirements:

(1) ~~Have~~ have attained the age of majority;

(2) ~~Be~~ be a graduate of an accredited school or college of osteopathic medicine;

(3) ~~Be~~ be appointed as an intern, resident, fellow, or medical officer in an approved hospital or in a clinic which is affiliated with an approved hospital, or in any hospital or institution maintained by the ~~state~~ State, or in any clinic or outpatient clinic affiliated with or maintained by the ~~state~~ State; and

(4) pass Parts 1 and 2 of the Comprehensive Osteopathic Medical Licensing Examination – USA (COMLEX) or Parts 1 and 2 of the United States Medical Licensing Examination (USMLE) or their successor or equivalent examinations approved by the Board, unless the applicant is exempt from all or a part of the examination under the provisions of section 1832 or 1832a of this chapter.

* * *

Sec. 21. 26 V.S.A. § 1836 is amended to read:

§ 1836. BIENNIAL RENEWAL OF LICENSE; CONTINUING
EDUCATION

* * *

~~(d) A lapsed license shall be reinstated upon payment of the biennial renewal fee, the late renewal penalty, and compliance with the other provisions of this section. [Repealed.]~~

Sec. 22. REPEAL

The following sections set forth in 26 V.S.A. chapter 33 (osteopathy) are repealed:

- (1) § 1837 (health maintenance organization; medical director);
- (2) § 1841 (preliminary decisions);
- (3) § 1843 (disciplinary action);
- (4) § 1844 (appeal);
- (5) § 1851 (license requirement);
- (6) § 1852 (issuance of license);
- (7) § 1853 (effect of license);
- (8) § 1854 (patient medical records);
- (9) § 1855 (sanctions); and
- (10) § 1856 (fees).

* * * Pharmacy * * *

Sec. 23. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(7) “Drug outlet” means all pharmacies, nursing homes, convalescent homes, extended care facilities, drug abuse treatment centers, ~~penal institutions,~~ family planning clinics, retail stores, hospitals, wholesalers, manufacturers, any authorized treatment centers, and mail order vendors which are engaged in dispensing, delivery, or distribution of prescription drugs.

* * *

Sec. 24. REPEAL

26 V.S.A. chapter 36, subchapter 7 (emergency contraception) is repealed.

Sec. 25. 18 V.S.A. § 4240 is amended to read:

§ 4240. PREVENTION AND TREATMENT OF OPIOID-RELATED
OVERDOSES

(a) As used in this section:

(1) “Health care professional” means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a ~~physician’s~~ physician assistant ~~certified~~ licensed to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, ~~or~~ an advanced practice registered nurse authorized to prescribe and dispense

prescription drugs pursuant to 26 V.S.A. chapter 28, or a pharmacist licensed pursuant to 26 V.S.A. chapter 36.

* * *

(c)(1) A health care professional acting in good faith and within his or her scope of practice may directly or by standing order prescribe, dispense, and distribute an opioid antagonist to the following persons, provided the person has been educated about opioid-related overdose prevention and treatment in a manner approved by the Department:

* * *

(e) A person acting on behalf of a community-based overdose prevention program or a licensed pharmacist shall be immune from civil or criminal liability for providing education on opioid-related overdose prevention or for purchasing, acquiring, distributing, or possessing an opioid antagonist unless the person's actions constituted recklessness, gross negligence, or intentional misconduct.

* * *

* * * Real Estate Brokers and Salespersons * * *

Sec. 26. 26 V.S.A. § 2298 is amended to read:

§ 2298. ~~DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION
AS PROCESS AGENT~~

~~Every nonresident applicant shall file a stipulation appointing the director of the office of professional regulation and the director's successor in office as~~

~~the applicant's true and lawful attorney, upon whom may be served all lawful process in any action or proceeding against the applicant. Such appointment shall contain an express agreement by the applicant that any lawful process against the applicant which is served on such attorney shall have the same legal force and effect as if served upon the applicant, and that the authority given in such appointment shall continue in force so long as any liability to any resident of this state remains unsatisfied. [Repealed.]~~

* * * Radiologic Technologists * * *

Sec. 27. 26 V.S.A. § 2803 is amended to read:

§ 2803. EXEMPTIONS

The prohibitions in section 2802 of this chapter shall not apply to dentists licensed under chapter 12 of this title and actions within their scope of practice nor to:

* * *

(2) Students of medicine, dentistry, podiatry, naturopathic medicine, or chiropractic when participating in a program approved or recognized by the ~~board of medical practice~~ Board of Medical Practice, ~~dentistry~~ Board of Dental Examiners, or ~~chiropractic~~ Board of Chiropractic, as appropriate, and when under the general supervision of an instructor who is a licensed practitioner and when acting within the scope of practice for that licensed practitioner's field.

(3) Students in an approved school of radiologic technology under the general supervision of a licensed practitioner or licensed radiologic technologist.

* * *

(5) Any of the following when operating dental radiographic equipment to conduct intraoral radiographic examinations under the general supervision of a licensed practitioner; and, any of the following when operating dental radiographic equipment to conduct specialized radiographic examinations including tomographic, cephalometric, or temporomandibular joint examinations, if the person has completed a course in radiography approved by the ~~board of dental examiners~~ Board of Dental Examiners and practices under the general supervision of a licensed practitioner:

(A) a ~~certified~~ licensed dental hygienist;

* * *

(6) Licensees certified in one of the three primary modalities set forth in section 2821a of this chapter preparing for postprimary certification in accordance with ARRT or NMTCB under the ~~direct personal~~ general supervision of a licensee already certified in the specific postprimary modality at issue.

* * *

Sec. 28. 26 V.S.A. § 2804 is amended to read:

§ 2804. COMPETENCY REQUIREMENTS OF CERTAIN LICENSED
PRACTITIONERS

(a) Unless the requirements of subdivision 2803(1) of this ~~title~~ chapter have been satisfied, ~~no~~ a physician, as defined in chapter 23 of this title, podiatrist, as defined in chapter 7 of this title, osteopathic physician, as defined in chapter 33 of this title, or naturopathic physician, as defined in chapter 81 of this title, ~~or chiropractor, as defined in chapter 10 of this title,~~ shall not apply ionizing radiation to human beings without first having satisfied the board of his or her competency to do so.

(b) The ~~board~~ Board shall:

(1) consult with the appropriate licensing boards concerning suitable performance standards. ~~The board shall;~~ and

(2) by rule, provide for periodic recertification of competency.

(c) A person subject to the provisions of this section shall be subject to the fees established under subdivisions 2814(4) and (5) of this ~~title~~ chapter.

(d) This section does not apply to radiologists who are certified or eligible for certification by the American Board of Radiology, nuclear cardiologists who are certified or eligible for certification by the Certification Board of Nuclear Cardiology, or interventional cardiologists and electrophysiologists who are certified or eligible for certification by the American Board of Internal Medicine.

* * * Psychologists * * *

Sec. 29. 26 V.S.A. § 3001 is amended to read:

§ 3001. DEFINITIONS

As used in this chapter:

* * *

(6) “Disciplinary action” or “disciplinary cases” includes any action taken by a board against a licensee ~~or~~, applicant, or person engaged in supervised practice toward licensure as a psychologist, premised upon a finding of wrongdoing or unprofessional conduct by ~~the licensee or applicant~~ that individual. It includes all sanctions authorized under this chapter, but excluding obtaining injunctions.

* * *

Sec. 30. [Deleted.]

* * * Social Workers * * *

Sec. 31. 26 V.S.A. chapter 61 is amended to read:

CHAPTER 61. ~~CLINICAL~~ SOCIAL WORKERS

§ 3201. DEFINITIONS

As used in this chapter:

(1) “Clinical social work” is ~~defined as providing a service, for a consideration, which is primarily drawn from the academic discipline of social work theory, in which a special knowledge of social resources, human capabilities, and the part that motivation plays in determining behavior, is~~

~~directed at helping people to achieve a more adequate, satisfying, and productive psychosocial adjustment. The application of social work principles and methods includes, but is not restricted to assessment, diagnosis, prevention, and amelioration of adjustment problems and emotional and mental disorders of individuals, families, and groups. The scope of practice for licensed clinical social workers includes the provision of psychotherapy a specialty practice of social work within the practice of master's social work and requires the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities.~~

(A) The practice of clinical social work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions, and addictions.

(B) Treatment methods include the provision of individual, marital, couple, family and group counseling, and psychotherapy, which may occur in diverse settings.

(C) The practice of clinical social work may include private practice and the provision of clinical supervision.

(D) Licensed independent clinical social workers are qualified to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the

International Classification of Diseases (I.C.D.), and other diagnostic classification systems used in diagnosis and other activities.

(2) ~~“Clinical social worker” means a person who practices clinical social work in some or all of its aspects and is licensed to practice clinical social work in this state~~ “Director” means the Director of the Office of Professional Regulation.

