

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred House
3 Bill No. 562 entitled “An act relating to professions and occupations regulated
4 by the Office of Professional Regulation and to the review of professional
5 regulation” respectfully reports that it has considered the same and
6 recommends that the bill be amended by striking out all after the enacting
7 clause and inserting in lieu thereof the following:

8 * * * Professional Regulation Review * * *

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

10 CHAPTER 57. REVIEW OF ~~LICENSING STATUTES, BOARDS, AND~~
11 COMMISSIONS REGULATORY LAWS

12 § 3101. POLICY AND PURPOSE

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

19 (b) If such a need is identified, the form of regulation adopted by the ~~state~~
20 State shall be the least restrictive form of regulation necessary to protect the
21 public interest. If regulation is imposed, the profession or occupation may be

1 subject to ~~periodic~~ review by the legislature Office of Professional Regulation
2 and the General Assembly to ~~insure~~ ensure the continuing need for and
3 appropriateness of such regulation.

4 § 3101a. DEFINITIONS

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

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

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

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

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

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

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

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

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

9 ~~(6)~~(7) “Registration” means a process which requires requiring that,
10 prior to rendering services, ~~all practitioners~~ a practitioner formally notify a
11 regulatory entity of ~~their~~ his, her, or its intent to engage in the profession or
12 occupation. Notification may include the name and address of the practitioner,
13 the location of the activity to be performed, and a description of the service to
14 be provided.

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

18 ~~(7)~~(9) “Regulatory law” as used in section 3104 of this title, means any
19 law in this State that requires a person engaged in a profession or occupation to
20 be registered, certified, or licensed under this title or 4 V.S.A. chapter 23 or
21 that otherwise regulates the operation of that profession or occupation.

1 § 3102. ~~PERIODIC REVIEW REQUIREMENT~~

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

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

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

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

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

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

11 ~~(5) Chapter 6 of this title on barbers;~~

12 ~~(6) Chapter 6 of this title on cosmeticians and hairdressers;~~

13 ~~(7) Chapter 23 of this title on medicine and surgery;~~

14 ~~(8) Chapter 33 of this title on osteopathic physicians and surgeons;~~

15 ~~(9) Chapter 13 of this title on dentists and dental hygienists;~~

16 ~~(10) 18 V.S.A. chapter 46 on nursing home administrators;~~

17 ~~(11) Chapter 17 of this title on embalmers;~~

18 ~~(12) Chapter 21 of this title on funeral directors;~~

19 ~~(13) Chapter 44 of this title on veterinary science;~~

20 ~~(14) Chapter 1 of this title on accountants;~~

21 ~~(15) Chapter 59 of this title on private detectives;~~

- 1 ~~(16) Chapter 55 of this title on psychologists;~~
- 2 ~~(17) Chapter 36 of this title on pharmacy;~~
- 3 ~~(18) Chapter 51 of this title on radiological technologists;~~
- 4 ~~(19) Chapter 41 of this title on real estate brokers and salesmen;~~
- 5 ~~(20) Chapter 20 of this title on engineering;~~
- 6 ~~(21) Chapter 3 of this title on architects;~~
- 7 ~~(22) Chapter 45 of this title on land surveyors;~~
- 8 ~~(23) Chapter 31 of this title on physicians' assistants;~~
- 9 ~~(24) Chapter 7 of this title on podiatry;~~
- 10 ~~(25) 4 V.S.A. chapter 23 on attorneys;~~
- 11 ~~(26) Chapter 47 of this title on opticians;~~
- 12 ~~(27) Chapter 65 of this title on clinical mental health counselors;~~
- 13 ~~(28) Chapter 67 of this title on hearing aid dispensers;~~
- 14 ~~(29) Chapter 79 of this title on tattooists;~~
- 15 ~~(30) Chapter 81 of this title on naturopathic physicians;~~
- 16 ~~(31) Chapter 83 of this title on athletic trainers;~~
- 17 ~~(32) Chapter 87 of this title on audiologists and speech language~~
- 18 ~~pathologists.~~
- 19 ~~(c) Any new law to regulate another profession or occupation shall be~~
- 20 ~~based on the relevant criteria and standards in section 3105 of this title.~~
- 21 [Repealed.]

