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H.684

Introduced by Representative Townsend of South Burlington

Referred to Committee on

Date:

Subject: Professions and occupations; Office of Professional Regulation;
miscellaneous

Statement of purpose of bill as introduced: This bill proposes to make
miscellaneous amendments to statutes governing professions and occupations
regulated by the Office of Professional Regulation.

An act relating to professions and occupations regulated by the Office of
Professional Regulation

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

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

(a) The Office shall provide administrative, secretarial, financial,
investigatory, inspection, and legal services to the boards. The services
provided by the Office shall include:

* * *

1 (9) Standardizing, to the extent feasible and with the advice of the
2 boards, all applications, licenses, and other related forms and procedures, and
3 adopting uniform procedural rules governing the investigatory and disciplinary
4 process for all boards set forth in section 122 of this chapter.

5 * * *

6 (11) Assisting the boards in ~~adopting, amending, and repealing~~
7 developing rules consistent with the principles set forth in 26 V.S.A.
8 chapter 57. Notwithstanding any provision of law to the contrary, the
9 Secretary of State shall serve as the adopting authority for those rules.

10 * * *

11 (g) The Office of Professional Regulation shall ~~create a process~~ establish
12 uniform procedures applicable to all of the professions and boards set forth in
13 section 122 of this chapter, providing for:

14 (1) ~~accepting~~ appropriate recognition of education, training, or service
15 completed by a member of the U.S. Armed Forces toward the requirements of
16 professional licensure ~~or certification~~; and

17 (2) ~~creating a process for educational institutions under the supervision~~
18 ~~of a licensing board to award educational credits to a member of the U.S.~~
19 ~~Armed Forces for courses taken as part of the member's military training or~~
20 ~~service that meet the standards of the American Council on Education; and~~

1 ~~(3) expediting the~~ expedited issuance of a professional license to a
2 person who is licensed in good standing in another regulatory jurisdiction and:

3 (A) ~~who is certified or licensed in another state ;~~

4 ~~(B)~~ whose spouse is a member of the U.S. Armed Forces and who
5 has been subject to a military transfer to Vermont; and

6 ~~(C)~~(B) who left employment to accompany his or her spouse to
7 Vermont.

8 * * *

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

10 § 127. UNAUTHORIZED PRACTICE

11 (a) When the Office receives a complaint of unauthorized practice, the
12 Director shall refer the complaint to ~~the appropriate board for investigation~~
13 Office investigators and prosecutors.

14 (b)(1) A person practicing a regulated profession without authority or an
15 employer permitting such practice may, upon the complaint of the Attorney
16 General or a State's Attorney or an attorney assigned by the Office of
17 Professional Regulation, be enjoined ~~there from~~ therefrom by the Superior
18 Court where the violation occurred or the Washington County Superior Court
19 and may be assessed a civil penalty of not more than \$1,000.00.

20 (2)(A) The Attorney General or an attorney assigned by the Office of
21 Professional Regulation may elect to bring an action seeking only a civil

1 penalty of not more than \$1,000.00 for practicing or permitting the practice of
2 a regulated profession without authority before the board having regulatory
3 authority over the profession or before an administrative law officer.

4 (B) Hearings shall be conducted in the same manner as disciplinary
5 hearings.

6 (3)(A) A civil penalty imposed by a board or administrative law officer
7 under this subsection (b) shall be deposited in the Professional Regulatory Fee
8 Fund established in section 124 of this ~~title~~ chapter for the purpose of
9 providing education and training for board members and advisor appointees.

10 (B) The Director shall detail in the annual report receipts and
11 expenses from these civil penalties.

12 * * *

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

17 (A) if reinstatement occurs within 30 days after the expiration date,
18 \$100.00; or

19 (B) if reinstatement occurs more than 30 days after the expiration
20 date, an amount equal to the renewal fee increased by \$40.00 for every

1 additional month or fraction of a month, provided the total penalty shall not
2 exceed \$1,500.00.

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

6 (3) A licensee seeking reinstatement may submit a petition for relief
7 from the reinstatement penalty, which a board may grant only upon a finding
8 of exceptional circumstances or extreme hardship to the licensee; provided,
9 however, that fees under this subsection shall not be assessed for any period
10 during which a licensee was a member of the U.S. Armed Forces on
11 active duty.

12 * * *

13 Sec. 3. 3 V.S.A. § 128 is amended to read:

14 § 128. DISCIPLINARY ACTION TO BE REPORTED TO THE OFFICE

15 * * *

16 (c) Information provided to the Office under this section shall be
17 confidential unless the ~~board~~ Office decides to treat the report as a complaint,
18 in which case the provisions of section 131 of this title shall apply.

19 * * *

1 Sec. 4. 3 V.S.A. § 129 is amended to read:

2 § 129. POWERS OF BOARDS; DISCIPLINE PROCESS

3 (a) In addition to any other provisions of law, a board may exercise the
4 following powers:

5 (1) ~~Adopt procedural~~ Consistent with other law and State policy,
6 develop administrative rules governing the investigatory and disciplinary
7 process establishing evidence-based standards of practice appropriate to secure
8 and promote the public health, safety, and welfare; open and fair competition
9 within the marketplace for professional services; interstate mobility of
10 professionals; and public confidence in the integrity of professional services.

11 * * *

12 Sec. 5. 3 V.S.A. § 129a is amended to read:

13 § 129a. UNPROFESSIONAL CONDUCT

14 (a) In addition to any other provision of law, the following conduct by a
15 licensee constitutes unprofessional conduct. When that conduct is by an
16 applicant or person who later becomes an applicant, it may constitute grounds
17 for denial of a license or other disciplinary action. Any one of the following
18 items; or any combination of items, whether ~~or not~~ the conduct at issue was
19 committed within or outside the State, shall constitute unprofessional conduct:

20 * * *

1 (25) For providers of clinical care to patients, failing to have in place a
2 plan for responsible disposition of patient health records in the event the
3 licensee should become incapacitated or unexpectedly discontinue practice.

4 * * *

5 Sec. 6. 3 V.S.A. § 134 is added to read:

6 § 134. LICENSE RENEWAL

7 (a) A license expires if not renewed biennially on a schedule assigned by
8 the Office, or in the case of a provisional or temporary license, on the date
9 assigned by the Office.

10 (b) Practice with an expired license is unlawful and exposes a practitioner
11 to the penalties set forth in section 127 of this chapter.

12 Sec. 7. 3 V.S.A. § 135 is added to read:

13 § 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING

14 EXTENDED ABSENCE

15 (a) Notwithstanding any provision of law to the contrary, when an
16 applicant seeks to renew an expired or lapsed license after fewer than five
17 years of absence from practice, readiness to practice shall be inferred from
18 completion of any continuing education that would have been required if the
19 applicant had maintained continuous licensure or by any less burdensome
20 showing set forth in administrative rules specific to the profession.

1 (b) When an applicant seeks to renew an expired or lapsed license after five
2 or more years of absence from practice, the Director may, notwithstanding any
3 provision of law to the contrary and as appropriate to ensure the continued
4 competence of the applicant, determine that the applicant has either:

5 (1) demonstrated retention of required professional competencies and
6 may obtain an unencumbered license; or

7 (2) not demonstrated retention of all required professional competencies
8 and should be reexamined or required to reapply in like manner to a new
9 applicant.

10 (c) The Director may consult with a relevant board or advisor appointees
11 for guidance in assessing continued competence under this section.

12 Sec. 8. 3 V.S.A. § 136 is added to read:

13 § 136. UNIFORM CONTINUING EDUCATION EVALUATION

14 If continuing education is required by law or rule, the Office shall apply
15 uniform standards and processes that apply to all professions regulated by the
16 Office for the assessment and approval or rejection of continuing education
17 offerings, informed by profession-specific policies developed in consultation
18 with relevant boards and advisor appointees.

