

1 H.562

2 Introduced by Representative Sweaney of Windsor

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; Office of Professional Regulation;
6 regulation review; regulation transfer

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) provide for the review of professions and occupations by the Office
9 of Professional Regulation (Office);

10 (2) transfer the regulation of alcohol and drug abuse counselors from the
11 Department of Health to the Office; and

12 (3) extend the transitional period for a naturopathic physician to
13 complete the naturopathic pharmacology examination successfully.

14 An act relating to professions and occupations regulated by the Office of
15 Professional Regulation and to the review of professional regulation

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

17 ~~*** Professional Regulation Review ***~~

18 Sec. 1. 26 V.S.A. chapter 57 is amended to read:

19 ~~CHAPTER 57. REVIEW OF LICENSING STATUTES, BOARDS, AND~~
20 ~~COMMISSIONS REGULATORY LAWS~~

1 ~~§ 3101. POLICY AND PURPOSE~~

2 ~~(a) It is the policy of the state State of Vermont that regulation be imposed~~
3 ~~upon a profession or occupation solely for the purpose of protecting the public.~~
4 ~~The legislature General Assembly believes that all individuals should be~~
5 ~~permitted to enter into a profession or occupation unless there is a~~
6 ~~demonstrated need for the state State to protect the interests of the public by~~
7 ~~restricting entry into the profession or occupation.~~

8 ~~(b) If such a need is identified, the form of regulation adopted by the state~~
9 ~~State shall be the least restrictive form of regulation necessary to protect the~~
10 ~~public interest. If regulation is imposed, the profession or occupation may be~~
11 ~~subject to periodic review by the legislature Office of Professional Regulation~~
12 ~~and the General Assembly to ~~insure~~ ensure the continuing need for and~~
13 ~~appropriateness of such regulation.~~

14 § 3101a. DEFINITIONS

15 ~~The definitions contained in this section shall apply throughout As used in~~
16 ~~this chapter, unless the context clearly requires otherwise:~~

17 (1) “Certification” means a voluntary process by which a statutory
18 regulatory entity grants to ~~an individual,~~ a person who has met certain
19 prerequisite qualifications, the right to assume or to use the title of the
20 profession or occupation, or the right to assume or use the term “certified” in

1 ~~conjunction with the title. Use of the title or the term "certified," as the case~~

2 may be, by a person who is not certified is unlawful.

3 (2) "Licensing" and "licensure" mean a process by which a statutory
4 regulatory entity grants to ~~an individual,~~ a person who has met certain
5 prerequisite qualifications; the right to perform prescribed professional ~~and or~~
6 occupational tasks and to use the title of the profession or occupation. Practice
7 without a license is unlawful.

8 (3) "License" means an individual, nontransferable authorization to
9 carry on an activity based on qualifications such as:

10 (A) satisfactory completion of or graduation from an accredited or
11 approved educational or training program; ~~and or~~

12 (B) acceptable performance on a qualifying examination or series of
13 examinations.

14 (4) "Office" means the Office of Professional Regulation.

15 (5) "Practitioner" means a person who is actively engaged
16 in a specified profession or occupation.

17 ~~(5)(6)~~ (6) "Public member" means an individual who has no material
18 financial interest in the profession or occupation being regulated other than as
19 a consumer.

20 ~~(6)(7)~~ (7) "Registration" means a process ~~which requires~~ requiring that,
21 prior to rendering services, ~~all practitioners~~ a practitioner formally notify a

1 ~~regulatory entity of their his, her, or its intent to engage in the profession or~~
2 occupation. Notification may include the name and address of the practitioner,
3 the location of the activity to be performed, and a description of the service to
4 be provided.

5 (8) "Regulatory entity" means the statutory entity responsible for
6 regulating a profession or occupation, such as a board or an agency of the
7 State.

8 ~~(7)(9) "Regulatory law" as used in section 3104 of this title, means any~~
9 law in this State that requires a person engaged in a profession or occupation to
10 be registered, certified, or licensed under this title or 4 V.S.A. chapter 23 or
11 that otherwise regulates the operation of that profession or occupation.

12 ~~§ 3102. PERIODIC REVIEW REQUIREMENT~~

13 ~~(a) Each licensing law enumerated below in subsection (b) of this section,~~
14 ~~each board related thereto, and the activities resulting shall be subject to~~
15 ~~review, at least once, in the manner provided in section 3104 of this title and~~
16 ~~on the basis of the criteria in section 3105 of this title.~~

17 ~~(b) The following laws are subject to review:~~

18 ~~(1) Chapter 15 of this title on electricians;~~

19 ~~(2) Chapter 39 of this title on plumbers and plumbing;~~

20 ~~(3) Chapter 28 of this title on nursing;~~

21 ~~(4) Chapter 10 of this title on chiropractic;~~

- 1 ~~(5) Chapter 6 of this title on barbers;~~
- 2 ~~(6) Chapter 6 of this title on cosmeticians and hairdressers;~~
- 3 ~~(7) Chapter 23 of this title on medicine and surgery;~~
- 4 ~~(8) Chapter 33 of this title on osteopathic physicians and surgeons;~~
- 5 ~~(9) Chapter 13 of this title on dentists and dental hygienists;~~
- 6 ~~(10) 18 V.S.A. chapter 46 on nursing home administrators;~~
- 7 ~~(11) Chapter 17 of this title on embalmers;~~
- 8 ~~(12) Chapter 21 of this title on funeral directors;~~
- 9 ~~(13) Chapter 44 of this title on veterinary science;~~
- 10 ~~(14) Chapter 1 of this title on accountants;~~
- 11 ~~(15) Chapter 59 of this title on private detectives;~~
- 12 ~~(16) Chapter 55 of this title on psychologists;~~
- 13 ~~(17) Chapter 36 of this title on pharmacy;~~
- 14 ~~(18) Chapter 51 of this title on radiological technologists;~~
- 15 ~~(19) Chapter 41 of this title on real estate brokers and salesmen;~~
- 16 ~~(20) Chapter 20 of this title on engineering;~~
- 17 ~~(21) Chapter 3 of this title on architects;~~
- 18 ~~(22) Chapter 45 of this title on land surveyors;~~
- 19 ~~(23) Chapter 31 of this title on physicians' assistants;~~
- 20 ~~(24) Chapter 7 of this title on podiatry;~~
- 21 ~~(25) 4 V.S.A. chapter 23 on attorneys;~~

- 1 ~~(26) Chapter 47 of this title on opticians;~~
- 2 ~~(27) Chapter 65 of this title on clinical mental health counselors;~~
- 3 ~~(28) Chapter 67 of this title on hearing aid dispensers;~~
- 4 ~~(29) Chapter 79 of this title on tattooists;~~
- 5 ~~(30) Chapter 81 of this title on naturopathic physicians;~~
- 6 ~~(31) Chapter 83 of this title on athletic trainers;~~
- 7 ~~(32) Chapter 87 of this title on audiologists and speech language~~
- 8 ~~pathologists.~~

9 ~~(e) Any new law to regulate another profession or occupation shall be~~

10 ~~based on the relevant criteria and standards in section 3105 of this title.~~

11 [Repealed.]

12 § 3104. PROCESS FOR REVIEW OF REGULATORY LAWS

13 (a) ~~Either house of the general assembly may designate, by resolution, The~~

14 ~~Office may review a regulatory law or an issue that affects professions and~~

15 ~~occupations generally to be reviewed by the legislative council staff that is~~

16 ~~within its jurisdiction, and shall review any regulatory law within or outside its~~

17 ~~jurisdiction upon the request of the House or Senate Committee on~~

18 ~~Government Operations. The staff Office shall base its review on the criteria~~

19 ~~and standards set forth in section 3105 of this title chapter.~~

20 (b) The review ~~may~~ shall also include the following inquiries in the

21 discretion of the Office or in response to a Committee request:

1 ~~(1) the extent to which the board's a regulatory entity's actions have~~
2 been in the public interest and consistent with legislative intent;

3 ~~(2) the extent to which the board's rules are complete, concise, and easy~~
4 ~~to understand~~ profession's historical performance, including the actual history
5 of complaints and disciplinary actions in Vermont, indicates that the costs of
6 regulation are justified by the realized benefits to the public;

7 ~~(3) the extent to which the board's standards and procedures are fair and~~
8 ~~reasonable and accurately measure an applicant's qualifications~~ scope of the
9 existing regulatory scheme for the profession is commensurate to the risk of
10 harm to the public;

11 ~~(4) the extent to which the profession's educational training and~~
12 examination requirements for a license or certification are consistent with the
13 public interest;

14 ~~(5) the way in which the board receives, investigates, and resolves~~
15 ~~complaints from the public~~ the extent to which a regulatory entity's resolutions
16 of complaints and disciplinary actions have been effective to protect the public;

17 ~~(5)(6) the extent to which the board~~ a regulatory entity has sought ideas
18 from the public and from those it regulates, concerning reasonable ways to
19 improve the service of the ~~board~~ entity and the profession or occupation
20 regulated;

1 ~~(6)(7) the extent to which the board a regulatory entity gives adequate~~

2 public notice of its hearings and meetings and encourages public participation;

3 ~~(7)(8) whether the board a regulatory entity makes efficient and~~

4 effective use of its funds; and meets its responsibilities; and

5 ~~(8)(9) whether the board a regulatory entity has sufficient funding to~~

6 carry out its mandate.

7 (c)(1) ~~The legislative council staff Office shall give adequate notice to the~~

8 public, the ~~board~~ applicable regulatory entity, and the appropriate professional

9 societies that it is reviewing a particular regulatory law and board, as

10 applicable, that regulatory entity. Notice to the ~~board~~ regulatory entity and the

11 professional societies shall be in writing.

12 (2) ~~All~~ The regulatory entity shall provide to the Office the information

13 required under described in section 3107 of this title chapter and available data

14 reasonably requested the Office requests for purposes of the review ~~shall be~~

15 provided by the boards.

16 (3) The staff Office shall seek comments and information from the

17 public and from members of the profession or occupation. It also shall give the

18 ~~board~~ regulatory entity a chance to present its position and to respond to any

19 matters raised in the review.

20 (4) The staff Office, upon its request, shall have assistance from the

21 ~~department of finance and management~~ Department of Finance and

1 ~~Management, the auditor of accounts Auditor of Accounts, the attorney~~
2 ~~general, the director of the office of professional regulation Attorney General,~~
3 ~~the joint fiscal committee Joint Fiscal Committee, or any other state State~~
4 ~~agency.~~

5 (d) ~~The legislative council staff Office shall file a separate written report~~
6 ~~for each review with the speaker of the house and president of the senate and~~
7 ~~with the chairman of the appropriate house or senate committee as provided in~~
8 ~~subsection (f) of this section House and Senate Committees on Government~~
9 ~~Operations and the applicable regulatory entity. The reports shall contain:~~

- 10 (1) findings, alternative courses of action, and recommendations;₂
- 11 (2) a copy of the board's regulatory entity's administrative rules;₂ and
- 12 (3) appropriate legislative proposals.

