

1 TO THE HONORABLE SENATE:

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 Senate propose to the House that the bill be amended by
7 striking out all after the enacting clause and inserting in lieu thereof the
8 following:

9 * * * Professional Regulation Review * * *

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

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

13 § 3101. POLICY AND PURPOSE

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

20 (b) If such a need is identified, the form of regulation adopted by the ~~state~~
21 State shall be the least restrictive form of regulation necessary to protect the
22 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~~ 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;~~

22 ~~(16) Chapter 55 of this title on psychologists;~~

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

21 (1)(A) findings, alternative courses of action, and recommendations;

1 ~~(2)(B)~~ a copy of the ~~board's~~ regulatory entity's administrative rules;

2 and

3 ~~(3)(C)~~ appropriate legislative proposals.

4 (2)(A) If the review is in regard to a regulatory law outside its
5 jurisdiction, the Office shall submit the report in conjunction with the agency
6 with jurisdiction over the licensing of the relevant profession.

7 (B) In the event the Office and the agency with jurisdiction do not
8 agree to any aspects of the report, the report shall incorporate separate
9 responses of the Office and that agency.

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

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

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

19 [Repealed.]

1 § 3105. CRITERIA AND STANDARDS

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) the proposed regulatory scheme appears to regulate fewer than
5 250 individuals; and

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

11 § 3106. DIRECTOR OF THE OFFICE OF PROFESSIONAL
12 REGULATION; ANNUAL REPORT

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

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

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

6 § 3107. INFORMATION REQUIRED

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

13 (1) Why regulation is necessary, including:

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

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

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

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

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

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

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

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

9 (i) establish a code of ethics;

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

11 (iii) establish requirements for continuing education.

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

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

15 (A) stronger civil remedies or criminal sanctions;

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

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

20 (D) registration of all practitioners;

21 (E) certification of practitioners;

22 (F) other alternatives;

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

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

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

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

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

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

13 (iv) the nature and duration of the educational requirement, if any,
14 including, ~~but not limited to,~~ whether such the educational ~~program~~
15 requirement includes a substantial amount of supervised field experience;
16 whether educational programs exist in this ~~state~~ State; whether there will be an
17 experience requirement; whether the experience must be acquired under a
18 registered, certified, or licensed practitioner; whether there are alternative
19 routes of entry or methods of satisfying the eligibility requirements and
20 qualifications; whether all applicants will be required to pass an examination;
21 and, if an examination is required, by whom it will be developed and how the
22 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 (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~~
21 ~~sanctions, including denial, suspension, revocation, limitation, or restriction of~~
22 ~~licenses and other similar limitations. [Repealed.]~~

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

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

11 § 3232. PROHIBITION; PENALTIES

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

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

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

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

1 § 3233. EXEMPTIONS

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

4 * * *

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

9 * * *

10 § 3234. COORDINATION OF PRACTICE ACTS

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

16 § 3235. ~~DEPUTY COMMISSIONER~~ DIRECTOR; DUTIES

17 (a) ~~The Deputy Commissioner~~ In addition to the authority granted under
18 3 V.S.A. chapter 5, the Director shall:

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

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

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

5 § 3236a. CERTIFICATION OF APPRENTICE ADDICTION

6 PROFESSIONALS AND ALCOHOL AND DRUG ABUSE

7 COUNSELORS

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

10 (1) an apprentice addiction professional; or

11 (2) an alcohol and drug abuse counselor.

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

16 § 3236b. LICENSURE OR CERTIFICATION BY ENDORSEMENT

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

1 § 3237. ~~APPLICATION~~

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

6 § 3238. BIENNIAL RENEWALS

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

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

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

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

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

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

4 § 3239. UNPROFESSIONAL CONDUCT

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

9 * * *

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

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

13 ~~(6) agreeing with any other person or organization or subscribing to any~~
14 ~~code of ethics or organizational bylaws when the intent or primary effect of~~
15 ~~that agreement, code, or bylaw is to restrict or limit the flow of information~~
16 ~~concerning alleged or suspected unprofessional conduct to the Director.~~

17 § 3240. REGULATORY FEE FUND

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

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

5 § 3241. FEES

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

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

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

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

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

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

17 ~~(6) Licenses granted under rules adopted pursuant to 3 V.S.A.~~
18 ~~§ 129(a)(10), \$20.00.~~

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

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

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

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

3 * * *

4 Sec. 5. TRANSITIONAL PROVISION; CURRENT CERTIFICATION

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

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

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

16 * * * Naturopathic Physicians * * *

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

19 (e) Formulary sunset; transition to examination.

