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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. 5 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:

~~\*\*\*~~

~~(2) Standardizing, to the extent feasible and with the advice of the~~

1 ~~boards, all applications, licenses, and other related forms and procedures, and~~  
2 adopting uniform procedural rules governing the investigatory and disciplinary  
3 process for all boards set forth in section 122 of this chapter.

4 \* \* \*

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

9 \* \* \*

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

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

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

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

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

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

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

6 \* \* \*

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

8 § 127. UNAUTHORIZED PRACTICE

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

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

18 (2)(A) The Attorney General or an attorney assigned by the Office of  
19 Professional Regulation may elect to bring an action seeking only a civil  
20 penalty of not more than \$1,000.00 for practicing or permitting the practice of  
21 a regulated profession without authority before the board having regulatory

1 ~~authority over the profession or before an administrative law officer.~~

2 (B) Hearings shall be conducted in the same manner as disciplinary  
3 hearing.

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

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

10 \* \* \*

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

15 (A) if reinstatement occurs within 30 days after the expiration date,  
16 \$100.00; or

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

21 ~~(2) Fees assessed under this subsection shall be deposited into the~~

1 ~~Regulatory Fee Fund and credited to the appropriate fund for the profession of~~  
2 the reinstating licensee.

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

9 \* \* \*

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

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

12 \* \* \*

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

16 \* \* \*

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

18 § 129. POWERS OF BOARDS; DISCIPLINE PROCESS

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

21 ~~(1) Adopt procedural Consistent with other law and State policy,~~

1 ~~develop administrative rules governing the investigatory and disciplinary~~  
2 ~~process establishing evidence-based standards of practice appropriate to secure~~  
3 ~~and promote the public health, safety, and welfare; open and fair competition~~  
4 ~~within the marketplace for professional services; interstate mobility of~~  
5 ~~professionals; and public confidence in the integrity of professional services.~~

6 \* \* \*

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

8 § 129a. UNPROFESSIONAL CONDUCT

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

15 \* \* \*

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

19 \* \* \*

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

21 § 134. LICENSE RENEWAL

1 ~~(a) A license expires if not renewed biennially on a schedule assigned by~~  
2 ~~the Office, or in the case of a provisional or temporary license, on the date~~  
3 ~~assigned by the Office.~~

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

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

7 § 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING  
8 EXTENDED ABSENCE

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

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

19 ~~(1) demonstrated retention of required professional competencies and~~  
20 ~~may obtain an unencumbered license; or~~

21 ~~(2) not demonstrated retention of all required professional competencies~~

1 ~~and should be reexamined or required to reapply in like manner to a new~~  
2 ~~applicant.~~

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

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

6 § 136. UNIFORM CONTINUING EDUCATION EVALUATION

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

12 \* \* \* Pollution Abatement Facility Operators \* \* \*

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

14 § 1263. DISCHARGE PERMITS

15 \* \* \*

16 (d) A discharge permit shall:

17 \* \* \*

18 (2) Require proper operation and maintenance of any pollution  
19 abatement facility necessary in the treatment or processing of the waste by  
20 qualified personnel in accordance with standards established by the Secretary  
21 ~~and the Director of the Office of Professional Regulation. The Secretary may~~



1 ~~require that a pollution abatement facility be operated by persons licensed~~  
2 under 26 V.S.A. chapter ~~97~~ 99 and may prescribe the class of license required.  
3 The Secretary may require a laboratory quality assurance sample program to  
4 ensure qualifications of laboratory analysts.

5 \* \* \*

6 \* \* \* Barbers and Cosmetologists \* \* \*

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

8 CHAPTER 6. BARBERS AND COSMETOLOGISTS

9 § 271. DEFINITIONS

10 For the purposes of As used in this chapter:

11 \* \* \*

12 (6) "Financial interest" means being:

13 (A) a licensed barber;

14 (B) a licensed cosmetologist; or

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

17 (7) "Manicuring" or "nail technician practice" means the nonmedical  
18 treatment of a person's fingernails or toenails or the skin in the vicinity of the  
19 nails, and includes the use of cosmetic preparations or appliances.

20 (8)(7) "School of barbering or cosmetology" means a facility or  
21 facilities regularly used to train or instruct persons in the practice of barbering

1 ~~or cosmetology.~~

2 ~~(9)(8) "Shop" means a facility or facilities regularly used to offer or~~  
3 ~~provide barbering or cosmetology.~~

4 \* \* \*

5 § 273. EXEMPTIONS

6 The provisions of this chapter regulating barbers and cosmetologists  
7 shall not:

8 \* \* \*

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

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

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

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

18 \* \* \*

19 (5) affect or prevent the practice of barbering or cosmetology outside a  
20 registered shop or school by licensees in accordance with rules adopted by the

21 ~~Board~~ Board,

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

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

7 § 274. PENALTY

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

10 § 275. CREATION OF BOARD

11 \* \* \*

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

15 § 276. GENERAL POWERS AND DUTIES OF THE BOARD

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

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

18 \* \* \*

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

20 ~~(i) a barber, provided mandated formal training shall not exceed~~

21 ~~750 hours,~~

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

3 ~~(iii) an esthetician, provided mandated formal training shall not~~  
4 ~~exceed 500 hours; and~~

5 ~~(iv) a nail technician, provided mandated formal training shall not~~  
6 ~~exceed 200 hours; and~~

7 ~~(E)(i) establish criteria for apprenticeships that would enable a~~  
8 ~~person seeking licensure under this chapter to train under an appropriately~~  
9 ~~qualified Vermont licensee in order to attain licensure without mandated~~  
10 ~~formal training; and~~

11 ~~(ii) limit a required apprenticeship duration to not more than~~  
12 ~~150 percent of the duration of the corresponding formal training.~~

13 \* \* \*

14 § 277. QUALIFICATIONS; BARBER

15 ~~(a) A person shall be eligible for licensure as a barber if the person is at~~  
16 ~~least 18 years of age, has a high school or general educational development~~  
17 ~~diploma, and has satisfactorily completed an accredited barber school~~  
18 ~~program; or has satisfactorily completed an apprenticeship of not less than 12~~  
19 ~~months and not more than 36 months consisting of a minimum of 2,000 hours~~  
20 ~~and a maximum of 3,000 hours in a manner prescribed by the board in~~  
21 ~~addition to areas of study, prescribed by the board, by rule, has a high school~~

1 ~~or general educational development diploma, and has passed the examination~~  
2 ~~described in section 283 of this title.~~

3 ~~(b) The board shall issue a limited barbering license, with an endorsement~~  
4 ~~for cutting, shampooing, and styling hair and for mustache and beard~~  
5 ~~trimming, to any person incarcerated in a state correctional facility who~~  
6 ~~completes, while under the direct personal supervision of a barber licensed by~~  
7 ~~the board, a course of training of not less than 10 hours in cutting,~~  
8 ~~shampooing, and styling hair and trimming of mustache and beard. Such~~  
9 ~~limited license shall be valid only within a state correctional facility. No fees~~  
10 ~~shall be charged for a limited license issued under this subsection. [Repealed.]~~

11 § 278. QUALIFICATIONS; COSMETOLOGIST

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

15 (1) a course of study of at least 1,500 hours at a school of cosmetology  
16 approved by an accrediting body recognized by the United States Department  
17 of Education or approved by the board under standards that the board has  
18 adopted by rule and passage of the examination described in section 283 of  
19 this title; or

20 (2) an apprenticeship of not less than 12 months and not more than  
21 ~~36 months consisting of not less than 2,000 hours and a maximum of 3,000~~

1 ~~hours in a manner prescribed by the board in addition to courses, as prescribed~~  
2 ~~by the board by rule, and passage of the examination described in section 283~~  
3 ~~of this title. [Repealed.]~~

4 § 279. QUALIFICATIONS; ESTHETICIAN

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

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

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

16 § 280. QUALIFICATIONS; NAIL TECHNICIAN

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

20 (1) a course of study in manicuring of at least 400 hours at a school of  
21 ~~cosmetology approved by an accrediting body recognized by the United States~~

1 ~~Department of Education or approved by the board under standards that the~~  
2 ~~board has adopted by rule; or~~

3 ~~(2) an apprenticeship of not less than six months and not more than~~  
4 ~~12 months, consisting of a minimum of 600 hours and a maximum of 900~~  
5 ~~hours, as prescribed by the board by rule, and has passed the examination~~  
6 ~~described in section 283 of this title. [Repealed.]~~

7 § 281. POSTSECONDARY SCHOOL OF BARBERING AND  
8 COSMETOLOGY; CERTIFICATE OF APPROVAL

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

11 \* \* \*

12 (4) Requires a school term of training:

13 (A) ~~in the case of a school of barbering, of not less than 1,000 hours~~  
14 ~~for a complete course that includes all or the majority of the practices of~~  
15 ~~barbering, and includes practical demonstrations and theoretical studies in~~  
16 ~~sanitation, sterilization, the use of antiseptics, and electrical appliances,~~  
17 ~~consistent with the practical and theoretical requirements applicable to~~  
18 ~~barbering or any practice of barbering; and~~

19 (B) ~~in the case of a school of cosmetology, requires a school term of~~  
20 ~~training of not less than 1,500 hours for a complete course that includes all or~~  
21 ~~the majority of the practices of cosmetology, and includes practical~~

~~demonstrations and theoretical studies in sanitation, sterilization, the use of  
antiseptics, cosmetics, and electrical appliances, consistent with the practical  
and theoretical requirements applicable to cosmetology or any practice of  
cosmetology, consistent with formal training requirements established by rule,  
which shall include practical demonstrations and theoretical studies in  
sanitation, sterilization, the use of antiseptics, and the use of appliances,  
devices, treatments, and preparations relevant to the field of licensure.~~

~~\* \* \*~~

~~§ 285. LICENSES FROM OTHER JURISDICTIONS~~

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

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

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

~~§ 286. RENEWAL AND REINSTATEMENT~~

~~The holder of a license issued by the board pursuant to this chapter may  
biennially renew the license upon payment of the renewal fee. A license that  
has not been renewed by the renewal date shall expire. Within three years of  
the date of expiration, the holder of the expired license may apply for~~



1 ~~reinstatement upon the payment of the renewal fee and a renewal penalty. If a~~  
2 ~~license is not reinstated within three years of expiration, the applicant shall~~  
3 ~~meet the requirements of section 284 or 285 of this title before the license may~~  
4 ~~be reinstated. [Repealed.]~~

5 \* \* \*

6 § 288. UNPROFESSIONAL CONDUCT

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

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

12 (2) Willfully materially misrepresenting the qualifications or experience  
13 of an applicant in the practice of the occupation, whether by commission or  
14 omission.

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

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

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

21 ~~§ 289. LICENSURE BY ENDORSEMENT~~

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

6 \* \* \* Dentistry \* \* \*

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

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

10 \* \* \*

11 Subchapter 3. Dentists

12 § 601. LICENSE BY EXAMINATION

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

14 (1) have attained the age of majority;

15 (2) be a graduate of:

16 (A) a dental college accredited by the Commission on Dental  
17 Accreditation of the American Dental Association; or

18 (B) a program of foreign dental training and a postgraduate program  
19 accredited by the Commission on Dental Accreditation of the American Dental  
20 Association that is acceptable to the Board; and

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

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

2 \* \* \*

3 Subchapter 6. Renewals, Continuing Education, and Fees

4 \* \* \*

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

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

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

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

15 \* \* \* Professional Engineers \* \* \*

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

17 § 1163. EXEMPTIONS

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

21 \* \* \*

22 ~~(4) certain classes of licensed a potable water supply and wastewater~~

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

5 \* \* \*

6 \* \* \* Nursing \* \* \*

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

8 CHAPTER 28. NURSING

9 Subchapter 1. General Provisions

10 \* \* \*

11 § 1573. VERMONT STATE BOARD OF NURSING

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

17 \* \* \*

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

19 § 1579. ISSUANCE AND DURATION OF LICENSES

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

1 \* \* \*

2 § 1584. PROHIBITIONS; OFFENSES

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

5 \* \* \*

6 (8) [Deleted.]

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

9 (c) [Deleted.]

10 \* \* \*

11 Subchapter 2. Advanced Practice Registered Nurses

12 \* \* \*

13 § 1612. PRACTICE GUIDELINES

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

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

21 ~~(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~~  
7 ~~active advanced nursing practice in an initial role and population focus or~~  
8 ~~fewer than 12 months and 1,600 hours for any additional role and population~~  
9 ~~focus shall have a formal agreement with a collaborating provider as required~~  
10 ~~by board rule. APRNs shall have and maintain signed and dated copies of all~~  
11 ~~required collaborative provider agreements as part of the practice guidelines.~~  
12 ~~An APRN required to practice with a collaborative provider agreement may~~  
13 ~~not engage in solo practice, except with regard to a role and population focus~~  
14 ~~in which the 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.]~~

18 § 1614. ~~APRN RENEWAL~~

19 An APRN license renewal application shall include:

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

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

1 ~~specialty certifying organization;~~

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

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

5 § 1615. ADVANCED PRACTICE REGISTERED NURSES;

6 REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

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

12 \* \* \*

13 (4) Practice beyond those acts and situations that are within the practice  
14 guidelines approved by the Board for an APRN and within the limits of the  
15 knowledge and experience of the APRN, and, for an APRN who is practicing  
16 under a collaborative agreement, practice beyond those acts and situations that  
17 are within both the usual scope of the collaborating provider's practice and the  
18 terms of the collaborative agreement.

19 (5) For an APRN who acts as the collaborating provider for an APRN  
20 who is practicing under a collaboration agreement, allowing the mentored

21 ~~APRN to perform a medical act that is outside the usual scope of the mentor's~~

1 ~~own practice or that the mentored APRN is not qualified to perform by~~  
2 ~~training or experience or that is not consistent with the requirements of this~~  
3 ~~chapter and the rules of the Board. [Repealed.]~~

4 \* \* \*

5 Subchapter 3. Registered Nurses and Practical Nurses

6 \* \* \*

7 § 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT

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

10 (1) hold a current license to practice registered nursing in another U.S.  
11 jurisdiction based on education in a U.S. nursing program acceptable to the  
12 Board; and

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

14 \* \* \*

15 § 1626. PRACTICAL NURSE LICENSURE BY ENDORSEMENT

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

18 (1) hold a current license to practice practical nursing in another U.S.  
19 jurisdiction based on education in a U.S. nursing program acceptable to the  
20 Board; and

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



1 \* \* \*

2 Subchapter 4. Nursing Assistants

3 \* \* \*

4 § 1645. RENEWAL

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

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

10 \* \* \*

11 Sec. 14. NURSING COMPACT ASSESSMENT

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

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

18 \* \* \* Pharmacy \* \* \*

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

20 CHAPTER 36. PHARMACY

21 Subchapter 1. General Provisions

1 \* \* \*

2 § 2022. DEFINITIONS

3 As used in this chapter:

4 \* \* \*

5 (4) "Disciplinary action" or "disciplinary cases" includes any action  
6 taken by the Board against a licensee or others premised upon a finding of  
7 ~~wrongdoing or unprofessional~~ conduct by the licensee. It includes all  
8 sanctions of any kind, including obtaining injunctions, issuing warnings, and  
9 other similar sanctions.