13 (e) ~~The legislative council staff shall send a copy of the report to the board~~
14 ~~affected, and shall make copies available for public inspection. [Repealed.]~~

15 (f) ~~The house and senate committees on government operations shall be~~
16 ~~responsible for overseeing the preparation of reports by the legislative council~~
17 ~~staff under this chapter. [Repealed.]~~

18 (g) ~~After considering a report each committee shall send its findings and~~
19 ~~recommendations, including proposals for legislation, if any, to the house or to~~
20 ~~the senate, as appropriate. Any proposed licensing law shall be drafted~~

1 ~~according to a uniform format recommended in the comprehensive plan.~~

2 [Repealed.]

3 § 3105 CRITERIA AND STANDARDS

4 (a) A profession or occupation shall be regulated by the State only when:

5 (1) it can be demonstrated that the unregulated practice of the profession
6 or occupation can clearly harm or endanger the health, safety, or welfare of the
7 public, and the potential for the harm is recognizable and not remote or
8 speculative;

9 (2) the public can reasonably be expected to benefit from an assurance
10 of initial and continuing professional ability; and

11 (3) the public cannot be effectively protected by other means.

12 (b) After evaluating the criteria in subsection (a) of this section and
13 considering governmental and societal costs and benefits, if the ~~Legislature~~
14 General Assembly finds that it is necessary to regulate a profession or
15 occupation, the least restrictive method of regulation shall be imposed,
16 consistent with the public interest and this section:

17 (1) if existing common law and statutory civil remedies and criminal
18 sanctions are insufficient to reduce or eliminate existing harm, regulation
19 should occur through enactment of stronger civil remedies and criminal
20 sanctions;

1 ~~(2) if a professional or occupational service involves a threat to the~~
2 public and the service is performed primarily through business entities or
3 facilities that are not regulated, the business entity or the facility should be
4 regulated rather than its employee practitioners;

5 (3) if the threat to the public health, safety, or welfare, including
6 economic welfare, is relatively small, regulation should be through a system of
7 registration;

8 (4) if the consumer may have a substantial interest in relying on the
9 qualifications of the practitioner, regulation should be through a system of
10 certification; or

11 (5) if it is apparent that the public cannot be adequately protected by any
12 other means, a system of licensure should be imposed.

13 (c) Any of the issues set forth in subsections (a) and (b) of this section and
14 section 3107 of this ~~title~~ chapter may be considered in terms of their
15 application to professions or occupations generally.

16 (d) Prior to review under this chapter and consideration by the General
17 Assembly of any bill to regulate a profession or occupation and upon the
18 request of the House or Senate Committee on Government Operations, the
19 ~~Office of Professional Regulation~~ shall make, in writing, a preliminary
20 assessment of whether any particular request for regulation meets the criteria
21 set forth in subsection (a) of this section. The Office shall report its

1 ~~preliminary assessment to the appropriate House or Senate Committee on~~
2 Government Operations. ~~The provisions of 2 V.S.A. § 20(d) (expiration of~~
3 ~~required reports) shall not apply to the report to be made under this subsection.~~

4 (e) After the review of a proposal to regulate a profession, the Office of
5 ~~Professional Regulation~~ may decline to conduct an analysis and evaluation of
6 the proposed regulation if it finds that:

7 (1) the proposed regulatory scheme appears to regulate fewer than
8 250 individuals; and

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

14 § 3106. DIRECTOR OF THE OFFICE OF PROFESSIONAL
15 REGULATION; ANNUAL REPORT

16 (a) Annually, prior to the commencement of each legislative session, the
17 Director of the Office of ~~Professional Regulation~~ shall prepare a concise report
18 on the activities of all boards and advisor professions under his or her
19 jurisdiction. ~~Prior to the commencement of each legislative session, the~~
20 ~~Director shall prepare a report for publication on the Office's website~~
21 ~~containing~~ The report shall include his or her assessments, conclusions, and

1 ~~recommendations with proposals for legislation, if any, to the Speaker of the~~
2 ~~House and to the Chairpersons of the House and Senate Committees on~~
3 ~~Government Operations and the chairpersons of the boards regarding those~~
4 ~~boards and advisor professions.~~

5 (b) The ~~Office~~ Director shall publish the report on the Office's website and
6 shall also provide written copies of the report to the House and Senate
7 Committees on Government Operations.

8 (c) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall
9 not apply to the report to be made under this section.

10 § 3107. INFORMATION REQUIRED

11 Prior to review under this chapter and prior to consideration by the
12 legislature General Assembly of any bill ~~which~~ that proposes to regulate a
13 profession or occupation, the profession or occupation being reviewed or
14 seeking regulation shall explain each of the following factors, in writing, to the
15 extent requested by the ~~appropriate house or senate committees on government~~
16 ~~operations~~ House or Senate Committee on Government Operations:

17 (1) Why regulation is necessary, including:

18 (A) the nature of the potential harm or threat to the public if the
19 profession or occupation is not regulated;

20 (B) specific examples of the harm or threat identified in subdivision
21 (1)(A) of this section;

1 ~~(C) the extent to which consumers will benefit from a method of~~
2 regulation ~~which~~ that permits identification of competent practitioners,
3 indicating typical employers, if any, of practitioners;

4 (2) The extent to which practitioners are autonomous, as indicated by:

5 (A) the degree to which the profession or occupation requires the use
6 of independent judgment, and the skill or experience required in making such
7 judgment;

8 (B) the degree to which practitioners are supervised;

9 (3) The efforts that have been made to address the concerns that give
10 rise to the need for regulation, including:

11 (A) voluntary efforts, if any, by members of the profession or
12 occupation to:

13 (i) establish a code of ethics;

14 (ii) help resolve disputes between practitioners and consumers;

15 (iii) establish requirements for continuing education.

16 (B) recourse to and the extent of use of existing law;

17 (4) Why the alternatives to licensure specified in this subdivision would
18 not be adequate to protect the public interest:

19 (A) stronger civil remedies or criminal sanctions;

20 (B) regulation of the business entity or facility providing the service
21 rather than the employee practitioners;

- 1 ~~(C) regulation of the program or service rather than the individual~~
2 practitioners;
- 3 (D) registration of all practitioners;
- 4 (E) certification of practitioners;
- 5 (F) other alternatives;
- 6 (5) The benefit to the public if regulation is granted, including:
- 7 (A) how regulation will result in reduction or elimination of the
8 harms or threats identified under subdivision (1) of this section;
- 9 (B) the extent to which the public can be confident that a practitioner
10 is competent:
- 11 (i) whether the registration, certification, or licensure will carry an
12 expiration date;
- 13 (ii) whether renewal will be based only upon payment of a fee, or
14 whether renewal will involve reexamination, peer review, or other
15 enforcement;
- 16 (iii) the standards for registration, certification, or licensure as
17 compared with the standards of other jurisdictions;
- 18 (iv) the nature and duration of the educational requirement, if any,
19 including, ~~but not limited to,~~ whether such the educational program
20 requirement includes a substantial amount of supervised field experience;
21 whether educational programs exist in this ~~state~~ State; whether there will be an

1 ~~experience requirement; whether the experience must be acquired under a~~
2 registered, certified, or licensed practitioner; whether there are alternative
3 routes of entry or methods of satisfying the eligibility requirements and
4 qualifications; whether all applicants will be required to pass an examination;
5 and, if an examination is required, by whom it will be developed and how the
6 costs of development will be met;

7 (6) The form and powers of the regulatory entity, including:

8 (A) whether the regulatory entity is or would be a board composed of
9 members of the profession or occupation and public members, or a ~~state~~ State
10 agency, or both, and, if appropriate, their respective responsibilities in
11 administering the system of registration, certification, or licensure;

12 (B) the composition of the board, if any, and the number of public
13 members, if any;

14 (C) the powers and duties of the ~~board or state agency~~ regulatory
15 entity regarding examinations;

16 (D) the system for receiving complaints and taking disciplinary
17 action against practitioners;

18 (7) The extent to which regulation might harm the public, including:

19 (A) whether regulation will restrict entry into the profession or
20 occupation, including:

1 ~~(i) whether the standards are the least restrictive necessary to~~
2 ~~insure~~ ensure safe and effective performance; and

3 (ii) whether persons who are registered, certified, or licensed in a
4 another jurisdiction ~~which that the board or agency~~ regulatory entity believes
5 has requirements that are substantially equivalent to those of this ~~state~~ State
6 will be eligible for endorsement or some form of reciprocity;

7 (B) whether there are similar professions or occupations ~~which that~~
8 should be included, or portions of the profession or occupation ~~which that~~
9 should be excluded from regulation;

10 (8) How the standards of the profession or occupation will be
11 maintained, including:

12 (A) whether effective quality assurance standards exist in the
13 profession or occupation, such as legal requirements associated with specific
14 programs that define or enforce standards, or a code of ethics; and

15 (B) how the proposed form of regulation will assure quality,
16 including:

17 (i) the extent to which a code of ethics, if any, will be
18 adopted; and

19 (ii) the grounds for suspension, revocation, or refusal to renew
20 registration, certification, or licensure;

1 ~~(9) A profile of the practitioners in this state State, including a list of~~
2 associations, organizations, and other groups representing the practitioners and
3 including an estimate of the number of practitioners in each group.

4 (10) The effect that registration, certification, or licensure will have on
5 the costs of the services to the public.

6 * * * Alcohol and Drug Abuse Counselors * * *

7 Sec. 2. 3 V.S.A. § 122 is amended to read:

8 § 122. OFFICE OF PROFESSIONAL REGULATION

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

13 * * *

14 (45) Alcohol and drug abuse counselors.

15 Sec. 3. 18 V.S.A. § 4806 is amended to read:

16 § 4806. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

17 (a) The Division of Alcohol and Drug Abuse Programs shall plan, operate,
18 and evaluate a consistent, effective program of substance abuse programs. All
19 duties, responsibilities, and authority of the Division shall be carried out and
20 exercised by and within the Department of Health.

1 ~~(b) The Division shall be responsible for the following services:~~

2 (1) prevention and intervention;

3 (2) licensure of alcohol and drug counselors; [Repealed.]

4 (3) project CRASH schools; and

5 (4) alcohol and drug treatment.

6 * * *

7 (e) ~~Under subdivision (b)(4) of this section, the Commissioner of Health~~
8 ~~may contract with the Secretary of State for provision of adjudicative services~~
9 ~~of one or more administrative law officers and other investigative, legal, and~~
10 ~~administrative services related to licensure and discipline of alcohol and drug~~
11 ~~counselors. [Repealed.]~~

12 Sec. 4. 26 V.S.A. chapter 62 is amended to read:

13 CHAPTER 62. ALCOHOL AND DRUG ABUSE COUNSELORS

14 § 3231. DEFINITIONS

15 As used in this chapter:

16 (1) "Alcohol and drug abuse counselor" means a person who engages in
17 the practice of alcohol and drug abuse counseling for compensation.