(3) ~~“Disciplinary action” or “disciplinary cases” includes any action taken by the secretary of state or an administrative law officer established by 3 V.S.A. § 129(j) against a licensed clinical social worker or applicant premised on a finding of unprofessional conduct by the licensed clinical social worker or applicant. It includes all sanctions of any kind, refusal to grant or renew a license, suspension or revocation of a license, issuing warnings, and other similar sanctions~~ “Licensed independent clinical social worker” means a person licensed under this chapter to practice clinical social work.

(4) “Licensed master’s social worker” is a person licensed under this chapter to practice master’s social work. Psychotherapy is not within the scope of practice of a “licensed master’s social worker.” The practice of a licensed master’s social worker engaged in supervised practice toward licensure as a licensed independent clinical social worker may include the practices reserved for licensed independent clinical social workers.

(5) “Master’s social work” means the application of social work theory, knowledge, methods, and ethics, and the professional use of self to restore or

enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities.

(A) Master's social work practice includes the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities.

(B) Under supervision as provided in this chapter, the practice of master's social work may include the practices reserved for clinical social workers.

(6) "Office" means the Office of Professional Regulation.

(7) "Psychotherapy" means the provision of treatment, diagnosis, evaluation, or counseling services to individuals or groups, for a consideration, for the purpose of alleviating mental disorders.

(A) "Psychotherapy" involves the application of therapeutic techniques to understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behavior ~~which~~ that interferes with effective emotional, social, or mental functioning.

(B) "Psychotherapy" follows a systematic procedure of psychotherapeutic intervention ~~which~~ that takes place on a regular basis over a

period of time, or, in the case of evaluation and brief psychotherapies, in a single or limited number of interventions.

(C) If a person is employed by or under contract with the ~~agency of human services~~ Agency of Human Services, this definition does not apply to persons with less than a master's degree, to persons providing life skills training or instruction, such as learning to make friends, to handle social situations, to do laundry, and to develop community awareness, or interactions of employees or contracted individuals with clients whose job description or contract specifications do not specifically mention "psychotherapy" as a job responsibility or duty.

§ 3202. PROHIBITION, OFFENSES

(a) ~~No~~ A person shall not practice or attempt to practice licensed independent clinical social work or licensed master's social work, nor shall any person use in connection with the person's name any letters, words, or insignia indicating or implying that the person is a licensed independent clinical social worker or a licensed master's social worker unless the person is licensed in accordance with this chapter.

(b) A person who violates any of the provisions of subsection (a) of this section shall be subject to the penalties provided in ~~3 V.S.A. § 127(e)~~ 3 V.S.A. § 127.

§ 3203. ~~DIRECTOR OF THE OFFICE OF PROFESSIONAL~~
~~REGULATION;~~ DUTIES

(a) The ~~director of professional regulation~~ Director shall:

- (1) explain appeal procedures to ~~licensed clinical social workers~~ licensees and applicants and complaint procedures to the public;
- (2) administer fees collected under this chapter;
- (3) provide general information to applicants for licensure as licensed independent clinical social workers and licensed master's social workers;
- (4) receive applications for licensing, license applicants qualified under this chapter, or renew, revoke, reinstate, and condition ~~licensing~~ licenses as ordered by an administrative law officer; and
- (5) adopt by rule criteria for licensing independent clinical social workers and licensed master's social workers who have five years' licensed or certified practice experience in another jurisdiction of the United States or Canada.

(b) The ~~director~~ Director, with the advice of two licensed ~~clinical~~ social workers appointed under section 3204 of this ~~title~~ chapter, may adopt rules necessary to enable the ~~director~~ Director to perform his or her duties under subsection (a) of this section.

§ 3204. ADVISOR APPOINTEES

(a) The ~~secretary of state~~ Secretary of State shall appoint two individuals licensed ~~clinical social workers~~ under this chapter to serve as advisors in

matters relating to licensed ~~clinical~~ social workers. They shall be appointed as set forth in 3 V.S.A. § 129b and shall serve at the pleasure of the ~~secretary~~ Secretary. One of the initial appointments may be for less than a full term.

(b) Appointees shall not have less than three years' licensed experience as a ~~clinical~~ social worker ~~certified or licensed under this chapter during the period immediately preceding appointment~~ and shall be ~~actively engaged in the active~~ practice of ~~clinical social work~~ in Vermont during incumbency.

(c) The ~~office of professional regulation~~ Director shall refer complaints and disciplinary matters to an administrative law officer established under 3 V.S.A. § 129(j).

(d) The ~~director~~ Director shall seek the advice of the ~~clinical social workers~~ advisors appointed under this section in carrying out the provisions of this chapter. Such members shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for attendance at any meeting called by the ~~director~~ Director for this purpose.

§ 3205. LICENSED MASTER'S SOCIAL WORKER ELIGIBILITY

To be eligible for licensing as a ~~clinical~~ licensed master's social worker, an applicant must have:

- (1) ~~Received~~ received a master's degree or ~~doctorate~~ doctoral degree from an accredited social work education program; and
- (2) ~~[Repealed.]~~

~~(3) Completed 3,000 hours of supervised practice of clinical social work as defined by rule under the supervision of a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed or certified in another state or Canada in one of these professions or their substantial equivalent. The supervisor must be licensed or certified in the jurisdiction where the supervised practice occurs. Persons engaged in post masters supervised practice in Vermont shall be entered on the roster of nonlicensed, noncertified psychotherapists;~~

~~(4) Submitted the names and addresses of three persons who can attest to the applicant's professional competence. Such person shall be a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed in another state or Canada in one of these professions; and~~

~~(5) Passed an examination to the satisfaction of the Director of the Office of Professional Regulation within five years prior to applying for licensure, passed the examinations designated by the Director.~~

§ 3205a. LICENSED INDEPENDENT CLINICAL SOCIAL WORKER

ELIGIBILITY

(a) To be eligible for licensure as a licensed independent clinical social worker, an applicant must have:

(1) received a master's degree or doctoral degree from an accredited social work education program;

(2) passed the examinations designated by the Director within five years prior to applying for licensure; and

(3) completed 3,000 hours of supervised practice of independent clinical social work as defined by rule under the supervision of a:

(A) licensed independent clinical social worker;

(B) licensed clinical mental health counselor;

(C) licensed psychologist;

(D) licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry; or

(E) person licensed or certified in another state or Canada in one of these professions or their substantial equivalent.

(b) A person not licensed as a master's social worker who engages in post-master's supervised practice in Vermont toward licensure as a licensed independent clinical social worker shall be entered on the roster of nonlicensed, noncertified psychotherapists.

(c) A licensed master's social worker who engages in post-master's supervised practice in Vermont to become a licensed independent clinical social worker must first register with the Office as set forth by rule.

§ 3206. APPLICATION

A person who desires to be licensed as a ~~clinical social worker~~ under this chapter shall apply ~~to the secretary in writing on a~~ using an application form furnished by available from the secretary Office, accompanied by payment of the specified fee.

§ 3207. ~~EXAMINATION~~ EXAMINATIONS

~~(a) The director of professional regulation shall conduct examinations under this chapter at least once a year at a time and place designated by it, provided, however, that examinations need not be conducted at times when there are no applicants requesting to be examined. Examinations shall be written. Each applicant shall be designated by a number so that his or her name is not disclosed to the director until the examination has been graded. Examinations shall include questions in such theoretical and applied fields as the director deems most suitable to test an applicant's knowledge and competence to engage in the practice of clinical social work. The director of professional regulation, with the advice of the clinical social workers appointed under section 3204 of this title, shall establish by rule fixed criteria for passing an examination that shall apply to all persons taking the examination.~~

~~(b) Examinations administered by the director and the procedures of administration shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted a license if they demonstrate that they possess the minimal occupational qualifications which are consistent with the public health, safety, and welfare. They shall not be designed or implemented for the purpose of limiting the number of licenses issued.~~

~~(c) The director of the office of professional regulation~~ Director may contract with ~~clinical social workers or with~~ independent testing services for the preparation and administration of ~~the exam~~ examinations.

§ 3208. RENEWALS

(a) Licenses shall be renewed every two years on a scheduled determined by the Office upon payment of the required fee.

(b) An application for ~~renewal~~ reinstatement of a license ~~which~~ that has ~~lapsed~~ expired shall be accompanied by the renewal fee in addition to ~~the reinstatement fee~~ other fees set forth in 3 V.S.A. chapter 5. A person shall not be required to pay renewal fees for the years during which the license was lapsed.

~~(c) The director may, after notice and an opportunity for hearing, revoke a person's right to renew his or her license if such license has lapsed for five years.~~ [Repealed.]

* * *

(e) The Director may prescribe, by rule, reinstatement standards for persons wishing to resume practice after five years since holding an active license.