1 * * * Pollution Abatement Facility Operators * * *

2 Sec. 9. 10 V.S.A. § 1263 is amended to read:

3 § 1263. DISCHARGE PERMITS

4 * * *

5 (d) A discharge permit shall:

6 * * *

7 (2) Require proper operation and maintenance of any pollution
8 abatement facility necessary in the treatment or processing of the waste by
9 qualified personnel in accordance with standards established by the Secretary
10 and the Director of the Office of Professional Regulation. The Secretary may
11 require that a pollution abatement facility be operated by persons licensed
12 under 26 V.S.A. chapter 97 99 and may prescribe the class of license required.
13 The Secretary may require a laboratory quality assurance sample program to
14 ensure qualifications of laboratory analysts.

15 * * *

16 * * * Barbers and Cosmetologists * * *

17 Sec. 10. 26 V.S.A. chapter 6 is amended to read:

18 CHAPTER 6. BARBERS AND COSMETOLOGISTS

19 § 271. DEFINITIONS

20 ~~For the purposes of~~ As used in this chapter:

21 * * *

1 ~~(6) “Financial interest” means being:~~

2 ~~(A) a licensed barber;~~

3 ~~(B) a licensed cosmetologist; or~~

4 ~~(C) a person who has invested anything of value in a business that~~
5 ~~provides barbering or cosmetology services.~~

6 ~~(7)~~ “Manicuring” or “nail technician practice” means the nonmedical
7 treatment of a person’s fingernails or toenails or the skin in the vicinity of the
8 nails, and includes the use of cosmetic preparations or appliances.

9 ~~(8)~~(7) “School of barbering or cosmetology” means a facility or
10 facilities regularly used to train or instruct persons in the practice of barbering
11 or cosmetology.

12 ~~(9)~~(8) “Shop” means a facility or facilities regularly used to offer or
13 provide barbering or cosmetology.

14 * * *

15 § 273. EXEMPTIONS

16 The provisions of this chapter regulating barbers and cosmetologists
17 shall not:

18 * * *

19 (3) prohibit a licensee from providing barbering or cosmetology services
20 outside a licensed shop so long as those services are limited to only:

1 (A) patients or residents within a hospital, nursing home, community
2 care home, or any similar facility;

3 (B) persons who are homebound, disabled, or in a hospice or similar
4 program, or to deceased persons in a funeral home;

5 (C) persons as part of a special ~~occasion~~ event ~~so long as these~~
6 ~~services are limited to hair styling and makeup,~~ and the sanitation standards
7 expected of licensees in licensed shops are followed;

8 * * *

9 (5) affect or prevent the practice of barbering or cosmetology outside a
10 registered shop or school by licensees in accordance with rules adopted by the
11 ~~board~~ Board;

12 (6) affect or prevent the practice of barbering or cosmetology within the
13 confines of a State correctional facility by a person incarcerated therein, who
14 has completed training acceptable to the Commissioner of Corrections; or

15 (7) affect or prevent the practice of natural hair braiding or styling,
16 provided such practice does not involve cutting; the application of chemicals,
17 dyes, or heat; or other changes to the structure of hair.

18 § 274. PENALTY

19 A person who violates any provision of section 272 of this ~~title~~ chapter shall
20 be subject to the penalties provided in 3 V.S.A. § 127(e).

1 § 275. CREATION OF BOARD

2 * * *

3 ~~(f) A majority of the members of the board shall constitute a quorum for~~
4 ~~transacting business, and all action shall be taken upon a majority vote of the~~
5 ~~members present and voting.~~

6 § 276. GENERAL POWERS AND DUTIES OF THE BOARD

7 (a) The ~~board~~ Board shall:

8 (1) ~~Adopt~~ adopt rules that:

9 * * *

10 (D) establish qualifications for licensure under this chapter as:

11 (i) a barber, provided mandated formal training shall not exceed
12 750 hours;

13 (ii) a cosmetologist, provided mandated formal training shall not
14 exceed 1,000 hours;

15 (iii) an esthetician, provided mandated formal training shall not
16 exceed 500 hours; and

17 (iv) a nail technician, provided mandated formal training shall not
18 exceed 200 hours; and

19 (E)(i) establish criteria for apprenticeships that would enable a person
20 seeking licensure under this chapter to train under an appropriately qualified

1 Vermont licensee in order to attain licensure without mandated formal
2 training; and

3 (ii) limit a required apprenticeship duration to not more than
4 150 percent of the duration of the corresponding formal training.

5 * * *

6 § 277. QUALIFICATIONS; BARBER

7 ~~(a) A person shall be eligible for licensure as a barber if the person is at~~
8 ~~least 18 years of age, has a high school or general educational development~~
9 ~~diploma, and has satisfactorily completed an accredited barber school program;~~
10 ~~or has satisfactorily completed an apprenticeship of not less than 12 months~~
11 ~~and not more than 36 months consisting of a minimum of 2,000 hours and a~~
12 ~~maximum of 3,000 hours in a manner prescribed by the board in addition to~~
13 ~~areas of study, prescribed by the board, by rule, has a high school or general~~
14 ~~educational development diploma, and has passed the examination described in~~
15 ~~section 283 of this title.~~

16 ~~(b) The board shall issue a limited barbering license, with an endorsement~~
17 ~~for cutting, shampooing, and styling hair and for mustache and beard~~
18 ~~trimming, to any person incarcerated in a state correctional facility who~~
19 ~~completes, while under the direct personal supervision of a barber licensed by~~
20 ~~the board, a course of training of not less than 10 hours in cutting, shampooing,~~
21 ~~and styling hair and trimming of mustache and beard. Such limited license~~

1 ~~shall be valid only within a state correctional facility. No fees shall be charged~~
2 ~~for a limited license issued under this subsection. [Repealed.]~~

3 § 278. ~~QUALIFICATIONS; COSMETOLOGIST~~

4 ~~A person shall be eligible for licensure as a cosmetologist if the person is at~~
5 ~~least 18 years of age, has a high school or general educational development~~
6 ~~diploma, and has satisfactorily completed the following:~~

7 ~~(1) a course of study of at least 1,500 hours at a school of cosmetology~~
8 ~~approved by an accrediting body recognized by the United States Department~~
9 ~~of Education or approved by the board under standards that the board has~~
10 ~~adopted by rule and passage of the examination described in section 283 of this~~
11 ~~title; or~~

12 ~~(2) an apprenticeship of not less than 12 months and not more than~~
13 ~~36 months consisting of not less than 2,000 hours and a maximum of 3,000~~
14 ~~hours in a manner prescribed by the board in addition to courses, as prescribed~~
15 ~~by the board by rule, and passage of the examination described in section 283~~
16 ~~of this title. [Repealed.]~~

17 § 279. ~~QUALIFICATIONS; ESTHETICIAN~~

18 ~~A person shall be eligible for licensure as an esthetician if the person is at~~
19 ~~least 18 years of age, has a high school or general educational development~~
20 ~~diploma, and has satisfactorily completed the following:~~

1 ~~(1) a course of study in esthetics of at least 600 hours at a school of~~
2 ~~cosmetology approved by an accrediting body recognized by the United States~~
3 ~~Department of Education or approved by the board under standards that the~~
4 ~~board has adopted by rule; or~~

5 ~~(2) an apprenticeship of not less than 12 months and not more than 18~~
6 ~~months, consisting of a minimum of 800 hours and a maximum of 1,200 hours,~~
7 ~~as prescribed by the board by rule; and has passed the examination described in~~
8 ~~section 283 of this title. [Repealed.]~~

9 § 280. QUALIFICATIONS; NAIL TECHNICIAN

10 ~~A person shall be eligible for licensure as a nail technician if the person is at~~
11 ~~least 18 years of age, has a high school or general educational development~~
12 ~~diploma, and has satisfactorily completed:~~

13 ~~(1) a course of study in manicuring of at least 400 hours at a school of~~
14 ~~cosmetology approved by an accrediting body recognized by the United States~~
15 ~~Department of Education or approved by the board under standards that the~~
16 ~~board has adopted by rule; or~~

17 ~~(2) an apprenticeship of not less than six months and not more than~~
18 ~~12 months consisting of a minimum of 600 hours and a maximum of 900~~
19 ~~hours, as prescribed by the board by rule, and has passed the examination~~
20 ~~described in section 283 of this title. [Repealed.]~~