18 (2) ~~"Commissioner" means the Commissioner of Health~~ "Director"
19 means the Director of the Office of Professional Regulation.

1 ~~(3) "Deputy Commissioner" means the Deputy Commissioner of the~~
2 ~~Division of Alcohol and Drug Abuse Programs. "Office" means the Office of~~
3 ~~Professional Regulation.~~

4 ~~(4) "Disciplinary action" means any action taken by the administrative~~
5 ~~law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or~~
6 ~~applicant based on a finding of unprofessional conduct by the licensee or~~
7 ~~applicant. "Disciplinary action" includes issuance of warnings and all~~
8 ~~sanctions, including denial, suspension, revocation, limitation, or restriction of~~
9 ~~licenses and other similar limitations. [Repealed.]~~

10 (5) "Practice of alcohol and drug abuse counseling" means the
11 application of methods, including psychotherapy, ~~which~~ that assist an
12 individual or group to develop an understanding of alcohol and drug abuse
13 dependency problems and to define goals and plan actions reflecting the
14 individual's or group's interests, abilities, and needs as affected by alcohol and
15 drug abuse dependency problems and comorbid conditions.

16 (6) "Supervision" means the oversight of a person for the purposes of
17 teaching, training, or clinical review by a ~~professional in the same area of~~
18 ~~specialized practice~~ licensed alcohol and drug abuse counselor or a qualified
19 supervisor as determined by the Director by rule.

1 ~~§ 3232. PROHIBITION; PENALTIES~~

2 (a) ~~No~~ A person shall not perform either of the following acts:

3 (1) practice or attempt to practice alcohol and drug abuse counseling
4 without a valid license issued in accordance with this chapter, except as
5 otherwise provided in section 3233 of this ~~title~~ chapter; or

6 (2) use in connection with the person's name any letters, words, or
7 insignia indicating or implying that the person is an alcohol and drug abuse
8 counselor, unless the person is licensed or certified in accordance with this
9 chapter.

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

12 § 3233. EXEMPTIONS

13 The provisions of subdivision 3232(a)(1) of this chapter, relating to the
14 practice of alcohol and drug abuse counseling, shall not apply to:

15 (1) the activities and services of a rabbi, priest, minister, Christian
16 Science practitioner, or clergy of any religious denomination or sect when
17 engaging in activities that are within the scope of the performance of the
18 person's regular or specialized ministerial duties and for which no separate
19 charge is made, or when these activities are performed, with or without charge,
20 for or under the auspices or sponsorship, individually or in conjunction with
21 others, of an established and legally recognizable church, denomination, or sect

1 ~~and when the person rendering services remains accountable to the established~~
2 authority of that church, denomination, or sect;

3 (2) the activities and services of a person licensed, certified, or
4 registered under other laws of this State while acting within the scope of his or
5 her profession or occupation, provided the person does not hold himself or
6 herself out to the public as possessing a license issued pursuant to this chapter;

7 (3) the activities and services of a student intern or trainee in alcohol and
8 drug abuse counseling who is pursuing a course of study in an accredited
9 institution of higher education or a training course approved by the Director,
10 provided these activities are performed under supervision of and constitute a
11 part of an approved course of study;

12 (4) the activities and services of ~~an approved alcohol and drug abuse~~
13 ~~counselors~~ an individual certified under this chapter who ~~are~~ is working in a
14 preferred provider program under the supervision of a licensed alcohol and
15 drug abuse counselor; or

16 (5) a person acting as a member of a voluntary group of individuals who
17 offer peer support to each other in recovering from an addiction.

18 § 3234. COORDINATION OF PRACTICE ACTS

19 Notwithstanding any provision of law to the contrary, a person may practice
20 psychotherapy when acting within the scope of a license or certification
21 granted under this chapter, provided he or she does not hold himself or herself

1 ~~out as a practitioner of a profession for which he or she is not licensed~~
2 ~~or certified.~~

3 § 3235 ~~DEPUTY COMMISSIONER~~ DIRECTOR; DUTIES

4 (a) ~~The Deputy Commissioner~~ In addition to the authority granted under
5 3 V.S.A. chapter 5, the Director shall:

6 (1) provide general information to applicants for licensure ~~as alcohol~~
7 ~~and drug abuse counselors~~ or certification under this chapter;

8 (2) administer fees collected under this chapter;

9 (3) ~~administer examinations~~ refer complaints and disciplinary matters to
10 an administrative law officer established under 3 V.S.A. § 129(j);

11 (4) explain appeal procedures ~~to licensees, certified individuals, and~~
12 ~~applicants for licensure~~ or certification under this chapter; and

13 (5) receive applications for licensure or certification under this chapter;
14 issue and renew licenses or certifications; and revoke, suspend, reinstate, or
15 condition licenses or certifications as ordered by an administrative law
16 officer; ~~and~~

17 ~~(6) contract with the Office of Professional Regulation to adopt and~~
18 ~~explain complaint procedures to the public, manage case processing,~~
19 ~~investigate complaints, and refer adjudicatory proceedings to an administrative~~
20 ~~law officer.~~

- 1 ~~(b) The Commissioner of Health, with the advice of the Deputy~~
2 ~~Commissioner, Director may adopt rules necessary to perform the Deputy~~
3 ~~Commissioner's Director's duties under this section, including rules:~~
- 4 (1) Specifying acceptable master's degree requirements.
- 5 (2) Setting standards for certifying apprentice addiction professionals
6 and alcohol and drug counselors.
- 7 (3) Requiring completion and documentation of not more than 40 hours
8 of acceptable continuing education every two years as a condition for license
9 or certification renewal.
- 10 (4) Requiring licensed drug and alcohol counselors to disclose to each
11 client the licensee's professional qualifications and experience, those actions
12 that constitute unprofessional conduct, the method for filing a complaint or
13 making a consumer inquiry, and provisions relating to the manner in which the
14 information shall be displayed and signed by both the licensee and the client.
15 The rules may include provisions for applying or modifying these requirements
16 in cases involving clients of preferred providers, institutionalized clients,
17 minors, and adults under the supervision of a guardian.
- 18 (5) Regarding ethical standards for individuals licensed or certified
19 under this chapter.
- 20 (6) Regarding display of license or certification.

1 ~~(7) Regarding reinstatement of a license or certification which has~~
2 ~~lapsed for more than five years.~~

3 ~~(8) Regarding supervised practice toward licensure or certification.~~

4 ~~§ 3235a. ADVISOR APPOINTEES~~

5 ~~(a) The Secretary of State shall appoint three individuals licensed under~~
6 ~~this chapter to serve as advisors in matters relating to alcohol and drug abuse~~
7 ~~counselors. Advisors shall be appointed as set forth in 3 V.S.A. § 129b. Two~~
8 ~~of the initial appointments may be for less than a full term.~~

9 ~~(b) Appointees shall not have less than three years' licensed experience as~~
10 ~~an alcohol and drug abuse counselor in Vermont.~~

11 ~~(c) The Director shall seek the advice of the advisors appointed under this~~
12 ~~section in carrying out the provisions of this chapter.~~

13 ~~§ 3236. LICENSED ALCOHOL AND DRUG ABUSE COUNSELOR~~

14 ~~ELIGIBILITY~~

15 ~~(a) To be eligible for licensure as an alcohol and drug abuse counselor, an~~
16 ~~applicant shall:~~

17 ~~(1) have received a master's degree or doctorate in a human services~~
18 ~~field from an accredited educational institution, including a degree in~~
19 ~~counseling, social work, psychology, or in an allied mental health field, or a~~
20 ~~master's degree or higher in a health care profession regulated under this title~~
21 ~~or Title 33, after having successfully completed a course of study with course~~

1 ~~work, including theories of human development, diagnostic and counseling~~
2 techniques, and professional ethics, and ~~which includes~~ a supervised clinical
3 practicum; and

4 ~~(2)(A) have been awarded an approved counselor credential from the~~
5 ~~Division of Alcohol and Drug Abuse Programs in accordance with rules~~
6 ~~adopted by the Commissioner~~ hold or be qualified to hold a current alcohol and
7 drug counselor certification from the Office; or

8 (B) hold an International Certification and Reciprocity Consortium
9 certification from another U.S. or Canadian jurisdiction or a U.S. or Canadian
10 national certification organization approved by the Director;

11 (3) successfully pass the examination approved by the Director; and

12 (4) complete 2,000 hours of supervised practice as set forth in rule.

13 (b) A person who is engaged in supervised practice toward licensure who is
14 not within the preferred provider network shall be registered on the roster of
15 nonlicensed and noncertified psychotherapists.

16 § 3236a. CERTIFICATION OF APPRENTICE ADDICTION

17 PROFESSIONALS AND ALCOHOL AND DRUG ABUSE

18 COUNSELORS

19 (a) The Director may certify an individual who has met requirements set by
20 the Director by rule as:

21 (1) an apprentice addiction professional; or

1 ~~(2) an alcohol and drug abuse counselor.~~

2 (b) The Director may seek cooperation with the International Certification
3 and Reciprocity Consortium or other recognized alcohol and drug abuse
4 provider credentialing organizations as a resource for examinations and
5 rulemaking.

6 § 3236b. LICENSURE OR CERTIFICATION BY ENDORSEMENT

7 The Director may issue a license or certification to an individual under this
8 chapter if the individual holds a license or certification from a U.S. or
9 Canadian jurisdiction that the Director finds has requirements for licensure or
10 certification that are substantially equivalent to those required under this
11 chapter.

12 § 3237. APPLICATION

13 ~~An individual may apply for a license under this chapter by filing, with the~~
14 ~~Deputy Commissioner, an application provided by the Deputy Commissioner.~~
15 ~~The application shall be accompanied by the required fees and evidence of~~
16 ~~eligibility. [Repealed.]~~

17 § 3238. BIENNIAL RENEWALS

18 (a) Licenses and certifications shall be renewed every two years on a
19 schedule set by the Office upon:

20 (1) payment of the required fee, provided the person applying for
21 renewal completes; and

1 ~~(2) documentation that the applicant has completed at least 40 hours of~~
2 continuing education, approved by the Deputy Commissioner, during the
3 preceding two year period. The Deputy Commissioner shall establish, by rule,
4 guidelines and criteria for continuing education credit Director.

5 (b) Biennially, the Deputy Commissioner shall forward a renewal form to
6 each license holder. Upon receipt of the completed form and the renewal fee,
7 the Deputy Commissioner shall issue a new license. [Repealed.]