§ 3209. ~~LICENSING WITHOUT EXAMINATION~~ LICENSURE BY
ENDORSEMENT

The ~~director of the office of professional regulation~~ Director may, upon payment of the required fee, grant a license without examination if ~~the~~ applicant:

(1) ~~is licensed~~ the applicant holds an active license to practice ~~clinical licensed master's social work~~ or licensed independent clinical social work in another ~~state~~ United States or Canadian jurisdiction; and

(2) the requirements for licensing in that ~~state~~ jurisdiction are, in the judgment of the ~~director of the office of professional regulation~~ Director, ~~essentially~~ substantially equivalent to the requirements of this chapter.

§ 3210. UNPROFESSIONAL CONDUCT

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a person licensed social worker under this chapter constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial or discipline of a license:

* * *

(2) conduct ~~which~~ that evidences unfitness to practice licensed master's or licensed independent clinical social work;

* * *

(5) practicing outside or beyond a ~~clinical social worker's area of~~ licensee's education, training, experience, or competence ~~without appropriate~~ supervision;

(6) ~~engaging in conflicts~~ having a conflict of interest that ~~interfere~~ interferes with the exercise of the ~~clinical social worker's~~ licensee's professional responsibilities, discretion, and impartial judgment;

(7) failing to inform a client when a real or potential conflict of interest arises and failing to take reasonable steps to resolve the issue in a manner that makes the client's interest primary and protects the client's interest to the greatest extent possible;

(8) taking unfair advantage of any professional relationship or exploiting others to further the ~~clinical social worker's~~ licensee's personal, religious, political, or business interests;

* * *

(11) failing to clarify with all parties which individuals will be considered clients and the nature of the ~~clinical social worker's~~ licensee's professional obligations to the various individuals who are receiving services, when a ~~clinical social worker~~ licensee provides services to two or more people who have a spousal, familial, or other relationship with each other;

(12) failing to clarify the ~~clinical social worker's~~ licensee's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among

the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients.

(b) After hearing, and upon a finding of unprofessional conduct, an administrative hearing officer may take disciplinary action against a ~~licensed clinical social worker~~ licensee or applicant.

* * *

§ 3212. EXEMPTIONS

(a) The provisions of this chapter shall not apply to persons while engaged in the course of their customary duties as clergy, licensed physicians, nurses, osteopaths, optometrists, dentists, lawyers, psychologists, mental health counselors, certified marriage and family therapists and psychoanalysts, rostered psychotherapists, or licensed educators when performing their duties consistent with the accepted standards of their respective professions; provided, however, that they do not describe themselves to the public by any other title or description stating or implying that they are licensed master's social workers or licensed independent clinical social workers ~~or are licensed to practice clinical social work under this chapter.~~

* * *

(c) ~~Notwithstanding the provisions of subsections (a) and (b) of this section, the provisions of this chapter shall apply to any person licensed as a clinical social worker under this chapter.~~ [Repealed.]

§ 3213. DISCLOSURE OF INFORMATION

(a) ~~The office of professional regulation~~ Director, in consultation with the advisor appointees, shall adopt rules requiring ~~licensed clinical social workers~~ licensees to disclose to each client the ~~licensed clinical social worker's~~ licensee's professional qualifications and experience, those actions that constitute unprofessional conduct, the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the ~~clinical social worker~~ licensee and the client. The rules may include provisions for applying or modifying these requirements in cases involving institutionalized clients, minors, and adults under the supervision of a guardian.

(b) A licensed master's social worker employed by an agency that provides each client disclosure information equivalent to that described in subsection (a) of this section meets this section's disclosure requirements.

Sec. 32. TRANSITIONAL PROVISIONS; LICENSED INDEPENDENT
CLINICAL SOCIAL WORKERS; LICENSED MASTER'S
SOCIAL WORKERS

(a) Licensed independent clinical social workers. A person licensed as a clinical social worker immediately prior to July 1, 2017 is deemed to be licensed at the level of a licensed independent clinical social worker on July 1, 2017 and may within the limits of his or her education, training, and experience practice all aspects of social work without restriction.

(b) Licensed master's social workers.

(1) Licensure of master's social workers shall take effect beginning on July 1, 2017.

(2) An individual who has a master's degree in social work from an accredited social work education program and who can document one year of full-time employment in Vermont in a setting where he or she was supervised or was otherwise accountable to an employer as a social worker may be licensed as a master's social worker without examination until July 1, 2018.

Sec. 32a. OFFICE OF PROFESSIONAL REGULATION REPORT; USE OF
THE TERM "SOCIAL WORKER"

(a) Representatives of the Office of Professional Regulation, the Department for Children and Families, and other appropriate State agencies shall meet and consult with the Vermont chapter of the National Association of Social Workers to address the use of the term "social worker" within the Department for Children and Families and other State agencies.

(b) On or before December 1, 2015, the Director of the Office of Professional Regulation shall report to the House and Senate Committees on Government Operations regarding the outcome of the meeting or meetings and any recommendations for the permitted use of the term "social worker."

* * * Clinical Mental Health Counselors * * *

Sec. 33. 26 V.S.A. § 3274 is amended to read:

§ 3274. DISCLOSURE OF INFORMATION

The ~~board~~ Board shall adopt rules requiring licensed clinical mental health counselors to disclose to each client the clinical mental health counselor's professional qualifications and experience, those actions that constitute unprofessional conduct, the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the clinical mental health counselor and the client. The rules may include provisions for applying or modifying these requirements in cases involving clients of designated agencies, institutionalized clients, minors, and adults under the supervision of a guardian.

* * * Audiologists and Hearing Aid Dispensers * * *

Sec. 34. 26 V.S.A. chapter 67 is amended to read:

CHAPTER 67. AUDIOLOGISTS AND HEARING AID DISPENSERS

Subchapter 1. General Provisions

§ 3281. DEFINITIONS

As used in this chapter:

(1) "Audiologist" means ~~any a person who has at least an M.A. or M.S. degree in audiology, at least 300 hours of supervised practical training, and is eligible for the American Speech Language Hearing Association Certificate of~~

~~Clinical Competence in audiology, and provides services to the public under any title incorporating the terms audiology, audiologist, audiological, hearing clinic, hearing clinician, hearing or aural rehabilitation, or hearing specialist licensed to practice audiology under this chapter.~~

(2) “Audiology” means the application of principles, methods, and procedures related to hearing and the disorders of hearing, and to related language and speech disorders, which includes all conditions that impede the normal process of human communication, including disorders of auditory sensitivity, acuity, function, or processing.

(3) “Director” means the Director of the Office of Professional Regulation.

(4) “Disciplinary action” includes any action taken by an administrative law officer established by 3 V.S.A. § 129(j) against a licensed audiologist or hearing aid dispenser or an applicant premised on a finding that the licensee or applicant has engaged in unprofessional conduct. “Disciplinary action” includes all appropriate remedies, including obtaining injunctions, refusing to grant or renew a license, suspending or revoking a license or issuing warnings.

~~(3) “Dispensing hearing aids” means conducting and interpreting hearing tests for the purpose of selecting suitable hearing aids, making earmolds or impressions, and providing instruction, and includes all acts pertaining to selling, renting, leasing, pricing, delivering, and giving warranties for hearing aids.~~

~~(4)~~(5) “Hearing aid” means an amplifying device to be worn by a person who is hard of hearing to improve hearing, including any accessories specifically used in connection with such a device, but excluding theater- or auditorium-wide-area listening devices, telephone amplifiers, or other devices designed to replace a hearing aid for restricted situations.

~~(5)~~(6) “Hearing aid dispenser” ~~includes any~~ means a person who ~~dispenses licensed under this chapter to dispense~~ hearing aids ~~in or into~~ Vermont.

~~(6)~~ “Director” ~~means the Director of the Office of Professional Regulation.~~

(7) “Practice of audiology” includes the following services which may be provided to persons of all ages:

(A) facilitating the conservation of auditory system function, and developing and implementing environmental and occupational hearing conservation programs;

(B) screening, identifying, assessing, and interpreting, diagnosing, preventing, and rehabilitating peripheral and central auditory system dysfunctions;

(C) providing and interpreting behavioral and electro-physiological measurements of auditory, vestibular, and facial nerve functions;

(D) selecting, fitting, and dispensing of hearing aids, amplification, assistive listening and alerting devices, implantable devices, and other systems, and providing training in their use;

(E) dispensing hearing aids, including conducting and interpreting hearing tests for the purpose of selecting suitable hearing aids;

(F) making ear molds or impressions;

(G) providing instruction to patients on the care and use of hearing aids, auditory system functions, and hearing conservation;

(H) all acts pertaining to selling, renting, leasing, pricing, delivering, and giving warranties for hearing aids;

(I) providing aural rehabilitation and related counseling services to individuals who are hard of hearing and their families;

(J) screening of speech-language and other factors affecting communication function for the purposes of an audiologic evaluation, or initial identification of individuals with other communication disorders; and

(K) management of cerumen.