1 § 281. POSTSECONDARY SCHOOL OF BARBERING AND
2 COSMETOLOGY; CERTIFICATE OF APPROVAL

3 (a) ~~No~~ A school of barbering or cosmetology shall not be granted a
4 certificate of approval unless the school:

5 * * *

6 (4) Requires a school term of training:-

7 ~~(A) in the case of a school of barbering, of not less than 1,000 hours~~
8 ~~for a complete course that includes all or the majority of the practices of~~
9 ~~barbering, and includes practical demonstrations and theoretical studies in~~
10 ~~sanitation, sterilization, the use of antiseptics, and electrical appliances,~~
11 ~~consistent with the practical and theoretical requirements applicable to~~
12 ~~barbering or any practice of barbering; and~~

13 ~~(B) in the case of a school of cosmetology, requires a school term of~~
14 ~~training of not less than 1,500 hours for a complete course that includes all or~~
15 ~~the majority of the practices of cosmetology, and includes practical~~
16 ~~demonstrations and theoretical studies in sanitation, sterilization, the use of~~
17 ~~antiseptics, cosmetics, and electrical appliances, consistent with the practical~~
18 ~~and theoretical requirements applicable to cosmetology or any practice of~~
19 ~~cosmetology~~ consistent with formal training requirements established by rule,
20 which shall include practical demonstrations and theoretical studies in

1 sanitation, sterilization, the use of antiseptics, and the use of appliances,
2 devices, treatments, and preparations relevant to the field of licensure.

3 * * *

4 § 285. LICENSES FROM OTHER JURISDICTIONS

5 Without requiring an examination, the ~~board~~ Board shall issue an
6 appropriate license to a person who is licensed or certified in good standing
7 under the laws of another jurisdiction with requirements ~~that the board~~
8 considers to be:

9 (1) substantially equal to those of this state State; or

10 (2) materially less rigorous than those of this State, if the person has had
11 1,500 documented hours of practice in not less than one year.

12 § 286. ~~RENEWAL AND REINSTATEMENT~~

13 ~~The holder of a license issued by the board pursuant to this chapter may~~
14 ~~biennially renew the license upon payment of the renewal fee. A license that~~
15 ~~has not been renewed by the renewal date shall expire. Within three years of~~
16 ~~the date of expiration, the holder of the expired license may apply for~~
17 ~~reinstatement upon the payment of the renewal fee and a renewal penalty. If a~~
18 ~~license is not reinstated within three years of expiration, the applicant shall~~
19 ~~meet the requirements of section 284 or 285 of this title before the license may~~
20 ~~be reinstated. [Repealed.]~~

21 * * *

1 § 288. ~~UNPROFESSIONAL CONDUCT~~

2 ~~The conduct listed in this section and in 3 V.S.A. § 129a constitutes~~
3 ~~unprofessional conduct when committed by a licensee. When that conduct is~~
4 ~~by an applicant or person who later becomes an applicant, it may constitute~~
5 ~~grounds for denial of a license or other disciplinary action:~~

6 ~~(1) Practicing or offering to practice beyond the scope permitted by law.~~

7 ~~(2) Willfully materially misrepresenting the qualifications or experience~~
8 ~~of an applicant in the practice of the occupation, whether by commission or~~
9 ~~omission.~~

10 ~~(3) Failing to adequately supervise employees who are engaged in any~~
11 ~~of the practices of barbering or cosmetology and nail technician practice.~~

12 ~~(4) Harassing, intimidating, or abusing a client or customer.~~

13 ~~(5) Performing treatments or providing services which a licensee is not~~
14 ~~qualified to perform or which are beyond the licensee's education, training,~~
15 ~~capabilities, experience, or scope of practice. [Repealed.]~~

16 § 289. ~~LICENSURE BY ENDORSEMENT~~

17 ~~The board may issue a license to an individual who is currently licensed or~~
18 ~~certified in another jurisdiction in good standing, provided the individual has~~
19 ~~been in active practice for at least three years immediately preceding~~
20 ~~application or has 2,000 documented hours of practice in not less than one~~
21 ~~year. [Repealed.]~~

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* * * Dentistry * * *

Sec. 11. 26 V.S.A. chapter 12 is amended to read:

CHAPTER 12. DENTISTS, DENTAL THERAPISTS, DENTAL
HYGIENISTS, AND DENTAL ASSISTANTS

* * *

Subchapter 3. Dentists

§ 601. LICENSE BY EXAMINATION

To be eligible for licensure as a dentist, an applicant shall:

(1) have attained the age of majority;

(2) be a graduate of:

(A) a dental college accredited by the Commission on Dental

Accreditation of the American Dental Association; or

(B) a program of foreign dental training and a postgraduate program

accredited by the Commission on Dental Accreditation of the American Dental

Association that is acceptable to the Board; and

(3) meet the certificate, examination, and training requirements

established by the ~~board~~ Board by rule.

* * *

1 Subchapter 6. Renewals, Continuing Education, and Fees

2 * * *

3 § 663. ~~LAPSED LICENSES OR REGISTRATIONS~~

4 (a) ~~Failure to renew a license by the renewal date shall result in a lapsed~~
5 ~~license subject to late renewal penalties pursuant to 3 V.S.A. § 125(a)(1).~~

6 (b) ~~A person whose license or registration has lapsed may not practice and~~
7 ~~may be subject to disciplinary action.~~

8 (c) ~~Notwithstanding the provisions of subsection (a) of this section, a~~
9 ~~person shall not be required to pay renewal fees or late renewal penalties for~~
10 ~~years spent on active duty in the armed forces of the United States. A person~~
11 ~~who returns from active duty shall be required to pay only the most current~~
12 ~~biennial renewal fee. [Repealed.]~~

13 * * * Professional Engineers * * *

14 Sec. 12. 26 V.S.A. § 1163 is amended to read:

15 § 1163. EXEMPTIONS

16 (a) Persons exempt. Section 1162 of this chapter does not prohibit acts
17 constituting the practice of engineering performed as a necessary part of the
18 duties of:

19 * * *

20 (4) ~~certain classes of licensed~~ a potable water supply and wastewater
21 ~~system designers, as designated by rule of the Secretary of Natural Resources,~~

1 ~~who design supplies or systems with a design flow of up to 1,350 gallons per~~
2 ~~day and who are designer licensed under ~~10 V.S.A. chapter 64~~ chapter 97 of~~
3 ~~this title acting within the scope of practice of that license;~~

4 * * *

5 * * * Nursing * * *

6 Sec. 13. 26 V.S.A. chapter 28 is amended to read:

7 CHAPTER 28. NURSING

8 Subchapter 1. General Provisions

9 * * *

10 § 1573. VERMONT STATE BOARD OF NURSING

11 (a) There is hereby created a the Vermont State Board of Nursing
12 consisting of six registered nurses, including at least two licensed as advanced
13 practice registered nurses; two practical nurses; one nursing assistant; and
14 two public members. Board members shall be appointed by the Governor
15 pursuant to 3 V.S.A. §§ 129b and 2004.