1 § 3104. PROCESS FOR REVIEW OF REGULATORY LAWS

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

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

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

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

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

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

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

7 ~~(5)(6) the extent to which the board~~ a regulatory entity has sought ideas
8 from the public and from those it regulates, concerning reasonable ways to
9 improve the service of the ~~board~~ entity and the profession or occupation
10 regulated;

11 ~~(6)(7) the extent to which the board~~ a regulatory entity gives adequate
12 public notice of its hearings and meetings and encourages public participation;

13 ~~(7)(8) whether the board~~ a regulatory entity makes efficient and
14 effective use of its funds; and meets its responsibilities; and

15 ~~(8)(9) whether the board~~ a regulatory entity has sufficient funding to
16 carry out its mandate.

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

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

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

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

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

20 (1) findings, alternative courses of action, and recommendations;:

21 (2) a copy of the ~~board's~~ regulatory entity's administrative rules;: and

1 (3) appropriate legislative proposals.

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

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

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

12 § 3105. CRITERIA AND STANDARDS

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

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

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

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

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

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

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

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

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

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

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

4 (d) Prior to review under this chapter and consideration by the General
5 Assembly of any bill to regulate a profession or occupation and upon the
6 request of the House or Senate Committee on Government Operations, the
7 ~~Office of Professional Regulation~~ shall make, in writing, a preliminary
8 assessment of whether any particular request for regulation meets the criteria
9 set forth in subsection (a) of this section. The Office shall report its
10 preliminary assessment to the appropriate House or Senate Committee on
11 Government Operations. ~~The provisions of 2 V.S.A. § 20(d) (expiration of~~
12 ~~required reports) shall not apply to the report to be made under this subsection.~~

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

16 (1) the proposed regulatory scheme appears to regulate fewer than
17 250 individuals; and

18 (2) the Office previously conducted an analysis and evaluation of the
19 proposed regulation of the same profession or occupation, and no new
20 information has been submitted that would cause the Office to alter or modify

1 the recommendations made in its earlier report on ~~the~~ that proposed regulation
2 ~~of the profession.~~

3 § 3106. DIRECTOR OF THE OFFICE OF PROFESSIONAL
4 REGULATION; ANNUAL REPORT

5 (a) Annually, prior to the commencement of each legislative session, the
6 ~~Director of the Office of Professional Regulation shall prepare a concise report~~
7 ~~on the activities of all boards and advisor professions under his or her~~
8 ~~jurisdiction. Prior to the commencement of each legislative session, the~~
9 ~~Director shall prepare a report for publication on the Office's website~~
10 ~~containing~~ The report shall include his or her assessments, conclusions, and
11 recommendations ~~with proposals for legislation, if any, to the Speaker of the~~
12 ~~House and to the Chairpersons of the House and Senate Committees on~~
13 ~~Government Operations and the chairpersons of the boards regarding those~~
14 boards and advisor professions.

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

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

1 § 3107. INFORMATION REQUIRED

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

8 (1) Why regulation is necessary, including:

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

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

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

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

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

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

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

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

5 (i) establish a code of ethics;

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

7 (iii) establish requirements for continuing education.

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

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

11 (A) stronger civil remedies or criminal sanctions;

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

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

16 (D) registration of all practitioners;

17 (E) certification of practitioners;

18 (F) other alternatives;

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

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

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

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

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

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

10 (iv) the nature and duration of the educational requirement, if any,
11 including, ~~but not limited to,~~ whether ~~such~~ the educational ~~program~~
12 requirement includes a substantial amount of supervised field experience;
13 whether educational programs exist in this ~~state~~ State; whether there will be an
14 experience requirement; whether the experience must be acquired under a
15 registered, certified, or licensed practitioner; whether there are alternative
16 routes of entry or methods of satisfying the eligibility requirements and
17 qualifications; whether all applicants will be required to pass an examination;
18 and, if an examination is required, by whom it will be developed and how the
19 costs of development will be met;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 § 122. OFFICE OF PROFESSIONAL REGULATION

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

8 * * *

9 (45) Alcohol and drug abuse counselors.

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

11 § 4806. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

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

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

17 (1) prevention and intervention;

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

19 (3) project CRASH schools; and

20 (4) alcohol and drug treatment.