10 \* \* \*

11 (7) "Drug outlet" means all pharmacies, nursing homes, convalescent  
12 homes, extended care facilities, drug abuse treatment centers, family planning  
13 clinics, retail stores, hospitals, wholesalers, manufacturers, any authorized  
14 treatment centers, and mail-order vendors other entities that are engaged in the  
15 dispensing, delivery, or distribution of prescription drugs.

16 \* \* \*

17 (10) "Manufacturer" means anyone who is engaged in manufacturing,  
18 preparing, propagating, compounding, processing, packaging, repackaging, or  
19 labeling of a prescription drug a person, regardless of form, engaged in the  
20 manufacturing of drugs or devices.

21 ~~(11)(A) "Manufacturing" means the production, preparation,~~

1 ~~propagation, conversion, or processing of a drug or device, either directly or~~  
2 ~~indirectly, by extraction from substances of natural origin or independently by~~  
3 ~~means of chemical or biological synthesis.~~

4 ~~(B) “Manufacturing” includes the packaging or repackaging of a~~  
5 ~~drug or device or the labeling or relabeling of the container of a drug or device~~  
6 ~~for resale by a pharmacy, practitioner, or other person.~~

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

11 ~~(12)(13) “Pharmacist” means an individual licensed under this chapter.~~

12 ~~(13)(14) “Pharmacy technician” means an individual who performs~~  
13 ~~tasks relative to dispensing only while assisting, and under the supervision and~~  
14 ~~control of, a licensed pharmacist.~~

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

16 ~~(i) the interpretation interpreting and evaluation of evaluating~~  
17 ~~prescription orders;~~

18 ~~(ii) the compounding, dispensing, and labeling of drug, and~~  
19 ~~legend devices (except labeling by a manufacturer, packer, or distributor of~~  
20 ~~nonprescription drugs and commercially packaged legend drugs and legend~~  
21 ~~devices),~~

1 ~~(iii) the participation participating in drug selection and drug~~  
2 utilization reviews;

3 ~~(iv) the proper and safe storage of properly and safely storing~~  
4 ~~drugs and legend devices, and the maintenance of maintaining~~ proper records  
5 therefor;

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

9 ~~(vi) the providing of patient care services within the pharmacist's~~  
10 ~~authorized scope of practice;~~

11 ~~(vii) the optimizing of drug therapy through the practice of~~  
12 ~~clinical pharmacy; and~~

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

16 (B) "Practice of clinical pharmacy" or "clinical pharmacy" means:

17 \* \* \*

18 (ii) ~~the provision of providing~~ patient care services within the  
19 pharmacist's authorized scope of practice, including medication therapy  
20 management, comprehensive medication review, and postdiagnostic disease  
21 ~~state management services, or~~

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

3 ~~(C) A rule shall not be adopted by the The Board under this chapter~~  
4 ~~that shall require not adopt any rule requiring that pharmacists or pharmacies~~  
5 ~~be involved in the sale and distribution of nonprescription drugs by a licensed~~  
6 ~~pharmacist or under the supervision of a licensed pharmacist or otherwise~~  
7 ~~interfere with the sale and distribution of such medicines; provided, however,~~  
8 ~~that nothing in this subdivision (C) shall limit the authority of the Board to~~  
9 ~~adopt rules applicable to the elective sale or distribution of nonprescription~~  
10 ~~drugs by pharmacists or pharmacies.~~

11 ~~(15)(16)~~ “Practitioner” means an individual authorized by the laws of  
12 the United States or its jurisdictions or Canada to prescribe and administer  
13 prescription drugs in the course of his or her professional practice and  
14 permitted by that authorization to dispense, conduct research with respect to,  
15 or administer drugs in the course of his or her professional practice or research  
16 in his or her respective state or province.

17 ~~(16)(17)~~ “Prescription drug” means any human drug required by federal  
18 law or regulation to be dispensed only by a prescription, including finished  
19 dosage forms and active ingredients subject to Section 503(b) of the Federal  
20 Food, Drug and Cosmetic Act.

21 ~~(17)(18)~~ “Wholesale distribution” means distribution of prescription

1 ~~drugs to persons other than a consumer or patient, but does not include:~~

2 \* \* \*

3 ~~(8)(19)~~ (19) “Wholesale drug distributor” means any person who is engaged  
4 in wholesale distribution of prescription drugs, but does not include any ~~for~~  
5 ~~hire~~ for-hire carrier or person hired solely to transport prescription drugs.

6 ~~(19)(20)~~ (20) “Collaborative practice agreement” means a written agreement  
7 between a pharmacist and a health care facility or prescribing practitioner that  
8 permits the pharmacist to engage in the practice of clinical pharmacy for the  
9 benefit of the facility’s or practitioner’s patients.

10 \* \* \*

11 Subchapter 2. Board of Pharmacy

12 § 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION

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

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

19 (b) Members of the ~~board~~ Board shall be appointed by the ~~governor~~  
20 Governor pursuant to 3 V.S.A. §§ 129b and 2004. A majority of members

21 ~~shall constitute a quorum, and all action shall be taken upon a majority vote of~~

1 ~~the members present and voting~~

2 \* \* \*

3 Subchapter 3. Licensing

4 § 2041. UNLAWFUL PRACTICE

5 (a) It shall be unlawful for any person to engage in the practice of  
6 pharmacy unless licensed to so practice under the provisions of this chapter;  
7 provided, however, physicians, dentists, veterinarians, osteopaths, or other  
8 practitioners of the healing arts who are licensed under the laws of this State  
9 may dispense and administer prescription drugs to their patients in the practice  
10 of their respective professions where specifically authorized to do so by statute  
11 of this State.

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

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

21 \* \* \*

22 § 2042b. PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS;

23 ~~SUPERVISION~~

1 \* \* \*

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

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

7 ~~(3) A pharmacist shall verify a prescription before medication is~~  
8 ~~provided to the patient.~~

9 \* \* \*

10 § 2044. RENEWAL OF LICENSES

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

14 § 2045. REINSTATEMENT

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

19 ~~(b) As a condition of renewal, the board may by rule set reinstatement~~  
20 ~~requirements for those whose licenses have lapsed for more than five years.~~

21 ~~[Repealed.]~~



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\* \* \*

Subchapter 4. Discipline

~~§ 2051. UNPROFESSIONAL CONDUCT~~

~~The board of pharmacy may refuse to issue or renew, or may suspend, revoke, or restrict the licenses of any person, pursuant to the procedures set forth in section 2052 of this title, upon one or more of the following grounds and upon the grounds set forth in 3 V.S.A. § 129a:~~

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

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

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

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

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

~~§ 2052. PENALTIES AND REINSTATEMENT~~

~~(a)(1) Upon the finding, after notice and opportunity for hearing, of the existence of grounds for discipline of any person or any drug outlet holding a~~

1 ~~license, under the provisions of this chapter, the board of pharmacy may~~

2 ~~impose one or more of the following penalties:~~

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

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

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

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

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

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

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

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

16 ~~(b) Any person or drug outlet whose license to practice pharmacy in this~~  
17 ~~state has been suspended, revoked, or restricted pursuant to this chapter,~~  
18 ~~whether voluntarily or by action of the board, shall have the right, at~~  
19 ~~reasonable intervals, to petition the board for reinstatement of such license.~~

20 ~~Such petition shall be made in writing and in the form prescribed by the board.~~

21 ~~Upon hearing, the board may in its discretion grant or deny such petition or it~~

1 ~~may modify its original finding to reflect any circumstances which have~~  
2 ~~changed sufficiently to warrant such modifications.~~

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

6 ~~(d) All final decisions by the board shall be subject to review pursuant to~~  
7 ~~3 V.S.A. § 130a. [Repealed.]~~

8 Subchapter 5. Registration of Facilities

9 § 2061. REGISTRATION AND LICENSURE

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

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

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

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

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

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

17 (5) Investigative and research projects.

18 (6) Compounding.

19 (7) Outsourcing.

20 (8) Home infusion.

21 ~~(9) Nuclear.~~

1 § 2064. VIOLATIONS AND PENALTIES

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

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

11 Subchapter 6. Wholesale Drug Distributors

12 § 2067. WHOLESALÉ DRUG DISTRIBUTOR; LICENSURE REQUIRED

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

15 (b) [Repealed.]

16 \* \* \*

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

1 ~~§ 2071. APPLICATION OF FEDERAL GUIDELINES~~

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

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

9 ~~§ 2072. LICENSE RENEWAL~~

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

12 ~~§ 2073. RULES~~

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

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

18 ~~§ 2074. COMPLAINTS~~

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

1 § 2075. PENALTIES

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

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

7 ~~(2) has been convicted of a violation of a federal or state drug law.~~

8 [Repealed.]

9 § 2076. INSPECTION POWERS; ACCESS TO WHOLESALE DRUG  
10 DISTRIBUTOR RECORDS

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

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

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

1 \* \* \*

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

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

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

9 \* \* \* Real Estate Brokers and Salespersons \* \* \*

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

11 § 2211. DEFINITIONS

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

15 \* \* \*

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

21 \* \* \*

22 ~~(5) "Real estate salesperson" or "salesperson" means any person who~~

1 ~~for a fee, compensation, salary, or other consideration, or in the expectation or~~  
2 upon the promise thereof, is employed by or associated with a licensed real  
3 estate broker to do any act or deal in any transaction as provided in subdivision  
4 (4) of this subsection (a) for or on behalf of such a licensed real estate broker.

5 (b) The terms "real estate broker," "real estate salesperson," or "broker"  
6 shall not be held to include:

7 (1) Any person, partnership, association, or corporation who as a bona  
8 fide owner performs any of the aforesaid acts set forth in subdivision (a)(4) of  
9 this section with reference to property owned by them, nor shall it apply to  
10 regular employees thereof, ~~where~~ when such acts are performed in the regular  
11 course of or as an incident to the management of such property and the  
12 investment therein. This subdivision (1) shall not apply to licensees.

13 \* \* \*

14 \* \* \* Radiologic Technicians \* \* \*

15 Sec. 18. 26 V.S.A. chapter 51 is amended to read:

16 CHAPTER 51. RADIOLOGY

17 Subchapter 1. General Provisions

18 \* \* \*

19 § 2803. EXEMPTIONS

20 The prohibitions in section 2802 of this chapter shall not apply to dentists  
21 ~~licensed under chapter 12 of this title and actions within their scope of practice~~



1 nor to:

2 \* \* \*

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

11 (A) a licensed dental therapist

12 (B) a licensed dental hygienist;

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

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

19 \* \* \*

20 Subchapter 3. Licensing

21 \* \* \*

1 ~~§ 2821b. LICENSE FOR POSTPRIMARY MODALITIES~~

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

- 4 (1) mammography;<sup>52</sup>  
5 (2) computed tomography (CT);<sup>52</sup>  
6 (3) cardiac-interventional radiography;<sup>52</sup>  
7 (4) vascular-interventional radiography;<sup>52</sup> and  
8 (5) positron emission tomography (PET).

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

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

16 (2) ~~a person with a primary license in nuclear medicine technology~~  
17 technologist may perform CT for attenuation correction on hybrid imaging  
18 equipment, such as PET/CT and SPECT/CT scanners, if he or she holds an  
19 ARRT-CT certification or an NMTCB certification in PET or CT; and

20 (3) a CT technologist may perform PET imaging if he or she holds an  
21 NMTCB-PET certification.

1 \* \* \*

2 \* \* \* Private Investigators and Security Guards \* \* \*

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

4 CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

5 Subchapter 1. General Provisions

6 § 3151. DEFINITIONS

7 As used in this chapter:

8 \* \* \*

9 ~~(5) "Qualifying agent" means a licensed private investigator who is~~  
10 ~~responsible for a private investigative services agency or combination agency,~~  
11 ~~or a licensed security guard who is responsible for a private security services~~  
12 ~~agency or combination agency. A sole proprietor shall be the qualifying agent~~  
13 ~~of his or her agency and shall meet all qualifying agent licensure requirements.~~

14 ~~(6) "Combination agency" means an agency that provides both private~~  
15 ~~investigative and private security services to the public.~~

16 § 3151a. EXEMPTIONS

17 (a) The term "private investigator" shall not include:

18 \* \* \*

19 (3) Persons regularly employed as investigators, exclusively by one  
20 employer in connection with the affairs of that employer only, provided that  
21 ~~the employer is not a private investigative agency and the employee is engaged~~

1 ~~directly as part of the ordinary payroll for tax, accounting, and insurance~~  
2 ~~purposes.~~

3 \* \* \*

4 (b) The term "security guard" shall not include:

5 \* \* \*

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

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

11 \* \* \*

12 § 3162. ~~POWERS AND DUTIES~~ BOARD RULEMAKING AUTHORITY

13 The Board may:

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

16 (1) security guards who may:

17 (A) practice independently or head agencies; or

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

19 (2) private investigators who may:

20 (A) practice independently or head agencies; or

21 ~~(B) practice within the hierarchy of an agency,~~

- 1 ~~(3) agencies; and~~
- 2 ~~(4) recognized trainers and training programs.~~
- 3 ~~(2) Conduct any necessary hearings in connection with the issuance,~~  
4 ~~renewal, denial, suspension, or revocation of a license or registration or~~  
5 ~~otherwise related to the disciplining of a licensee, registrant, or applicant.~~
- 6 ~~(3) Receive and investigate complaints and charges of unprofessional~~  
7 ~~conduct against any holder of a license or registration, or any applicant. The~~  
8 ~~Board shall investigate all complaints in which there are reasonable grounds to~~  
9 ~~believe that unprofessional conduct has occurred.~~
- 10 ~~(4) Conduct examinations and pass upon the qualifications of applicants~~  
11 ~~for a license or registration.~~
- 12 ~~(5) Issue subpoenas and administer oaths in connection with any~~  
13 ~~authorized investigation, hearing, or disciplinary proceeding.~~
- 14 ~~(6) Take or cause depositions to be taken as needed in any investigation,~~  
15 ~~hearing, or proceeding.~~
- 16 ~~(7)(A) Adopt rules establishing a security guard or private investigator~~  
17 ~~training program, consisting of not fewer than 40 hours of training, as a~~  
18 ~~prerequisite to registration.~~
- 19 ~~(B) Full-time employees shall complete the training program prior to~~  
20 ~~being issued a permanent registration.~~
- 21 ~~(C)(i) Part-time employees shall complete not fewer than eight hours~~

1 ~~of training prior to being issued a part-time employee temporary registration,~~  
2 ~~which shall be valid for not more than 180 days from the date of issuance.~~  
3 ~~The remaining training hours for part-time employees shall be completed~~  
4 ~~within the temporary registration period of 180 days or before the employee~~  
5 ~~has worked 500 hours, whichever occurs first. The part-time employee~~  
6 ~~temporary registration may be issued only once and shall expire after 180 days~~  
7 ~~or 500 hours.~~

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

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

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

16 § 3163. FUNCTIONING OF LICENSING BOARD

17 ~~(a) Annually, the board shall elect a chairperson, a vice chairperson, and a~~  
18 ~~secretary.~~

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

21 ~~(c) Meetings shall be waived and conducted in accordance with 1 V.S.A.~~

1 ~~chapter 5~~

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

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

5 \* \* \*

6 Subchapter 3. Licensing

7 \* \* \*

8 § 3173. PRIVATE INVESTIGATOR LICENSES

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

13 \* \* \*

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

16 \* \* \*

17 (c) The Board shall require that ~~the~~ a person licensed to practice  
18 independently has had appropriate experience in investigative work, for a  
19 period of not less than two years, as determined by the Board. Such  
20 experience may include having been regularly employed as a private detective  
21 licensed in another state or as an investigator for a private detective licensed in

1 ~~this or another state, or has having been a sworn member of a federal, state, or~~  
2 municipal law enforcement agency.