16 * * *

17 ~~(d) Six members of the Board shall constitute a quorum.~~

18 § 1579. ~~ISSUANCE AND DURATION OF LICENSES~~

19 ~~Licenses and endorsements shall be renewed every two years on a schedule~~
20 ~~determined by the Office of Professional Regulation. [Repealed.]~~

21 * * *

1 § 1584. PROHIBITIONS; OFFENSES

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

4 * * *

5 ~~(8) [Deleted.]~~

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

8 ~~(c) [Deleted.]~~

9 * * *

10 Subchapter 2. Advanced Practice Registered Nurses

11 * * *

12 ~~§ 1612. PRACTICE GUIDELINES~~

13 ~~(a) APRN licensees who intend to or are engaged in clinical practice as an~~
14 ~~APRN shall submit for review individual practice guidelines and receive Board~~
15 ~~approval of the practice guidelines. Practice guidelines shall reflect current~~
16 ~~standards of advanced nursing practice specific to the APRN's role, population~~
17 ~~focus, and specialty.~~

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

20 ~~(1) prior to initial employment;~~

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

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

5 § 1613. TRANSITION TO PRACTICE

6 ~~(a) Graduates with fewer than 24 months and 2,400 hours of licensed active~~
7 ~~advanced nursing practice in an initial role and population focus or fewer than~~
8 ~~12 months and 1,600 hours for any additional role and population focus shall~~
9 ~~have a formal agreement with a collaborating provider as required by board~~
10 ~~rule. APRNs shall have and maintain signed and dated copies of all required~~
11 ~~collaborative provider agreements as part of the practice guidelines. An APRN~~
12 ~~required to practice with a collaborative provider agreement may not engage in~~
13 ~~solo practice, except with regard to a role and population focus in which the~~
14 ~~APRN has met the requirements of this subsection.~~

15 ~~(b) An APRN who satisfies the requirements to engage in solo practice~~
16 ~~pursuant to subsection (a) of this section shall notify the board that these~~
17 ~~requirements have been met. [Repealed.]~~

1 § 1614. APRN RENEWAL

2 An APRN license renewal application shall include:

3 (1) documentation of completion of the APRN practice requirement;

4 (2) and possession of a current certification by a national APRN

5 specialty certifying organization;

6 (3) ~~current practice guidelines; and~~

7 (4) ~~a current collaborative provider agreement if required for transition~~
8 ~~to practice.~~

9 § 1615. ADVANCED PRACTICE REGISTERED NURSES;

10 REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

11 (a) In addition to the provisions of 3 V.S.A. § 129a and section 1582 of this
12 chapter, the Board may deny an application for licensure, renewal, or
13 reinstatement, or may revoke, suspend, or otherwise discipline an advanced
14 practice registered nurse upon due notice and opportunity for hearing if the
15 person engages in the following conduct:

16 * * *

17 (4) Practice beyond those acts and situations that are within the ~~practice~~
18 ~~guidelines approved by the Board for an APRN and within the limits of the~~
19 ~~knowledge and experience of the APRN, and, for an APRN who is practicing~~
20 ~~under a collaborative agreement, practice beyond those acts and situations that~~

1 ~~are within both the usual scope of the collaborating provider's practice and the~~
2 ~~terms of the collaborative agreement.~~

3 (5) ~~For an APRN who acts as the collaborating provider for an APRN~~
4 ~~who is practicing under a collaboration agreement, allowing the mentored~~
5 ~~APRN to perform a medical act that is outside the usual scope of the mentor's~~
6 ~~own practice or that the mentored APRN is not qualified to perform by training~~
7 ~~or experience or that is not consistent with the requirements of this chapter and~~
8 ~~the rules of the Board. [Repealed.]~~

9 * * *

10 Subchapter 3. Registered Nurses and Practical Nurses

11 * * *

12 § 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT

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

15 (1) hold a current license to practice registered nursing in another U.S.
16 jurisdiction based on education in a ~~U.S.~~ nursing program acceptable to the
17 Board; and

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

19 * * *

1 § 1626. PRACTICAL NURSE LICENSURE BY ENDORSEMENT

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

4 (1) hold a current license to practice practical nursing in another U.S.
5 jurisdiction based on education in a ~~U.S.~~ nursing program acceptable to the
6 Board; and

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

8 * * *

9 Subchapter 4. Nursing Assistants

10 * * *

11 § 1645. RENEWAL

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

14 (b) The Board shall credit as active practice those activities, regardless of
15 title or obligation to hold a license, that reasonably tend to reinforce the
16 training and skills of a licensee.

17 * * *

18 Sec. 14. NURSING COMPACT ASSESSMENT

19 (a) The Board of Nursing and the Office of Professional Regulation shall
20 assess the costs and benefits of participation in licensure compacts for nurses at
21 various levels of licensure.

1 (b) On or before March 15, 2019, the Office shall report its assessment to
2 the House and Senate Committees on Government Operations. The report may
3 be in verbal form.

4 * * * Pharmacy * * *

5 Sec. 15. 26 V.S.A. chapter 36 is amended to read:

6 CHAPTER 36. PHARMACY

7 Subchapter 1. General Provisions

8 * * *

9 § 2022. DEFINITIONS

10 As used in this chapter:

11 * * *

12 (4) “Disciplinary action” or “disciplinary cases” includes any action
13 taken by the Board against a licensee or others premised upon a finding of
14 ~~wrongdoing or~~ unprofessional conduct by the licensee. It includes all
15 sanctions of any kind, including obtaining injunctions, issuing warnings, and
16 other similar sanctions.

17 * * *

18 (7) “Drug outlet” means all pharmacies, ~~nursing homes, convalescent~~
19 ~~homes, extended care facilities, drug abuse treatment centers, family planning~~
20 ~~clinics, retail stores, hospitals, wholesalers, manufacturers, any authorized~~

1 ~~treatment centers, and mail order vendors~~ other entities that are engaged in the
2 dispensing, delivery, or distribution of prescription drugs.

3 * * *

4 (10) “Manufacturer” means ~~anyone who is engaged in manufacturing,~~
5 ~~preparing, propagating, compounding, processing, packaging, repackaging, or~~
6 ~~labeling of a prescription drug~~ a person, regardless of form, engaged in the
7 manufacturing of drugs or devices.

8 (11)(A) “Manufacturing” means the production, preparation,
9 propagation, conversion, or processing of a drug or device, either directly or
10 indirectly, by extraction from substances of natural origin or independently by
11 means of chemical or biological synthesis.

12 (B) “Manufacturing” includes the packaging or repackaging of a drug
13 or device or the labeling or relabeling of the container of a drug or device for
14 resale by a pharmacy, practitioner, or other person.

15 (12) “Nonprescription drugs” means nonnarcotic medicines or drugs
16 that may be sold without a prescription and that are prepackaged for use by the
17 consumer and labeled in accordance with the requirements of the statutes and
18 regulations of this State and the federal government.

19 ~~(12)~~(13) “Pharmacist” means an individual licensed under this chapter.

1 ~~(13)~~(14) “Pharmacy technician” means an individual who performs
2 tasks relative to dispensing only while assisting, and under the supervision and
3 control of, a licensed pharmacist.

4 ~~(14)~~(15)(A) “Practice of pharmacy” means:

5 (i) ~~the interpretation~~ interpreting and ~~evaluation of~~ evaluating
6 prescription orders;

7 (ii) ~~the~~ compounding, dispensing, and labeling ~~of~~ drugs and
8 legend devices (except labeling by a manufacturer, packer, or distributor of
9 nonprescription drugs and commercially packaged legend drugs and legend
10 devices);

11 (iii) ~~the participation~~ participating in drug selection and drug
12 utilization reviews;

13 (iv) ~~the proper and safe storage of~~ properly and safely storing
14 drugs and legend devices, and ~~the maintenance of~~ maintaining proper records
15 therefor;

16 (v) ~~the responsibility for~~ advising, where necessary or where
17 regulated, of therapeutic values, content, hazards, and use of drugs and legend
18 devices;

19 (vi) ~~the~~ providing ~~of~~ patient care services within the pharmacist’s
20 authorized scope of practice;

1 (vii) ~~the optimizing of drug therapy through the practice of clinical~~
2 pharmacy; and

3 (viii) ~~the offering or performing of~~ or offering to perform those
4 acts, services, operations, or transactions necessary in the conduct, operation,
5 management, and control of pharmacy.

6 (B) “Practice of clinical pharmacy” ~~or “clinical pharmacy”~~ means:

7 * * *

8 (ii) ~~the provision of~~ providing patient care services within the
9 pharmacist’s authorized scope of practice, including medication therapy
10 management, comprehensive medication review, and postdiagnostic disease
11 state management services; or

12 (iii) ~~the practice of pharmacy by a pharmacist~~ practicing pharmacy
13 pursuant to a collaborative practice agreement.

14 (C) ~~A rule shall not be adopted by the~~ The Board under this chapter
15 ~~that shall require~~ not adopt any rule requiring that pharmacists or pharmacies
16 be involved in the sale and distribution of nonprescription drugs by a licensed
17 ~~pharmacist or under the supervision of a licensed pharmacist or otherwise~~
18 ~~interfere with the sale and distribution of such medicines;~~ provided, however,
19 that nothing in this subdivision (C) shall limit the authority of the Board to
20 adopt rules applicable to the elective sale or distribution of nonprescription
21 drugs by pharmacists or pharmacies.