20 (1) Subsection (c) of this section (formulary authorization) shall be
21 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 * * * Potable Water Supply and Wastewater System Designers and

7 Pollution Abatement Facility Operators * * *

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

9 § 1263. DISCHARGE PERMITS

10 * * *

11 (d) A discharge permit shall:

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

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

1 assurance sample program to ~~insure~~ ensure qualifications of laboratory
2 analysts;

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

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

12 * * *

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

14 § 1975. DESIGNER LICENSES

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

21 (b) ~~No~~ A person shall not design a potable water supply or wastewater
22 system that requires a permit under this chapter without first obtaining a

1 designer license from the ~~secretary~~ Director of the Office of Professional
2 Regulation, except a professional engineer who is licensed in Vermont shall be
3 deemed to have a valid designer license under this chapter, provided that:

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

6 (2) the engineer:

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

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

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

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

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

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

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

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

21 * * *

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 (46) Potable water supply and wastewater system designers

9 (47) 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;

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

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

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

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

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

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

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

15 § 5004. EXCEPTIONS

16 This chapter does not prohibit:

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

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

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

1 § 5005. QUALIFIED PROFESSIONAL ENGINEERS EXEMPT

2 A licensed professional engineer may practice design without a license
3 under this chapter if he or she satisfies the criteria set forth in 10 V.S.A.
4 § 1975(b).

5 Subchapter 2. Administration

6 § 5011. DUTIES OF THE DIRECTOR

7 (a) The Director shall:

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

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

11 (3) administer fees as established by law;

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

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

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

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

1 § 5012. ADVISOR APPOINTEES

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

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

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

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

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

16 Subchapter 3. Licenses

17 § 5021. ELIGIBILITY FOR LICENSURE

18 (a) To be eligible for licensure as a designer, an applicant shall be at least
19 18 years of age; able to read and write the English language; hold a high school
20 diploma, General Equivalency Diploma (GED), or equivalent; and demonstrate
21 such specific education, training, experience, and examination performance as
22 the Director may by rule require to hold the class of license sought.

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

6 § 5022. LICENSE RENEWAL

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

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

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

20 § 5023. APPLICATIONS

21 Applications for licensure and license renewal shall be on forms provided
22 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 § 5024. 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 § 5025. FEES

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

10 § 5026. 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 licensed designer;

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

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

21 (4) has willfully or repeatedly violated or caused the violation of any of
22 the provisions of this chapter, the terms of a permit, the Vermont On-Site

1 Wastewater and Potable Water Supply Regulations, or the Vermont Water

2 Quality Standards;

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

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

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

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

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

15 Sec. 12. TRANSITIONAL PROVISIONS

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

1 requirements for licensure as an licensed designer and the other requirements
2 of 26 V.S.A. § 5012(a)(2).

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

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

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

13 CHAPTER 99. POLLUTION ABATEMENT FACILITY OPERATORS

14 Subchapter 1. General Provisions

15 § 5101. PURPOSE AND EFFECT

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

19 § 5102. DEFINITIONS

20 As used in this chapter:

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

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

3 (3) “Permit,” when used as a noun, means an authorization by the
4 Agency of Natural Resources to operate a facility regulated under 10 V.S.A.
5 § 1263.

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

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

14 § 5103. 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 pollution abatement facility
18 operation degree, diploma, certificate of registration, license, or any other
19 related document or record or to aid or abet therein;

20 (2) practice or knowingly permit the practice of pollution abatement
21 facility operation under cover of any degree, diploma, registration, license, or

1 related document or record illegally or fraudulently obtained or signed or
2 issued unlawfully or under fraudulent representation;

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

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

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

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

17 § 5104. EXCEPTIONS

18 This chapter does not prohibit:

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

21 (2) a person not licensed under this chapter from working under the
22 direct or indirect supervision of a pollution abatement facility operator, where

1 such employment is consistent with the terms, conditions, and intent of a
2 facility's permit.