21 * * *

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

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

7 CHAPTER 62. ALCOHOL AND DRUG ABUSE COUNSELORS

8 § 3231. DEFINITIONS

9 As used in this chapter:

10 (1) “Alcohol and drug abuse counselor” means a person who engages in
11 the practice of alcohol and drug abuse counseling for compensation.

12 (2) ~~“Commissioner” means the Commissioner of Health~~ “Director”
13 means the Director of the Office of Professional Regulation.

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

17 (4) ~~“Disciplinary action” means any action taken by the administrative~~
18 ~~law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or~~
19 ~~applicant based on a finding of unprofessional conduct by the licensee or~~
20 ~~applicant. “Disciplinary action” includes issuance of warnings and all~~

1 ~~sanctions, including denial, suspension, revocation, limitation, or restriction of~~
2 ~~licenses and other similar limitations. [Repealed.]~~

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

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

13 § 3232. PROHIBITION; PENALTIES

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

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

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

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

3 § 3233. EXEMPTIONS

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

6 (1) the activities and services of a rabbi, priest, minister, Christian
7 Science practitioner, or clergy of any religious denomination or sect when
8 engaging in activities that are within the scope of the performance of the
9 person's regular or specialized ministerial duties and for which no separate
10 charge is made, or when these activities are performed, with or without charge,
11 for or under the auspices or sponsorship, individually or in conjunction with
12 others, of an established and legally recognizable church, denomination, or sect
13 and when the person rendering services remains accountable to the established
14 authority of that church, denomination, or sect;

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

19 (3) the activities and services of a student intern or trainee in alcohol and
20 drug abuse counseling who is pursuing a course of study in an accredited
21 institution of higher education or a training course approved by the Director,

1 provided these activities are performed under supervision of and constitute a
2 part of an approved course of study;

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

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

9 § 3234. COORDINATION OF PRACTICE ACTS

10 Notwithstanding any provision of law to the contrary, a person may practice
11 psychotherapy when acting within the scope of a license or certification
12 granted under this chapter, provided he or she does not hold himself or herself
13 out as a practitioner of a profession for which he or she is not licensed
14 or certified.

15 § 3235. ~~DEPUTY COMMISSIONER~~ DIRECTOR; DUTIES

16 (a) ~~The Deputy Commissioner~~ In addition to the authority granted under
17 3 V.S.A. chapter 5, the Director shall:

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

20 (2) administer fees collected under this chapter;

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

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

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

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

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

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

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

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

1 (4) Requiring licensed alcohol and drug abuse counselors to disclose to
2 each client the licensee's professional qualifications and experience, those
3 actions that constitute unprofessional conduct, the method for filing a
4 complaint or making a consumer inquiry, and provisions relating to the manner
5 in which the information shall be displayed and signed by both the licensee and
6 the client. The rules may include provisions for applying or modifying these
7 requirements in cases involving clients of preferred providers, institutionalized
8 clients, minors, and adults under the supervision of a guardian.

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

11 (6) Regarding display of license or certification.

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

14 (8) Regarding supervised practice toward licensure or certification.

15 § 3235a. ADVISOR APPOINTEES

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

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

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

3 § 3236. LICENSED ALCOHOL AND DRUG ABUSE COUNSELOR

4 ELIGIBILITY

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

7 (1) have received a master's degree or doctorate in a human services
8 field from an accredited educational institution, including a degree in
9 counseling, social work, psychology, or ~~in~~ an allied mental health field, or a
10 master's degree or higher in a health care profession regulated under this title
11 or Title 33, after having successfully completed a course of study with course
12 work; including theories of human development, diagnostic and counseling
13 techniques, ~~and~~ professional ethics, and ~~which includes~~ a supervised clinical
14 practicum; ~~and~~

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

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

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

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

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

6 § 3236a. CERTIFICATION OF APPRENTICE ADDICTION

7 PROFESSIONALS AND ALCOHOL AND DRUG ABUSE

8 COUNSELORS

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

11 (1) an apprentice addiction professional; or

12 (2) an alcohol and drug abuse counselor.