8 (c) Any application for renewal reinstatement of a license which or
9 certification that has expired shall be accompanied by the renewal fee and a
10 reinstatement fee appropriate fees. A person shall not be required to pay
11 renewal fees for years during which the license or certifications was lapsed.

12 (d) ~~The Commissioner of Health may, after notice and opportunity for~~
13 ~~hearing, revoke a person's right to renew a license if the license has lapsed for~~
14 ~~five or more years.~~ [Repealed.]

15 § 3239. UNPROFESSIONAL CONDUCT

16 The following conduct and the conduct set forth in 3 V.S.A. § 129a, by a
17 person authorized to provide alcohol and drug abuse services under this
18 chapter or an applicant for licensure or certification, constitutes unprofessional
19 conduct:

20 (1) violation of any provision of this chapter or rule adopted under this
21 chapter;

- 1 ~~(2) failing to use a complete title in professional activity;~~
2 (3) conduct which evidences moral unfitness to practice alcohol and
3 drug abuse counseling;
4 (4) negligent, incompetent, or wrongful conduct in the practice of
5 alcohol and drug abuse counseling; or
6 (5) harassing, intimidating, or abusing a client; ~~or~~
7 ~~(6) agreeing with any other person or organization or subscribing to any~~
8 ~~code of ethics or organizational bylaws when the intent or primary effect of~~
9 ~~that agreement, code, or bylaw is to restrict or limit the flow of information~~
10 ~~concerning alleged or suspected unprofessional conduct to the Director.~~

11 § 3240. REGULATORY FEE FUND

12 ~~(a) An Alcohol and Drug Counselor Regulatory Fee Fund is created. All~~
13 ~~counselor licensing and examination fees received by the Division shall be~~
14 ~~deposited into the Fund and used to offset the costs incurred by the Division~~
15 ~~for these purposes and for the costs of investigations and disciplinary~~
16 ~~proceedings.~~

17 ~~(b) To ensure that revenues derived by the Division are adequate to offset~~
18 ~~the cost of regulation, the Commissioner of Health and the Deputy~~
19 ~~Commissioner shall review fees from time to time and present proposed fee~~
20 ~~changes to the General Assembly. [Repealed.]~~

1 ~~§ 3241. FEES~~

2 In addition to the fees otherwise authorized by law, the ~~Deputy~~
3 ~~Commissioner~~ Director may charge the following fees:

4 ~~(1) Late renewal penalty, \$25.00 for a renewal submitted less than 30~~
5 ~~days late. Thereafter, the Deputy Commissioner may increase the late renewal~~
6 ~~penalty by \$5.00 for every additional month or fraction of a month, provided~~
7 ~~that the total penalty for a late renewal shall not exceed \$100.00.~~

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

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

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

11 ~~(5) An examination fee established by the Deputy Commissioner, which~~
12 ~~shall be no greater than the costs associated with examinations.~~

13 ~~(6) Licenses granted under rules adopted pursuant to 3 V.S.A.~~
14 ~~§ 129(a)(10), \$20.00.~~

15 ~~(7) Application for registration, \$75.00.~~

16 ~~(8) Application for licensure or certification, \$100.00.~~

17 ~~(9) Biennial renewal, \$135.00.~~

18 ~~(10) Limited temporary license or work permit, \$50.00 for professions~~
19 ~~regulated by the Director as set forth in 3 V.S.A. § 125.~~

~~1 Sec. 5. TRANSITIONAL PROVISION; CURRENT CERTIFICATION~~

~~2 Notwithstanding the provisions of 26 V.S.A. § 3236a(a) set forth in Sec. 4~~
~~3 of this act, an individual currently certified by the Vermont Alcohol and Drug~~
~~4 Abuse Certification Board as an apprentice addiction professional or an~~
~~5 alcohol and drug abuse counselor may renew his or her certification as if~~
~~6 previously granted to him or her by the Director of the Office of Professional~~
~~7 Regulation pursuant to rules adopted by the Director.~~

8 Sec. 6. DIRECTOR OF THE OFFICE OF PROFESSIONAL
9 REGULATION; REQUIRED RULEMAKING

10 The Director of the Office of Professional Regulation may adopt any rules
11 necessary to implement the provisions of Secs. 4 and 5 of this act, prior to the
12 effective date of those sections.

13 * * * Naturopathic Physicians * * *

14 Sec. 7. 2012 Acts and Resolves No. 116, Sec. 64(e), as amended by 2015 Acts
15 and Resolves No. 38, Sec. 42, is amended to read:

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

18 (e) Formulary sunset; transition to examination.

19 (1) Subsection (c) of this section (formulary authorization) shall be
20 repealed on July 1, ~~2016~~ 2017.

1 ~~(2) Any naturopathic physician who is authorized to prescribe, dispense,~~
2 and administer any prescription medicines under subsection (c) of this section
3 shall have until July 1, ~~2016~~ 2017 to successfully complete the naturopathic
4 pharmacology examination set forth in 26 V.S.A. § 4125(d) in order to be able
5 to continue to prescribe, dispense, and administer any prescription medicines.

6 * * * Effective Dates * * *

7 Sec. 8. EFFECTIVE DATES

8 This act shall take effect on passage except for Sec. 4, amending 26 V.S.A.
9 chapter 62, and Sec. 5, transitional provision, which shall take effect on
10 September 1, 2016.

* * * *Professional Regulation Review* * * *

Sec. 1. 26 V.S.A. chapter 57 is amended to read:

*CHAPTER 57. REVIEW OF LICENSING STATUTES, BOARDS, AND
COMMISSIONS REGULATORY LAWS*

§ 3101. POLICY AND PURPOSE

(a) It is the policy of the ~~state~~ State of Vermont that regulation be imposed upon a profession or occupation solely for the purpose of protecting the public. The ~~legislature~~ General Assembly believes that all individuals should be permitted to enter into a profession or occupation unless there is a demonstrated need for the ~~state~~ State to protect the interests of the public by restricting entry into the profession or occupation.

(b) If such a need is identified, the form of regulation adopted by the ~~state~~ State shall be the least restrictive form of regulation necessary to protect the public interest. If regulation is imposed, the profession or occupation may be subject to ~~periodic~~ review by the ~~legislature~~ Office of Professional Regulation and the General Assembly to ~~insure~~ ensure the continuing need for and appropriateness of such regulation.

§ 3101a. DEFINITIONS

~~The definitions contained in this section shall apply throughout~~ As used in this chapter, unless the context clearly requires otherwise:

(1) “Certification” means a voluntary process by which a statutory regulatory entity grants to ~~an individual,~~ a person who has met certain prerequisite qualifications; the right to assume or to use the title of the profession or occupation, or the right to assume or use the term “certified” in conjunction with the title. Use of the title or the term “certified,” as the case may be, by a person who is not certified is unlawful.

(2) “Licensing” and “licensure” mean a process by which a statutory regulatory entity grants to ~~an individual,~~ a person who has met certain prerequisite qualifications; the right to perform prescribed professional ~~and~~ or occupational tasks and to use the title of the profession or occupation. Practice without a license is unlawful.

(3) *“License” means an individual, nontransferable authorization to carry on an activity based on qualifications such as:*

(A) satisfactory completion of or graduation from an accredited or approved educational or training program; ~~and~~ or

(B) acceptable performance on a qualifying examination or series of examinations.

(4) “Office” means the Office of Professional Regulation.

(5) “Practitioner” means ~~an individual~~ a person who is actively engaged in a specified profession or occupation.

(5)(6) “Public member” means an individual who has no material financial interest in the profession or occupation being regulated other than as a consumer.

(6)(7) “Registration” means a process ~~which requires~~ requiring that, prior to rendering services, ~~all practitioners~~ a practitioner formally notify a regulatory entity of ~~their~~ his, her, or its intent to engage in the profession or occupation. Notification may include the name and address of the practitioner, the location of the activity to be performed, and a description of the service to be provided.

(8) “Regulatory entity” means the statutory entity responsible for regulating a profession or occupation, such as a board or an agency of the State.

~~(7)(9) “Regulatory law” as used in section 3104 of this title, means any law in this State that requires a person engaged in a profession or occupation to be registered, certified, or licensed under this title or 4 V.S.A. chapter 23 or that otherwise regulates the operation of that profession or occupation.~~

~~§ 3102. PERIODIC REVIEW REQUIREMENT~~

~~(a) Each licensing law enumerated below in subsection (b) of this section, each board related thereto, and the activities resulting shall be subject to review, at least once, in the manner provided in section 3104 of this title and on the basis of the criteria in section 3105 of this title.~~

~~(b) The following laws are subject to review:~~

- ~~(1) Chapter 15 of this title on electricians;~~
- ~~(2) Chapter 39 of this title on plumbers and plumbing;~~
- ~~(3) Chapter 28 of this title on nursing;~~
- ~~(4) Chapter 10 of this title on chiropractic;~~
- ~~(5) Chapter 6 of this title on barbers;~~
- ~~(6) Chapter 6 of this title on cosmeticians and hairdressers;~~
- ~~(7) Chapter 23 of this title on medicine and surgery;~~
- ~~(8) Chapter 33 of this title on osteopathic physicians and surgeons;~~
- ~~(9) Chapter 13 of this title on dentists and dental hygienists;~~
- ~~(10) 18 V.S.A. chapter 46 on nursing home administrators;~~
- ~~(11) Chapter 17 of this title on embalmers;~~

- ~~(12) Chapter 21 of this title on funeral directors;~~
- ~~(13) Chapter 44 of this title on veterinary science;~~
- ~~(14) Chapter 1 of this title on accountants;~~
- ~~(15) Chapter 59 of this title on private detectives;~~
- ~~(16) Chapter 55 of this title on psychologists;~~
- ~~(17) Chapter 36 of this title on pharmacy;~~
- ~~(18) Chapter 51 of this title on radiological technologists;~~
- ~~(19) Chapter 41 of this title on real estate brokers and salesmen;~~
- ~~(20) Chapter 20 of this title on engineering;~~
- ~~(21) Chapter 3 of this title on architects;~~
- ~~(22) Chapter 45 of this title on land surveyors;~~
- ~~(23) Chapter 31 of this title on physicians' assistants;~~
- ~~(24) Chapter 7 of this title on podiatry;~~
- ~~(25) 4 V.S.A. chapter 23 on attorneys;~~
- ~~(26) Chapter 47 of this title on opticians;~~
- ~~(27) Chapter 65 of this title on clinical mental health counselors;~~
- ~~(28) Chapter 67 of this title on hearing aid dispensers;~~
- ~~(29) Chapter 79 of this title on tattooists;~~
- ~~(30) Chapter 81 of this title on naturopathic physicians;~~
- ~~(31) Chapter 83 of this title on athletic trainers;~~

~~(32) Chapter 87 of this title on audiologists and speech language pathologists.~~