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

7 \* \* \*

8 § 3174. SECURITY GUARD LICENSES

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

12 \* \* \*

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

15 \* \* \*

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



1 agency

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

6 \* \* \*

7 § 3176b. ~~TEMPORARY REGISTRATION FOR EMPLOYEES OF~~  
8 ~~AGENCIES~~

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

15 (b) ~~Temporary registrations shall expire at the end of the 60-day period or~~  
16 ~~by final action on the application, whichever occurs first. For good cause~~  
17 ~~shown, the board may extend a temporary registration one time for an~~  
18 ~~additional period of 60 days. [Repealed.]~~

19 § 3176c. ~~TEMPORARY EMERGENCY REGISTRATION~~

20 (a) ~~If the board determines that the public health, safety, or welfare so~~  
21 ~~requires, it may grant to an applicant a temporary registration to practice as a~~

1 ~~security guard. To qualify under this section, an applicant shall have a license~~  
2 ~~in good standing to practice as a security guard in another jurisdiction within~~  
3 ~~the United States that regulates the practice. The person seeking the temporary~~  
4 ~~registration shall document to the board's satisfaction that the applicant will~~  
5 ~~otherwise meet all state and federal requirements necessary to perform the~~  
6 ~~specific security duties arising out of the emergency circumstances warranting~~  
7 ~~temporary licensure.~~

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

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

16 \* \* \*

17 § 3178. RENEWALS AND REINSTATEMENT

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

20 \* \* \*

21 § 3179. PENALTIES

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

4 \* \* \*

5 Subchapter 4. Unprofessional Conduct and Discipline

6 § 3181. UNPROFESSIONAL CONDUCT

7 \* \* \*

8 ~~(c) After conducting a hearing and upon a finding that a licensee,~~  
9 ~~registrant, or applicant engaged in unprofessional conduct, the board may take~~  
10 ~~disciplinary action. Discipline for unprofessional conduct may include denial~~  
11 ~~of an application, revocation or suspension of a license or registration,~~  
12 ~~supervision, reprimand, warning, or the required completion of a course of~~  
13 ~~action.~~

14 \* \* \* Clinical Mental Health Counselors \* \* \*

15 Sec. 20. 26 V.S.A. chapter 65 is amended to read:

16 CHAPTER 65. CLINICAL MENTAL HEALTH COUNSELORS

17 \* \* \*

18 § 3262a. BOARD OF ALLIED MENTAL HEALTH PRACTITIONERS

19 (a) ~~A~~ The Board of Allied Mental Health Practitioners is established

20 \* \* \*

21 ~~(c) A majority of the members of the Board shall constitute a quorum for~~

1 ~~transacting business, and all action shall be taken upon a majority vote of the~~  
2 ~~members present and voting.~~

3 \* \* \*

4 § 3265. ELIGIBILITY

5 To be eligible for licensure as a clinical mental health counselor an  
6 applicant shall satisfy all of the following have:

7 (1) ~~Shall have completed a minimum of 60 graduate hours and received~~  
8 Received a master's degree or higher degree in counseling or a related field,  
9 from an accredited educational institution, after having successfully completed  
10 a course of study as defined by the board, by rule, which included requiring a  
11 minimum number of graduate credit hours established by the Board by rule  
12 and a supervised practicum, internship, or field experience, as defined by the  
13 board, Board by rule, in a mental health counseling setting.

14 (2) ~~Shall have documented~~ Documented a minimum of 3,000 hours of  
15 supervised work in clinical mental health counseling ~~over~~ during a minimum  
16 of two years of post-master's experience. ~~Persons engaged in supervised work~~  
17 ~~shall be entered on the roster of nonlicensed, noncertified psychotherapists and~~  
18 ~~shall comply with the laws of that profession, and shall have documented a~~  
19 ~~minimum of, including at least 100 hours of face-to-face supervision over~~  
20 during a minimum of two years of post-master's experience. Clinical work  
21 ~~shall be performed under the supervision of a licensed physician certified in~~

1 ~~psychiatry by the American Board of Medical Specialties, a licensed~~  
2 ~~psychiatric nurse practitioner, a licensed psychologist, a licensed clinical social~~  
3 ~~worker, a licensed marriage and family therapist, a licensed clinical mental~~  
4 ~~health counselor, or a person certified or licensed in another jurisdiction in one~~  
5 ~~of these professions or in a profession which is the substantial equivalent, or a~~  
6 ~~supervisor trained by a regional or national organization which has been~~  
7 ~~approved by the board. Persons engaged in supervised work shall be registered~~  
8 ~~on the roster of nonlicensed, noncertified psychotherapists and shall comply~~  
9 ~~with the laws applicable to registrants.~~

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

12 § 3266. APPLICATION

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

17 § 3267. EXAMINATION

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

21 ~~(b) Examinations administered by the board and the procedures of~~

1 ~~administration shall be fair and reasonable and shall be designed and~~  
2 ~~implemented to ensure that all applicants are granted licensure if they~~  
3 ~~demonstrate that they possess the minimal occupational qualifications which~~  
4 ~~are consistent with the public health, safety, and welfare. They shall not be~~  
5 ~~designed or implemented for the purpose of limiting the number of license~~  
6 ~~holders. The board with the advice of the clinical mental health counselors~~  
7 ~~who are members of the special panel, shall establish, by rule, fixed criteria for~~  
8 ~~passing the examination that shall apply to all persons taking the examination.~~

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

12 \* \* \*

13 § 3269. RENEWALS

14 (a) Licenses shall be renewed every two years upon payment of the  
15 required fee, provided the person applying for renewal completes at least  
16 40 hours fees and proof of such continuing education, approved by the board,  
17 during the preceding two-year period. The board shall establish, as the Board  
18 may require by rule, guidelines and criteria for continuing education credit.

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

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

4 ~~(d) [Deleted.]~~

5 \* \* \* Acupuncturists \* \* \*

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

7 CHAPTER 75. ACUPUNCTURISTS

8 § 3401. DEFINITIONS

9 As used in this chapter:

10 (1)(A) “Acupuncture” or the “practice of acupuncture” means the  
11 insertion of fine needles through the skin at certain points on the body, with or  
12 without the application of electric current or the application of heat to the  
13 needles or skin, or both, for the purpose of promoting health and balance as  
14 defined by traditional and modern Oriental theories. Acupuncture involves the  
15 use of traditional and modern Oriental diagnostic techniques, acupuncture  
16 therapy, and adjunctive therapies, including but not limited to: nonprescription  
17 remedies, exercise, nutritional and herbal therapies, therapeutic massage, and  
18 lifestyle counselling treatment by means of mechanical, thermal, or electrical  
19 stimulation effected by the insertion and manipulation of solid or filiform  
20 needles to the human body; evaluation and management to determine a plan of  
21 acupuncture care for the purpose of promoting health and well-being, and

1 ~~development of a corresponding plan of acupuncture care, which may include~~  
2 ~~adjunctive therapies such as manual therapy, nonprescription remedies,~~  
3 ~~nutritional and herbal therapies, thermal therapies, therapeutic massage,~~  
4 ~~exercises, activities, and lifestyle counseling.~~

5 ~~(B) “acupuncture” or the “practice of acupuncture” does not include~~  
6 ~~medical diagnosis or medical management of illness.~~

7 \* \* \*

8 § 3408. RENEWALS

9 (a) Licenses shall be renewed every two years upon payment of the  
10 required fee and furnishing satisfactory evidence of having completed 30 hours  
11 of approved continuing education credit during the preceding two years. The  
12 director may adopt rules for the approval of continuing education programs  
13 and the awarding of credit.

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

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



1 \* \* \*

2 § 3410. UNPROFESSIONAL CONDUCT

3 (a) A licensed acupuncturist or applicant shall not engage in unprofessional  
4 conduct.

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

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

9 ~~(2) Addiction to narcotic, habitual drunkenness, or rendering~~  
10 ~~professional services to a patient if the acupuncturist is intoxicated or under the~~  
11 ~~influence of drugs.~~

12 ~~(3) Sexual harassment of a patient.~~

13 ~~(4) Engaging in sexual intercourse or other sexual conduct with a~~  
14 ~~patient with whom the licensed acupuncturist has had a professional~~  
15 ~~relationship within the previous two years.~~

16 ~~(c) After hearing and upon a finding of unprofessional conduct, an~~  
17 ~~administrative law officer appointed under 3 V.S.A. § 129(j) may take~~  
18 ~~disciplinary action against a licensed acupuncturist or applicant.~~

19 \* \* \*

20 § 3412. ACUPUNCTURE DETOXIFICATION; SPECIALIZED

21 ~~CERTIFICATION~~

1 ~~(a) A person not licensed under this chapter may obtain a specialized~~  
2 ~~certification as an acupuncture detoxification technician to practice auricular~~  
3 ~~acupuncture according to the National Acupuncture Detoxification Association~~  
4 ~~protocol from the board for the purpose of the treatment of alcoholism,~~  
5 ~~substance abuse, or chemical dependency if he or she provides documentation~~  
6 ~~of successful completion of a board-approved training program in acupuncture~~  
7 ~~for the treatment of alcoholism, substance abuse, or chemical dependency~~  
8 ~~which meets or exceeds standards of training established by the National~~  
9 ~~Acupuncture Detoxification Association.~~

10 ~~(b) Treatment permitted under this section may only take place in a state,~~  
11 ~~federal, or board-approved site under the supervision of an individual licensed~~  
12 ~~under this chapter and certified by the National Acupuncture Detoxification~~  
13 ~~Association.~~

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

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

20 ~~(e) The fee for obtaining a specialized certification or renewal of a~~  
21 ~~specialized certification under this section shall be that established in 3 V.S.A.~~

1 ~~§ 125(b)~~

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

5 Sec. 22. TRANSITIONAL PROVISION; ACTIVE CERTIFIED

6 ACUPUNCTURE DETOXIFICATION TECHNICIANS; ABILITY  
7 TO RENEW CERTIFICATION

8 Notwithstanding the repeal of 26 V.S.A. § 3412 (acupuncture  
9 detoxification; specialized certification) in Sec. 21 of this act, on the effective  
10 date of this act, a person actively certified by the Office of Professional  
11 Regulation as an acupuncture detoxification technician may renew that  
12 certification biennially upon payment of the required fee and for as long as he  
13 or she maintains continuous certification, may provide auricular acupuncture  
14 consistent with National Acupuncture Detoxification Association protocol  
15 under the supervision of a licensed acupuncturist within an Office-approved  
16 setting as a complement to comprehensive addiction-treatment services.

17 \* \* \* Effective Dates \* \* \*

18 Sec. 23. EFFECTIVE DATES

19 This act shall take effect on July 1, 2018, except that in Sec. 18 (amending  
20 26 V.S.A. chapter 51 (radiology)), 26 V.S.A. § 2821b (license for postprimary  
21 modalities) shall take effect on July 1, 2019.

*\*\*\* 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:*

*\*\*\**

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

*\*\*\**

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

*\*\*\**

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

*(1) accepting appropriate recognition of education, training, or service*

~~completed by a member of the U.S. Armed Forces toward the requirements of professional licensure or certification; and~~

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

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

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

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

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

\* \* \*

~~Sec. 2. 3 V.S.A. § 125 is amended to read:~~

~~§ 125. FEES~~

\* \* \*

~~(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26.~~

~~(1) Application for registration, \$75.00.~~

(2) Application for licensure or certification, \$100.00, except application for barbering or cosmetology schools and shops, \$300.00.

(3) Optician trainee registration, \$50.00.

(4) Biennial renewal, \$200.00, except:

(A) Biennial renewal for independent clinical social workers and master's social workers, \$150.00.

(B) Biennial renewal for occupational therapists and assistants, \$150.00.

(C) Biennial renewal for physical therapists and assistants, \$100.00.

(D) Biennial renewal for optician trainees, \$100.00.

(E) Biennial renewal for barbers, cosmetologists, nail technicians, and estheticians, \$130.00.

~~(F) Biennial renewal for cosmetology shops, \$300.00.~~

(F) Biennial renewal for schools of barbering or cosmetology, \$300.00.

(5) Limited temporary license or work permit, \$50.00.