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

17 § 3236b. LICENSURE OR CERTIFICATION BY ENDORSEMENT

18 The Director may issue a license or certification to an individual under this
19 chapter if the individual holds a license or certification from a U.S. or
20 Canadian jurisdiction that the Director finds has requirements for licensure or

1 certification that are substantially equivalent to those required under this
2 chapter.

3 § 3237. APPLICATION

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

8 § 3238. BIENNIAL RENEWALS

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

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

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

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

20 (c) Any application for ~~renewal~~ reinstatement of a license ~~which or~~
21 certification that has expired shall be accompanied by the ~~renewal fee and a~~

1 ~~reinstatement fee~~ appropriate fees. A person shall not be required to pay
2 renewal fees for years during which the license or certifications was lapsed.

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

6 § 3239. UNPROFESSIONAL CONDUCT

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

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

13 (2) failing to use a complete title in professional activity;

14 (3) conduct which evidences moral unfitness to practice alcohol and
15 drug abuse counseling;

16 (4) negligent, incompetent, or wrongful conduct in the practice of
17 alcohol and drug abuse counseling; or

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

19 ~~(6) agreeing with any other person or organization or subscribing to any~~
20 ~~code of ethics or organizational bylaws when the intent or primary effect of~~

1 ~~that agreement, code, or bylaw is to restrict or limit the flow of information~~
2 ~~concerning alleged or suspected unprofessional conduct to the Director.~~

3 § 3240. REGULATORY FEE FUND

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

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

13 § 3241. FEES

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

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

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

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

- 1 ~~(4) Verification of license, \$20.00.~~
- 2 ~~(5) An examination fee established by the Deputy Commissioner, which~~
- 3 ~~shall be no greater than the costs associated with examinations.~~
- 4 ~~(6) Licenses granted under rules adopted pursuant to 3 V.S.A.~~
- 5 ~~§ 129(a)(10), \$20.00.~~
- 6 ~~(7) Application for registration, \$75.00.~~
- 7 ~~(8) Application for licensure or certification, \$100.00.~~
- 8 ~~(9) Biennial renewal, \$135.00.~~
- 9 ~~(10) Limited temporary license or work permit, \$50.00~~ for professions
- 10 regulated by the Director as set forth in 3 V.S.A. § 125.

* * *

12 Sec. 5. TRANSITIONAL PROVISION; CURRENT CERTIFICATION

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

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

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

6 * * * Naturopathic Physicians * * *

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

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

11 (e) Formulary sunset; transition to examination.

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

14 (2) Any naturopathic physician who is authorized to prescribe, dispense,
15 and administer any prescription medicines under subsection (c) of this section
16 shall have until July 1, ~~2016~~ 2017 to successfully complete the naturopathic
17 pharmacology examination set forth in 26 V.S.A. § 4125(d) in order to be able
18 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,

1 requirements, and restrictions as the ~~secretary~~ Secretary deems necessary to
2 preserve and protect the quality of the receiving waters, including ~~but not~~
3 ~~limited to~~ requirements concerning recording, reporting, monitoring, and
4 inspection of the operation and maintenance of waste treatment facilities and
5 waste collection systems; ~~and~~.

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

8 * * *

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

10 § 1975. DESIGNER LICENSES

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

17 (b) ~~No~~ A person shall not design a potable water supply or wastewater
18 system that requires a permit under this chapter without first obtaining a
19 designer license from the ~~secretary~~ Director of the Office of Professional
20 Regulation, except a professional engineer who is licensed in Vermont shall be
21 deemed to have a valid designer license under this chapter, provided that:

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

3 (2) the engineer:

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

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

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

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

15 (d) The ~~secretary~~ Secretary or the Director of the Office of Professional
16 Regulation may review, on a random basis, or in response to a complaint, or on
17 his or her own motion, the testing procedures employed by a licensed designer,
18 the systems designed by a licensed designer, the designs approved or
19 recommended for approval by a licensed designer, and any work associated
20 with the performance of these tasks.