1 Subchapter 2. Board of Pharmacy

2 § 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION

3 (a)(1) There is hereby created the ~~board of pharmacy~~ Board of Pharmacy to
4 enforce the provisions of this chapter.

5 (2) The ~~board~~ Board shall consist of seven members, five of whom shall
6 be pharmacists licensed under this chapter with five years of experience in the
7 practice of pharmacy in this ~~state~~ State. Two members shall be members of the
8 public having no financial interest in the practice of pharmacy.

9 (b) Members of the ~~board~~ Board shall be appointed by the ~~governor~~
10 Governor pursuant to 3 V.S.A. §§ 129b and 2004. ~~A majority of members~~
11 ~~shall constitute a quorum, and all action shall be taken upon a majority vote of~~
12 ~~the members present and voting.~~

13 * * *

14 Subchapter 3. Licensing

15 § 2041. UNLAWFUL PRACTICE

16 (a) It shall be unlawful for any person to engage in the practice of
17 pharmacy unless licensed to so practice under the provisions of this chapter;
18 provided, however, physicians, dentists, veterinarians, osteopaths, or other
19 practitioners of the healing arts who are licensed under the laws of this State
20 may dispense and administer prescription drugs to their patients in the practice

1 of their respective professions where specifically authorized to do so by statute
2 of this State.

3 ~~(b)(1) Any person who shall be found by the Board after hearing to have~~
4 ~~unlawfully engaged in the practice of pharmacy shall be subject to disciplinary~~
5 ~~action.~~

6 ~~(2) For the purpose of enforcing this section, the Attorney General or a~~
7 ~~State's Attorney or an attorney assigned by the Office of Professional~~
8 ~~Regulation may commence a criminal action against any person unlawfully~~
9 ~~engaging in the practice of pharmacy, and upon conviction, the person,~~
10 ~~including a business entity, violating this section shall be subject to the~~
11 ~~penalties provided in 3 V.S.A. § 127.~~

12 * * *

13 § 2042b. PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS;
14 SUPERVISION

15 * * *

16 (f)(1) A pharmacist on duty shall be directly responsible for the conduct of
17 a pharmacy technician.

18 (2) A pharmacist responsible for a pharmacy technician shall be on the
19 premises at all times, or in the case of a remote pharmacy approved by the
20 Board, immediately available by a functioning videoconference link.

1 (3) A pharmacist shall verify a prescription before medication is
2 provided to the patient.

3 * * *

4 § 2044. ~~RENEWAL OF LICENSES~~

5 ~~Each person or entity licensed or regulated under the provisions of this~~
6 ~~chapter shall apply for renewal biennially by a date established by the director~~
7 ~~of the office of professional regulation. [Repealed.]~~

8 § 2045. ~~REINSTATEMENT~~

9 ~~(a) The board may renew a license which has lapsed upon payment of the~~
10 ~~required fee and the late renewal penalty, provided all the requirements for~~
11 ~~renewal set by the board by rule, have been satisfied. The board shall not~~
12 ~~require payment of renewal fees for years during which the license was lapsed.~~

13 ~~(b) As a condition of renewal, the board may by rule set reinstatement~~
14 ~~requirements for those whose licenses have lapsed for more than five years.~~
15 [Repealed.]

16 * * *

17 Subchapter 4. ~~Discipline~~

18 § 2051. ~~UNPROFESSIONAL CONDUCT~~

19 ~~The board of pharmacy may refuse to issue or renew, or may suspend,~~
20 ~~revoke, or restrict the licenses of any person, pursuant to the procedures set~~

1 ~~forth in section 2052 of this title, upon one or more of the following grounds~~
2 ~~and upon the grounds set forth in 3 V.S.A. § 129a:~~

3 ~~(1) Unprofessional conduct as that term is defined by the rules and~~
4 ~~regulations of the board;~~

5 ~~(2) Incapacity of a nature that prevents a pharmacist from engaging in~~
6 ~~the practice of pharmacy with reasonable skill, competence, and safety to the~~
7 ~~public;~~

8 ~~(3) Fraud or intentional misrepresentation by a licensee in securing the~~
9 ~~issuance or renewal of a license;~~

10 ~~(4) Engaging or aiding and abetting an individual to engage in the~~
11 ~~practice of pharmacy without a license or to falsely use the title of pharmacist;~~

12 ~~(5) Being found by the board to be in violation of any of the provisions~~
13 ~~of this chapter or rules and regulations adopted pursuant to this chapter.~~

14 ~~§ 2052. PENALTIES AND REINSTATEMENT~~

15 ~~(a)(1) Upon the finding, after notice and opportunity for hearing, of the~~
16 ~~existence of grounds for discipline of any person or any drug outlet holding a~~
17 ~~license, under the provisions of this chapter, the board of pharmacy may~~
18 ~~impose one or more of the following penalties:~~

19 ~~(A) Suspension of the offender's license for a term to be determined~~
20 ~~by the board;~~

21 ~~(B) Revocation of the offender's license;~~

1 ~~(C) Restriction of the offender's license to prohibit the offender from~~
2 ~~performing certain acts or from engaging in the practice of pharmacy in a~~
3 ~~particular manner for a term to be determined by the board;~~

4 ~~(D) Placement of the offender under the supervision of the board for~~
5 ~~a period to be determined and under conditions set by the board;~~

6 ~~(E) A requirement to perform up to 100 hours of public service, in a~~
7 ~~manner and at a time and place to be determined by the board;~~

8 ~~(F) A requirement of a course of education or training;~~

9 ~~(G) An administrative penalty as provided in 3 V.S.A. § 129a(d).~~

10 ~~(2) [Deleted.]~~

11 ~~(b) Any person or drug outlet whose license to practice pharmacy in this~~
12 ~~state has been suspended, revoked, or restricted pursuant to this chapter,~~
13 ~~whether voluntarily or by action of the board, shall have the right, at~~
14 ~~reasonable intervals, to petition the board for reinstatement of such license.~~
15 ~~Such petition shall be made in writing and in the form prescribed by the board.~~
16 ~~Upon hearing, the board may in its discretion grant or deny such petition or it~~
17 ~~may modify its original finding to reflect any circumstances which have~~
18 ~~changed sufficiently to warrant such modifications.~~

19 ~~(c) Nothing herein shall be construed as barring criminal prosecutions for~~
20 ~~violations of this chapter where such violations are deemed as criminal~~
21 ~~offenses in other statutes of this state or of the United States.~~

1 ~~(d) All final decisions by the board shall be subject to review pursuant to~~

2 ~~3 V.S.A. § 130a. [Repealed.]~~

3 Subchapter 5. Registration of Facilities

4 § 2061. REGISTRATION AND LICENSURE

5 (a) All drug outlets shall biennially register with the Board of Pharmacy.

6 (b) Each drug outlet shall apply for a license in one or more of the
7 following classifications:

8 (1) ~~Retail drug outlet.~~

9 (2) ~~Institutional drug outlet.~~

10 (3) ~~Manufacturing drug outlet~~ Manufacturer.

11 (4) ~~Wholesale drug outlet or wholesale drug~~ distributor.

12 (5) Investigative and research projects.

13 (6) Compounding.

14 (7) Outsourcing.

15 (8) Home infusion.

16 (9) Nuclear.

17 § 2064. VIOLATIONS AND PENALTIES

18 (a) ~~No~~ A drug outlet designated in section 2061 of this ~~title~~ subchapter
19 shall not be operated until a license has been issued to ~~said~~ that outlet by the
20 board Board. ~~Upon the finding of a violation of this section, the board may~~
21 ~~impose one or more of the penalties enumerated in section 2052 of this title.~~

1 (b) ~~Reinstatement of a license that has been suspended, revoked, or~~
2 ~~restricted by the board may be granted in accordance with the procedures~~
3 ~~specified by subsection 2052(b) of this title~~ Unauthorized operation of a drug
4 outlet may be penalized as provided in 3 V.S.A. § 127 and shall constitute
5 unprofessional conduct by the licensees involved.