\* \* \*

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

§ 127. UNAUTHORIZED PRACTICE

~~(a) When the Office receives a complaint of unauthorized practice, the~~

~~Director shall refer the complaint to the appropriate board for investigation  
Office investigators and prosecutors.~~

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

~~(2)(A) The Attorney General or an attorney assigned by the Office of Professional Regulation may elect to bring an action seeking only a civil penalty of not more than \$1,000.00 for practicing or permitting the practice of a regulated profession without authority before the board having regulatory authority over the profession or before an administrative law officer.~~

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

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

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

\* \* \*

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

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

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

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

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



~~Sec. 4. 3 V.S.A. § 128 is amended to read:~~

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

~~\* \* \*~~

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

~~\* \* \*~~

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

~~§ 129. POWERS OF BOARDS, DISCIPLINE PROCESS~~

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

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

~~\* \* \*~~

~~Sec. 6. 3 V.S.A. § 129a is amended to read:~~

~~§ 129a. UNPROFESSIONAL CONDUCT~~

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

~~\* \* \*~~

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

~~\* \* \*~~

~~Sec. 7. 3 V.S.A. § 134 is added to read:~~

~~§ 134. LICENSE RENEWAL~~

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

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

~~Sec. 8. 3 V.S.A. § 135 is added to read:~~

~~§ 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING~~

~~EXTENDED ABSENCE~~

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

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

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

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

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

Sec. 9. 3 V.S.A. § 136 is added to read:

§ 136. UNIFORM CONTINUING EDUCATION EVALUATION

~~If continuing education is required by law or rule, the Office shall apply~~

~~uniform standards and processes that apply to all professions regulated by the Office for the assessment and approval or rejection of continuing education offerings, informed by profession-specific policies developed in consultation with relevant boards and advisor appointees.~~

*Sec. 10. LICENSING FOR IMMIGRANTS SETTLING IN VERMONT;*

*REPORT*

~~The Director of the Office of Professional Regulation, in consultation with the State Refugee Coordinator, shall examine means of reducing unnecessary barriers to professional licensure for qualified immigrants to Vermont from foreign countries. On or before January 15, 2019, the Director shall submit to the House and Senate Committees on Government Operations a report of his or her findings and any recommendations for legislative action.~~

~~*\* \* \* Pollution Abatement Facility Operators \* \* \**~~

*Sec. 11. 10 V.S.A. § 1263 is amended to read:*

*§ 1263. DISCHARGE PERMITS*

~~*\* \* \**~~

~~*(d) A discharge permit shall:*~~

~~*\* \* \**~~

~~*(2) Require proper operation and maintenance of any pollution abatement facility necessary in the treatment or processing of the waste by qualified personnel in accordance with standards established by the Secretary*~~

~~and the Director of the Office of Professional Regulation. The Secretary may require that a pollution abatement facility be operated by persons licensed under 26 V.S.A. chapter 97 99 and may prescribe the class of license required. The Secretary may require a laboratory quality assurance sample program to ensure qualifications of laboratory analysts.~~

~~\*\*\*~~

~~\*\*\* Barbers and Cosmetologists \*\*\*~~

~~Sec. 12. 26 V.S.A. chapter 6 is amended to read:~~

~~CHAPTER 6. BARBERS AND COSMETOLOGISTS~~

~~Subchapter 1. General Provisions~~

~~§ 271. DEFINITIONS~~

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

~~(1) "Barbering" means engaging in the continuing performance, for compensation, of any of the following activities: cutting, shampooing, or styling hair; shaving the face, shaving around the vicinity of the ears and neckline, or trimming facial hair; facials, skin care, or scalp massages, and bleaching, coloring, straightening, permanent waving or permanent-waving hair, or similar work by any means, with hands or mechanical or electrical apparatus or appliances. Barbering also includes esthetics.~~

~~(2) "Board" means the board of barbers and cosmetologists.~~

~~(3) "Cosmetology" means engaging in the continuing performance, for~~

~~compensation of any of the following activities:~~

~~(A) Work on the hair of any person, including dressing, curling, waving, cleansing, cutting, bleaching, coloring, or similar work by any means, with hands or mechanical or electrical apparatus or appliances.~~

~~(B) Esthetics.~~

~~(C) Manicuring.~~

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

~~(4) “Disciplinary action,” or “disciplinary cases” includes any action taken by the board against a licensee, registrant, or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, excluding obtaining injunctions, but including issuing warnings, other similar sanctions and ordering restitution.~~

~~(5) “Esthetics” means massaging, cleansing, stimulating, manipulating, beautifying, or otherwise working on the scalp, face, or neck, by using cosmetic preparations, antiseptics, tonics, lotions, or creams. “Esthetics” does not include the sale or application of cosmetics to customers in retail stores or customers’ homes.~~

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

~~(A) a licensed barber;~~

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

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

~~(7)(5) "Manicuring" or "nail technician practice" means the nonmedical treatment of a person's fingernails or toenails or the skin in the vicinity of the nails, and includes the use of cosmetic preparations or appliances.~~

~~(8)(6) "School of barbering or cosmetology" means a facility or facilities regularly used to train or instruct persons in the practice of barbering or cosmetology.~~

~~(9)(7) "Shop" means a facility or facilities regularly used to offer or provide barbering or cosmetology.~~

§ 272. PROHIBITIONS; OFFENSES

~~(a) A person shall not practice or attempt to practice barbering or cosmetology or use in connection with the person's name any letters, words, title, or insignia indicating or implying that the person is a barber or cosmetologist unless the person is licensed in accordance with this chapter.~~

~~(b) A person who owns or controls a shop or school of barbering or cosmetology shall not permit the practice of barbering or cosmetology unless the shop or school is registered in accordance with this chapter.~~

~~(c) A person who violates a provision of this section shall be subject to the penalties provided in 5 V.S.A. § 127.~~

~~§ 273. EXEMPTIONS~~

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

~~(1) affect or prevent the practice of barbering or cosmetology by a student at a school recognized by the ~~board~~ Director;~~

~~\* \* \*~~

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

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

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

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

~~\* \* \*~~

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

~~(6) affect or prevent the practice of barbering or cosmetology within the confines of a State correctional facility by a person incarcerated therein, who~~



~~has completed training acceptable to the Commissioner of Corrections; or~~

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

~~§ 274. PENALTY~~

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

~~Subchapter 2. Administration~~

~~§ 275. CREATION OF BOARD~~

~~(a) A board of barbers and cosmetologists is created, consisting of five members. Members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. Members shall be residents of this state.~~

~~(b) One member of the board shall be a member of the public who has no financial interest in barbering or cosmetology other than as a consumer or possible consumer of its services. He or she shall have no financial interest personally or through a spouse, parent, child, brother or sister.~~

~~(c) Two members of the board shall be licensed cosmetologists.~~

~~(d) One member of the board shall be a licensed barber.~~

~~(e) The remaining member shall be a person licensed under this chapter or a public member.~~

~~(f) A majority of the members of the board shall constitute a quorum for~~

~~transacting business, and all action shall be taken upon a majority vote of the  
members present and voting. [Repealed.]~~

~~§ 276. GENERAL POWERS AND DUTIES OF THE BOARD DIRECTOR~~

~~(a) The ~~board~~ Director shall:~~

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

~~(A) ~~Prescribe~~ prescribe sanitary and safety standards for shops,  
schools, and other facilities used for the practice of barbering and  
cosmetology.;~~

~~(B) ~~Prescribe~~ prescribe safe and sanitary practices for the  
performance of activities related to the practice of barbering and  
cosmetology.;~~

~~(C) ~~Establish~~ establish standards for apprenticeships, courses, and  
examinations to be completed by an applicant for licensure under this  
chapter.;~~

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

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

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

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

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

~~(E)(i) establish criteria for apprenticeships that would enable a person seeking licensure under this chapter to train under an appropriately qualified Vermont licensee in order to attain licensure without mandated formal training; and~~

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

~~(b)(1) The ~~board~~ Director may inspect shops and schools and other places used for the practice of barbering and cosmetology.~~

~~(2) ~~No~~ A fee shall not be charged for initial inspections under this subsection; however, if the ~~board~~ Director determines that it is necessary to inspect the same premises in the same ownership more than once in any two-year period, the ~~board~~ Director shall charge a reinspection fee.~~

~~(3) The ~~board~~ Director may waive all or a part of the reinspection fee in accordance with criteria established by rule.~~

§ 276a. ADVISOR APPOINTEES

~~(a)(1) The Secretary of State shall appoint one barber and one cosmetologist for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to barbering and cosmetology. One of the initial appointments shall be for less than a five-year term.~~

~~(2) An appointee shall have not less than three years' experience as a barber or cosmetologist immediately preceding appointment; shall be licensed as a barber or cosmetologist in Vermont; and shall be actively engaged in the practice of barbering or cosmetology in this State during incumbency.~~

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

Subchapter 3. Licenses

§ 277. QUALIFICATIONS, BARBER

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

~~(b) The board shall issue a limited barbering license, with an endorsement for cutting, shampooing, and styling hair and for mustache and beard trimming, to any person incarcerated in a state correctional facility who completes, while under the direct personal supervision of a barber licensed by~~

~~the board, a course of training of not less than 10 hours in cutting, shampooing, and styling hair and trimming of mustache and beard. Such limited license shall be valid only within a state correctional facility. No fees shall be charged for a limited license issued under this subsection. [Repealed.]~~

~~§ 278. QUALIFICATIONS; COSMETOLOGIST~~

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

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

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

~~§ 279. QUALIFICATIONS; ESTHETICIAN~~

~~A person shall be eligible for licensure as an esthetician if the person is at~~

~~least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed the following:~~

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

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

~~§ 280. QUALIFICATIONS; NAIL TECHNICIAN~~

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

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

~~(2) an apprenticeship of not less than six months and not more than 12 months consisting of a minimum of 600 hours and a maximum of 900 hours, as prescribed by the board by rule, and has passed the examination described~~

~~in section 283 of this title. [Repealed.]~~

~~§ 280a. ELIGIBILITY FOR LICENSURE~~

~~An applicant for licensure as a barber, cosmetologist, esthetician, or nail technician shall meet the qualifications for licensure established by the Director under the provisions of subchapter 2 of this chapter.~~

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

~~(a) N A school of barbering or cosmetology shall not be granted a certificate of approval unless the school:~~

~~\* \* \*~~

~~(4) Requires a school term of training:~~

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

~~(B) in the case of a school of cosmetology, requires a school term of training of not less than 1,500 hours for a complete course that includes all or the majority of the practices of cosmetology, and includes practical demonstrations and theoretical studies in sanitation, sterilization, the use of~~

~~antiseptics, cosmetics, and electrical appliances, consistent with the practical and theoretical requirements applicable to cosmetology or any practice of cosmetology consistent with formal training requirements established by rule, which shall include practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, and the use of appliances, devices, treatments, and preparations relevant to the field of licensure.~~

~~(b) Regional vocational centers may offer courses of instruction in barbering or cosmetology without a certificate of approval from the Board Director, and State correctional facilities may offer courses of instruction in barbering without a certificate of approval from the Board Director; however, credits for licensing ~~will~~ shall only be given for courses that meet the Board's Director's standards for courses offered in postsecondary schools of barbering or cosmetology certified by the Board Director.~~

~~\* \* \*~~

~~§ 282. SHOP; LICENSE~~

~~(a) ~~No~~ A shop shall not be granted a license unless the shop complies with the rules of the ~~board~~ Director and has a designated licensee responsible for overall cleanliness, sanitation, and safety of the shop.~~

~~(b) The practices of barbering and cosmetology shall be permitted only in shops licensed by the ~~board~~ Director, except as provided in sections 273 and 281 of this ~~title~~ Chapter and the rules of the ~~board~~ Director.~~



~~§ 283. EXAMINATION~~

~~(a) An applicant who is otherwise eligible for licensure and has paid the required fees shall be examined.~~

~~(b)(1) The examination for a license shall include both practical demonstrations and written or oral tests in the area of practices for which a license is applied and other related studies or subjects as the ~~board~~ Director may determine necessary.~~

~~(2) The examination shall not be confined to any specific system or method and shall be consistent with a prescribed curriculum as provided by this chapter.~~

~~(c) The ~~board~~ Director may limit, by rule, the number of times a person may take an examination.~~

§ 284. ISSUANCE OF LICENSE

~~(a) The ~~board~~ Director shall issue a license to an applicant who has passed the examination as determined by the ~~board~~ Director, has paid the required fee, and has completed all the requirements for the particular license.~~

~~(b) The ~~board~~ Director shall issue a license to the person who owns or controls a shop or school of barbering or cosmetology who has paid the required fee and is in compliance with the rules of the ~~board~~ Director and the provisions of this chapter.~~

~~(c) The license shall be conspicuously displayed for the customer in the~~

~~licensee's principal office, place of business, or place of employment~~

~~§ 285. LICENSES FROM OTHER JURISDICTIONS~~

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

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

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

~~§ 286. RENEWAL AND REINSTATEMENT~~

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

~~§ 287. FEES~~

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

~~(1) Application:~~

<del>(A) Barber</del>	<del>\$110.00</del>
<del>(B) Cosmetologist</del>	<del>\$110.00</del>
<del>(C) Nail technician</del>	<del>\$110.00</del>
<del>(D) Shop</del>	<del>\$330.00</del>
<del>(F) School</del>	<del>\$330.00</del>

~~(2) Biennial renewal:~~

<del>(A) Barber</del>	<del>\$130.00</del>
<del>(B) Cosmetologist</del>	<del>\$130.00</del>
<del>(C) Nail technician</del>	<del>\$130.00</del>
<del>(D) Esthetician</del>	<del>\$130.00</del>
<del>(E) Shop</del>	<del>\$225.00</del>
<del>(F) School</del>	<del>\$330.00</del>

~~(3) Reinspection \$100.00~~

[Repealed.]