(8) "Practice of dispensing hearing aids" includes the following services which may only be provided to persons 18 years of age or older:

(A) the measurement of the sensitivity of human hearing by means of appropriate behavioral testing for the sole purpose of fitting air-conduction hearing aids;

(B) the otoscopic observation of the outer ear in connection with the measurement of hearing and the fitting of hearing aids and for the purpose of referral to other professionals;

(C) the production of ear impressions for earmolds for the purpose of selecting and fitting hearing aids;

(D) the analysis of hearing aid function by means of the appropriate testing equipment;

(E) the selection and fitting of hearing aids with appropriate instruction, orientation, counseling, and management regarding the use and maintenance of these devices and other accessories; and

(F) the modification and general servicing of hearing aids.

(9) "Secretary" means the Secretary of State.

* * *

§ 3283. PRICES TO BE DISCLOSED

A licensee shall disclose in a clear and conspicuous manner the range of retail prices charged for ~~hearing aids~~ goods and ~~accessories~~ services. The disclosure schedule shall be posted in each licensee's office and retail establishment in which the licensee works, and a written copy given to each client, patient, or customer prior to any sale. Disclosures shall be in the manner set forth by the ~~secretary~~ Director by rule.

§ 3284. TERMS OF SALE; 45-DAY TRIAL PERIOD

(a)(1) ~~All~~ Any sales contracts contract for hearing aids equipment, including a hearing aid, sold by a licensee to ~~persons~~ a person in this state State, shall contain a clause ~~which~~ that requires the ~~hearing aid dispenser licensee~~ to refund the full product price of the ~~hearing aid equipment~~, except for the cost of earmolds and service, up to 45 days from the date of delivery of any new or substantially refabricated ~~aid~~ equipment if, in the opinion of the consumer, the ~~aid~~ equipment is not satisfactory.

(2) If the returned ~~hearing aid~~ equipment is damaged while in the possession of the consumer, the amount refunded shall be reduced by the reasonable amount of the damage.

(3) The ~~hearing aid may~~ equipment shall not be sold thereafter as new.

(4) ~~For purposes of~~ As used in this subsection, “cost of service” means the actual cost of the service provided to fit ~~the~~ a hearing aid or install or prepare the equipment, but shall not exceed five percent of the sale price or \$50.00, whichever is greater.

(b) The complete terms of the sale, including the terms of the 45-day trial period, the individual prices for goods and services sold, and such other information as the ~~director~~ Director may require shall be disclosed in writing to the consumer before the sale is completed.

(c) If ~~a hearing aid~~ the equipment is in the possession of the ~~hearing aid dispenser~~ licensee, manufacturer, repairperson, or their agents during the trial

period, the period of time the ~~aid~~ equipment is in such possession shall not be included in the calculation of the 45-day trial period.

§ 3285. PROHIBITIONS; PENALTIES

(a) A person shall not:

(1) practice or attempt to practice audiology or dispense hearing aids or hold oneself out as being permitted to do so in this State unless the person is licensed in accordance with this chapter;

(2) use in connection with the person's name an insignia or any letters or words that indicate the person is an audiologist or a hearing aid dispenser unless the person is licensed in accordance with this chapter; or

(3) practice audiology or dispense hearing aids after the person's license under this chapter has been suspended or revoked.

(b) A person who violates a provision of this section or who obtains a license by fraud or misrepresentation shall be subject to the pertinent penalties provided in 3 V.S.A. § 127.

§ 3286. EXEMPTIONS

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

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

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

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

Subchapter 2. Administration

§ 3287. ADVISOR APPOINTEES

(a) The ~~secretary~~ Secretary shall appoint ~~three licensed hearing aid dispensers~~ one otolaryngologist, one audiologist, one hearing aid dispenser who is neither an otolaryngologist nor an audiologist, and one member of the public to serve as advisors in matters related to audiologists and hearing aid dispensers. ~~Of the licensed hearing aid dispensers, one member shall be an otolaryngologist; one shall be an audiologist; and one shall be a hearing aid dispenser who is neither an otolaryngologist nor an audiologist.~~

(1) The public member shall be an individual with significant hearing impairment who uses a hearing aid regularly.

(2) The members shall be appointed as set forth in 3 V.S.A. § 129b and shall serve at the pleasure of the ~~secretary~~ Secretary.

* * *

§ 3288. ~~DIRECTOR OF THE OFFICE OF PROFESSIONAL~~ ~~REGULATION; DUTIES~~

The ~~director~~ Director shall:

(1) provide information to applicants for licensure as a an audiologist or hearing aid dispenser;

* * *

(5) refer all complaints and disciplinary matters to an administrative law officer established under 3 V.S.A. § 129(j); and

(6) ~~seek with~~ the advice of the ~~hearing aid dispensers who are~~ advisor appointees ~~before proposing to~~, adopt or amend ~~any rules under~~ necessary to implement the provisions of this chapter.

Subchapter 3. Licenses and Examinations

§ 3290. ELIGIBILITY FOR AUDIOLOGIST LICENSE

To be eligible for licensure as an audiologist, an applicant shall have:

(1) A master's degree or equivalent in audiology or speech-language pathology from an educational institution approved by the Director, with course work completed in areas specified by rule.

(2) Completed a supervised clinical practicum in audiology, the length and content of which shall be established by rule.

(3) Completed a period, as determined by rule, of postgraduate professional training in audiology as approved by the Director.

(4) Passed an examination in audiology approved by the Director, which shall include a section that is equivalent to the hearing aid dispensers examination described in section 3295 of this chapter. An audiologist who has

passed this examination is not required to take the hearing aid dispensers examination required by section 3295.

§ 3291. LICENSE REQUIRED FOR HEARING AID DISPENSERS

* * *

(b) A person who violates a provision of this chapter or who obtains a license by fraud or misrepresentation shall be subject to the pertinent penalties provided in ~~3 V.S.A. § 127(e)~~ 3 V.S.A. § 127.

(c) ~~Audiologists~~ An audiologist licensed pursuant to this chapter ~~87 of this title~~ may dispense hearing aids consistent with the requirements of ~~that~~ this chapter. Licensed audiologists are not required to obtain a separate license to dispense hearing aids.

* * *

§ 3293. ELIGIBILITY FOR HEARING AID DISPENSER LICENSE

To be eligible for licensure ~~under this chapter~~ as a hearing aid dispenser, an applicant shall:

- (1) have attained the age of majority; and
- (2) pass a written examination administered by the ~~secretary~~ Director

under section 3295 of this ~~title~~ chapter.

§ 3294. APPLICATION FOR LICENSURE AS HEARING AID DISPENSER

~~Applications~~ An application for licensure as a hearing aid dispenser shall be made on a form furnished by the ~~director~~ Director and shall be accompanied by

the application and examination fees and evidence of eligibility as requested by the ~~director~~ Director.

§ 3295. EXAMINATION FOR LICENSURE AS HEARING AID DISPENSER

(a) ~~If any applications are pending, the Director shall conduct examinations under this chapter at least twice each year.~~ Examinations shall be administered in the manner and places designated by the Director.

(b) The examination shall cover the following: the basic physics of sound, anatomy, and physiology of the ear, structure and function of hearing aids, pure tone audiometry, voice and recorded speech audiometry, interpretation of audiograms as related to hearing aid usage, selection and adaptation of hearing aids, counseling people who are hard of hearing in the appropriate use of hearing aids, identifying situations in which referrals to a physician are appropriate, knowledge of medical and rehabilitation facilities for people who are hard of hearing in this State, and State and federal laws relating to dispensing hearing aids and other areas of knowledge determined by the Director to be necessary.

* * *

§ 3295a. TEMPORARY LICENSURE OF HEARING AID DISPENSER WITHOUT EXAMINATION

(a) A temporary license may be issued to a person who applies for the first time to practice as a hearing aid dispenser; under section 3293 of this ~~title~~

chapter, is employed by a licensed hearing aid dispenser, and satisfies the provisions of subdivision (1) of that section.

(b)(1) A temporary license allows a person to practice as a hearing aid dispenser while directly supervised by a hearing aid dispenser licensed under section 3295 of this ~~title~~ chapter until he or she takes the next examination provided by the ~~director~~ Director and a determination is made of his or her qualifications to practice in this ~~state~~ State.

(2) The supervising hearing aid dispenser shall personally observe the temporary licensee while conducting and interpreting hearing tests and making earmolds or impressions, for a period of two months following issuance of a license under this section or until the license expires, whichever occurs first.