6 Subchapter 6. Wholesale ~~Drug~~ Distributors

7 § 2067. WHOLESALE ~~DRUG~~ DISTRIBUTOR; LICENSURE REQUIRED

8 (a) A person who is not licensed under this subchapter shall not engage in
9 wholesale ~~drug~~ distribution in this State.

10 (b) [Repealed.]

11 * * *

12 (d) An agent or employee of any licensed wholesale ~~drug~~ distributor shall
13 not be required to obtain a license under this subchapter and may lawfully
14 possess pharmaceutical drugs when that agent or employee is acting in the
15 usual course of business or employment.

16 * * *

17 § 2071. APPLICATION OF FEDERAL GUIDELINES

18 (a) The requirements set forth in sections 2068 and 2069 of this ~~title~~
19 chapter shall conform to wholesale ~~drug~~ distributor licensing guidelines
20 formally adopted by the ~~United States~~ U.S. Food and Drug Administration
21 (FDA).

1 **(b)** In case of conflict between any wholesale ~~drug~~ distributor licensing
2 requirement imposed by the ~~board~~ Board under this chapter and any FDA
3 wholesale ~~drug~~ distributor licensing guideline, the latter shall control.

4 § 2072. ~~LICENSE RENEWAL~~

5 ~~Licenses and registrations shall be renewed biennially on a schedule as~~
6 ~~determined by the office of professional regulation. [Repealed.]~~

7 § 2073. RULES

8 **(a)** The ~~board~~ Board may adopt rules necessary to carry out the purposes of
9 the provisions of this subchapter.

10 **(b)** All rules adopted under this subchapter shall conform to wholesale ~~drug~~
11 distributor licensing guidelines formally adopted by the ~~Federal Drug~~
12 ~~Administration~~ FDA at 21 C.F.R. Part 205.

13 § 2074. ~~COMPLAINTS~~

14 ~~Complaints arising under this subchapter shall be handled according to the~~
15 ~~policies and procedures for handling complaints adopted by the director of the~~
16 ~~office of professional regulation. [Repealed.]~~

17 § 2075. ~~PENALTIES~~

18 ~~After notice and opportunity for hearing, the board may suspend, revoke,~~
19 ~~limit, or condition a license granted under this subchapter if the board finds~~
20 ~~that the licensee:~~

1 ~~(1) violated a provision of this subchapter or a rule adopted by the board~~
2 ~~under this subchapter; or~~

3 ~~(2) has been convicted of a violation of a federal or state drug law.~~
4 [Repealed.]

5 § 2076. INSPECTION POWERS; ACCESS TO WHOLESALE DRUG
6 DISTRIBUTOR RECORDS

7 (a) A person authorized by the ~~board~~ Board may enter, during normal
8 business hours, all open premises purporting or appearing to be used by a
9 wholesale ~~drug~~ distributor for purposes of inspection.

10 (b)(1) Wholesale ~~drug~~ distributors may keep records regarding purchase
11 and sales transactions at a central location apart from the principal office of the
12 wholesale ~~drug~~ distributor or the location at which the drugs were stored and
13 from which they were shipped, provided that such records shall be made
14 available for inspection within two working days of a request by the ~~board~~
15 Board.

16 (2) Records may be kept in any form permissible under federal law
17 applicable to prescription drugs ~~record-keeping~~ record keeping.

18 * * *

1 Sec. 16. CREATION OF POSITION WITHIN THE OFFICE OF
2 PROFESSIONAL REGULATION; PHARMACY

3 (a) There is created within the Secretary of State's Office of Professional
4 Regulation one new position: Executive Officer of Pharmacy.

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

8 * * * Real Estate Brokers and Salespersons * * *

9 Sec. 17. 26 V.S.A. § 2211 is amended to read:

10 § 2211. DEFINITIONS

11 (a) ~~When~~ As used in this chapter, the following definitions shall have the
12 following meanings except where the context clearly indicates that another
13 meaning is intended:

14 * * *

15 (4) "Real estate broker" or "broker" means any person who, for another,
16 for a fee, commission, salary, or other consideration, or with the intention or
17 expectation of receiving or collecting such compensation from another,
18 engages in or offers or attempts to engage in, either directly or indirectly, by a
19 continuing course of conduct, any of the following acts:

20 * * *

1 § 2803. EXEMPTIONS

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

5 * * *

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

14 (A) a licensed dental therapist;

15 (B) a licensed dental hygienist;

16 ~~(B)~~(C) a registered dental assistant who has completed a course in
17 radiography approved by the Board of Dental Examiners; or

18 ~~(C)~~(D) a student of dental therapy, dental hygiene, or dental assisting
19 as part of the training program when directly supervised by a licensed dentist,
20 ~~certified~~ licensed dental therapist, licensed dental hygienist, or a registered
21 dental assistant.

1 * * *

2 Subchapter 3. Licensing

3 * * *

4 § 2821b. LICENSE FOR POSTPRIMARY MODALITIES

5 (a) The Board recognizes and follows the ARRT and NMTCB postprimary
6 certification process for the following postprimary practice categories:

7 (1) mammography;²

8 (2) computed tomography (CT);²

9 (3) cardiac-interventional radiography;²

10 (4) vascular-interventional radiography;² and

11 (5) positron emission tomography (PET).

12 (b) In order for a licensee who has obtained one of the three primary ARRT
13 or NMTCB certifications set forth in section 2821a of this subchapter to
14 practice in one of the postprimary modalities set forth in subsection (a) of this
15 section, the licensee must first obtain postprimary certification from ARRT or
16 NMTCB for that category, except:

17 (1) a ~~person with a primary license in radiation therapy~~ therapist may
18 perform CT for treatment simulation; ~~and~~

19 (2) a ~~person with a primary license in nuclear medicine technology~~
20 technologist may perform CT for attenuation correction on hybrid imaging

1 equipment, such as PET/CT and SPECT/CT scanners, if he or she holds an
2 ARRT-CT certification or an NMTCB certification in PET or CT; and
3 (3) a CT technologist may perform PET imaging if he or she holds an
4 NMTCB-PET certification.

5 * * *

6 * * * Private Investigators and Security Guards * * *

7 Sec. 19. 26 V.S.A. chapter 59 is amended to read:

8 CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

9 Subchapter 1. General Provisions

10 § 3151. DEFINITIONS

11 As used in this chapter:

12 * * *

13 ~~(5) “Qualifying agent” means a licensed private investigator who is~~
14 ~~responsible for a private investigative services agency or combination agency,~~
15 ~~or a licensed security guard who is responsible for a private security services~~
16 ~~agency or combination agency. A sole proprietor shall be the qualifying agent~~
17 ~~of his or her agency and shall meet all qualifying agent licensure requirements.~~

18 ~~(6) “Combination agency” means an agency that provides both private~~
19 ~~investigative and private security services to the public.~~

1 § 3151a. EXEMPTIONS

2 (a) The term “private investigator” shall not include:

3 * * *

4 (3) Persons regularly employed as investigators; exclusively by one
5 employer in connection with the affairs of that employer only, provided that
6 the employer is not a private investigative agency and the employee is engaged
7 directly as part of the ordinary payroll for tax, accounting, and insurance
8 purposes.

9 * * *

10 (b) The term “security guard” shall not include:

11 * * *

12 (3) Persons regularly employed as security guards exclusively by one
13 employer in connection with the affairs of that employer only, provided that
14 the employer is not a security agency and the employee is engaged directly as
15 part of the ordinary payroll for tax, accounting, and insurance purposes.

16 Subchapter 2. State Board of Private Investigative and Security Services

17 * * *

18 § 3162. ~~POWERS AND DUTIES~~ BOARD RULEMAKING AUTHORITY

19 The Board may:

20 (1) ~~Adopt~~ adopt rules necessary for the performance of its duties,
21 including rules prescribing minimum standards and qualifications for:

1 (1) security guards who may:

2 (A) practice independently or head agencies; or

3 (B) practice within the hierarchy of an agency;

4 (2) private investigators who may:

5 (A) practice independently or head agencies; or

6 (B) practice within the hierarchy of an agency;

7 (3) agencies; and

8 (4) recognized trainers and training programs.