~~(e) Any new law to regulate another profession or occupation shall be based on the relevant criteria and standards in section 3105 of this title.~~

~~[Repealed.]~~

§ 3104. PROCESS FOR REVIEW OF REGULATORY LAWS

~~(a) Either house of the general assembly may designate, by resolution, The Office may review a regulatory law or an issue that affects professions and occupations generally to be reviewed by the legislative council staff that is within its jurisdiction, and shall review any regulatory law within or outside its jurisdiction upon the request of the House or Senate Committee on Government Operations. The ~~staff~~ Office shall base its review on the criteria and standards set forth in section 3105 of this ~~the~~ chapter.~~

~~(b) The review ~~may~~ shall also include the following inquiries in the discretion of the Office or in response to a Committee request:~~

~~(1) the extent to which ~~the board's~~ a regulatory entity's actions have been in the public interest and consistent with legislative intent;~~

~~(2) the extent to which the ~~board's~~ rules are complete, concise, and easy to understand profession's historical performance, including the actual history of complaints and disciplinary actions in Vermont, indicates that the costs of regulation are justified by the realized benefits to the public;~~

~~(3) the extent to which the board's standards and procedures are fair and reasonable and accurately measure an applicant's qualifications~~ scope of the existing regulatory scheme for the profession is commensurate to the risk of harm to the public;

~~(4) the extent to which the profession's education, training, and examination requirements for a license or certification are consistent with the~~ public interest;

~~(5) the way in which the board receives, investigates, and resolves complaints from the public~~ the extent to which a regulatory entity's resolutions of complaints and disciplinary actions have been effective to protect the public;

~~(5)(6) the extent to which the board~~ a regulatory entity has sought ideas from the public and from those it regulates, concerning reasonable ways to improve the service of the board entity and the profession or occupation regulated;

~~(6)(7) the extent to which the board~~ a regulatory entity gives adequate public notice of its hearings and meetings and encourages public participation;

~~(7)(8) whether the board~~ a regulatory entity makes efficient and effective use of its funds; and meets its responsibilities; and

~~(8)(9)~~ whether the board a regulatory entity has sufficient funding to carry out its mandate.

~~(c)(1)~~ The legislative council staff Office shall give adequate notice to the public, the board applicable regulatory entity, and the appropriate professional societies that it is reviewing a particular regulatory law and board, as applicable, that regulatory entity. Notice to the board regulatory entity and the professional societies shall be in writing.

~~(2)~~ All The regulatory entity shall provide to the Office the information required under described in section 3107 of this title chapter and available data reasonably requested the Office requests for purposes of the review shall be provided by the boards.

~~(3)~~ The staff Office shall seek comments and information from the public and from members of the profession or occupation. It also shall give the board regulatory entity a chance to present its position and to respond to any matters raised in the review.

~~(4)~~ The staff Office, upon its request, shall have assistance from the department of finance and management Department of Finance and Management, the auditor of accounts Auditor of Accounts, the attorney general, the director of the office of professional regulation Attorney General, the joint fiscal committee Joint Fiscal Committee, or any other state State agency.

~~(d) The legislative council staff Office shall file a separate written report for each review with the ~~speaker of the house and president of the senate and with the chairman of the appropriate house or senate committee as provided in subsection (f) of this section~~ House and Senate Committees on Government Operations and the applicable regulatory entity. The reports shall contain:~~

- ~~(1) findings, alternative courses of action, and recommendations;~~
- ~~(2) a copy of the ~~board's~~ regulatory entity's administrative rules;~~ and
- ~~(3) appropriate legislative proposals.~~

~~(e) The legislative council staff shall send a copy of the report to the board affected, and shall make copies available for public inspection. [Repealed.]~~

~~(f) The house and senate committees on government operations shall be responsible for overseeing the preparation of reports by the legislative council staff under this chapter. [Repealed.]~~

~~(g) After considering a report each committee shall send its findings and recommendations, including proposals for legislation, if any, to the house or to the senate, as appropriate. Any proposed licensing law shall be drafted according to a uniform format recommended in the comprehensive plan. [Repealed.]~~

§ 3105. CRITERIA AND STANDARDS

(a) A profession or occupation shall be regulated by the State only when:

(1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;

(2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(3) the public cannot be effectively protected by other means.

(b) After evaluating the criteria in subsection (a) of this section and considering governmental and societal costs and benefits, if the ~~Legislature~~ General Assembly finds that it is necessary to regulate a profession or occupation, the least restrictive method of regulation shall be imposed, consistent with the public interest and this section:

(1) if existing common law and statutory civil remedies and criminal sanctions are insufficient to reduce or eliminate existing harm, regulation should occur through enactment of stronger civil remedies and criminal sanctions;

(2) if a professional or occupational service involves a threat to the public and the service is performed primarily through business entities or

facilities that are not regulated, the business entity or the facility should be regulated rather than its employee practitioners;

(3) if the threat to the public health, safety, or welfare, including economic welfare, is relatively small, regulation should be through a system of registration;

(4) if the consumer may have a substantial interest in relying on the qualifications of the practitioner, regulation should be through a system of certification; or

(5) if it is apparent that the public cannot be adequately protected by any other means, a system of licensure should be imposed.

(c) Any of the issues set forth in subsections (a) and (b) of this section and section 3107 of this ~~title~~ chapter may be considered in terms of their application to professions or occupations generally.

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation and upon the request of the House or Senate Committee on Government Operations, the ~~Office of Professional Regulation~~ shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the appropriate House or Senate Committee on Government Operations. ~~The provisions of 2 V.S.A. § 20(d) (expiration of~~

~~required reports) shall not apply to the report to be made under this subsection.~~

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

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

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

§ 3106. DIRECTOR OF THE OFFICE OF PROFESSIONAL
REGULATION; ANNUAL REPORT

~~(a) Annually, prior to the commencement of each legislative session, the Director of the Office of Professional Regulation shall prepare a concise report on the activities of all boards and advisor professions under his or her jurisdiction. ~~Prior to the commencement of each legislative session, the Director shall prepare a report for publication on the Office's website containing~~ The report shall include his or her assessments, conclusions, and recommendations ~~with proposals for legislation, if any, to the Speaker of the~~~~

~~House and to the Chairpersons of the House and Senate Committees on Government Operations and the chairpersons of the boards regarding those boards and advisor professions.~~

~~(b) The ~~Office~~ Director shall publish the report on the Office's website and shall also provide written copies of the report to the House and Senate Committees on Government Operations.~~

~~(c) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

§ 3107. INFORMATION REQUIRED

~~Prior to review under this chapter and prior to consideration by the legislature General Assembly of any bill which that proposes to regulate a profession or occupation, the profession or occupation being reviewed or seeking regulation shall explain each of the following factors, in writing, to the extent requested by the appropriate house or senate committees on government operations House or Senate Committee on Government Operations:~~

~~(1) Why regulation is necessary, including:~~

~~(A) the nature of the potential harm or threat to the public if the profession or occupation is not regulated;~~

~~(B) specific examples of the harm or threat identified in subdivision~~

~~(1)(A) of this section;~~

(C) *the extent to which consumers will benefit from a method of regulation ~~which~~ that permits identification of competent practitioners, indicating typical employers, if any, of practitioners;*

(2) *The extent to which practitioners are autonomous, as indicated by:*

(A) *the degree to which the profession or occupation requires the use of independent judgment, and the skill or experience required in making such judgment;*

(B) *the degree to which practitioners are supervised;*

(3) *The efforts that have been made to address the concerns that give rise to the need for regulation, including:*

(A) *voluntary efforts, if any, by members of the profession or occupation to:*

(i) *establish a code of ethics;*

(ii) *help resolve disputes between practitioners and consumers;*

(iii) *establish requirements for continuing education.*

(B) *recourse to and the extent of use of existing law;*

(4) *Why the alternatives to licensure specified in this subdivision would not be adequate to protect the public interest:*

(A) *stronger civil remedies or criminal sanctions;*

(B) *regulation of the business entity or facility providing the service rather than the employee practitioners;*

(C) regulation of the program or service rather than the individual practitioners;

(D) registration of all practitioners;

(E) certification of practitioners;

(F) other alternatives;

(5) The benefit to the public if regulation is granted, including:

(A) how regulation will result in reduction or elimination of the harms or threats identified under subdivision (1) of this section;

(B) the extent to which the public can be confident that a practitioner is competent:

(i) whether the registration, certification, or licensure will carry an expiration date;

(ii) whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement;

(iii) the standards for registration, certification, or licensure as compared with the standards of other jurisdictions;

(iv) the nature and duration of the educational requirement, if any, including, ~~but not limited to,~~ whether ~~such~~ the educational program requirement includes a substantial amount of supervised field experience; whether educational programs exist in this ~~state~~ State; whether there will be

an experience requirement; whether the experience must be acquired under a registered, certified, or licensed practitioner; whether there are alternative routes of entry or methods of satisfying the eligibility requirements and qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met;

(6) The form and powers of the regulatory entity, including:

(A) whether the regulatory entity is or would be a board composed of members of the profession or occupation and public members, or a ~~state~~ State agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure;

(B) the composition of the board, if any, and the number of public members, if any;

(C) the powers and duties of the ~~board or state agency~~ regulatory entity regarding examinations;

(D) the system for receiving complaints and taking disciplinary action against practitioners;

(7) The extent to which regulation might harm the public, including:

(A) whether regulation will restrict entry into the profession or occupation, including:

(i) whether the standards are the least restrictive necessary to ~~insure~~ ensure safe and effective performance; and

(ii) whether persons who are registered, certified, or licensed in ~~a~~ another jurisdiction which that the board or agency regulatory entity believes has requirements that are substantially equivalent to those of this ~~state~~ State will be eligible for endorsement or some form of reciprocity;

(B) whether there are similar professions or occupations ~~which that~~ should be included, or portions of the profession or occupation which that should be excluded from regulation;

(8) How the standards of the profession or occupation will be maintained, including:

(A) whether effective quality assurance standards exist in the profession or occupation, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics; and

(B) how the proposed form of regulation will assure quality, including:

(i) the extent to which a code of ethics, if any, will be adopted; and

(ii) the grounds for suspension, revocation, or refusal to renew registration, certification, or licensure;

(9) A profile of the practitioners in this ~~state~~ State, including a list of associations, organizations, and other groups representing the practitioners and including an estimate of the number of practitioners in each group.

(10) The effect that registration, certification, or licensure will have on the costs of the services to the public.

** * * Alcohol and Drug Abuse Counselors * * **

Sec. 2. 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:

** * **

(45) Alcohol and drug abuse counselors.