1 Sec. 10. 3 V.S.A. § 122 is amended to read:

2 § 122. OFFICE OF PROFESSIONAL REGULATION

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

7 * * *

8 (45) Potable water supply and wastewater system designers

9 (46) Pollution abatement facility operators

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

11 CHAPTER 97. POTABLE WATER SUPPLY AND WASTEWATER

12 SYSTEM DESIGNERS

13 Subchapter 1. General Provisions

14 § 5001. PURPOSE AND EFFECT

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

1 § 5002. DEFINITIONS

2 As used in this chapter:

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

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

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

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

14 § 5003. PROHIBITIONS; OFFENSES

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

17 (1) sell or fraudulently obtain or furnish any design degree, diploma,
18 certificate of registration, license, or any other related document or record or to
19 aid or abet therein;

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

4 (3) practice design unless duly registered and currently licensed or
5 otherwise authorized to do so under the provisions of this chapter;

6 (4) represent himself or herself as being licensed or otherwise
7 authorized by this State to practice design or use in connection with a name
8 any words, letters, signs, or figures that imply that a person is a licensed
9 designer when not licensed or otherwise authorized under this chapter;

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

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

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

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

18 § 5004. EXCEPTIONS

19 This chapter does not prohibit:

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

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

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

6 § 5005. QUALIFIED PROFESSIONAL ENGINEERS EXEMPT

7 A licensed professional engineer may practice design without a license
8 under this chapter if he or she satisfies the criteria set forth in 10 V.S.A.
9 § 1975(b).

10 Subchapter 2. Administration

11 § 5011. DUTIES OF THE DIRECTOR

12 (a) The Director shall:

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

14 (2) receive applications for licensure, administer or approve
15 examinations, and provide licenses to applicants qualified under this chapter;

16 (3) administer fees as established by law;

17 (4) refer all disciplinary matters to an administrative law officer;

18 (5) renew, revoke, and reinstate licenses as ordered by an administrative
19 law officer; and

20 (6) explain appeal procedures to licensed designers and to applicants,
21 and complaint procedures to the public.

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

6 § 5012. ADVISOR APPOINTEES

7 (a)(1) The Secretary of State shall appoint three persons to be advisors to
8 the Secretary, two of which shall be designers licensed under this chapter and
9 one of which shall be a representative of the Agency of Natural Resources.

10 Advisors shall be appointed for five-year staggered terms to serve at the
11 Secretary's pleasure as advisors in matters relating to design. Two of the
12 initial appointments may be for a term of fewer than five years.

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

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

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

1 Subchapter 3. Licenses

2 § 5021. ELIGIBILITY FOR LICENSURE

3 (a) To be eligible for licensure as a designer, an applicant shall be at least
4 18 years of age; able to read and write the English language; hold a high school
5 diploma, General Equivalency Diploma (GED), or equivalent; and demonstrate
6 such specific education, training, experience, and examination performance as
7 the Director may by rule require to hold the class of license sought.

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

13 § 5022. LICENSE RENEWAL

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

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

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

6 § 5023. APPLICATIONS

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

11 § 5024. LICENSURE GENERALLY

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

15 § 5025. FEES

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

18 § 5026. UNPROFESSIONAL CONDUCT

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

1 (1) has made or caused to be made a false, fraudulent, or forged
2 statement or representation in procuring or attempting to procure registration
3 or renew a license to practice as a licensed designer;

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

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

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

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

14 (6) has a mental, emotional, or physical disability, the nature of which
15 interferes with the ability to practice design competently;

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

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

20 (b) A person shall not be liable in a civil action for damages resulting from
21 the good faith reporting of information to the Director or the Office of

1 Professional Regulation about alleged incompetent, unprofessional, or
2 unlawful conduct of a licensed designer.

3 Sec. 12. TRANSITIONAL PROVISIONS

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

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

16 (c) A person holding a design license from the Agency of Natural
17 Resources may obtain an equivalent license from the Office of Professional
18 Regulation at no charge, valid through the expiration date assigned by the
19 Agency, and thereafter renewable on a biennial schedule established by the
20 Office.

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

2 CHAPTER 99. POLLUTION ABATEMENT FACILITY OPERATORS

3 Subchapter 1. General Provisions

4 § 5101. PURPOSE AND EFFECT

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

8 § 5102. DEFINITIONS

9 As used in this chapter:

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

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

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

16 § 1263.