3 Subchapter 2. Administration

4 § 5111. DUTIES OF THE DIRECTOR

5 (a) The Director shall:

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

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

11 (3) administer fees as established by law;

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

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

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

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

1 § 5112. ADVISOR APPOINTEES

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

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

13 (3) An appointee representing the Agency of Natural Resources shall be
14 involved in the administration of the permitting program established under
15 10 V.S.A. § 1263.

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

18 Subchapter 3. Licenses

19 § 5121. ELIGIBILITY FOR LICENSURE

20 (a) To be eligible for licensure as a pollution abatement facility operator, an
21 applicant shall be at least 18 years of age; be able to read and write the English
22 language; hold a high school diploma, General Equivalency Diploma (GED),

1 or equivalent; and demonstrate such specific education, training, experience,
2 and examination performance as the Director may by rule require to hold the
3 class of license sought.

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

9 § 5122. LICENSE RENEWAL

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

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

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

1 subsection shall be in addition to the requirements of subsection (a) of this
2 section.

3 § 5123. APPLICATIONS

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

8 § 5124. LICENSURE GENERALLY

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

12 § 5125. FEES

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

15 § 5126. UNPROFESSIONAL CONDUCT

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

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

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

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

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

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

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

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

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

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

21 (b) A person shall not be liable in a civil action for damages resulting from
22 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 pollution abatement facility operator or facility,
3 corporation, or municipal corporation employing such person.

4 Sec. 14. TRANSITIONAL PROVISIONS

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

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

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

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

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

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

9 * * * Board of Dental Examiners * * *

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

11 § 581. CREATION; QUALIFICATIONS

12 * * *

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

17 * * * Social Workers * * *

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

19 § 3202. PROHIBITION; OFFENSES

20 * * *

21 (c) A State agency or a subdivision or contractor thereof shall not use or
22 permit the use of the title “social worker” other than in relation to an employee

1 holding a bachelor's, master's, or doctoral degree from an accredited school or
2 program of social work.

3 * * * Land Surveyors * * *

4 Sec. 18. 27 V.S.A. § 1403 is amended to read:

5 § 1403. COMPOSITION OF SURVEY PLATS

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

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

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

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

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

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

20 (5) Each plat sheet shall contain a title area in the lower right-hand
21 corner of the sheet stating the location of the land, scale expressed in
22 engineering units, date of compilation, the name of the record owner as of that

1 date, the land surveyor's certification as outlined in 26 V.S.A. § 2596, and a
2 certification that the plat conforms with requirements of this section. These
3 certifications shall be accompanied by the responsible land surveyor's seal,
4 name and number, and signature.

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

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

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

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

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

16 (c) Survey plats prepared and dated before July 1, 1992, shall be exempt
17 from the requirements of subdivisions ~~(b)(2)-(7)~~ (b)(1)-(6) and (8) of this
18 section, but shall comply with requirements in State law in effect when the
19 plats were prepared and dated.

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

1 (e) Any survey plat exempted by subsection (c) or (d) of this section and
2 revised after July 1, 1992, shall meet all the requirements of ~~sections~~
3 ~~1401-1406~~ of this ~~title~~ chapter.

4 Sec. 19. 27 V.S.A. § 1404 is amended to read:

5 § 1404. ~~EXCEPTIONS~~ EXEMPTIONS

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

13 (b) Survey plats prepared and filed in accordance with 24 V.S.A. § 4463
14 shall be exempt from subdivision 1403(b)(5) of this ~~title~~ chapter. Survey plats
15 or plans filed under this exemption shall contain a title area, the location of the
16 land, and scale expressed in engineering units. In addition, they shall include
17 inscriptions and data required by zoning and planning boards.

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

1 * * * Professional Regulation Report * * *

2 Sec. 20. FINDINGS AND PURPOSE

3 (a) Findings.

4 (1) The General Assembly finds that multiple State agencies regulate a
5 variety of professions and occupations. This includes the Office of
6 Professional Regulation, which is focused primarily on licensing
7 administration and enforcement and which regulates approximately 60,000
8 licensees across 46 professions. It also includes other State agencies that have
9 other functions as their primary focus, with professional regulation as an
10 ancillary aspect of their duties.