(c) Temporary licenses shall be issued on payment of the specified fee and shall remain in force no longer than 60 days following examination and shall not be extended except for good and exceptional cause shown by the applicant. Not more than one temporary license may be issued to the same person. ~~No~~ An extension shall not be granted to an applicant who fails the examination.

§ 3296. RENEWALS AND REINSTATEMENT FOR AUDIOLOGISTS
AND HEARING AID DISPENSERS

(a) Licenses shall be renewed every two years upon payment of the renewal fee.

(b) ~~Biennially, the director shall forward a renewal form to each licensee.~~

Upon receipt of the completed form and the renewal fee, the ~~director~~ Director shall issue a new license.

(c) ~~A license which has lapsed for a period of three years or less may be renewed upon application and payment of the renewal fee and the reinstatement fee.~~ The ~~director~~ Director may make such rules as may be reasonably necessary for the protection of the public to ~~assure the director~~ ensure that an applicant for reinstatement ~~under this subsection~~ is professionally qualified.

* * *

§ 3298. ~~MAINTENANCE OF BUSINESS ADDRESS; DISPLAY OF~~
~~LICENSE~~

~~A licensee shall maintain a Vermont business address, office, and telephone number at which the licensee can normally be reached and shall conspicuously display a copy of the license at each place of business the licensee maintains for dispensing hearing aids. [Repealed.]~~

Subchapter 4. Unprofessional Conduct and Discipline

§ 3301. UNPROFESSIONAL CONDUCT OF HEARING AID
DISPENSERS

* * *

§ 3302. UNPROFESSIONAL CONDUCT OF AUDIOLOGISTS

(a) A licensee or applicant shall not engage in unprofessional conduct.

(b) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

(1) willfully making or filing false reports or records in the practice of audiology, willfully impeding or obstructing the proper making or filing of reports or records, or willfully failing to file the proper report or record;

(2) aiding or abetting a person, directly or indirectly, to commit an unauthorized practice;

(3) giving, offering to give, or causing to be given, directly or indirectly, money or anything of value to any person who advises another in a professional capacity, as an inducement for the professional to influence others to purchase goods or services from the licensee;

(4) advertising or making a representation that is intended or has a tendency to deceive the public, including:

(A) advertising a particular type of service, equipment, or hearing aid when the particular service, equipment, or hearing aid is not available;

(B) stating or implying that the use of a hearing aid will retard the progression of a hearing impairment;

(C) advertising or making any statement related to the practice of audiology that is intended to or tends to deceive or mislead the public; and

(D) using, promoting, or causing the use of any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature,

testimonial guarantee, warranty, label, brand, insignia, or any other representation;

(5) engaging in any unfair or deceptive act or practice within the meaning of 9 V.S.A. § 2453, relating to consumer protection;

(6) willfully failing to honor any representation, promise, agreement, or warranty to a client or consumer;

(7) professional negligence or malpractice;

(8) any of the following, except when reasonably undertaken in an emergency situation in order to protect life or health:

(A) practicing or offering to practice beyond the scope permitted by law;

(B) accepting and performing professional or occupational responsibilities that the licensee knows or has reason to know the licensee is not competent to perform; or

(C) performing professional or occupational services that have not been authorized by the consumer or his or her legal representative;

(9) failing to make available, upon request of a person using the licensee's services, copies of records or documents in the possession or under the control of the licensee, when those records or documents have been prepared in connection with the furnishing of services or goods to the requesting persons;

(10) sexual harassment of a patient or client;

(11) engaging in a sexual act as defined in 13 V.S.A. § 3251 with a patient;

(12) conviction of a crime related to the practice of audiology or conviction of a felony, whether or not related to the practice of the profession;

(13) discouraging clients or consumers in any way from exercising their right to a refund within a 45-day trial period, unreasonably delaying payment of such refunds as may be due, or deducting amounts from refunds beyond those allowed by law;

(14) failing to inform a consumer prior to sale of a hearing aid that a medical evaluation of hearing loss prior to purchasing a hearing aid is in the consumer's best health interest;

(15) engaging in fraud in connection with any State or federally assisted medical assistance programs; or

(16) violating any part of the Code of Ethics of the American Speech-Language-Hearing Association or the American Academy of Audiology.

Sec. 35. TRANSITIONAL PROVISIONS; AUDIOLOGISTS

(a)(1) As of September 1, 2015, any audiologist currently licensed and in good standing with the Agency of Education shall be deemed licensed by the Secretary of State's Office of Professional Regulation.

(2) The Office of Professional Regulation shall reissue initial licenses at no charge after that date and shall establish a single expiration and renewal date for all of these licensees.

(b) An audiologist employed in a school and holding an endorsement from the Agency of Education shall retain that endorsement and shall renew it with the Agency as required by law, in addition to licensure with the Office of Professional Regulation.

* * * Marriage and Family Therapists * * *

Sec. 36. 26 V.S.A. § 4032 is amended to read:

§ 4032. DISCLOSURE OF INFORMATION

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

* * * Rostered Psychotherapists * * *

Sec. 37. 26 V.S.A. § 4090 is amended to read:

§ 4090. DISCLOSURE OF INFORMATION

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

* * * Electrologists * * *

Sec. 38. 26 V.S.A. § 4403 is amended to read:

§ 4403. PROHIBITION; PENALTY; CONSTRUCTION

(a) ~~Ne~~ A person shall not use in connection with the person's name any letters, words, or insignia indicating or implying that the person is a licensed electrologist unless the person is licensed in accordance with this chapter.

(b) ~~Ne~~ A person shall not practice or attempt to practice electrology, or hold himself or herself out as being able to do so, in this State without first having obtained a license as required by this chapter.

* * *

(e) This chapter shall not be construed to limit or restrict in any way the right of a practitioner of another occupation that is regulated by this State from performing services within the scope of his or her professional practice.

* * * Speech-Language Pathologists * * *

Sec. 39. 26 V.S.A. chapter 87 is amended to read:

CHAPTER 87. SPEECH-LANGUAGE PATHOLOGISTS ~~AND~~
AUDIOLOGISTS

§ 4451. DEFINITIONS

As used in this chapter:

(1) ~~“Audiologist” means a person licensed to practice audiology under this chapter.~~

(2) ~~“Audiology” means the application of principles, methods, and procedures related to hearing and the disorders of hearing, and to related language and speech disorders, which includes all conditions that impede the normal process of human communication, including disorders of auditory sensitivity, acuity, function, or processing.~~

(3) ~~“Board” means the Vermont Standards Board for Professional Educators unless the context clearly requires otherwise.~~

(4) ~~“Agency” means the Agency of Education.~~

(5) ~~“Director” means the Director of the Office of Professional Regulation.~~

~~(6)(2)~~ “Disciplinary action” means any action taken by the administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or applicant for licensure under this chapter, premised on a finding that the person has engaged in unprofessional conduct. “Disciplinary action” includes all sanctions of any kind, including obtaining injunctions, refusal to give an examination, refusal to grant or renew a license, suspension or revocation of a license, placement of limitations or restrictions upon a license, issuance of warnings, ordering restitution, and other similar sanctions.

~~(7)~~ “Hearing aid” means an amplifying device to be worn by a person who is hard of hearing to improve hearing, including any accessories specifically used in connection with such a device, but excluding theater or auditorium wide-area listening devices, telephone amplifiers, or other devices designed to replace a hearing aid for restricted situations.

~~(8)~~ “Practice of audiology” includes:

~~(A)~~ facilitating the conservation of auditory system function, and developing and implementing environmental and occupational hearing conservation programs;

~~(B)~~ screening, identifying, assessing and interpreting, diagnosing, preventing, and rehabilitating peripheral and central auditory system dysfunctions;

~~(C)~~ providing and interpreting behavioral and electro-physiological measurements of auditory, vestibular, and facial nerve functions;

~~(D) selecting, fitting, and dispensing of hearing aids, amplification, assistive listening and alerting devices, implantable devices, and other systems, and providing training in their use;~~

~~(E) dispensing hearing aids, including conducting and interpreting hearing tests for the purpose of selecting suitable hearing aids;~~

~~(F) making ear molds or impressions;~~

~~(G) providing instruction to patients on the care and use of hearing aids, auditory system functions, and hearing conservation;~~

~~(H) all acts pertaining to selling, renting, leasing, pricing, delivering, and giving warranties for hearing aids;~~

~~(I) providing aural rehabilitation and related counseling services to individuals who are hard of hearing and their families;~~

~~(J) screening of speech language and other factors affecting communication function for the purposes of an audiologic evaluation, or initial identification of individuals with other communication disorders; and~~

~~(K) management of cerumen.~~

(3) "Office" means the Office of Professional Regulation.