Sec. 3. 18 V.S.A. § 4806 is amended to read:

§ 4806. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective program of substance abuse programs. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

(b) The Division shall be responsible for the following services:

- (1) prevention and intervention;*
- (2) ~~licensure of alcohol and drug counselors; [Repealed.]~~*
- (3) project CRASH schools; and*
- (4) alcohol and drug treatment.*

* * *

(e) ~~Under subdivision (b)(4) of this section, the Commissioner of Health 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 alcohol and drug counselors. [Repealed.]~~

Sec. 4. 26 V.S.A. chapter 62 is amended to read:

CHAPTER 62. ALCOHOL AND DRUG ABUSE COUNSELORS

§ 3231. DEFINITIONS

As used in this chapter:

- (1) “Alcohol and drug abuse counselor” means a person who engages in the practice of alcohol and drug abuse counseling for compensation.*
- (2) ~~“Commissioner” means the Commissioner of Health~~ “Director” means the Director of the Office of Professional Regulation.*

(3) ~~“Deputy Commissioner” means the Deputy Commissioner of the Division of Alcohol and Drug Abuse Programs “Office” means the Office of Professional Regulation.~~

(4) ~~“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 based on a finding of unprofessional conduct by the licensee or applicant. “Disciplinary action” includes issuance of warnings and all sanctions, including denial, suspension, revocation, limitation, or restriction of licenses and other similar limitations. [Repealed.]~~

(5) “Practice of alcohol and drug abuse counseling” means the application of methods, including psychotherapy, ~~which~~ that assist an individual or group to develop an understanding of alcohol and drug abuse dependency problems and to define goals and plan actions reflecting the individual’s or group’s interests, abilities, and needs as affected by alcohol and drug abuse dependency problems and comorbid conditions.

(6) “Supervision” means the oversight of a person for the purposes of teaching, training, or clinical review by a ~~professional in the same area of specialized practice~~ licensed alcohol and drug abuse counselor or a qualified supervisor as determined by the Director by rule.

§ 3232. PROHIBITION; PENALTIES

(a) ~~No~~ A person shall not perform either of the following acts:

(1) practice or attempt to practice alcohol and drug abuse counseling without a valid license issued in accordance with this chapter, except as otherwise provided in section 3233 of this ~~title~~ chapter; or

(2) use in connection with the person's name any letters, words, or insignia indicating or implying that the person is an alcohol and drug abuse counselor, unless the person is licensed or certified in accordance with this chapter.

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

§ 3233. EXEMPTIONS

The provisions of subdivision 3232(a)(1) of this chapter, relating to the practice of alcohol and drug abuse counseling, shall not apply to:

(1) the activities and services of a rabbi, priest, minister, Christian Science practitioner, or clergy of any religious denomination or sect when engaging in activities that are within the scope of the performance of the person's regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally recognizable church,

denomination, or sect and when the person rendering services remains accountable to the established authority of that church, denomination, or sect;

(2) the activities and services of a person licensed, certified, or registered under other laws of this State while acting within the scope of his or her profession or occupation, provided the person does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter;

(3) the activities and services of a student intern or trainee in alcohol and drug abuse counseling who is pursuing a course of study in an accredited institution of higher education or a training course approved by the Director, provided these activities are performed under supervision of and constitute a part of an approved course of study;

(4) the activities and services of ~~approved alcohol and drug abuse counselors~~ an individual certified under this chapter who ~~are~~ is working in a preferred provider program under the supervision of a licensed alcohol and drug abuse counselor; or

(5) a person acting as a member of a voluntary group of individuals who offer peer support to each other in recovering from an addiction.

§ 3234. COORDINATION OF PRACTICE ACTS

Notwithstanding any provision of law to the contrary, a person may practice psychotherapy when acting within the scope of a license or

certification granted under this chapter, provided he or she does not hold himself or herself out as a practitioner of a profession for which he or she is not licensed or certified.

§ 3235. ~~DEPUTY COMMISSIONER~~ DIRECTOR; DUTIES

(a) ~~The Deputy Commissioner~~ In addition to the authority granted under 3 V.S.A. chapter 5, the Director shall:

(1) provide general information to applicants for licensure ~~as alcohol and drug abuse counselors~~ or certification under this chapter;

(2) administer fees collected under this chapter;

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

(4) explain appeal procedures to licensees, certified individuals, and applicants for licensure or certification under this chapter; and

(5) receive applications for licensure or certification under this chapter; issue and renew licenses or certifications; and revoke, suspend, reinstate, or condition licenses or certifications as ordered by an administrative law officer; ~~and~~

(6) ~~contract with the Office of Professional Regulation to adopt and explain complaint procedures to the public, manage case processing, investigate complaints, and refer adjudicatory proceedings to an administrative law officer.~~

~~(b) The Commissioner of Health, with the advice of the Deputy Commissioner, Director may adopt rules necessary to perform the Deputy Commissioner's Director's duties under this section, including rules:~~

~~(1) Specifying acceptable master's degree requirements.~~

~~(2) Setting standards for certifying apprentice addiction professionals and alcohol and drug abuse counselors.~~

~~(3) Requiring completion and documentation of not more than 40 hours of acceptable continuing education every two years as a condition for license or certification renewal.~~

~~(4) Requiring licensed alcohol and drug abuse counselors to disclose to each client the 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 licensee and the client. The rules may include provisions for applying or modifying these requirements in cases involving clients of preferred providers, institutionalized clients, minors, and adults under the supervision of a guardian.~~

~~(5) Regarding ethical standards for individuals licensed or certified under this chapter.~~

~~(6) Regarding display of license or certification.~~

(7) Regarding reinstatement of a license or certification which has lapsed for more than five years.

(8) Regarding supervised practice toward licensure or certification.

§ 3235a. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three individuals licensed under this chapter to serve as advisors in matters relating to alcohol and drug abuse counselors. Advisors shall be appointed as set forth in 3 V.S.A. § 129b. Two of the initial appointments may be for less than a full term.

(b) Appointees shall not have less than three years' licensed experience as an alcohol and drug abuse counselor in Vermont.

(c) The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this chapter.

§ 3236. LICENSED ALCOHOL AND DRUG ABUSE COUNSELOR
ELIGIBILITY

(a) To be eligible for licensure as an alcohol and drug abuse counselor, an applicant shall:

(1) have received a master's degree or doctorate in a human services field from an accredited educational institution, including a degree in counseling, social work, psychology, or ~~in~~ an allied mental health field, or a master's degree or higher in a health care profession regulated under this title or Title 33, after having successfully completed a course of study with course

~~work, including theories of human development, diagnostic and counseling techniques, and professional ethics, and which includes a supervised clinical practicum; and~~

~~(2)(A) have been awarded an approved counselor credential from the Division of Alcohol and Drug Abuse Programs in accordance with rules adopted by the Commissioner hold or be qualified to hold a current alcohol and drug counselor certification from the Office; or~~

~~(B) hold an International Certification and Reciprocity Consortium certification from another U.S. or Canadian jurisdiction or a U.S. or Canadian national certification organization approved by the Director;~~

~~(3) successfully pass the examination approved by the Director; and~~

~~(4) complete 2,000 hours of supervised practice as set forth in rule.~~

~~(b) A person who is engaged in supervised practice toward licensure who is not within the preferred provider network shall be registered on the roster of nonlicensed and noncertified psychotherapists.~~

~~§ 3236a. CERTIFICATION OF APPRENTICE ADDICTION PROFESSIONALS AND ALCOHOL AND DRUG ABUSE COUNSELORS~~

~~(a) The Director may certify an individual who has met requirements set by the Director by rule as:~~

~~(1) an apprentice addiction professional; or~~

(2) an alcohol and drug abuse counselor.

(b) The Director may seek cooperation with the International Certification and Reciprocity Consortium or other recognized alcohol and drug abuse provider credentialing organizations as a resource for examinations and rulemaking.

§ 3236b. LICENSURE OR CERTIFICATION BY ENDORSEMENT

The Director may issue a license or certification to an individual under this chapter if the individual holds a license or certification from a U.S. or Canadian jurisdiction that the Director finds has requirements for licensure or certification that are substantially equivalent to those required under this chapter.

§ 3237. APPLICATION

~~An individual may apply for a license under this chapter by filing, with the Deputy Commissioner, an application provided by the Deputy Commissioner. The application shall be accompanied by the required fees and evidence of eligibility. [Repealed.]~~

§ 3238. BIENNIAL RENEWALS

(a) Licenses and certifications shall be renewed every two years on a schedule set by the Office upon:

(1) payment of the required fee, provided the person applying for renewal completes; and

~~(2) documentation that the applicant has completed at least 40 hours of continuing education, approved by the Deputy Commissioner, during the preceding two year period. The Deputy Commissioner shall establish, by rule, guidelines and criteria for continuing education credit Director.~~

~~(b) Biennially, the Deputy Commissioner shall forward a renewal form to each license holder. Upon receipt of the completed form and the renewal fee, the Deputy Commissioner shall issue a new license. [Repealed.]~~

~~(c) Any application for ~~renewal~~ reinstatement of a license ~~which or certification that has expired shall be accompanied by the renewal fee and a reinstatement fee~~ appropriate fees. A person shall not be required to pay renewal fees for years during which the license or certification was lapsed.~~

~~(d) The Commissioner of Health may, after notice and opportunity for hearing, revoke a person's right to renew a license if the license has lapsed for five or more years. [Repealed.]~~

§ 3239. UNPROFESSIONAL CONDUCT

~~The following conduct and the conduct set forth in 3 V.S.A. § 129a, by a person authorized to provide alcohol and drug abuse services under this chapter or an applicant for licensure or certification, constitutes unprofessional conduct:~~

~~(1) violation of any provision of this chapter or rule adopted under this chapter;~~

- (2) failing to use a complete title in professional activity;*
- (3) conduct which evidences moral unfitness to practice alcohol and drug abuse counseling;*
- (4) negligent, incompetent, or wrongful conduct in the practice of alcohol and drug abuse counseling; or*
- (5) harassing, intimidating, or abusing a client; ~~or~~*
- ~~(6) agreeing with any other person or organization or subscribing to any code of ethics or organizational bylaws when the intent or primary effect of that agreement, code, or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the Director.~~*

§ 3240. REGULATORY FEE FUND

~~(a) An Alcohol and Drug Counselor Regulatory Fee Fund is created. All counselor licensing and examination fees received by the Division shall be deposited into the Fund and used to offset the costs incurred by the Division for these purposes and for the costs of investigations and disciplinary proceedings.~~

~~(b) To ensure that revenues derived by the Division are adequate to offset the cost of regulation, the Commissioner of Health and the Deputy Commissioner shall review fees from time to time and present proposed fee changes to the General Assembly. [Repealed.]~~

§ 3241. FEES

In addition to the fees otherwise authorized by law, the ~~Deputy Commissioner~~ Director may charge the following fees:

(1) ~~Late renewal penalty, \$25.00 for a renewal submitted less than 30 days late. Thereafter, the Deputy Commissioner 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.~~

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

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

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

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

(6) ~~Licenses granted under rules adopted pursuant to 3 V.S.A. § 129(a)(10), \$20.00.~~

(7) ~~Application for registration, \$75.00.~~

(8) ~~Application for licensure or certification, \$100.00.~~

(9) ~~Biennial renewal, \$135.00.~~

(10) ~~Limited temporary license or work permit, \$50.00 for professions regulated by the Director as set forth in 3 V.S.A. § 125.~~

* * *

Sec. 5. TRANSITIONAL PROVISION; CURRENT CERTIFICATION

Notwithstanding the provisions of 26 V.S.A. § 3236a(a) set forth in Sec. 4 of this act, an individual currently certified by the Vermont Alcohol and Drug Abuse Certification Board as an apprentice addiction professional or an alcohol and drug abuse counselor may renew his or her certification as if previously granted to him or her by the Director of the Office of Professional Regulation pursuant to rules adopted by the Director.