9 ~~(2) Conduct any necessary hearings in connection with the issuance,~~
10 ~~renewal, denial, suspension, or revocation of a license or registration or~~
11 ~~otherwise related to the disciplining of a licensee, registrant, or applicant.~~

12 ~~(3) Receive and investigate complaints and charges of unprofessional~~
13 ~~conduct against any holder of a license or registration, or any applicant. The~~
14 ~~Board shall investigate all complaints in which there are reasonable grounds to~~
15 ~~believe that unprofessional conduct has occurred.~~

16 ~~(4) Conduct examinations and pass upon the qualifications of applicants~~
17 ~~for a license or registration.~~

18 ~~(5) Issue subpoenas and administer oaths in connection with any~~
19 ~~authorized investigation, hearing, or disciplinary proceeding.~~

20 ~~(6) Take or cause depositions to be taken as needed in any investigation,~~
21 ~~hearing, or proceeding.~~

1 ~~(7)(A) Adopt rules establishing a security guard or private investigator~~
2 ~~training program, consisting of not fewer than 40 hours of training, as a~~
3 ~~prerequisite to registration.~~

4 ~~(B) Full-time employees shall complete the training program prior to~~
5 ~~being issued a permanent registration.~~

6 ~~(C)(i) Part-time employees shall complete not fewer than eight hours~~
7 ~~of training prior to being issued a part-time employee temporary registration,~~
8 ~~which shall be valid for not more than 180 days from the date of issuance. The~~
9 ~~remaining training hours for part-time employees shall be completed within the~~
10 ~~temporary registration period of 180 days or before the employee has worked~~
11 ~~500 hours, whichever occurs first. The part-time employee temporary~~
12 ~~registration may be issued only once and shall expire after 180 days or 500~~
13 ~~hours.~~

14 ~~(ii) As used in this subdivision (C), "part-time employee" means~~
15 ~~an employee who works no more than 80 hours per month.~~

16 ~~(iii) The Board may prioritize training subjects to require that~~
17 ~~certain subject areas are covered in the initial eight hours of training required~~
18 ~~for part-time employees.~~

19 ~~(8) Adopt rules establishing continuing education requirements and~~
20 ~~establish or approve continuing education programs to assist a licensee or~~
21 ~~registrant in meeting these requirements.~~

1 § 3163. ~~FUNCTIONING OF LICENSING BOARD~~

2 ~~(a) Annually, the board shall elect a chairperson, a vice chairperson, and a~~
3 ~~secretary.~~

4 ~~(b) Meetings may be called by the chairperson and shall be called upon the~~
5 ~~request of two other members.~~

6 ~~(c) Meetings shall be warned and conducted in accordance with 1 V.S.A.~~
7 ~~chapter 5.~~

8 ~~(d) A majority of the members of a board shall constitute a quorum, and all~~
9 ~~action shall be taken upon a majority vote of the members present and voting.~~

10 ~~(e), (f) [Deleted.] [Repealed.]~~

11 * * *

12 Subchapter 3. Licensing

13 * * *

14 § 3173. PRIVATE INVESTIGATOR LICENSES

15 (a) A person shall not engage in the business of private investigation or
16 provide private investigator services in this State without first obtaining a
17 license. The Board shall issue a license to a private investigator after obtaining
18 and approving all of the following:

19 * * *

20 (4) evidence that the applicant has successfully passed ~~the~~ any
21 examination required by section 3175 of this title rule.

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* * *

(c) The Board shall require that ~~the~~ a person licensed to practice independently has had appropriate experience in investigative work, for a period of not less than two years, as determined by the Board. Such experience may include having been regularly employed as a private detective licensed in another state or as an investigator for a private detective licensed in this or another state; or ~~has~~ having been a sworn member of a federal, state, or municipal law enforcement agency.

(d) An application for a license may be denied upon failure of the applicant to provide information required; upon a finding that the applicant does not meet a high standard as to character, integrity, and reputation; or for unprofessional conduct defined in section 3181 of this ~~title~~ chapter.

* * *

§ 3174. SECURITY GUARD LICENSES

(a) ~~No~~ A person shall not engage in the business of a security guard or provide guard services in this State without first obtaining a license. The Board shall issue a license after obtaining and approving all of the following:

* * *

(4) Evidence that the applicant has successfully passed ~~the~~ any examination required by ~~section 3175 of this title~~ rule.

* * *

1 (c) The Board shall require that ~~the~~ a person licensed to practice
2 independently has had experience satisfactory to the Board in security work,
3 for a period of not less than two years. Such experience may include having
4 been licensed as a security guard in another state or regularly employed as a
5 security guard for a security agency licensed in this or another state; or having
6 been a sworn member of a federal, state, or municipal law enforcement agency.

7 (d) An application for a license may be denied upon failure of the applicant
8 to provide information required; upon a finding that the applicant does not
9 meet a high standard as to character, integrity, and reputation; or for
10 unprofessional conduct defined in section 3181 of this ~~title~~ chapter.

11 * * *

12 § 3176b. ~~TEMPORARY REGISTRATION FOR EMPLOYEES OF~~
13 ~~AGENCIES~~

14 (a) ~~A 60-day temporary registration may be issued to a person who applies~~
15 ~~for registration as an employee of a licensed private investigator or a licensed~~
16 ~~security guard under section 3176 of this title. A temporary registration shall~~
17 ~~authorize a person to work as an unarmed private investigator or unarmed~~
18 ~~security guard while employed by a private investigator agency or security~~
19 ~~guard agency licensed by the board.~~

20 (b) ~~Temporary registrations shall expire at the end of the 60-day period or~~
21 ~~by final action on the application, whichever occurs first. For good cause~~

1 ~~shown, the board may extend a temporary registration one time for an~~
2 ~~additional period of 60 days. [Repealed.]~~

3 § 3176c. ~~TEMPORARY EMERGENCY REGISTRATION~~

4 (a) ~~If the board determines that the public health, safety, or welfare so~~
5 ~~requires, it may grant to an applicant a temporary registration to practice as a~~
6 ~~security guard. To qualify under this section, an applicant shall have a license~~
7 ~~in good standing to practice as a security guard in another jurisdiction within~~
8 ~~the United States that regulates the practice. The person seeking the temporary~~
9 ~~registration shall document to the board's satisfaction that the applicant will~~
10 ~~otherwise meet all state and federal requirements necessary to perform the~~
11 ~~specific security duties arising out of the emergency circumstances warranting~~
12 ~~temporary licensure.~~

13 (b) ~~The board may restrict or condition a temporary registration issued~~
14 ~~under this section, as it deems appropriate in light of the specific emergency, to~~
15 ~~a particular facility, industry, geographic area, or scope of duty.~~

16 (c) ~~Duration of practice under a temporary registration shall be determined~~
17 ~~by the board but shall not exceed 60 days unless the person granted a~~
18 ~~temporary registration has submitted an application for full registration under~~
19 ~~this chapter, prior to the expiration of the term of the temporary registration,~~
20 ~~and the board finds the emergency to be ongoing. [Repealed.]~~

21 * * *

1 § 3178. ~~RENEWALS AND REINSTATEMENT~~

2 ~~A license or registration issued under this chapter shall be renewed~~
3 ~~biennially upon payment of the required fee. [Repealed.]~~

4 * * *

5 § 3179. PENALTIES

6 (a) A person who engages in the practice or business of a private
7 investigator or security guard without being licensed under ~~to~~ this chapter shall
8 be subject to the penalties provided in 3 V.S.A § 127~~(e)~~.