~~§ 288. UNPROFESSIONAL CONDUCT~~

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

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

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

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

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

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

~~§ 289. LICENSURE BY ENDORSEMENT~~

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

~~Sec. 13. DIRECTOR OF PROFESSIONAL REGULATION, BARBERS~~

~~AND COSMETOLOGISTS; RULEMAKING~~

~~Prior to the effective date of Sec. 12 of this act, the Director of the Office of Professional Regulation shall adopt rules in accordance with the amendments to 26 V.S.A. chapter 6 (barbers and cosmetologists) contained in that section.~~

~~Dentistry~~

~~Sec. 14. 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.~~

~~\* \* \*~~

~~Subchapter 6. Renewals, Continuing Education, and Fees~~

~~\* \* \*~~

~~§ 663. LAPSED LICENSES OR REGISTRATIONS~~

~~(a) Failure to renew a license by the renewal date shall result in a lapse~~

~~license subject to late renewal penalties pursuant to 3 V.S.A. § 125(a)(1)~~

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

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

~~\*\*\* Nursing \*\*\*~~

~~Sec. 15. 26 V.S.A. chapter 28 is amended to read:~~

~~CHAPTER 28. NURSING~~

~~Subchapter 1. General Provisions~~

~~\*\*\*~~

~~§ 1573. VERMONT STATE BOARD OF NURSING~~

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

~~\*\*\*~~

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

~~§ 1570. ISSUANCE AND DURATION OF LICENSES~~

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

~~\* \* \*~~

~~§ 1584. PROHIBITIONS; OFFENSES~~

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

~~\* \* \*~~

~~(8) [Deleted.]~~

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

~~(e) [Deleted.]~~

~~\* \* \*~~

~~Subchapter 2. Advanced Practice Registered Nurses~~

~~\* \* \*~~

~~§ 1612. PRACTICE GUIDELINES~~

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

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

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

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

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

§ 1613. TRANSITION TO PRACTICE

~~(a) Graduates An APRN with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and ~~1,000~~ 1,200 hours for any additional role and population focus shall ~~have~~ be required, in accordance with Board rule to:~~

~~(1) establish a formal agreement with a collaborating provider as required by board rule. APRNs shall have and maintain signed and dated copies of all required collaborative provider agreements as part of the practice guidelines. An APRN required to practice with a collaborative provider agreement may not engage in solo practice, except with regard to a role and population focus in which the APRN has met the requirements of this subsection; or~~

~~(2) document that the APRN's place of employment is a clinic, hospital, or practice group that employs two or more additional individuals who have~~



~~been licensed for four or more years to practice medicine under chapter 23 or 33 of this title or advanced practice registered nursing under this chapter. One of those more experienced licensees shall be primarily located on site when the APRN is providing clinical health care services and accessible by phone or otherwise by alternative means, as defined by Board rule.~~

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

~~§ 1614. APRN RENEWAL~~

~~An APRN license renewal application shall include:~~

- ~~(1) documentation of completion of the APRN practice requirement;~~
- ~~(2) and possession of a current certification by a national APRN specialty certifying organization;~~
- ~~(3) current practice guidelines; and~~
- ~~(4) a current collaborative provider agreement if required for transition to practice.~~

~~§ 1615. ADVANCED PRACTICE REGISTERED NURSES;~~

~~REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT~~

~~(a) In addition to the provisions of 3 V.S.A. § 129a and section 1582 of this chapter, the Board may deny an application for licensure, renewal, or reinstatement, or may revoke, suspend, or otherwise discipline an advanced~~

~~practice registered nurse upon due notice and opportunity for hearing if the person engages in the following conduct:~~

~~\* \* \*~~

~~(4) Practice beyond those acts and situations that are within the practice guidelines approved by the Board for an APRN and within the limits of the knowledge and experience of the APRN, and, for an APRN who is practicing under a collaborative agreement, practice beyond those acts and situations that are within both the usual scope of the collaborating provider's practice and the terms of the collaborative agreement.~~

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

~~\* \* \*~~

~~Subchapter 3. Registered Nurses and Practical Nurses~~

~~\* \* \*~~

~~§ 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT~~

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

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

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

~~\* \* \*~~

~~§ 1626. PRACTICAL NURSE LICENSURE BY ENDORSEMENT~~

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

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

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

~~\* \* \*~~

~~Subchapter 4. Nursing Assistants~~

~~\* \* \*~~

~~§ 1645. RENEWAL~~

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

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

\* \* \*

*Sec. 16. NURSING COMPACT ASSESSMENT*

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

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

\* \* \* Pharmacy \* \* \*

*Sec. 17. 26 V.S.A. chapter 36 is amended to read:*

*CHAPTER 36. PHARMACY*

*Subchapter 1. General Provisions*

\* \* \*

*§ 2022. DEFINITIONS*

*As used in this chapter:*

\* \* \*

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

~~\*\*\*~~

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

~~\*\*\*~~

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

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

~~(B) "Manufacturing" includes the packaging or repackaging of a drug or device or the labeling or relabeling of the container of a drug or device for resale by a pharmacy, practitioner, or other person.~~

~~(12) "Nonprescription drugs" means nonnarcotic medicines or drugs that may be sold without a prescription and that are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes~~

~~and regulations of this State and the federal government~~

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

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

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

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

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

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

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

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

~~(vi) the providing of patient care services within the pharmacist’s~~

~~authorized scope of practice:~~

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

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

~~(B) "Practice of clinical pharmacy" or "clinical pharmacy" means:~~

~~\* \* \*~~

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

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

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

~~drugs by pharmacists or pharmacies~~

~~(15)(16) "Practitioner" means an individual authorized by the laws of the United States or its jurisdictions or Canada to prescribe and administer prescription drugs in the course of his or her professional practice and permitted by that authorization to dispense, conduct research with respect to, or administer drugs in the course of his or her professional practice or research in his or her respective state or province.~~

~~(16)(17) "Prescription drug" means any human drug required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to Section 503(b) of the Federal Food, Drug and Cosmetic Act.~~

~~(17)(18) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:~~

~~\* \* \*~~

~~(18)(19) "Wholesale drug distributor" means any person who is engaged in wholesale distribution of prescription drugs, but does not include any for-hire for-hire carrier or person hired solely to transport prescription drugs.~~

~~(19)(20) "Collaborative practice agreement" means a written agreement between a pharmacist and a health care facility or prescribing practitioner that permits the pharmacist to engage in the practice of clinical~~



~~pharmacy for the benefit of the facility's or practitioner's patients.~~

\* \* \*

*Subchapter 2. Board of Pharmacy*

*§ 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION*

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

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

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

\* \* \*

*Subchapter 3. Licensing*

*§ 2041. UNLAWFUL PRACTICE*

*(a) It shall be unlawful for any person to engage in the practice of pharmacy unless licensed to so practice under the provisions of this chapter; provided, however, physicians, dentists, veterinarians, osteopaths, or other ~~practitioners of the healing arts who are licensed under the laws of this State~~*

~~may dispense and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this State.~~

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

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

~~\*\*\*~~

~~§ 2042b. PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS;~~

~~SUPERVISION~~

~~\*\*\*~~

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

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

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

~~\*\*\*~~

~~§ 2044. RENEWAL OF LICENSES~~

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

~~§ 2045. REINSTATEMENT~~

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

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

~~\*\*\*~~

~~Subchapter 4. Discipline~~

~~§ 2051. UNPROFESSIONAL CONDUCT~~

~~The board of pharmacy may refuse to issue or renew, or may suspend, revoke, or restrict the licenses of any person, pursuant to the procedures set forth in section 2052 of this title, upon one or more of the following grounds~~

~~and upon the grounds set forth in 3 V.S.A. § 129a:~~

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

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

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

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

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

~~§ 2052. PENALTIES AND REINSTATEMENT~~

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

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

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

~~(C) Restriction of the offender's license to prohibit the offender from~~

~~performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;~~

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

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

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

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

~~(2) [Deleted.]~~

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

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

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

~~3 V.S.A. § 130a. [Repealed.]~~

*Subchapter 5. Registration of Facilities*

*§ 2061. REGISTRATION AND LICENSURE*

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

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

- (1) Retail drug outlet.*
- (2) Institutional drug outlet.*
- (3) Manufacturing drug outlet Manufacturer.*
- (4) Wholesale drug outlet or wholesale drug distributor.*
- (5) Investigative and research projects.*
- (6) Compounding.*
- (7) Outsourcing.*
- (8) Home infusion.*
- (9) Nuclear.*

*§ 2064. VIOLATIONS AND PENALTIES*

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

~~*(b) Reinstatement of a license that has been suspended, revoked, or*~~

~~restricted by the board may be granted in accordance with the procedures specified by subsection 2052(b) of this title Unauthorized operation of a drug outlet may be penalized as provided in 3 V.S.A. § 127 and shall constitute unprofessional conduct by the licensees involved.~~

*Subchapter 6. Wholesale Drug Distributors*

*§ 2067. WHOLESAL DRUG DISTRIBUTOR; LICENSURE REQUIRED*

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

*(b) [Repealed.]*

*\* \* \**

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

*\* \* \**

*§ 2071. APPLICATION OF FEDERAL GUIDELINES*

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

~~*(b) In case of conflict between any wholesale drug distributor licensing*~~

~~requirement imposed by the board Board under this chapter and any FDA wholesale drug distributor licensing guideline, the latter shall control.~~

~~§ 2072. LICENSE RENEWAL~~

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

~~§ 2073. RULES~~

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

~~(b) All rules adopted under this subchapter shall conform to wholesale drug distributor licensing guidelines formally adopted by the Federal Drug Administration FDA at 21 C.F.R. Part 305.~~

~~§ 2074. COMPLAINTS~~

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

~~§ 2075. PENALTIES~~

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

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



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

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

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

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

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

~~\* \* \*~~

~~Sec. 18. CREATION OF POSITION WITHIN THE OFFICE OF  
PROFESSIONAL REGULATION; PHARMACY~~

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

~~(b) Any funding necessary to support the position created in subsection (a)~~

~~of this section shall be derived from the Office's Professional Regulatory Fee Fund, with no General Fund dollars.~~

~~\* \* \* Real Estate Brokers and Salespersons \* \* \*~~

~~Sec. 19. 26 V.S.A. § 2211 is amended to read:~~

~~§ 2211. DEFINITIONS~~

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

~~\* \* \*~~

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

~~\* \* \*~~

~~(5) "Real estate salesperson" or "salesperson" means any person who for a fee, compensation, salary, or other consideration, or in the expectation or upon the promise thereof, is employed by or associated with a licensed real estate broker to do any act or deal in any transaction as provided in subdivision (4) of this subsection ~~(a)~~ for or on behalf of ~~such a~~ a licensed real estate broker.~~

~~(b) The terms "real estate broker," "real estate salesperson," or "broker" shall not be held to include:~~

~~(1) Any person, partnership, association, or corporation who as a bona fide owner performs any of the aforesaid acts set forth in subdivision (a)(4) of this section with reference to property owned by them, nor shall it apply to regular employees thereof, where when such acts are performed in the regular course of or as an incident to the management of such property and the investment therein. This subdivision (1) shall not apply to licensees.~~

~~\*\*\*~~

~~\*\*\* Radiologic Technicians \*\*\*~~

~~Sec. 20. 26 V.S.A. § 2803 is amended to read:~~

~~§ 2803. EXEMPTIONS~~

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

~~\*\*\*~~

~~(5) Any of the following when operating dental radiographic equipment to conduct intraoral radiographic examinations under the general supervision of a licensed practitioner; and, any of the following when operating dental radiographic equipment to conduct specialized radiographic examinations, including tomographic, cephalometric, or temporomandibular joint~~

~~examinations, if the person has completed a course in radiography approved by the Board of Dental Examiners and practices under the general supervision of a licensed practitioner:~~

~~(A) a licensed dental therapist;~~

~~(B) a licensed dental hygienist;~~

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

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

~~\*\*\*~~

~~\*\*\* Private Investigators and Security Guards \*\*\*~~

~~Sec. 21. 26 V.S.A. chapter 59 is amended to read:~~

~~CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES~~

~~Subchapter 1. General Provisions~~

~~§ 3151. DEFINITIONS~~

~~As used in this chapter:~~

~~\*\*\*~~

~~(5) —“Qualifying agent” means a licensed private investigator who is responsible for a private investigative services agency or combination agency;~~

~~or a licensed security guard who is responsible for a private security services agency or combination agency. A sole proprietor shall be the qualifying agent of his or her agency and shall meet all qualifying agent licensure requirements.~~

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

~~§ 3151a. EXEMPTIONS~~

~~(a) The term "private investigator" shall not include:~~

~~\* \* \*~~

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

~~\* \* \*~~

~~(b) The term "security guard" shall not include:~~

~~\* \* \*~~

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

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

\* \* \*

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

~~The Board may:~~

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

~~(1) security guards who may:~~

~~(A) practice independently or head agencies; or~~

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

~~(2) private investigators who may:~~

~~(A) practice independently or head agencies; or~~

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

~~(3) agencies; and~~

~~(4) recognized trainers and training programs.~~

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

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

~~(4) Conduct examinations and pass upon the qualifications of applicants~~

~~for a license or registration.~~

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

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

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

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

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

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

~~(iii) The Board may prioritize training subjects to require that~~

~~certain subject areas are covered in the initial eight hours of training required for part-time employees.~~

~~(2) Adopt rules establishing continuing education requirements and establish or approve continuing education programs to assist a licensee or registrant in meeting these requirements.~~

~~§ 3163. FUNCTIONING OF LICENSING BOARD~~

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

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

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

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

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

~~\*\*\*~~

~~Subchapter 3. Licensing~~

~~\*\*\*~~

~~§ 3173. PRIVATE INVESTIGATOR LICENSES~~

~~(a) A person shall not engage in the business of private investigation, or provide private investigator services in this State without first obtaining a~~



~~license. The Board shall issue a license to a private investigator 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.~~~~

~~\*\*\*~~

~~(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:~~

~~\* \* \*~~

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

~~\* \* \*~~

~~(c) The Board shall require that ~~the~~ a person licensed to practice independently has had experience satisfactory to the Board in security work, for a period of not less than two years. Such experience may include having been licensed as a security guard in another state or regularly employed as a security guard for a security agency licensed in this or another state, or 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.~~

~~\* \* \*~~

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

~~(a) A 60-day temporary registration may be issued to a person who applies for registration as an employee of a licensed private investigator or a licensed~~

~~security guard under section 3176 of this title. A temporary registration shall authorize a person to work as an unarmed private investigator or unarmed security guard while employed by a private investigator agency or security guard agency licensed by the board.~~

~~(b) Temporary registrations shall expire at the end of the 60-day period or by final action on the application, whichever occurs first. For good cause shown, the board may extend a temporary registration one time for an additional period of 60 days. [Repealed.]~~

~~§ 3176c. TEMPORARY EMERGENCY REGISTRATION~~

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

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

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

~~\*\*\*~~

~~§ 3178. RENEWALS AND REINSTATEMENT~~

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

~~\*\*\*~~

~~§ 3179. PENALTIES~~

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

~~\*\*\*~~

~~Subchapter 4. Unprofessional Conduct and Discipline~~

~~§ 3181. UNPROFESSIONAL CONDUCT~~

~~\*\*\*~~

~~(e) After conducting a hearing and upon a finding that a licensee, registrant, or applicant engaged in unprofessional conduct, the board may take~~

~~disciplinary action. Discipline for unprofessional conduct may include denial of an application, revocation or suspension of a license or registration, supervision, reprimand, warning, or the required completion of a course of action.~~

~~\*\*\* Clinical Mental Health Counselors \*\*\*~~

~~Sec. 22. 26 V.S.A. Chapter 65 is amended to read:~~

~~CHAPTER 65. CLINICAL MENTAL HEALTH COUNSELORS~~

~~\*\*\*~~

~~§ 3262a. BOARD OF ALLIED MENTAL HEALTH PRACTITIONERS~~

~~(a) A The Board of Allied Mental Health Practitioners is established.~~

~~\*\*\*~~

~~(c) A majority of the members of the Board shall constitute a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting.~~

~~\*\*\*~~

~~§ 3265. ELIGIBILITY~~

~~To be eligible for licensure as a clinical mental health counselor an applicant shall satisfy all of the following have:~~

~~(1) Shall have completed a minimum of 60 graduate hours and received Received a master's degree or higher degree in counseling or a related field, from an accredited educational institution, after having successfully completed~~

~~a course of study as defined by the board, by rule, which included requiring a minimum number of graduate credit hours established by the Board by rule and a supervised practicum, internship, or field experience, as defined by the board, Board by rule, in a mental health counseling setting.~~

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

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

~~§ 3266. APPLICATION~~

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

~~§ 3267. EXAMINATION~~

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

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

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

~~\*\*\*~~

~~§ 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. 23. 26 V.S.A. chapter 75 is amended to read:~~