*Sec. 6. DIRECTOR OF THE OFFICE OF PROFESSIONAL
REGULATION; REQUIRED RULEMAKING*

The Director of the Office of Professional Regulation may adopt any rules necessary to implement the provisions of Secs. 4 and 5 of this act, prior to the effective date of those sections.

** * * Naturopathic Physicians * * **

Sec. 7. 2012 Acts and Resolves No. 116, Sec. 64(e), as amended by 2015 Acts and Resolves No. 38, Sec. 42, is amended to read:

(e) Formulary sunset; transition to examination.

(1) Subsection (c) of this section (formulary authorization) shall be repealed on July 1, ~~2016~~ 2017.

(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, ~~2016~~ 2017 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.

** * * Potable Water Supply and Wastewater System Designers and*

*Pollution Abatement Facility Operators * * **

Sec. 8. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

** * **

(d) A discharge permit shall:

(1) ~~specify~~ Specify the manner, nature, volume, and frequency of the discharge permitted and contain terms and conditions consistent with subsection (c) of this section;

(2) ~~require~~ Require proper operation and maintenance of any pollution abatement facility necessary in the treatment or processing of the waste by qualified personnel in accordance with standards established by the ~~secretary~~ Secretary and the Director of the Office of Professional Regulation. The secretary Secretary may require operators to be certified under a program established by the secretary that a pollution abatement facility be operated by persons licensed under 26 V.S.A. chapter 97 and may prescribe the class of license required. ~~The secretary~~ Secretary may require a laboratory quality assurance sample program to ~~insure~~ ensure qualifications of laboratory analysts;

(3) ~~contain~~ Contain an operation, management, and emergency response plan when required under section 1278 of this title and additional conditions, requirements, and restrictions as the ~~secretary~~ Secretary deems necessary to preserve and protect the quality of the receiving waters, including ~~but not limited to~~ requirements concerning recording, reporting, monitoring, and inspection of the operation and maintenance of waste treatment facilities and waste collection systems; ~~and~~.

(4) ~~be~~ Be valid for the period of time specified therein, not to exceed five years.

* * *

Sec. 9. 10 V.S.A. § 1975 is amended to read:

§ 1975. DESIGNER LICENSES

(a) The ~~secretary~~ Director of the Office of Professional Regulation, after due consultation with the Secretary, shall establish and implement a process to license and periodically renew the licenses of designers of potable water supplies or wastewater systems, establish different classes of licensing for different potable water supplies and wastewater systems, and allow individuals to be licensed in various categories.

(b) ~~No~~ A person shall not design a potable water supply or wastewater system that requires a permit under this chapter without first obtaining a designer license from the ~~secretary~~ Director of the Office of Professional

Regulation, except a professional engineer who is licensed in Vermont shall be deemed to have a valid designer license under this chapter, provided that:

(1) the engineer is practicing within the scope of his or her engineering specialty; and

(2) the engineer:

(A) to design a soil-based wastewater system, has satisfactorily completed a college-level soils identification course with specific instruction in the areas of soils morphology, genesis, texture, permeability, color, and redoximorphic features; ~~or~~

(B) has passed a soils identification test administered by the ~~secretary~~ Secretary; or

(C) retains one or more licensed designers who have taken the course specified in this subdivision or passed the soils identification test, whenever performing work regulated under this chapter.

~~(c) No person shall review or act on permit applications for a potable water supply or wastewater system that he or she designed or installed.~~
[Repealed.]

(d) The ~~secretary~~ Secretary or the Director of the Office of Professional Regulation may review, on a random basis, or in response to a complaint, or on his or her own motion, the testing procedures employed by a licensed designer, the systems designed by a licensed designer, the designs approved or

recommended for approval by a licensed designer, and any work associated with the performance of these tasks.

~~(e) After a hearing conducted under chapter 25 of Title 3, the secretary may suspend, revoke, or impose conditions on a designer license, except for one held by a professional engineer. This proceeding may be initiated on the secretary's own motion or upon a written request which contains facts or reasons supporting the request for imposing conditions, for suspension, or for revocation. Cause for imposing conditions, suspension, or revocation shall be conduct specified under 3 V.S.A. § 129a as constituting unprofessional conduct by a licensee. [Repealed.]~~

(f) If a person who signs a design or installation certification submitted under this chapter certifies a design, installation, or related design or installation information and, as a result of the person's failure to exercise reasonable professional judgment, submits design or installation information that is untrue or incorrect, or submits a design or installs a wastewater system or potable water supply that does not comply with the rules adopted under this chapter, the person who signed the certification may be subject to penalties disciplined by the Director of the Office of Professional Regulation and be required to take all actions to remediate the affected project in accordance with the provisions of chapters 201 and 211 of this title.

* * *

Sec. 10. 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:

** * **

(45) Potable water supply and wastewater system designers

(46) Pollution abatement facility operators

Sec. 11. 26 V.S.A. chapter 97 is added to read:

CHAPTER 97. POTABLE WATER SUPPLY AND WASTEWATER SYSTEM

DESIGNERS

Subchapter 1. General Provisions

§ 5001. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person, other than a professional engineer exempted under this chapter, shall not design a potable water supply or wastewater system that requires a permit or designer's certification or license under the laws of this State unless currently licensed under this chapter.

§ 5002. DEFINITIONS

As used in this chapter:

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

(2) “License” means a current authorization granted by the Director permitting the practice of potable water supply or wastewater system design.

(3) “Potable water supply or wastewater system designer” or “designer” means a person who is licensed under this chapter to engage in the practice of potable water supply or wastewater system design.

(4) “Practice of potable water supply or wastewater system design” or “design” means planning the physical and operational characteristics of a potable water supply or wastewater system that requires a permit or designer’s certification or license under the laws of this State:

§ 5003. 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 design degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet therein;

(2) practice design 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 design unless duly registered and 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 design or use in connection with a name any words, letters, signs, or figures that imply that a person is a licensed designer when not licensed or otherwise authorized under this chapter;

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

(6) employ an unlicensed or unauthorized person to practice as a licensed designer; or

(7) practice or employ a licensed designer to practice beyond the scope of his or her practice prescribed by rule.

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

§ 5004. EXCEPTIONS

This chapter does not prohibit:

(1) the furnishing of assistance in the case of an emergency or disaster;

(2) the practice of design by a person employed by the U.S. government or any bureau, division, or agency thereof while in the discharge of his or her official federal duties; or

(3) the practice of any other occupation or profession by a person duly licensed or otherwise authorized under the laws of this State.

§ 5005. QUALIFIED PROFESSIONAL ENGINEERS EXEMPT

A licensed professional engineer may practice design without a license under this chapter if he or she satisfies the criteria set forth in 10 V.S.A. § 1975(b).

Subchapter 2. Administration

§ 5011. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure as designers;

(2) receive applications for licensure, administer or approve examinations, 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 licensed designers and to applicants, and complaint procedures to the public.

(b) The Director shall adopt rules necessary to perform his or her duties under this section after due consultation with the Secretary of Natural Resources and Commissioner of Environmental Conservation. These rules may establish grades, types, classes, or subcategories of licenses corresponding to prescribed scopes of practice.

§ 5012. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be designers licensed under this chapter and one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to design. Two of the initial appointments may be for a term of fewer than five years.

(2) A designer appointee shall have not fewer than five years' experience as a licensed designer immediately preceding appointment; shall be licensed as a designer in Vermont; and shall be actively engaged in the practice of design in this State during incumbency.

(3) The Agency of Natural Resources appointee shall be involved in the permitting program established under 10 V.S.A. chapter 64.

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

Subchapter 3. Licenses

§ 5021. ELIGIBILITY FOR LICENSURE

(a) To be eligible for licensure as a designer, an applicant shall be at least 18 years of age; able to read and write the English language; hold a high school diploma, General Equivalency Diploma (GED), or equivalent; and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

(b) The Director may waive examination for an applicant licensed or certified in good standing by a foreign jurisdiction found by the Director to enforce equivalent standards to obtain the class of license sought in this State. The applicant's previous job description and experience in the design field may be considered.

§ 5022. LICENSE RENEWAL

(a)(1) A license shall be renewed every two years upon application, payment of the required fee, and proof of compliance with such continuing education or periodic reexamination requirements as the Director may by rule prescribe. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

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

(b) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has lapsed or who has not worked for more than three years as a licensed designer is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

§ 5023. 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.

§ 5024. LICENSURE GENERALLY

The Director shall issue a license or renew a license, upon payment of the fees required under this chapter, to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

§ 5025. FEES

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

§ 5026. 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) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice as a licensed designer;

(2) whether or not committed in this State, has been convicted of a crime related to water system design or installation or a felony which evinces an unfitness to practice design;

(3) is unable to practice design competently by reason of any cause;

(4) has willfully or repeatedly violated or caused the violation of any of the provisions of this chapter, the terms of a permit, the Vermont On-Site Wastewater and Potable Water Supply Regulations, or the Vermont Water Quality Standards;

(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 the ability to practice design competently;

(7) engages in conduct of a character likely to deceive, defraud, or harm the public;

(8) has reviewed or acted on permit applications for a potable water supply or wastewater system that he or she designed or installed.

(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 licensed designer.

Sec. 12. TRANSITIONAL PROVISIONS

(a) The five years' experience required by 26 V.S.A. § 5012(a)(2) (advisor appointees; qualifications of appointees) set forth in Sec. 11 of this act may include experience while licensed pursuant to subchapter 7 of the Agency of Natural Resources Wastewater System and Potable Water Supply Rules, and an initial advisor appointee may be in the process of applying for licensure from the Office of Professional Regulation if he or she otherwise meets the requirements for licensure as an licensed designer and the other requirements of 26 V.S.A. § 5012(a)(2).

(b) Pending adoption by the Director of administrative rules governing licensed designers, the Director may license designers consistent with subchapter 7 of the Agency of Natural Resources Wastewater System and Potable Water Supply Rules.