11 (2) The General Assembly further finds that the State should review the
12 organization of professional regulation in the State to determine whether the
13 regulation of certain professions and occupations should be transferred to the
14 Office of Professional Regulation in order to allow State government to
15 operate in a more effective and efficient manner.

16 (3) The General Assembly further finds that the State should review the
17 makeup and supervision of professional regulatory entities in the State to
18 determine whether they comply with antitrust law in light of recent U.S.
19 Supreme Court precedent.

20 (b) Purpose. The purpose of Sec. 2 of this act is to provide the General
21 Assembly and the Office of Professional Regulation with comprehensive
22 information regarding the organizational structures of and the resources that

1 are necessary for other State agencies in regulating the professions and
2 occupations under their jurisdiction. This information will help the General
3 Assembly determine whether the regulation of certain professions and
4 occupations should be transferred to the Office. The purpose is also to provide
5 the General Assembly and the Office of the Attorney General with information
6 regarding the makeup and supervision of the professional regulatory entities in
7 the State to ensure compliance with antitrust law.

8 Sec. 21. PROFESSIONAL REGULATION REPORT

9 On or before December 15, 2016, each of the agencies and departments set
10 forth in subdivision (1) of this section shall provide a written report to the
11 Senate and House Committees on Government Operations, and provide a copy
12 of that report to the Office of Professional Regulation. The report shall contain
13 the information set forth in subdivision (2) of this section for each of the
14 professions or occupations listed in subdivision (1) that are regulated by that
15 agency or department or by a professional regulatory entity under the
16 jurisdiction of the agency or department. On or before July 1, 2016, the
17 Secretary of Administration shall prepare a form that the agencies and
18 departments shall use to file this report, and the Secretary shall assist the
19 agencies and departments as necessary in completing the report.

20 (1) Agencies and departments required to report; listed professions and
21 occupations.

- 1 (A) Agency of Agriculture, Food and Markets:
- 2 (i) dairy technicians;
- 3 (ii) pesticide applicators;
- 4 (iii) weighmasters; and
- 5 (iv) weights and measures repairers.
- 6 (B) Agency of Education: educators.
- 7 (C) Agency of Human Services:
- 8 (i) child care center workers; and
- 9 (ii) child care home providers.
- 10 (D) Agency of Natural Resources:
- 11 (i) water system operators; and
- 12 (ii) well drillers.
- 13 (E) Department of Health:
- 14 (i) physicians;
- 15 (ii) physician assistants;
- 16 (iii) anesthesiologist assistants;
- 17 (iv) podiatrists;
- 18 (v) radiologist assistants;
- 19 (vi) emergency medical personnel;
- 20 (vii) asbestos abatement professionals; and
- 21 (viii) lead abatement professionals.

1 (F) Department of Liquor Control:

2 (i) sellers;

3 (ii) manufacturers;

4 (iii) distributors; and

5 (iv) any other professionals who may be regulated by the

6 Department.

7 (G) Department of Public Safety:

8 (i) electricians;

9 (ii) plumbers;

10 (iii) elevator inspectors;

11 (iv) elevator mechanics;

12 (v) lift mechanics;

13 (vi) commissioned boiler inspectors;

14 (vii) chemical suppression;

15 (viii) chimney sweeps;

16 (ix) fire alarm inspectors;

17 (x) fire sprinkler system designers;

18 (xi) fire sprinkler system installers;

19 (xii) oil burner installers;

20 (xiii) propane gas installers;

21 (xiv) natural gas installers;

22 (xv) precious metal dealers;

1 (xvi) emergency generator installers;

2 (xvii) polygraph examiners; and

3 (xviii) explosive blasters.

4 (2) Information required to be reported.

5 (A) Agency or department name.

6 (B) Regulation type (license, certification, or registration).

7 (C) Number of persons regulated.

8 (D) Legal basis for regulation, including:

9 (i) statutory authority;

10 (ii) administrative rules; and

11 (iii) agency or department policies.

12 (E) Purpose of regulation.