9 * * *

10 Subchapter 4. Unprofessional Conduct and Discipline

11 § 3181. UNPROFESSIONAL CONDUCT

12 * * *

13 ~~(e) After conducting a hearing and upon a finding that a licensee, registrant,~~
14 ~~or applicant engaged in unprofessional conduct, the board may take~~
15 ~~disciplinary action. Discipline for unprofessional conduct may include denial~~
16 ~~of an application, revocation or suspension of a license or registration,~~
17 ~~supervision, reprimand, warning, or the required completion of a course of~~
18 ~~action.~~

1 (2) ~~Shall have documented~~ Documented a minimum of 3,000 hours of
2 supervised work in clinical mental health counseling ~~over~~ during a minimum
3 of two years of post-master's experience. ~~Persons engaged in supervised work~~
4 ~~shall be entered on the roster of nonlicensed, noncertified psychotherapists and~~
5 ~~shall comply with the laws of that profession, and shall have documented a~~
6 ~~minimum of, including at least 100 hours of face-to-face supervision over~~
7 during a minimum of two years of post-master's experience. ~~Clinical work~~
8 ~~shall be performed under the supervision of a licensed physician certified in~~
9 ~~psychiatry by the American Board of Medical Specialties, a licensed~~
10 ~~psychiatric nurse practitioner, a licensed psychologist, a licensed clinical social~~
11 ~~worker, a licensed marriage and family therapist, a licensed clinical mental~~
12 ~~health counselor, or a person certified or licensed in another jurisdiction in one~~
13 ~~of these professions or in a profession which is the substantial equivalent, or a~~
14 ~~supervisor trained by a regional or national organization which has been~~
15 ~~approved by the board~~ Persons engaged in supervised work shall be registered
16 on the roster of nonlicensed, noncertified psychotherapists and shall comply
17 with the laws applicable to registrants.

18 (3) ~~Shall pass~~ Passed the examinations required by ~~board~~ Board rules as
19 ~~provided in section 3267 of this title.~~

1 § 3266. APPLICATION

2 ~~To apply for licensure as a clinical mental health counselor, a person shall~~
3 ~~apply to the board on a form furnished by the board. The application shall be~~
4 ~~accompanied by payment of the specified fee and evidence of eligibility as~~
5 ~~requested by the board. [Repealed.]~~

6 § 3267. EXAMINATION

7 ~~(a) The board or its designee shall conduct written examinations under this~~
8 ~~chapter at least twice a year, except that examinations need not be conducted~~
9 ~~when no one has applied to be examined.~~

10 ~~(b) Examinations administered by the board and the procedures of~~
11 ~~administration shall be fair and reasonable and shall be designed and~~
12 ~~implemented to ensure that all applicants are granted licensure if they~~
13 ~~demonstrate that they possess the minimal occupational qualifications which~~
14 ~~are consistent with the public health, safety, and welfare. They shall not be~~
15 ~~designed or implemented for the purpose of limiting the number of license~~
16 ~~holders. The board with the advice of the clinical mental health counselors~~
17 ~~who are members of the special panel, shall establish, by rule, fixed criteria for~~
18 ~~passing the examination that shall apply to all persons taking the examination.~~

19 ~~(c) The board may contract with independent testing services, licensed~~
20 ~~clinical mental health counselors, or others to assist in the administration of~~
21 ~~written examinations. [Repealed.]~~

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§ 3269. RENEWALS

~~(a) Licenses shall be renewed every two years upon payment of the required fee, provided the person applying for renewal completes at least 40 hours fees and proof of such continuing education, approved by the board, during the preceding two year period. The board shall establish, as the Board may require by rule, guidelines and criteria for continuing education credit.~~

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

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

~~(d) [Deleted.]~~

* * * Acupuncturists * * *

Sec. 21. 26 V.S.A. chapter 75 is amended to read:

CHAPTER 75. ACUPUNCTURISTS

§ 3401. DEFINITIONS

As used in this chapter:

(1)(A) “Acupuncture” or the “practice of acupuncture” means ~~the insertion of fine needles through the skin at certain points on the body, with or~~

1 ~~without the application of electric current or the application of heat to the~~
2 ~~needles or skin, or both, for the purpose of promoting health and balance as~~
3 ~~defined by traditional and modern Oriental theories. Acupuncture involves the~~
4 ~~use of traditional and modern Oriental diagnostic techniques, acupuncture~~
5 ~~therapy, and adjunctive therapies, including but not limited to: nonprescription~~
6 ~~remedies, exercise, nutritional and herbal therapies, therapeutic massage, and~~
7 ~~lifestyle counselling~~ treatment by means of mechanical, thermal, or electrical
8 stimulation effected by the insertion and manipulation of solid or filiform
9 needles to the human body; evaluation and management to determine a plan of
10 acupuncture care for the purpose of promoting health and well-being; and
11 development of a corresponding plan of acupuncture care, which may include
12 adjunctive therapies such as manual therapy, nonprescription remedies,
13 nutritional and herbal therapies, thermal therapies, therapeutic massage,
14 exercises, activities, and lifestyle counseling.

15 (B) “Acupuncture” or the “practice of acupuncture” does not include
16 medical diagnosis or medical management of illness.

17 * * *

18 § 3408. RENEWALS

19 (a) Licenses shall be renewed every two years upon payment of the
20 required fee and furnishing satisfactory evidence of having completed 30 hours
21 of approved continuing education credit during the preceding two years. ~~The~~

1 ~~director may adopt rules for the approval of continuing education programs~~
2 ~~and the awarding of credit.~~

3 ~~(b) Biennially, the director shall forward a renewal form to each licensed~~
4 ~~acupuncturist. Upon receipt of the completed form and the renewal fee, the~~
5 ~~director shall issue a new license.~~

6 ~~(c) A license that has expired for three years or less shall be renewed upon~~
7 ~~meeting the renewal requirements and paying a late renewal penalty. A license~~
8 ~~that has expired for more than three years shall not be renewed; the applicant~~
9 ~~shall be required to apply for reinstatement. The director may adopt rules~~
10 ~~relating to reinstatement to assure that the applicant is professionally qualified.~~

11 * * *

12 § 3410. UNPROFESSIONAL CONDUCT

13 (a) A licensed acupuncturist or applicant shall not engage in unprofessional
14 conduct.

15 (b) Unprofessional conduct means any of the conduct listed in this section
16 and 3 V.S.A. § 129a, whether committed by a licensed acupuncturist or an
17 applicant; and inappropriate sexual conduct toward a patient or former patient

18 ~~(1) Using dishonest or misleading advertising.~~

19 ~~(2) Addiction to narcotics, habitual drunkenness, or rendering~~
20 ~~professional services to a patient if the acupuncturist is intoxicated or under the~~
21 ~~influence of drugs.~~

1 ~~under this chapter and certified by the National Acupuncture Detoxification~~
2 ~~Association.~~

3 ~~(c) A person practicing under this section shall be subject to the~~
4 ~~requirements of section 3410 of this title.~~

5 ~~(d) Nothing in this section shall be construed to modify any of the~~
6 ~~requirements for licensure of acupuncturists contained in this chapter, nor shall~~
7 ~~it grant any rights to practice acupuncture which exceed the scope of this~~
8 ~~section.~~

9 ~~(e) The fee for obtaining a specialized certification or renewal of a~~
10 ~~specialized certification under this section shall be that established in 3 V.S.A.~~
11 ~~§ 125(b).~~

12 ~~(f) Anyone certified under this section, while practicing the National~~
13 ~~Acupuncture Detoxification Association protocol, shall be referred to as an~~
14 ~~acupuncture detoxification technician. [Repealed.]~~

15 Sec. 22. TRANSITIONAL PROVISION; ACTIVE CERTIFIED

16 ACUPUNCTURE DETOXIFICATION TECHNICIANS; ABILITY
17 TO RENEW CERTIFICATION

18 Notwithstanding the repeal of 26 V.S.A. § 3412 (acupuncture
19 detoxification; specialized certification) in Sec. 21 of this act, on the effective
20 date of this act, a person actively certified by the Office of Professional
21 Regulation as an acupuncture detoxification technician may renew that

1 certification biennially upon payment of the required fee and for as long as he
2 or she maintains continuous certification, may provide auricular acupuncture
3 consistent with National Acupuncture Detoxification Association protocol
4 under the supervision of a licensed acupuncturist within an Office-approved
5 setting as a complement to comprehensive addiction-treatment services.

6 * * * Effective Dates * * *

7 Sec. 23. EFFECTIVE DATES

8 This act shall take effect on July 1, 2018, except that in Sec. 18 (amending
9 26 V.S.A. chapter 51 (radiology)), 26 V.S.A. § 2821b (license for postprimary
10 modalities) shall take effect on July 1, 2019.