(c) A person holding a design license from the Agency of Natural Resources may obtain an equivalent license from the Office of Professional

Regulation at no charge, valid through the expiration date assigned by the Agency, and thereafter renewable on a biennial schedule established by the Office.

Sec. 13. 26 V.S.A. chapter 99 is added to read:

CHAPTER 99. POLLUTION ABATEMENT FACILITY OPERATORS

Subchapter 1. General Provisions

§ 5101. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person shall not practice or offer to practice pollution abatement facility operation unless currently licensed under this chapter.

§ 5102. DEFINITIONS

As used in this chapter:

(1) "Director" means the Director of the Office of Professional Regulation.

(2) "License" means a current authorization granted by the Director permitting the practice of pollution abatement facility operation.

(3) "Permit," when used as a noun, means an authorization by the Agency of Natural Resources to operate a facility regulated under 10 V.S.A. § 1263.

(4) "Practice of pollution abatement facility operation" means the operation and maintenance of a facility regulated under 10 V.S.A. § 1263 by a

person required by the terms of a permit to hold particular credentials, including those of an “operator,” “assistant chief operator,” or “chief operator.”

(5) “Pollution abatement facility operator” means a person who is licensed under this chapter, or pursuant to rules developed pursuant to this chapter, to engage in the practice of pollution abatement facility operation consistent with a permit.

§ 5103. 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 pollution abatement facility operation degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet therein;

(2) practice or knowingly permit the practice of pollution abatement facility operation 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 or permit the practice of pollution abatement facility operation other than by a person duly registered and 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 pollution abatement facility operation or use in connection with a name any words, letters, signs, or figures that imply that a person is a pollution abatement facility operator when not licensed or otherwise authorized under this chapter;

(5) practice pollution abatement facility operation 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 a pollution abatement facility operator.

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

§ 5104. EXCEPTIONS

This chapter does not prohibit:

(1) the furnishing of assistance in the case of an emergency or disaster; or

(2) a person not licensed under this chapter from working under the direct or indirect supervision of a pollution abatement facility operator, where such employment is consistent with the terms, conditions, and intent of a facility's permit.

Subchapter 2. Administration

§ 5111. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure as pollution abatement facility operators;

(2) receive applications for licensure, administer or approve examinations and training programs, 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 licensed pollution abatement facility operators and to applicants, and complaint procedures to the public.

(b) The Director shall adopt rules necessary to perform his or her duties under this section after due consultation with the Secretary of Natural Resources. These rules may establish grades, types, classes, or subcategories of licenses corresponding to facilities of distinct types and complexity.

§ 5112. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be pollution abatement facility operators and one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the

Secretary's pleasure as advisors in matters relating to operation. Two of the initial appointments may be for a term of fewer than five years.

(2) A pollution abatement facility operator appointee shall have not fewer than five years' experience as a pollution abatement facility operator immediately preceding appointment, shall be licensed as a pollution abatement facility operator in Vermont, and shall be actively engaged in the practice of pollution abatement facility operation in this State during incumbency.

(3) An appointee representing the Agency of Natural Resources shall be involved in the administration of the permitting program established under 10 V.S.A. § 1263.

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

Subchapter 3. Licenses

§ 5121. ELIGIBILITY FOR LICENSURE

(a) To be eligible for licensure as a pollution abatement facility operator, an applicant shall be at least 18 years of age; be able to read and write the English language; hold a high school diploma, General Equivalency Diploma (GED), or equivalent; and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

(b) The Director may waive examination for an applicant licensed or certified in good standing by a foreign jurisdiction found by the Director to enforce equivalent standards to obtain the class of license sought in this State. The applicant's previous job description and experience in the pollution abatement field may be considered.

§ 5122. LICENSE RENEWAL

(a)(1) A license shall be renewed every two years upon application, payment of the required fee, and proof of compliance with such continuing education or periodic reexamination requirements as the Director may by rule prescribe. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

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

(b) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has lapsed or who has not worked for more than three years as a pollution abatement facility operator is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

§ 5123. 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.

§ 5124. LICENSURE GENERALLY

The Director shall issue a license or renew a license upon payment of the fees required under this chapter to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

§ 5125. FEES

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

§ 5126. 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) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice as a water treatment facility operator;

(2) whether or not committed in this State, has been convicted of a crime related to pollution abatement or environmental compliance or a felony which evinces an unfitness to practice water treatment facility operation;

(3) is unable to practice pollution abatement facility operation competently by reason of any cause;

(4) has willfully or repeatedly violated or caused the violation of any of the provisions of this chapter, the terms of a permit, the Vermont Water Pollution Control Permit Regulations, or the Vermont Water Quality Standards;

(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 the ability to practice pollution abatement facility operation competently;

(7) engages in conduct of a character likely to deceive, defraud, or harm the public;

(8) fails to display prominently his or her pollution abatement facility operator license in the office of a facility at which he or she performs licensed activities; or

(9) unreasonably fails to ensure proper operations of the facility.

(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 pollution abatement facility operator or facility, corporation, or municipal corporation employing such person.

Sec. 14. TRANSITIONAL PROVISIONS

(a) Notwithstanding the provision of 26 V.S.A. § 5112(a)(2) (advisor appointees; qualifications of appointees) that requires an appointee to be licensed as a pollution abatement facility operator in Vermont, an initial advisor appointee may be in the process of applying for licensure if he or she otherwise meets the requirements for licensure as a wastewater treatment facility operator and the other requirements of 26 V.S.A. § 5112(a)(2).

(b) Pending adoption by the Director of administrative rules governing pollution abatement facility operators, the Director may license individuals to operate pollution abatement facilities consistent with the Agency of Natural Resources Wastewater Treatment Facility Operator Certification Rule.

(c) A person holding an active certificate from the Agency of Natural Resources as an operator, assistant chief operator, or chief operator may obtain an equivalent license from the Office of Professional Regulation at no charge, valid through the expiration date assigned by the Agency, and thereafter renewable on a biennial schedule established by the Office.

*Sec. 15. CREATION OF NEW POSITION WITHIN THE OFFICE OF
PROFESSIONAL REGULATION*

(a) To support the administration of new professional regulation licenses created in Secs. 11 and 13 of this act, there is created within the Secretary of State's Office of Professional Regulation one (1) Licensing Board Specialist.

(b) Any funding necessary to support the position created under subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund, with no General Fund dollars.

** * * Board of Dental Examiners * * **

Sec. 16. 26 V.S.A. § 581 is amended to read:

§ 581. CREATION; QUALIFICATIONS

** * **

(c) ~~No~~ A member of the ~~board may~~ Board shall not be an officer or serve on a committee of his or her respective state or local professional dental, dental hygiene, or dental assisting organization, ~~nor shall any member of the board be on the faculty of a school of dentistry, dental hygiene, or dental assisting.~~

** * * Social Workers * * **

Sec. 17. 26 V.S.A. § 3202 is amended to read:

§ 3202. PROHIBITION; OFFENSES

** * **

(c) A State agency or a subdivision or contractor thereof shall not use or permit the use of the title "social worker" other than in relation to an employee holding a bachelor's, master's, or doctoral degree from an accredited school or program of social work.

* * * Land Surveyors * * *

Sec. 17a. 27 V.S.A. § 1403 is amended to read:

§ 1403. COMPOSITION OF SURVEY PLATS

(a) Plats filed in accordance with this chapter shall be on sheets 11 inches by 17 inches or 18 inches by 24 inches in size or 24 inches by 36 inches if the town or city has appropriate storage facilities as determined by the town or city clerk.

(b) Plats filed in accordance with this chapter shall also conform with the following ~~further~~ requirements:

(1) Each survey plat shall contain an inset locus map clearly indicating the location of the land depicted and a legend of symbols used.

(2) All lettering and data shall be clearly legible.

(3) Plat scale ratios shall be sufficient to allow all pertinent survey data to be shown, and each plat shall contain a graphic scale graduated in units of measure used in the body of the plat.

(4) Each plat sheet shall have a minimum one-half inch margin, except the binder side, which shall have a minimum one and one-half inch margin.

(5) Each plat sheet shall contain a title area in the lower right-hand corner of the sheet stating the location of the land, scale expressed in engineering units, date of compilation, the name of the record owner as of that date, the land surveyor's certification as outlined in 26 V.S.A. § 2596, and a certification that the plat conforms with requirements of this section. These certifications shall be accompanied by the responsible land surveyor's seal, name and number, and signature.

(6) Each survey plat shall contain a graphical indication of the reference meridian used on the survey plat and a statement describing the basis of bearings referenced on the survey plat.

(7) When the plat sheet is produced by a reproduction process, the process shall be identified and certified to by the producer in the margin of the plat sheet. Original plat sheets shall be so identified and certified to by the same process.

(8) The recordable plat materials shall be composed in one of the following processes:

(A) fixed-line photographic process on stable base polyester film; or

(B) pigment ink on stable base polyester film or linen tracing cloth.

(c) Survey plats prepared and dated before July 1, 1992, shall be exempt from the requirements of subdivisions ~~(b)(2)-(7)~~ (b)(1)-(6) and (8) of this

section, but shall comply with requirements in State law in effect when the plats were prepared and dated.

(d) Survey plats prepared and dated before any statutory regulation of land plats shall comply with ~~subsections~~ subsection (a) and ~~subdivisions (b)(1) and (b)(8)~~ subdivision (b)(7) of this section.

(e) Any survey plat exempted by subsection (c) or (d) of this section and revised after July 1, 1992; shall meet all the requirements of ~~sections 1401-1406~~ of this ~~title~~ chapter.

Sec. 17b. 27 V.S.A. § 1404 is amended to read:

§ 1404. ~~EXCEPTIONS~~ EXEMPTIONS

(a) Survey plats prepared and filed by municipal and State government agencies shall be exempt from subdivision 1403(b)(5) of this ~~title~~ chapter. Each plat sheet filed under this exemption shall contain a title area in the lower right-hand corner of the sheet stating the location of the land, the scale expressed in engineering units, and the date of compilation. Highway plats or plans filed under this exemption shall also include right-of-way detail sheets and a title sheet.

(b) Survey plats prepared and filed in accordance with 24 V.S.A. § 4463 shall be exempt from subdivision 1403(b)(5) of this ~~title~~ chapter. Survey plats or plans filed under this exemption shall contain a title area, the location of

the land, and scale expressed in engineering units. In addition, they shall include inscriptions and data required by zoning and planning boards.

(c) Survey plats prepared and filed in accordance with chapter 15 of this title shall be exempt from subdivision ~~1403(b)(6)~~ 1403(b)(5) of this ~~title~~ chapter. Each plat sheet filed under this exemption shall contain a title area stating the location of the land, the scale expressed in engineering or architectural units, and the date of compilation.

** * * Effective Dates * * **

Sec. 18. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except Sec. 17 which shall take effect on July 1, 2017.