13 (F) A description of stakeholders in the regulation, including:

14 (i) those subject to regulation;

15 (ii) State entities;

16 (iii) consumers or clients;

17 (iv) employers;

18 (v) the public; and

19 (vi) any other applicable persons.

20 (G) A description of the governance structure, such as:

21 (i) a board or commission;

22 (ii) an agency or division head;

1 (iii) a panel; or

2 (iv) a hearing officer.

3 (H) A description of the decision makers:

4 (i) who set application requirements and practice standards;

5 (ii) who make decisions on applicants, enforcement, and
6 discipline; and

7 (iii) specifying whether any decision maker is an active participant
8 in the profession being regulated or, if the decision maker has taken a hiatus
9 from the profession, whether the decision maker plans to return to the
10 profession.

11 (I) Qualifications for regulation, including:

12 (i) examination;

13 (ii) education; and

14 (iii) experience.

15 (J) A description of the application process, including:

16 (i) receiving applications;

17 (ii) reviewing applications;

18 (iii) rejecting applications;

19 (iv) appealing application rejections;

20 (v) issuing licenses, certifications, or registrations; and

21 (vi) the average time to process licenses.

22 (K) The duration of the license, certification, or registration.

1 (L) A description of the renewal process and requirements.

2 (M) Citation of the standards of practice or codes of conduct for
3 persons regulated set forth in:

4 (i) statute;

5 (ii) rule;

6 (iii) policy; or

7 (iv) another location.

8 (N) A description of the enforcement process, including:

9 (i) complaints;

10 (ii) investigations;

11 (iii) prosecutions;

12 (iv) hearings;

13 (v) discipline;

14 (vi) follow-up or monitoring; and

15 (vii) the average time to process complaints and cases.

16 (O) A description of any inspection process.

17 (P) A description of any systems, such as information technology
18 systems, that are used to enable licensing, certification, or registration,
19 renewal, enforcement, and inspection.

20 (Q) Staff members:

21 (i) number of full-time staff;

22 (ii) number of part-time staff;

1 (iii) job titles; and

2 (iv) duties.

3 (R) Budget:

4 (i) annual expenses;

5 (ii) annual revenues;

6 (iii) fees:

7 (I) the amount charged;

8 (II) how fee amounts are determined and set;

9 (III) the authority to establish those fees; and

10 (IV) how revenues from fees are used, indicating the specific
11 uses if those revenues are used for purposes other than regulating the
12 profession.

13 (iv) General Fund or special fund deposits; and

14 (v) appropriations from the General Fund.

15 (S) A description and the qualifications of any supervisor responsible
16 for the oversight of the agency's or department's professional regulatory entity
17 and whether that supervisor has the ability to veto or modify any decision by
18 that professional regulatory entity.

19 (T) Any other information the agency or department believes is
20 relevant for the purpose of this report.

1 * * * Licensure by the Office of Professional Regulation

2 and the Agency of Education * * *

3 Sec. 22. 16 V.S.A. § 1696 is amended to read:

4 § 1696. LICENSING

5 * * *

6 (g) Dual licensure. The Secretary and the Office of Professional
7 Regulation shall jointly create a process for facilitating the issuance of
8 professional licenses from both offices to the individuals seeking them.

9 Sec. 23. 3 V.S.A. § 123 is amended to read:

10 § 123. DUTIES OF OFFICE

11 * * *

12 (h) The Office and the Secretary of Education shall jointly create a process
13 for facilitating the issuance of professional licenses from both offices to the
14 individuals seeking them.

15 * * * Effective Dates * * *

16 Sec. 24. EFFECTIVE DATES

17 This act shall take effect on July 1, 2016, except:

18 (1) this section and Secs. 20 (findings and purpose) and 21 (professional
19 regulation report) shall take effect on passage;

20 (2) Secs. 2-5 (regarding alcohol and drug abuse counselors) shall take
21 effect on September 1, 2016;

1 (3) Secs. 8-14 (regarding potable water supply and wastewater system
2 designers and pollution abatement facility operators) shall take effect on
3 January 1, 2017; and

4 (4) Sec. 17, 26 V.S.A. § 3202 (social workers; prohibition) shall take
5 effect on July 1, 2017.

6

7 (Committee vote: _____)

8

9

Senator _____

10

FOR THE COMMITTEE