~~(9)~~(4) "The practice "Practice of speech-language pathology" includes:

(A) screening, identifying, assessing and interpreting, diagnosing, rehabilitating, treating, and preventing disorders of language and speech, including disorders involving articulation, fluency, and voice;

* * *

(E) providing aural rehabilitation, speech-language, and related counseling services to individuals who are hard of hearing or experiencing auditory processing problems and their families;

(F) enhancing speech-language proficiency and communication effectiveness, including accent ~~reduction~~ modification; and

* * *

~~(10) “Private practice” means any work performed by a licensed speech-language pathologist or audiologist that is not within the jurisdiction of the Board.~~

~~(11)~~(5) “Secretary” means the Secretary of State.

~~(12)~~(6) “Speech-language pathologist” means a person licensed to practice speech-language pathology under this chapter.

~~(13)~~(7) “Speech-language pathology” means the application of principles, methods, and procedures related to the development and disorders of human communication, which include any and all conditions that impede the normal process of human communication.

~~(14) “Within the jurisdiction of the Board” means conduct or work performed by a licensed speech-language pathologist or audiologist on behalf of a supervisory union or public school district in Vermont or an independent school approved for special education purposes, or conduct otherwise subject to discipline under the licensing rules of the Board.~~

§ 4452. PROHIBITIONS; PENALTIES

(a) ~~No~~ A person shall not:

(1) practice or attempt to practice ~~audiology or~~ speech-language pathology or hold oneself out as being permitted to do so in this ~~state~~ State unless the person is licensed in accordance with this chapter;

(2) use in connection with the person's name, an insignia or any letters or words ~~which~~ that indicate the person is ~~an audiologist or~~ a speech-language pathologist unless the person is licensed in accordance with this chapter; or

(3) practice ~~audiology or~~ speech-language pathology after the person's license under this chapter has been suspended or revoked.

(b) A person who violates a provision of this section or who obtains a license by fraud or misrepresentation shall be subject to the pertinent penalties provided in ~~3 V.S.A. § 127(e)~~ 3 V.S.A. § 127.

§ 4453. EXEMPTIONS

The provisions of section 4452 of this ~~title~~ chapter shall not apply to ~~the following persons:~~

~~(1)~~ A person enrolled in a course of study leading to a degree or certificate in ~~audiology or~~ speech-language pathology at a school accredited by the American Speech-Language Hearing Association, provided:

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

~~(B)(2)~~ the person is designated by a title which clearly indicates the person's student or trainee status; and

~~(C)(3)~~ the person is under the direct supervision of ~~an audiologist or a~~ speech-language pathologist licensed in this ~~state~~ State.

~~(2) A hearing aid dispenser performing services within the scope of a license under chapter 67 of this title.~~

§ 4454. CONSTRUCTION

~~(a)~~ This chapter shall not be construed to limit or restrict in any way the right of a practitioner of another occupation ~~which~~ that is regulated by this ~~state~~ State from performing services within the scope of his or her professional practice.

~~(b) This chapter shall not be construed to limit the authority of the board to determine and evaluate the qualifications of, issue licenses to, or discipline licensees who are within the jurisdiction of the board.~~

§ 4455. ADVISOR APPOINTEES

~~(a) The Secretary, in consultation with the Secretary of Education, shall appoint two individuals to serve as advisors in matters related to audiology and speech-language pathology. One advisor~~ Both advisors shall be a licensed speech-language pathologist, ~~and one advisor shall be an audiologist. Advisors who are speech-language pathologists or audiologists~~ pathologists, shall have not less than three years' experience as ~~audiologists or~~ speech-language pathologists immediately preceding appointment, and shall be actively engaged

in the practice of ~~audiology or~~ speech-language pathology in Vermont during incumbency. ~~The advisors shall be appointed for staggered terms of three years, and shall serve at the pleasure of the Secretary. One of the initial appointments may be for less than a three-year term.~~

(b) The ~~Secretary~~ Director shall seek the advice of the individuals appointed under this section in ~~matters related to qualifications or alleged misconduct not within the jurisdiction of the Board~~ carrying out the provisions of this chapter. The advisors shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for meetings called by the Director.

~~(c) The Secretary may seek the advice of other audiologists and speech language pathologists licensed under this chapter.~~

§ 4456. ~~SECRETARY OF EDUCATION;~~ DIRECTOR DUTIES

(a) The ~~Secretary of Education~~ Director shall administer the application and renewal process for all licensees under this chapter, and shall:

* * *

(5) receive applications for licensure, grant licensure under this chapter, renew licenses, and deny, revoke, suspend, reinstate, or condition licenses as directed by ~~the~~ an administrative law officer;

~~(6) refer all complaints and disciplinary matters not within the jurisdiction of the Board to the Secretary of State;~~

~~(7)~~ with the advice of the advisor appointees, adopt rules necessary to implement the provisions of this chapter;

~~(8)~~(7) prepare and maintain a registry of licensed speech-language pathologists ~~and audiologists~~; and

~~(9)~~(8) issue to each person licensed a certificate of licensure ~~which~~ that shall be prima facie evidence of the right of the person to whom it is issued to practice as a licensed ~~audiologist or~~ speech-language pathologist, subject to the conditions and limitations of this chapter.

(b) ~~The Agency may contract with the Secretary of State for provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of speech-language pathologists and audiologists. [Repealed.]~~

§ 4457. LICENSURE; APPLICATIONS; ELIGIBILITY

~~Applicants~~ An applicant for ~~licenses~~ licensure under this chapter shall submit an application to the ~~department~~ Office on a form furnished by the ~~department~~ Office, along with payment of the specified fee and evidence of the eligibility qualifications established by the ~~board~~ Director ~~that~~ shall include, at a minimum:

(1) ~~A~~ a master's degree or equivalent in ~~audiology or~~ speech-language pathology from an educational institution approved by the ~~department~~ Director with course work completed in areas specified by rule;

(2) ~~Completion~~ completion of a supervised clinical practicum, the length and content of which shall be established by rule;

(3) ~~Completion~~ completion of a period, as determined by rule, of postgraduate professional training as approved by the ~~department~~. Director; and

(4) ~~Passing~~ passing an examination in ~~audiology or speech-language pathology~~ approved by the ~~department~~, which, in the case of the ~~audiology examination~~, shall include a section which is equivalent to the ~~hearing aid dispensers examination~~ described in section 3295 of this title. Audiologists who have passed an examination chosen by the department are not required to take the ~~hearing aid dispensers examination~~ required by section 3295 Director.

§ 4458. RENEWALS; CONTINUING EDUCATION

(a) A license shall be renewed ~~at an interval determined by the board which shall be no fewer than every two years and no more than every seven years~~ on a schedule set by the Director upon payment of the renewal fee, provided the person applying for renewal completes professional development activities in accord with the processes approved by the ~~department or the board~~, during the ~~interval~~ Director. The ~~board~~ Director shall establish, by rule, guidelines and criteria for the renewal or reinstatement of licenses issued under this chapter.

(b) ~~At the time interval required for renewal, the department shall forward a renewal form to each licensee. Upon receipt of the completed application and the renewal fee, the department shall issue a new license.~~

§ 4459. FEES

(a) Each applicant and licensee shall ~~be subject to~~ pay the following fees:

- | | |
|--|---------------------------------|
| (1) Initial processing of application | \$35.00 |
| (2) Issuance of initial license | \$35.00 per year for |
| the term of the license | |
| (3) Renewal of license | \$35.00 per year for |
| the term of the renewal | |
| (4) Replacement of license | \$10.00 |
| (5) Duplicate license | \$3.00 |

~~(b) Fees collected under this section shall be credited to special funds established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the department to offset the costs of providing those services set forth in 3 V.S.A. § 125.~~

* * *

§ 4464. UNPROFESSIONAL CONDUCT

- (a) A licensee or applicant shall not engage in unprofessional conduct.
- (b) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:
- (1) Willfully making or filing false reports or records in the practice of ~~audiology, dispensing hearing aids or~~ speech-language pathology, willfully impeding or obstructing the proper making or filing of reports or records, or willfully failing to file the proper report or record;

* * *

(4) Advertising or making a representation ~~which~~ that is intended or has a tendency to deceive the public, including:

(A) advertising a particular type of service, or equipment, ~~or hearing aid~~ when the particular service, or equipment, ~~or hearing aid~~ is not available;

(B) ~~stating or implying that the use of a hearing aid will retard the progression of a hearing impairment;~~

(~~C~~) advertising or making any statement related to the practice of speech-language pathology ~~or audiology~~ which that is intended to or tends to deceive or mislead the public;

(~~D~~)(C) using or promoting or causing the use of any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature, testimonial guarantee, ~~warranty, label, brand, insignia,~~ or any other representation;

* * *

(6) Willfully failing to honor any representation, promise, or agreement, ~~or warranty~~ to a client or consumer;

(7) Professional negligence or malpractice;

(8) Any of the following, except when reasonably undertaken in an emergency situation in order to protect life or health:

(A) practicing or offering to practice beyond the scope permitted by law;

(B) accepting and performing professional or occupational responsibilities ~~which~~ that the licensee knows or has reason to know the licensee is not competent to perform; or

(C) performing professional or occupational services ~~which~~ that have not been authorized by the consumer or his or her legal representative;

* * *

(12) Conviction of a crime related to the practice of ~~audiology or~~ speech-language pathology or conviction of a felony, whether or not related to the practice of the profession;

(13) ~~Discouraging clients or consumers in any way from exercising their right to a refund within a 45-day trial period, unreasonably delaying payment of such refunds as may be due, or deducting amounts from refunds beyond those allowed by law; [Repealed.]~~

(14) ~~Failing to inform a consumer prior to sale of a hearing aid that a medical evaluation of hearing loss prior to purchasing a hearing aid is in the consumer's best health interest; [Repealed.]~~

(15) Engaging in fraud in connection with any ~~state~~ State or ~~federally-assisted~~ federally assisted medical assistance programs; or

(16) Violating any part of the Code of Ethics of the American Speech-Language-Hearing Association.