~~CHAPTER 75. ACUPUNCTURISTS~~

~~§ 5401. 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 without the application of electric current or the application of heat to the needles or skin, or both, for the purpose of promoting health and balance as defined by traditional and modern Oriental theories. Acupuncture involves the use of traditional and modern Oriental diagnostic techniques, acupuncture therapy, and adjunctive therapies, including but not limited to: nonprescription remedies, exercise, nutritional and herbal therapies, therapeutic massage, and lifestyle counselling treatment by means of mechanical, thermal, or electrical stimulation effected by the insertion and manipulation of solid or filiform needles to the human body; evaluation and management to determine a plan of acupuncture care for the purpose of promoting health and well-being; and development of a corresponding plan of acupuncture care, which may include adjunctive therapies such as manual therapy, nonprescription remedies, nutritional and herbal therapies, thermal therapies, therapeutic massage, exercises, activities, and lifestyle counseling.*

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

\* \* \*

§ 5406. RENEWALS

~~(a) Licenses shall be renewed every two years upon payment of the required fee and furnishing satisfactory evidence of having completed 30 hours of approved continuing education credit during the preceding two years. The director may adopt rules for the approval of continuing education programs and the awarding of credit.~~

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

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

\* \* \*

#### § 3410. UNPROFESSIONAL CONDUCT

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

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

~~patient~~

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

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

~~(3) Sexual harassment of a patient.~~

~~(4) Engaging in sexual intercourse or other sexual conduct with a patient with whom the licensed acupuncturist has had a professional relationship within the previous two years.~~

~~(c) After hearing and upon a finding of unprofessional conduct, an administrative law officer appointed under 3 V.S.A. § 129(j) may take disciplinary action against a licensed acupuncturist or applicant.~~

~~\* \* \*~~

~~§ 3412. ACUPUNCTURE DETOXIFICATION; SPECIALIZED  
CERTIFICATION~~

~~(a) A person not licensed under this chapter may obtain a specialized certification as an acupuncture detoxification technician to practice auricular acupuncture according to the National Acupuncture Detoxification Association protocol from the board for the purpose of the treatment of alcoholism, substance abuse, or chemical dependency if he or she provides documentation of successful completion of a board-approved training program in acupuncture~~

~~for the treatment of alcoholism, substance abuse, or chemical dependency which meets or exceeds standards of training established by the National Acupuncture Detoxification Association.~~

~~(b) Treatment permitted under this section may only take place in a state, federal, or board-approved site under the supervision of an individual licensed under this chapter and certified by the National Acupuncture Detoxification Association.~~

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

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

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

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

**Sec. 24. TRANSITIONAL PROVISION; ACTIVE CERTIFIED**

~~ACUPUNCTURE DETOXIFICATION TECHNICIANS, ABILITY~~

TO RENEW CERTIFICATION

Notwithstanding the repeal of 26 V.S.A. § 3412 (acupuncture detoxification; specialized certification) in Sec. 21 of this act, on the effective date of this act, a person actively certified by the Office of Professional Regulation as an acupuncture detoxification technician may renew that certification biennially upon payment of the required fee and for as long as he or she maintains continuous certification, may provide auricular acupuncture consistent with National Acupuncture Detoxification Association protocol under the supervision of a licensed acupuncturist within an Office-approved setting as a complement to comprehensive addiction-treatment services.

*\* \* \* Effective Dates \* \* \**

*Sec. 25. EFFECTIVE DATES*

This act shall take effect on July 1, 2018, except:

(1) this section and Sec. 13 (Director of Professional Regulation; barbers and cosmetologists; rulemaking) shall take effect on passage; and

(2) Secs. 2, amending 3 V.S.A. § 125 (fees), and 12, amending 26 V.S.A. chapter 6 (barbers and cosmetologists), shall take effect on January 1, 2019, except that in Sec. 2, 3 V.S.A. § 125, subdivision (b)(4)(A) (social workers) shall take effect on passage; and

(3) Sec. 6 shall take effect on July 1, 2019.

*\* \* \* 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:*

*\* \* \**

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

*\* \* \**

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

*\* \* \**

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

*(1) accepting appropriate recognition of education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of*

~~professional licensure or certification; and~~

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

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

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

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

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

\* \* \*

~~Sec. 2. 3 V.S.A. § 125 is amended to read:~~

~~§ 125. FEES~~

\* \* \*

~~(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:~~

~~(1) Application for registration, \$75.00.~~

(2) Application for licensure or certification, \$100.00, except application for:

(A) Barbering or cosmetology schools and shops, \$300.00.

(B) Funeral directors, embalmers, crematory personnel, removal personnel, funeral establishments, crematory establishments, and limited services establishments, \$70.00.

(3) Optician trainee registration, \$50.00.

(4) Biennial renewal, \$200.00, except biennial renewal for:

(A) Biennial renewal for Independent clinical social workers and master's social workers, \$150.00.

(B) Biennial renewal for occupational Occupational therapists and assistants, \$150.00.

(C) Biennial renewal for physical Physical therapists and assistants, \$100.00.

(D) Biennial renewal for optician Optician trainees, \$100.00.

(E) Barbers, cosmetologists, nail technicians, and estheticians, \$130.00.

(F) Schools of barbering or cosmetology, \$300.00.

(G) Funeral directors and embalmers, \$280.00.

(H) Crematory personnel and removal personnel, \$100.00.

(I) Funeral establishments, crematory establishments, and limited



services establishments, \$640.00.

(5) *Limited temporary license or work permit, \$50.00.*

\* \* \*

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

*§ 127. UNAUTHORIZED PRACTICE*

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

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

*(2)(A) The Attorney General or an attorney assigned by the Office of Professional Regulation may elect to bring an action seeking only a civil penalty of not more than \$1,000.00 for practicing or permitting the practice of a regulated profession without authority before the board having regulatory authority over the profession or before an administrative law officer.*

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

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

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

*\* \* \**

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

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

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

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

*(3) A licensee seeking reinstatement may submit a petition for relief*

*from the reinstatement penalty, which a board may grant only upon a finding of exceptional circumstances or extreme hardship to the licensee; provided, however, that fees under this subsection shall not be assessed for any period during which a licensee was a member of the U.S. Armed Forces on active duty.*

\* \* \*

*Sec. 4. 3 V.S.A. § 128 is amended to read:*

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

\* \* \*

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

\* \* \*

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

*§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS*

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

*(1) ~~Adopt procedural~~ Consistent with other law and State policy, develop administrative rules governing the investigatory and disciplinary process establishing evidence-based standards of practice appropriate to secure and promote the public health, safety, and welfare; open and fair*

competition within the marketplace for professional services; interstate mobility of professionals; and public confidence in the integrity of professional services.

\* \* \*

Sec. 6. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

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

\* \* \*

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

\* \* \*

Sec. 7. 3 V.S.A. § 134 is added to read:

§ 134. LICENSE RENEWAL

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

assigned by the Office.

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

Sec. 8. 3 V.S.A. § 135 is added to read:

§ 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING

EXTENDED ABSENCE

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

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

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

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

applicant.

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

Sec. 9. 3 V.S.A. § 136 is added to read:

§ 136. UNIFORM CONTINUING EDUCATION EVALUATION

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

Sec. 10. LICENSING FOR IMMIGRANTS SETTLING IN VERMONT;

REPORT

The Director of the Office of Professional Regulation, in consultation with the State Refugee Coordinator, shall examine means of reducing unnecessary barriers to professional licensure for qualified immigrants to Vermont from foreign countries. On or before January 15, 2019, the Director shall submit to the House and Senate Committees on Government Operations a report of his or her findings and any recommendations for legislative action.

\* \* \* Pollution Abatement Facility Operators \* \* \*

Sec. 11. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

\* \* \*

*(d) A discharge permit shall:*

\* \* \*

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

\* \* \*

*\* \* \* Barbers and Cosmetologists \* \* \**

*Sec. 12. 26 V.S.A. chapter 6 is amended to read:*

## *CHAPTER 6. BARBERS AND COSMETOLOGISTS*

### *Subchapter 1. General Provisions*

#### *§ 271. DEFINITIONS*

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

*(1) “Barbering” means engaging in the continuing performance, for compensation, of any of the following activities: cutting, shampooing, or styling hair; shaving the face, shaving around the vicinity of the ears and*

*neckline, or trimming facial hair; facials, skin care, or scalp massages, and bleaching, coloring, straightening, ~~permanent-waving~~ or permanent-waving hair, or similar work by any means, with hands or mechanical or electrical apparatus or appliances. Barbering also includes esthetics.*

*(2) ~~“Board” means the board of barbers and cosmetologists.~~*

*(3) ~~“Cosmetology” means engaging in the continuing performance, for compensation, of any of the following activities:~~*

*(A) ~~Work on the hair of any person, including dressing, curling, waving, cleansing, cutting, bleaching, coloring, or similar work by any means, with hands or mechanical or electrical apparatus or appliances.~~*

*(B) ~~Esthetics.~~*

*(C) ~~Manicuring.~~*

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

*(4) ~~“Disciplinary action” or “disciplinary cases” includes any action taken by the board against a licensee, registrant, or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, excluding obtaining injunctions, but including issuing warnings, other similar sanctions and ordering restitution.~~*

*(5) ~~“Esthetics” means massaging, cleansing, stimulating, manipulating, beautifying, or otherwise working on the scalp, face, or neck, by using~~*



*cosmetic preparations, antiseptics, tonics, lotions, or creams. "Esthetics" does not include the sale or application of cosmetics to customers in retail stores or customers' homes.*

*~~(6) "Financial interest" means being:~~*

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

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

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

*~~(7)~~(5) "Manicuring" or "nail technician practice" means the nonmedical treatment of a person's fingernails or toenails or the skin in the vicinity of the nails, and includes the use of cosmetic preparations or appliances.*

*~~(8)~~(6) "School of barbering or cosmetology" means a facility or facilities regularly used to train or instruct persons in the practice of barbering or cosmetology.*

*~~(9)~~(7) "Shop" means a facility or facilities regularly used to offer or provide barbering or cosmetology.*

*§ 272. PROHIBITIONS; OFFENSES*

*(a) ~~No~~ A person shall not practice or attempt to practice barbering or cosmetology or use in connection with the person's name any letters, words, title, or insignia indicating or implying that the person is a barber or*

*cosmetologist unless the person is licensed in accordance with this chapter.*

*(b) ~~No~~ A person who owns or controls a shop or school of barbering or cosmetology shall not permit the practice of barbering or cosmetology unless the shop or school is registered in accordance with this chapter.*

*(c) A person who violates a provision of this section shall be subject to the penalties provided in 3 V.S.A. § 127.*

*§ 273. EXEMPTIONS*

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

*(1) affect or prevent the practice of barbering or cosmetology by a student at a school recognized by the ~~board~~ Director;*

*\* \* \**

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

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

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

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

\* \* \*

*(5) affect or prevent the practice of barbering or cosmetology outside a registered shop or school by licensees in accordance with rules adopted by the board Director;*

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

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

*§ 274. PENALTY*

*A person who violates any provision of section 272 of this title shall be subject to the penalties provided in 3 V.S.A. § 127(e). [Repealed.]*

*Subchapter 2. Administration*

*§ 275. CREATION OF BOARD*

*(a) A board of barbers and cosmetologists is created, consisting of five members. Members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. Members shall be residents of this state.*

*(b) One member of the board shall be a member of the public who has no financial interest in barbering or cosmetology other than as a consumer or possible consumer of its services. He or she shall have no financial interest*

~~personally or through a spouse, parent, child, brother or sister.~~

~~(c) Two members of the board shall be licensed cosmetologists.~~

~~(d) One member of the board shall be a licensed barber.~~

~~(e) The remaining member shall be a person licensed under this chapter or a public member.~~

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

§ 276. GENERAL POWERS AND DUTIES OF THE BOARD DIRECTOR

(a) The ~~board~~ Director shall:

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

(A) ~~Prescribe~~ prescribe sanitary and safety standards for shops, schools, and other facilities used for the practice of barbering and cosmetology.;

(B) ~~Prescribe~~ prescribe safe and sanitary practices for the performance of activities related to the practice of barbering and cosmetology.;

(C) ~~Establish~~ establish standards for apprenticeships, courses, and examinations to be completed by an applicant for licensure under this chapter.;

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

(i) a barber, provided mandated formal training shall be 750 hours;

(ii) a cosmetologist, provided mandated formal training shall be 1,000 hours;

(iii) an esthetician, provided mandated formal training shall be 500 hours; and

(iv) a nail technician, provided mandated formal training shall be 200 hours; and

(E)(i) establish criteria for apprenticeships that would enable a person seeking licensure under this chapter to train under an appropriately qualified Vermont licensee in order to attain licensure without mandated formal training; and

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

(b)(1) The ~~board~~ Director may inspect shops and schools and other places used for the practice of barbering and cosmetology.

(2) ~~No~~ A fee shall not be charged for initial inspections under this subsection; however, if the ~~board~~ Director determines that it is necessary to inspect the same premises in the same ownership more than once in any two-year period, the ~~board~~ Director shall charge a reinspection fee.

(3) The ~~board~~ Director may waive all or a part of the reinspection fee in

*accordance with criteria established by rule.*

§ 276a. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint one barber, one cosmetologist, one esthetician, and one nail technician for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to barbering and cosmetology. At least one of the initial appointments shall be for less than a five-year term.

(2) An appointee shall have not less than three years' experience as a barber or cosmetologist immediately preceding appointment; shall be licensed as a barber or cosmetologist in Vermont; and shall be actively engaged in the practice of barbering or cosmetology in this State during incumbency.

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

Subchapter 3. Licenses

§ 277. QUALIFICATIONS; BARBER

~~(a) A person shall be eligible for licensure as a barber if the person is at least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed an accredited barber school program; or has satisfactorily completed an apprenticeship of not less than 12 months and not more than 36 months consisting of a minimum of 2,000 hours and a maximum of 3,000 hours in a manner prescribed by the board in~~

~~addition to areas of study, prescribed by the board, by rule, has a high school or general educational development diploma, and has passed the examination described in section 283 of this title.~~

~~(b) The board shall issue a limited barbering license, with an endorsement for cutting, shampooing, and styling hair and for mustache and beard trimming, to any person incarcerated in a state correctional facility who completes, while under the direct personal supervision of a barber licensed by the board, a course of training of not less than 10 hours in cutting, shampooing, and styling hair and trimming of mustache and beard. Such limited license shall be valid only within a state correctional facility. No fees shall be charged for a limited license issued under this subsection.~~

~~[Repealed.]~~

§ 278. *QUALIFICATIONS; COSMETOLOGIST*

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

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

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

§ 279. *QUALIFICATIONS; ESTHETICIAN*

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

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

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

§ 280. *QUALIFICATIONS; NAIL TECHNICIAN*

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



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

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

§ 280a. ELIGIBILITY FOR LICENSURE

An applicant for licensure as a barber, cosmetologist, esthetician, or nail technician shall meet the qualifications for licensure established by the Director under the provisions of subchapter 2 of this chapter.