17 (4) “Practice of pollution abatement facility operation” means the
18 operation and maintenance of a facility regulated under 10 V.S.A. § 1263 by a
19 person required by the terms of a permit to hold particular credentials,
20 including those of an “operator,” “assistant chief operator,” or “chief operator.”

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

5 § 5103. PROHIBITIONS; OFFENSES

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

8 (1) sell or fraudulently obtain or furnish any pollution abatement facility
9 operation degree, diploma, certificate of registration, license, or any other
10 related document or record or to aid or abet therein;

11 (2) practice or knowingly permit the practice of pollution abatement
12 facility operation under cover of any degree, diploma, registration, license, or
13 related document or record illegally or fraudulently obtained or signed or
14 issued unlawfully or under fraudulent representation;

15 (3) practice or permit the practice of pollution abatement facility
16 operation other than by a person duly registered and currently licensed or
17 otherwise authorized to do so under the provisions of this chapter;

18 (4) represent himself or herself as being licensed or otherwise
19 authorized by this State to practice pollution abatement facility operation or
20 use in connection with a name any words, letters, signs, or figures that imply

1 that a person is a pollution abatement facility operator when not licensed or
2 otherwise authorized under this chapter;

3 (5) practice pollution abatement facility operation during the time a
4 license or authorization issued under this chapter is suspended or revoked; or

5 (6) employ an unlicensed or unauthorized person to practice as a
6 pollution abatement facility operator.

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

9 § 5104. EXCEPTIONS

10 This chapter does not prohibit:

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

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

17 Subchapter 2. Administration

18 § 5111. DUTIES OF THE DIRECTOR

19 (a) The Director shall:

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

1 (2) receive applications for licensure, administer or approve
2 examinations and training programs, and provide licenses to applicants
3 qualified under this chapter;

4 (3) administer fees as established by law;

5 (4) refer all disciplinary matters to an administrative law officer;

6 (5) renew, revoke, and reinstate licenses as ordered by an administrative
7 law officer; and

8 (6) explain appeal procedures to licensed pollution abatement facility
9 operators and to applicants, and complaint procedures to the public.

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

14 § 5112. ADVISOR APPOINTEES

15 (a)(1) The Secretary of State shall appoint three persons to be advisors to
16 the Secretary, two of which shall be pollution abatement facility operators and
17 one of which shall be a representative of the Agency of Natural Resources.
18 Advisors shall be appointed for five-year staggered terms to serve at the
19 Secretary's pleasure as advisors in matters relating to operation. Two of the
20 initial appointments may be for a term of fewer than five years.

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

6 (3) An appointee representing the Agency of Natural Resources shall be
7 involved in the administration of the permitting program established under
8 10 V.S.A. § 1263.

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

11 Subchapter 3. Licenses

12 § 5121. ELIGIBILITY FOR LICENSURE

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

19 (b) The Director may waive examination for an applicant licensed or
20 certified in good standing by a foreign jurisdiction found by the Director to
21 enforce equivalent standards to obtain the class of license sought in this State.

1 The applicant's previous job description and experience in the pollution
2 abatement field may be considered.

3 § 5122. LICENSE RENEWAL

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

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

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

18 § 5123. APPLICATIONS

19 Applications for licensure and license renewal shall be on forms provided
20 by the Director. Each application shall contain a statement under oath showing

1 the applicant's education, experience, and other pertinent information and shall
2 be accompanied by the required fee.

3 § 5124. LICENSURE GENERALLY

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

7 § 5125. FEES

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

10 § 5126. UNPROFESSIONAL CONDUCT

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

14 (1) has made or caused to be made a false, fraudulent, or forged
15 statement or representation in procuring or attempting to procure registration
16 or renew a license to practice as a water treatment facility operator;

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

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

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

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

7 (6) has a mental, emotional, or physical disability, the nature of which
8 interferes with the ability to practice pollution abatement facility operation
9 competently;

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

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

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

16 (b) A person shall not be liable in a civil action for damages resulting from
17 the good faith reporting of information to the Director or the Office of
18 Professional Regulation about alleged incompetent, unprofessional, or
19 unlawful conduct of a pollution abatement facility operator or facility,
20 corporation, or municipal corporation employing such person.

1 Sec. 14. TRANSITIONAL PROVISIONS

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

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

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

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

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

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* * * 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.