Sec. 40. REPEAL

The following sections set forth in 26 V.S.A. chapter 87 (speech-language pathologists) are repealed:

- (1) § 4460 (records and equipment);
- (2) § 4461 (prices to be disclosed);
- (3) § 4462 (terms of sale; 45-day trial period); and
- (4) § 4463 (maintenance of business address; display of license).

Sec. 41. TRANSITIONAL PROVISION

(a)(1) As of September 1, 2015, any speech-language pathologist licensed and in good standing with the Agency of Education shall be deemed licensed by the Secretary of State's Office of Professional Regulation.

(2) The Office of Professional Regulation shall re-issue initial licenses speech-language pathologist licenses at no charge after that date and shall establish a single expiration and renewal date for all of those licensees.

(b) A speech-language pathologist employed in a school and holding an endorsement from the Agency of Education shall retain that endorsement and shall renew it with the Agency as required by law, in addition to licensure with the Office of Professional Regulation.

* * * Naturopathic Physicians * * *

Sec. 42. 2012 Acts and Resolves No. 116, Sec. 64(e) (transitional provisions) is amended to read:

- (e) Formulary sunset; transition to examination.

(1) Subsection (c) of this section (formulary authorization) shall be repealed on July 1, ~~2015~~ 2016.

(2) Any naturopathic physician who is authorized to prescribe, dispense, and administer any prescription medicines under subsection (c) of this section shall have until July 1, ~~2015~~ 2016 to successfully complete the naturopathic pharmacology examination set forth in 26 V.S.A. § 4125(d) in order to be able to continue to prescribe, dispense, and administer any prescription medicines.

* * * Abuse of Vulnerable Adults * * *

Sec. 43. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

* * *

(c) The Commissioner or the Commissioner's designee may disclose Registry information only to:

* * *

(10) The Office of Professional Regulation for the purpose of evaluating an applicant, licensee, holder of a certification, or registrant for possible unprofessional conduct.

* * *

* * * Applied Behavior Analysis * * *

Sec. 44. FINDINGS

(a) Licensure of applied behavior analysts and their assistants allows consumers to identify behavior analysts and assistants with defined

competencies. It promotes credibility in the field of applied behavior analysis and defines scope of practice within State law.

(b) Licensure protects the public from harm and the misuse of behavioral technologies by untrained or undertrained practitioners and ensures that individuals holding themselves out as “behavior analysts” are appropriately trained and otherwise qualified.

(c) Licensure provides the State with the authority to respond to complaints of unprofessional conduct and to enforce appropriate practice standards within the field of applied behavior analysis.

Sec. 45. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(43) Property Inspectors

(44) Applied Behavior Analysts.

Sec. 46. 26 V.S.A. chapter 95 is added to read:

CHAPTER 95. APPLIED BEHAVIOR ANALYSIS

Subchapter 1. General Provisions

§ 4901. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person shall not hold himself or herself out as practicing, practice, or offer to practice, as an applied behavior analyst or an assistant behavior analyst unless currently licensed under this chapter.

§ 4902. DEFINITIONS

As used in this chapter:

(1) “Applied behavior analyst” means a person who is licensed under this chapter to engage in the practice of applied behavior analysis.

(2) “Assistant behavior analyst” means a person who is licensed under this chapter to engage in the practice of applied behavior analysis under the supervision of an applied behavior analyst.

(3) “Director” means the Director of Professional Regulation.

(4) “License” means a current authorization granted by the Director permitting the practice of applied behavior analysis.

(5) “Practice of applied behavior analysis” means the design, implementation, and evaluation of systematic instructional and environmental modifications for the purpose of producing socially significant improvements

in and understanding of behavior based on the principles of behavior identified through the experimental analysis of behavior.

(A) It includes the identification of functional relationships between behavior and environments.

(B) It uses direct observation and measurement of behavior and environment. Contextual factors, establishing operations, antecedent stimuli, positive reinforcers, and other consequences are used, based on identified functional relationships with the environment, in order to produce practical behavior change.

§ 4903. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any applied behavior analysis degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet another person to do so;

(2) practice applied behavior analysis under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice applied behavior analysis unless currently licensed or otherwise authorized to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed or otherwise authorized by this State to practice applied behavior analysis or use in connection with a name any words, letters, signs, or figures that imply that a person is an applied behavior analyst or assistant behavior analyst when not licensed or otherwise authorized under this chapter;

(5) practice applied behavior analysis during the time a license or authorization issued under this chapter is suspended or revoked; or

(6) employ an unlicensed or unauthorized person to practice as an applied behavior analyst or assistant behavior analyst.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 4904. EXCEPTIONS

This chapter does not prohibit:

(1) The practice of a person who is not licensed under this chapter, who does not use the term “behavior analysis” or similar descriptors suggesting licensure under this chapter, and who is engaged in the course of his or her customary duties:

(A) in the practice of a religious ministry;

(B) in employment or rehabilitation counseling;

(C) as an employee of or under contract with the Agency of Human Services;

(D) as a mediator;

(E) in an official evaluation for court purposes;

(F) as a member of a self-help group, such as Alcoholics

Anonymous, peer counseling, or domestic violence groups, whether or not for consideration;

(G) as a respite caregiver, foster care worker, or hospice worker; or

(H) incident to the practice of any other legally recognized profession or occupation.

(2) A person engaged or acting in the discharge of his or her duties as a student of applied behavior analysis or preparing for the practice of applied behavior analysis, provided that the person's title indicates his or her training status and that the preparation occurs under the supervision of an applied behavior analyst in a recognized training institution or facility.

(3) A behavior interventionist or paraprofessional, employed by a school, from working under the close direction of a supervisor licensed under this chapter, in relation to the direct implementation of skill-acquisition and behavior-modification plans developed by the supervisor or in relation to data collection or assessment designed by the supervisor, provided the supervisor retains ultimate responsibility for delegating professional responsibilities in a manner consistent with 3 V.S.A. § 129a(a)(6).

Subchapter 2. Administration

§ 4911. DUTIES OF THE DIRECTOR

(a) The Director shall:

- (1) provide general information to applicants for licensure under this chapter;
- (2) receive applications for licensure and provide licenses to applicants qualified under this chapter;
- (3) administer fees as established by law;
- (4) refer all disciplinary matters to an administrative law officer;
- (5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and
- (6) explain appeal procedures to persons licensed under this chapter and to applicants and complaint procedures to the public.

(b) The Director may adopt rules necessary to perform his or her duties under this section.

§ 4912. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three persons in accordance with 3 V.S.A. § 129b for three-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to applied behavior analysis. One of the initial appointments shall be for less than a three-year term.

(1) Two of these appointees shall be applied behavior analysts.

(A) An applied behavior analyst advisor appointee shall have not less than three years' experience as an applied behavior analyst immediately preceding appointment, shall be licensed as an applied behavior analyst in

Vermont, and shall be actively engaged in the practice of applied behavior analysis in this State during incumbency.

(B) Not more than one of these appointees may be employed by a designated agency. As used in this subdivision, “designated agency” shall have the same meaning as in 18 V.S.A. § 7252.

(2) One of these appointees shall be the parent of an individual with autism or a developmental disorder who is a recipient of applied behavior analysis services. This appointee shall not have a child or other family member who is receiving applied behavior analysis services from one of the advisor appointees appointed under subdivision (1) of this subsection.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 4921. ELIGIBILITY FOR LICENSURE BY EXAMINATION AS AN APPLIED BEHAVIOR ANALYST

To be eligible for licensure as an applied behavior analyst, an applicant shall:

(1) Obtain a doctoral or master’s degree from a recognized educational program accredited by the Association for Behavior Analysis International Accreditation Board, or from a program at a recognized educational institution that is approved by the Director and that substantially meets the educational standards of the Association for Behavior Analysis International Accreditation

Board or the Behavior Analysis Certification Board. Any program shall include an approved course sequence of the Behavior Analyst Certification Board.