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

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

\* \* \*

(4) ~~Requires a school term of training:~~

~~(A) in the case of a school of barbering, of not less than 1,000 hours for a complete course that includes all or the majority of the practices of barbering, and includes practical demonstrations and theoretical studies in~~

~~sanitation, sterilization, the use of antiseptics, and electrical appliances, consistent with the practical and theoretical requirements applicable to barbering or any practice of barbering; and~~

~~(B) in the case of a school of cosmetology, requires a school term of training of not less than 1,500 hours for a complete course that includes all or the majority of the practices of cosmetology, and includes practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, cosmetics, and electrical appliances, consistent with the practical and theoretical requirements applicable to cosmetology or any practice of cosmetology consistent with formal training requirements established by rule, which shall include practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, and the use of appliances, devices, treatments, and preparations relevant to the field of licensure.~~

~~(b) Regional vocational centers may offer courses of instruction in barbering or cosmetology without a certificate of approval from the Board Director, and State correctional facilities may offer courses of instruction in barbering without a certificate of approval from the Board Director; however, credits hours for licensing will shall only be given for courses that meet the Board's Director's standards for courses offered in postsecondary schools of barbering or cosmetology certified by the Board Director.~~

\* \* \*

§ 282. *SHOP; LICENSE*

*(a) ~~No~~ A shop shall not be granted a license unless the shop complies with the rules of the ~~board~~ Director and has a designated licensee responsible for overall cleanliness, sanitation, and safety of the shop.*

*(b) The practices of barbering and cosmetology shall be permitted only in shops licensed by the ~~board~~ Director, except as provided in sections 273 and 281 of this ~~title~~ chapter and the rules of the ~~board~~ Director.*

§ 283. *EXAMINATION*

*(a) An applicant who is otherwise eligible for licensure and has paid the required fees shall be examined.*

*(b)(1) The examination for a license shall include both practical demonstrations and written or oral tests in the area of practices for which a license is applied and other related studies or subjects as the ~~board~~ Director may determine necessary.*

*(2) The examination shall not be confined to any specific system or method and shall be consistent with a prescribed curriculum as provided by this chapter.*

*(c) The ~~board~~ Director may limit, by rule, the number of times a person may take an examination.*

§ 284. *ISSUANCE OF LICENSE*

*(a) The ~~board~~ Director shall issue a license to an applicant who has passed*

*the examination as determined by the ~~board~~ Director, has paid the required fee, and has completed all the requirements for the particular license.*

*(b) The ~~board~~ Director shall issue a license to the person who owns or controls a shop or school of barbering or cosmetology who has paid the required fee and is in compliance with the rules of the ~~board~~ Director and the provisions of this chapter.*

*(c) The license shall be conspicuously displayed for the customer in the licensee's principal office, place of business, or place of employment.*

#### *§ 285. LICENSES FROM OTHER JURISDICTIONS*

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

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

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

#### *§ 286. RENEWAL AND REINSTATEMENT*

*~~The holder of a license issued by the board pursuant to this chapter may biennially renew the license upon payment of the renewal fee. A license that has not been renewed by the renewal date shall expire. Within three years of the date of expiration, the holder of the expired license may apply for~~*

~~reinstatement upon the payment of the renewal fee and a renewal penalty. If a license is not reinstated within three years of expiration, the applicant shall meet the requirements of section 284 or 285 of this title before the license may be reinstated. [Repealed.]~~

§ 287. FEES

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

~~(1) Application:~~

<del>(A) Barber</del>	<del>\$110.00</del>
<del>(B) Cosmetologist</del>	<del>\$110.00</del>
<del>(C) Nail technician</del>	<del>\$110.00</del>
<del>(D) Esthetician</del>	<del>\$110.00</del>
<del>(E) Shop</del>	<del>\$330.00</del>
<del>(F) School</del>	<del>\$330.00</del>

~~(2) Biennial renewal:~~

<del>(A) Barber</del>	<del>\$130.00</del>
<del>(B) Cosmetologist</del>	<del>\$130.00</del>
<del>(C) Nail technician</del>	<del>\$130.00</del>
<del>(D) Esthetician</del>	<del>\$130.00</del>
<del>(E) Shop</del>	<del>\$225.00</del>
<del>(F) School</del>	<del>\$330.00</del>

~~(3) Reinspection~~

~~\$100.00~~

~~[Repealed.]~~

~~§ 288. UNPROFESSIONAL CONDUCT~~

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

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

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

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

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

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

~~§ 289. LICENSURE BY ENDORSEMENT~~

~~The board may issue a license to an individual who is currently licensed or certified in another jurisdiction in good standing, provided the individual has been in active practice for at least three years immediately preceding~~

~~application or has 2,000 documented hours of practice in not less than one year.~~ [Repealed.]

*Sec. 13. DIRECTOR OF PROFESSIONAL REGULATION; BARBERS  
AND COSMETOLOGISTS; RULEMAKING*

Prior to the effective date of Sec. 12 of this act, the Director of the Office of Professional Regulation shall adopt rules in accordance with the amendments to 26 V.S.A. chapter 6 (barbers and cosmetologists) contained in that section.

*\* \* \* Dentistry \* \* \**

*Sec. 14. 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.

\* \* \*

*Subchapter 6. Renewals, Continuing Education, and Fees*

\* \* \*

~~§ 663. LAPSED LICENSES OR REGISTRATIONS~~

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

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

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

\* \* \* Funeral Services \* \* \*

Sec. 15. 26 V.S.A. chapter 21 is amended to read:

CHAPTER 21. FUNERAL DIRECTORS SERVICES

*Subchapter 1. General Provisions*

§ 1211. DEFINITIONS



*(a) ~~The following words as~~ As used in this chapter, unless a contrary meaning is required by the context, ~~shall have the following meanings:~~*

*(1) “Crematory establishment” means a business registered with the ~~Board~~ Office conducted at a specific street address or location devoted to the disposition of dead human bodies by means of cremation, alkaline hydrolysis, or any other type of human reduction acceptable to the ~~Board of Funeral Service~~ Director as established by ~~Board~~ the Director by rule.*

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

*(3) “Funeral director” means a licensed person who is the owner, co-owner, employee, or manager of a licensed funeral establishment and who, for compensation, engages in the practice of funeral service.*

*~~(3)~~(4) “Funeral establishment” means a business registered with the ~~Board~~ Office conducted at a specific street address or location devoted to the practice of funeral service, and includes a limited services establishment.*

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

*~~(4)~~(6) “Practice of funeral service” means arranging, directing, or providing for the care, preparation, or disposition of dead human bodies for a fee or other compensation. This includes:*

\* \* \*

*~~(5)~~(7) “Removal” means the removal of dead human bodies from places*

*of death, hospitals, institutions, or other locations, for a fee or other compensation.*

\* \* \*

*§ 1212. BOARD OF FUNERAL SERVICE; RULES ADVISOR*

*APPOINTEES; DIRECTOR DUTIES; RULES*

*(a)(1) The board of funeral service shall consist of five members appointed by the governor, three of whom shall be licensed funeral directors under this chapter with five years of experience as a funeral director, and two members shall represent the public. At least two of the funeral directors shall also be licensed embalmers. The public members shall not have a direct or indirect financial interest in the funeral business. Each member shall be sworn before performing his or her duties Secretary of State shall appoint four persons for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to funeral service. Three of the initial appointments shall be for four-, three-, and two-year terms. Appointees shall include three licensed funeral directors, one of whom is a licensed embalmer and one of whom has training or experience in the operation of crematoria. One appointee shall be a public member.*

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

*(b) The board Director shall:*

*(1) adopt rules establishing requirements for facilities used for embalming and preparation of dead human bodies, including the use of universal precautions. Rules adopted under this subdivision shall be submitted to the ~~commissioner of health~~ Commissioner of Health before the proposed rule is filed with the ~~secretary of state~~ Secretary of State under 3 V.S.A. chapter 25;*

*(2) adopt rules governing professional standards, standards for disclosure of prices, and a description of the goods and services that will be provided for those prices not inconsistent with Federal Trade Commission regulations regarding funeral industry practices and unfair or deceptive business practices;*

*(3) provide general information to applicants for licensure;*

*(4) explain appeal procedures to licensees and applicants and complaint procedures to the public;*

*(5) issue licenses to qualified applicants under this chapter; and*

*(6) adopt rules regarding:*

*(A) minimum standards for crematory establishments, including standards for permits and documentation, body handling, containers, infectious diseases, pacemakers, body storage, sanitation, equipment, and maintenance, dealing with the public and other measures necessary to protect the public; and*

~~(B) the transaction of its business as the board Director deems necessary;~~

~~(7) conduct at least one examination each year if there are candidates for examination;~~

~~(8) hold meetings as frequently as the efficient discharge of its duties requires. A majority of the members present shall constitute a quorum for the transaction of business.~~

\* \* \*

§ 1213. INSPECTION OF PREMISES

~~(a) The board of funeral service Director or its his or her designee may, at any reasonable time, inspect funeral and crematory establishments.~~

~~(b) Each funeral and crematory establishment shall be inspected at least once every two years. Copies of the inspector's report of inspections of establishments shall be provided to the board Director.~~

\* \* \*

§ 1215. PENALTIES; JURISDICTION OF OFFENSES

~~(a) A person who engages in the practice of funeral services without a license shall be subject to the penalties provided in 3 V.S.A. § 127(e).~~

~~(b) No A person shall not embalm or introduce any fluid into a dead human body unless the person is a licensed embalmer or is an apprentice and performs under the direction of an embalmer in his or her presence. A person~~

*who is not duly licensed as provided in this chapter ~~may~~ shall not practice or hold himself or herself out to the public as a practicing embalmer ~~and~~; a person who does so shall be subject to the penalties provided in 3 V.S.A. § 127(e).*

\* \* \*

*Subchapter 2. Licenses*

*§ 1251. LICENSE REQUIREMENTS*

*(a) ~~No~~ A person, partnership, corporation, association, or other organization ~~may~~ shall not open or maintain a funeral establishment unless the establishment is licensed by the ~~board of funeral service~~ Office to conduct the business and unless the owner, a co-owner, or manager is a licensed funeral director.*

*(b) ~~No~~ A person, partnership, corporation, association, or other organization ~~may~~ shall not open or maintain a crematory establishment unless the establishment is licensed by the ~~board of funeral service~~ Office.*

*(c) ~~No~~ A person ~~may~~ shall not hold himself or herself out as performing the duties of a funeral director unless licensed by the ~~board of funeral service~~ Office.*

*(d) Except as otherwise permitted by law, ~~no~~ a person employed by a funeral or crematory establishment ~~may~~ shall not perform a removal unless registered with the ~~board~~ Office.*

§ 1252. *APPLICATION; QUALIFICATIONS*

*(a) Funeral director:*

*(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination as a funeral director provided that he or she has:*

*(A) graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than two academic years, or graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than one academic year or its equivalent as determined by the ~~Board~~ Director, with 30 additional credit hours in subjects approved by the ~~Board~~ Director and obtained in a college or university approved by the ~~Board~~ Director;*

*(B) completed a traineeship of 12 months of full-time employment or its equivalent under the direct supervision of a person duly licensed for the practice of funeral service within a licensed funeral establishment not connected with a school. The duration of the traineeship and the work performed shall be verified by affidavit as required by the ~~Board~~ Director; and*

*(C) submitted a written application and the required application fee.*

*(2) The ~~Board~~ Director may waive the educational and traineeship requirements for examination as a funeral director, provided the applicant*

*possesses a valid license from another state with licensure requirements substantially similar to those required by this chapter:*

*(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection (a), the ~~Board~~ Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the ~~Board~~ Director to ensure competence as a funeral director:*

*(b) Embalmer:*

*(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination in embalming provided that he or she has:*

*(A) graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than two academic years, or graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than one academic year or its equivalent as determined by the ~~Board~~ Director, with 30 additional credit hours in subjects approved by the ~~Board~~ Director and obtained in a college or university approved by the ~~Board~~ Director;*

*(B) served a traineeship of 12 months of full-time employment or its equivalent under the direct supervision of a person duly licensed for the*

*practice of funeral service, within a licensed funeral establishment not connected with a school. The duration of the traineeship and the work performed shall be verified by affidavit as required by the ~~Board~~ Director; and*

*(C) submitted a written application and the required application fee.*

*(2) The ~~Board~~ Director may waive the educational and traineeship requirements for examination as an embalmer, provided the applicant possesses a valid license from another state with licensure requirements substantially similar to those required by this chapter.*

*(c) Funeral establishment.*

*(1) A person, partnership, association, or other organization desiring to operate a funeral establishment, shall apply, in writing, to the ~~Board of Funeral Service~~ Director for a license. The applicant, if a corporation, partnership, association, or other organization, must have a manager or co-owner who is a licensed funeral director.*

*(2) The application for a license shall be sworn to by the individual, a partner, or a duly authorized officer of a corporation, and shall be on the form prescribed and furnished by the ~~Board of Funeral Service~~ Director, and the applicant shall furnish such information as required by the Director by rule or regulation ~~of the Board~~. The application shall be accompanied by a licensing fee.*

*(d) Crematory establishment.*



*(1) A person, partnership, corporation, association, or other organization desiring to operate a crematory establishment shall apply, in writing, to the ~~Board of Funeral Service~~ Director for a license. The applicant, if a partnership, corporation, association, or other organization, must have a designated manager or co-owner who is responsible for the operation of the establishment and who is registered with the ~~Board~~ Office under subsection (e) of this section.*

*(2) The application for a license shall be sworn to by the individual, or a partner or a duly authorized officer of a corporation, shall be on the form prescribed and furnished by the ~~Board~~ Director, and the applicant shall furnish information, as required by rule. The application shall be accompanied by a licensing fee. However, the applicant shall not be required to pay the fee under this subsection if the applicant pays the fee under subsection (b) of this section.*

*(e) Crematory personnel.*

*(1) Any person who desires to engage in direct handling, processing, identification, or cremation of dead human remains within a licensed crematory establishment shall register with the ~~Board of Funeral Service~~ Office and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed crematory establishment.*

*(2) ~~The Board~~ Director may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in programs approved by the ~~Board~~ Director.*

*(f) Removal personnel.*

*(1) Any person who desires to engage in removals shall register with the ~~Board of Funeral Service~~ Office and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed funeral or crematory establishment, or the University of Vermont for removals related to the University's anatomical gift program.*