(2) Successfully complete an approved practicum or supervised experience in the practice of applied behavior analysis, totaling at least 1,500 hours over a period of not less than one calendar year, of which at least 75 hours are in direct one-to-one contact with a supervisor.

(3) Successfully complete, as defined by the Director, a nationally recognized examination adopted from the Behavior Analyst Certification Board and approved by the Director, related to the principles and practice of applied behavior analysis. This subdivision (3) shall not be construed to require the Director to develop or administer any examination.

§ 4922. ELIGIBILITY FOR LICENSURE BY EXAMINATION AS AN ASSISTANT BEHAVIOR ANALYST

To be eligible for licensure as an assistant behavior analyst, an applicant shall:

(1) Obtain a bachelor's degree from a program at a recognized educational institution that is approved by the Director and that substantially meets the educational standards of the Association for Behavior Analysis International Accreditation Board or the Behavior Analysis Certification Board. Any program shall include an approved course sequence of the Behavior Analyst Certification Board.

(2) Successfully complete an approved practicum or supervised experience in the practice of applied behavior analysis, totaling at least 1,000 hours over a period of not less than one calendar year, of which at least 50 hours are in direct one-to-one contact with a supervisor.

(3) Successfully complete, as defined by the Director, a nationally recognized examination adopted from the Behavior Analyst Certification Board and approved by the Director, related to the principles and practice of applied behavior analysis. This subdivision (3) shall not be construed to require the Director to develop or administer any examination.

§ 4923. LICENSURE BY ENDORSEMENT

A person may be licensed under this chapter if he or she:

(1)(A) possesses a valid registration or license to engage in the practice of applied behavior analysis issued by the appropriate regulatory authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements and qualifications shown by the application to be equal to or greater than the requirements of this chapter; or

(B) is certified as a board certified behavior analyst by the Behavior Analyst Certification Board; and

(2) meets any active practice requirements established by the Director by rule.

§ 4924. ISSUANCE OF LICENSES

The Director shall issue a license, upon payment of the fees prescribed in this chapter, to any applicant who has satisfactorily met all the requirements of this chapter.

§ 4925. RENEWALS

(a) Licenses shall be renewed every two years, on a schedule determined by the Director, upon payment of the renewal fee.

(b) Biennially, the Director shall provide notice to each licensee of license expiration and renewal requirements. Upon receipt of the completed form and the renewal fee, the Director shall issue a new license.

(c) As a condition of renewal, the Director may by rule require that a licensee establish that he or she has completed continuing education. The Director may accept proof of current certification from the Behavior Analyst Certification Board as evidence of continuing competency if the Director finds that the maintenance of such certification implies appropriate continuing education.

(d)(1) The Director may reinstate the license of an individual whose license has expired upon payment of the required fee and reinstatement penalty, provided the individual has satisfied all the requirements for renewal, including continuing education.

(2) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has expired or

who has not worked for more than three years as an applied behavior analyst or an assistant behavior analyst is professionally qualified for license renewal.
Conditions imposed under this subsection shall be in addition to the other requirements of this section.

§ 4926. LICENSE AND RENEWAL FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 4927. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

§ 4928. SCOPE OF PRACTICE OF APPLIED BEHAVIOR ANALYSTS

(a) A person licensed under this chapter shall only engage in the practice of applied behavior analysis upon, and within the scope of, a referral from a licensed health professional or school official duly authorized to make such a referral.

(b) The practice of applied behavior analysis shall not include psychological testing, neuropsychology, diagnosis of mental health or developmental conditions, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, psychopharmacological recommendations, hypnotherapy, or academic teaching by college or university faculty.

§ 4929. SUPERVISION OF ASSISTANT BEHAVIOR ANALYSTS

An assistant behavior analyst shall only engage in the practice of applied behavior analysis if he or she has a minimum of five hours per month of off-site case supervision by an applied behavior analyst. A supervising applied behavior analyst may require that his or her supervision of an assistant behavior analyst exceed the minimum requirements of this section, including the requirement that the supervision be on-site.

§ 4930. DISCLOSURE OF INFORMATION

The Director may adopt rules requiring a person licensed under this chapter to disclose the licensee's professional qualifications and experience, those actions that constitute unprofessional conduct, and the method for filing a complaint or making a consumer inquiry, and the manner in which that information shall be made available and to whom.

§ 4931. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a, committed by a licensee, an applicant, or a person who later becomes an applicant:

(1) making or causing to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure licensure or renew a license to practice under this chapter;

(2) using dishonest or misleading advertising;

(3) misusing a title in professional activity;

(4) engaging in any sexual conduct with a client, or with the immediate family member of a client, with whom the licensee has had a professional relationship within the previous five years;

(5) harassing, intimidating, or abusing a client;

(6) entering into an additional relationship with a client, supervisee, research participant, or student that might impair the person's objectivity or otherwise interfere with a licensee's obligations;

(7) practicing outside or beyond a licensee's area of training, experience, or competence;

(8) being or having been convicted of a misdemeanor related to the practice of applied behavior analysis or a felony;

(9) being unable to practice applied behavior analysis competently by reason of any cause;

(10) willfully or repeatedly violating any of the provisions of this chapter;

(11) being habitually intemperate or addicted to the use of habit-forming drugs;

(12) having a mental, emotional, or physical disability, the nature of which interferes with the ability to practice applied behavior analysis competently;

(13) engaging in conduct of a character likely to deceive, defraud, or harm the public, including exposing clients to unjustifiably degrading or cruel

interventions or implementing therapies not supported by a competent clinical rationale; or

(14) failing to notify the Director in writing within ten days of the loss, revocation, discontinuation, or invalidation of any certification or degree offered to support eligibility for licensure or to demonstrate continuing competency.

(b) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director or the Office of Professional Regulation about alleged incompetent, unprofessional, or unlawful conduct of a person licensed under this chapter.

Sec. 47. TRANSITIONAL PROVISIONS

(a) Advisor appointees. Notwithstanding the provisions of 26 V.S.A. § 4912(a)(1) (advisor appointees; qualifications of appointees) in Sec. 46 of this act, an initial advisor appointee may serve while reasonably expected within one year of appointment to become eligible for licensure as an applied behavior analyst and to satisfy the other requirements of 26 V.S.A. § 4912(a)(1).

(b) Licensing of applied behavior analysts. The Director of the Office of Professional Regulation shall establish a procedure so that an individual may become licensed as an applied behavior analyst without being required to take an examination if he or she:

(1) has graduated with a doctoral or master's degree from a regionally accredited university and is a Board Certified Behavior Analyst certificant of the Behavior Analyst Certification Board; or

(2) holds either a doctoral or master's degree in behavior analysis or a related field and can demonstrate competency in applied behavior analysis by virtue of training and experience as determined by the Director.

(c) Licensing of assistant behavior analysts. The Director of the Office of Professional Regulation shall establish a procedure so that an individual may become licensed as an assistant behavior analyst without being required to take an examination if he or she:

(1) has graduated with a bachelor's degree from a regionally accredited university and is a Board Certified Assistant Behavior Analyst certificant of the Behavior Analyst Certification Board; or

(2) holds a bachelor's degree in behavior analysis or a related field and can demonstrate competency in applied behavior analysis by virtue of training and experience as determined by the Director.

(d) Any person licensed under subsection (b) or (c) of this section shall thereafter be eligible for licensure renewal pursuant to 26 V.S.A. § 4925.

(e) The ability of a person to become licensed under the provisions of subsection (b) or (c) of this section shall expire on July 1, 2017.

* * * Positions Authorization * * *

Sec. 48. CREATION OF NEW POSITIONS WITHIN THE OFFICE OF
PROFESSIONAL REGULATION

(a) There is created within the Secretary of State's Office of Professional Regulation the following new positions:

(1) one (1) classified Research and Statistics Analyst position; and

(2) one (1) classified Enforcement position.

(b) Any funding necessary to support the positions created under subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund.

* * * Effective Dates * * *

Sec. 49. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 34 (amending 26 V.S.A. chapter 67 (audiologists and hearing aid dispensers)) shall take effect on September 1, 2015;

(2) Secs. 39 (amending 26 V.S.A. chapter 87 (speech-language pathologists)) and 40 (repeal of sections in 26 V.S.A. chapter 87) shall take effect on September 1, 2015;

(3) Secs. 45 (amending 3 V.S.A. § 122 (Office of Professional Regulation)) and 46 (adding 26 V.S.A. chapter 95 (applied behavior analysis)) shall take effect on July 1, 2016; and

(4) Sec. 31 (amending 26 V.S.A. chapter 61 (social workers)) shall take effect on July 1, 2017.

Date Governor signed bill: May 28, 2015