*(2) ~~The Board~~ Director may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in infectious diseases in programs approved by the ~~Board~~ Director.*

*(3) Registrants under this ~~section~~ subsection are authorized to perform removals only, as defined by this chapter. Unregistered personnel may accompany registered personnel to assist in removals so long as they have been instructed in handling and precautionary procedures prior to the call.*

*(g) Limited services establishment.*

*(1) ~~The Board of Funeral Service~~ Director may adopt rules for the issuance of limited service establishment licenses in accordance with this chapter. Limited service establishment licensees are authorized to perform*

*only disposition services without arranging, directing, or performing embalming, public viewings, gatherings, memorials, funerals, or related ceremonies. Disposition services under this subsection include direct cremation, direct alkaline hydrolysis, immediate burial, or direct green burial.*

*(2) Limited services shall be overseen by a funeral director licensed under this chapter who is employed by the limited service establishment.*

*(3) Each limited service arrangement shall include a mandatory written disclosure providing notice to the purchaser that limited services do not include embalming, public viewings, gatherings, memorials, funerals, or related ceremonies.*

*(4) A funeral director associated with a funeral establishment licensed under subsection (c) of this section may provide limited services so long as the mandatory disclosure described under subdivision (3) of this subsection is provided to the purchaser.*

#### *§ 1253. EXAMINATIONS*

*An applicant for a funeral director's or embalmer's license shall be examined by as the board Director may require by rule. ~~The examinations shall be in writing and upon forms approved by the board containing questions on subjects as the board by rule may require to determine the qualifications of the applicant.~~*

#### *§ 1254. ISSUANCE OR DENIAL OF LICENSE*

*If, upon review, it is found that the applicant possesses sufficient skill and knowledge of the business and has met the application and qualification requirements set forth in this chapter, the board Director shall issue to him or her a license to engage in the business of funeral director, embalmer, funeral establishment, crematory establishment, or removal personnel. All applications shall be granted or denied within 90 days from the making thereof.*

*§ 1255. ~~RECORD OF LICENSES AND APPLICATIONS~~*

*The board shall keep a record of licenses granted and applications made for license, which shall be open to public inspection at all reasonable times.  
[Repealed.]*

*§ 1256. RENEWAL OF REGISTRATION OR LICENSE*

*(a)(1) ~~One month before renewal is required, the Board or the Office of Professional Regulation shall notify, by mail, every licensee of the date on which his or her or its license will expire.~~*

*(2) ~~Biennially, every licensee shall renew his or her or its registration or license by paying the required fee.~~*

*(b) ~~Upon request of the Board of Health or a person authorized to issue burial or removal permits, a licensee shall show proof of current licensure.~~*

*(c) ~~If a licensee fails to pay the renewal fee by the required date, the license shall lapse. Thereafter, the license may be reinstated only upon application to~~*

~~the Board or the Office of Professional Regulation and upon payment of the renewal fee and a reinstatement fee. [Repealed.]~~

~~(d) Applicants and persons regulated under this chapter shall pay the following fees:~~

<del>(1) Application for license</del>	<del>\$ 70.00</del>
<del>(2) Biennial renewal of license</del>	
<del>(A) Funeral director</del>	<del>\$ 350.00</del>
<del>(B) Embalmer</del>	<del>\$ 350.00</del>
<del>(C) Funeral establishment</del>	<del>\$ 800.00</del>
<del>(D) Crematory establishment</del>	<del>\$ 800.00</del>
<del>(E) Crematory personnel</del>	<del>\$ 125.00</del>
<del>(F) Removal personnel</del>	<del>\$125.00</del>
<del>(G) Limited services establishment license</del>	<del>\$800.00</del>

~~(e)(1) In addition to the provisions of subsection (a) of this section, an applicant for renewal as a funeral director or embalmer shall have satisfactorily completed continuing education as required by the ~~Board~~ Director.~~

~~(2) For purposes of this subsection, the ~~Board~~ Director shall require, by rule, not less than six nor more than ten hours of approved continuing education as a condition of renewal and may require up to three hours of continuing education for removal personnel in the subject area of universal~~

*precautions and infectious diseases.*

*§ 1257. UNPROFESSIONAL CONDUCT*

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

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

*(1) Using dishonest or misleading advertising.*

*(2) Failure to make available, upon request of a person who had received services, copies of documents in the possession or under the control of the practitioner.*

*(3) Failure to comply with rules adopted by the ~~board~~ Director, the ~~office of professional regulation~~ Office, or by the Federal Trade Commission relating to funeral goods and services.*

*(4) For funeral directors, failure to make available at the licensee's place of business, by color picture or display, the three least expensive caskets, as available. For the purposes of this section and related administrative rules, the three least expensive caskets shall include one cloth, one metal, and one wood casket.*

~~*(c) After hearing and upon a finding of unprofessional conduct, the board may take disciplinary action against a licensee.*~~

~~*(d) For purposes of this section, "disciplinary action" includes any action taken by the board against a licensee premised on a finding of unprofessional*~~

~~conduct. Disciplinary action includes all appropriate remedies, including denial of renewal of a license, suspension, revocation, limiting, or conditioning of the license, issuing reprimands or warnings, and adopting consent orders.~~

~~(e) Disciplinary proceedings against a licensed crematory establishment or its personnel, when that crematory is independent from a licensed funeral establishment, may, upon petition of the licensee, be heard by an administrative law officer appointed by the director of the office of professional regulation.~~

\* \* \*

### *Subchapter 3. Prepaid Funeral Arrangements*

#### *§ 1271. PREPAID ARRANGEMENTS*

~~A funeral establishment that sells services or merchandise that is not to be delivered or provided within 30 days of sale has entered into a prepaid funeral arrangement and shall comply with the requirements of this subchapter.~~

#### *§ 1272. RULES; PREPAID FUNERAL FUNDS*

~~The board, with the assistance of the office of professional regulation, Director shall adopt rules to carry out the provisions of this subchapter to ~~insure~~ ensure the proper handling of all funds paid pursuant to a prepaid funeral agreement and to protect consumers in the event of default. The rules shall include provisions relating to the following:~~

\* \* \*

*(5) Information to be provided the escrow agent by the funeral director and information regarding the escrow account or the prepaid funeral that shall be made available to the buyer on request and annually in a format as determined by the ~~board~~ Director.*

*\* \* \**

*(8) Other factors determined by the ~~board~~ Director to be reasonably necessary to ~~insure~~ ensure the security of the funds paid into an escrow account as part of a prepaid funeral arrangement.*

*(9) Establishment of a funeral services trust account.*

*(A) For purposes of funding the funeral services trust account, the ~~board or the office of professional regulation~~ Office shall assess each funeral or crematory establishment a per funeral, burial, or disposition fee of \$6.00.*

*(B) The account shall be administered by the ~~secretary of state~~ Secretary of State and shall be used for the sole purpose of protecting prepaid funeral contract holders in the event a funeral establishment defaults on its obligations under the contract.*

*(C) The account shall consist of all fees collected under this subdivision (9) and any assessments authorized by the ~~general assembly~~ General Assembly. The principal and interest remaining in the account at the close of any fiscal year shall not revert but shall remain in the account for use in succeeding fiscal years.*



*(D) Notwithstanding the ~~foregoing~~ provisions of this subdivision (9) to the contrary, if the fund balance at the beginning of a fiscal year is at least \$200,000.00, no fees shall be imposed during that fiscal year.*

*(E) Payments on consumer claims from the fund shall be made on warrants by the ~~commissioner of finance and management~~ Commissioner of Finance and Management, at the direction of the ~~board of funeral services~~ Director.*

*(F) When an investigation reveals financial discrepancies within a licensed establishment, the ~~director~~ Director may order an audit to determine the existence of possible claims on the funeral services trust account. In cases where both a funeral and crematory establishment are involved in a disposition, the party receiving the burial permit shall be responsible for the disposition fee.*

\* \* \*

§ 1273. WRITTEN AGREEMENTS

*(a) Each prepaid funeral arrangement shall be expressed in a written contract. The ~~board~~ Director shall adopt rules for standard provisions to be included in all pre-need trust forms and may adopt a standard form ~~which~~ that every funeral director accepting prepaid funeral arrangements shall use. Those provisions shall include:*

*(1) Disclosure of whether the contract is revocable or irrevocable.*

*(2) A declaration of the person who will most likely be responsible for the funeral and who is to be notified of the prepaid funeral.*

*(3) Any other provision determined by the ~~board~~ Director to be reasonably necessary to ~~insure~~ ensure full disclosure to the buyer of all prepaid funeral arrangements as required under this chapter.*

\* \* \*

*Sec. 16. REPEAL*

*26 V.S.A. § 1256(d) (funeral services; application and renewal fees) shall be repealed on June 1, 2023.*

*Sec. 17. TRANSITIONAL PROVISION; FUNERAL SERVICE RULES*

*On the effective date of Sec. 15 of this act (amending 26 V.S.A. chapter 21 (funeral services)), the rules of the Board of Funeral Service shall constitute the rules of the Director of the Office of Professional Regulation for the funeral service professions and establishments.*

\* \* \* *Nursing* \* \* \*

*Sec. 18. 26 V.S.A. chapter 28 is amended to read:*

*CHAPTER 28. NURSING*

*Subchapter 1. General Provisions*

\* \* \*

*§ 1573. VERMONT STATE BOARD OF NURSING*

*(a) There is hereby created ~~a~~ the Vermont State Board of Nursing*

*consisting of six registered nurses, including at least two licensed as advanced practice registered nurses; two practical nurses; one nursing assistant; and two public members. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.*

\* \* \*

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

*§ 1579. ISSUANCE AND DURATION OF LICENSES*

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

\* \* \*

*§ 1584. PROHIBITIONS; OFFENSES*

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

\* \* \*

*(8) [Deleted.]*

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

*(e) [Deleted.]*

\* \* \*

*Subchapter 2. Advanced Practice Registered Nurses*

\* \* \*

*§ 1612. PRACTICE GUIDELINES*

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

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

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

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

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

\* \* \*

*§ 1614. APRN RENEWAL*

*An APRN license renewal application shall include:*

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

*(2) possession of a current certification by a national APRN specialty certifying organization; and*

*(3) current practice guidelines; and*

*(4) a current collaborative provider agreement if required for transition*

*to practice.*

*§ 1615. ADVANCED PRACTICE REGISTERED NURSES;*

*REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT*

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

*\* \* \**

*(4) Practice beyond those acts and situations that are within the practice guidelines approved by the Board for an APRN and within the limits of the knowledge and experience of the APRN, and, for an APRN who is practicing under a collaborative agreement, practice beyond those acts and situations that are within both the usual scope of the collaborating provider's practice and the terms of the collaborative agreement.*

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

\* \* \*

*Subchapter 3. Registered Nurses and Practical Nurses*

\* \* \*

*§ 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT*

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

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

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

\* \* \*

*§ 1626. PRACTICAL NURSE LICENSURE BY ENDORSEMENT*

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

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

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

\* \* \*

*Subchapter 4. Nursing Assistants*

\* \* \*

§ 1645. RENEWAL

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

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

\* \* \*

Sec. 19. NURSING COMPACT ASSESSMENT

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

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

\* \* \* Pharmacy \* \* \*

Sec. 20. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

\* \* \*

§ 2022. DEFINITIONS

*As used in this chapter:*

\* \* \*

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

\* \* \*

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

\* \* \*

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

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



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

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

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

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

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

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

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

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

(iv) ~~the proper and safe storage of~~ properly and safely storing

~~drugs and legend devices, and the maintenance of~~ maintaining proper records  
~~therefor;~~

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

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

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

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

(B) "Practice of clinical pharmacy" or "clinical pharmacy" means:

\* \* \*

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

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

(C) ~~A rule shall not be adopted by the~~ The Board under this chapter

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

~~(15)(16) “Practitioner” means an individual authorized by the laws of the United States or its jurisdictions or Canada to prescribe and administer prescription drugs in the course of his or her professional practice and permitted by that authorization to dispense, conduct research with respect to, or administer drugs in the course of his or her professional practice or research in his or her respective state or province.~~

~~(16)(17) “Prescription drug” means any human drug required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to Section 503(b) of the Federal Food, Drug and Cosmetic Act.~~

~~(17)(18) “Wholesale distribution” means distribution of prescription drugs to persons other than a consumer or patient, but does not include:~~

\* \* \*

~~(18)(19) “Wholesale drug distributor” means any person who is~~

*engaged in wholesale distribution of prescription drugs, but does not include any ~~for-hire~~ for-hire carrier or person hired solely to transport prescription drugs.*

*~~(19)~~(20) “Collaborative practice agreement” means a written agreement between a pharmacist and a health care facility or prescribing practitioner that permits the pharmacist to engage in the practice of clinical pharmacy for the benefit of the facility’s or practitioner’s patients.*

*\* \* \**

*Subchapter 2. Board of Pharmacy*

*§ 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION*

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

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

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

*\* \* \**

*Subchapter 3. Licensing*

*§ 2041. UNLAWFUL PRACTICE*

*(a) It shall be unlawful for any person to engage in the practice of pharmacy unless licensed to so practice under the provisions of this chapter; provided, however, physicians, dentists, veterinarians, osteopaths, or other practitioners of the healing arts who are licensed under the laws of this State may dispense and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this State.*

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

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

*\* \* \**

*§ 2042b. PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS;*

*SUPERVISION*

\* \* \*

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

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

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

\* \* \*

*§ 2044. ~~RENEWAL OF LICENSES~~*

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

*§ 2045. ~~REINSTATEMENT~~*

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

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

\* \* \*

*Subchapter 4. Discipline*

~~§ 2051. UNPROFESSIONAL CONDUCT~~

~~The board of pharmacy may refuse to issue or renew, or may suspend, revoke, or restrict the licenses of any person, pursuant to the procedures set forth in section 2052 of this title, upon one or more of the following grounds and upon the grounds set forth in 3 V.S.A. § 129a:~~

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

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

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

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

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

~~§ 2052. PENALTIES AND REINSTATEMENT~~

~~(a)(1) Upon the finding, after notice and opportunity for hearing, of the existence of grounds for discipline of any person or any drug outlet holding a~~

~~license, under the provisions of this chapter, the board of pharmacy may impose one or more of the following penalties:~~

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

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

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

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

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

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

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

~~(2) [Deleted.]~~

~~(b) Any person or drug outlet whose license to practice pharmacy in this state has been suspended, revoked, or restricted pursuant to this chapter, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon hearing, the board may in its discretion grant or deny such petition or it~~



~~may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.~~

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

~~(d) All final decisions by the board shall be subject to review pursuant to 3 V.S.A. § 130a. [Repealed.]~~

*Subchapter 5. Registration of Facilities*

*§ 2061. REGISTRATION AND LICENSURE*

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

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

~~(1) Retail drug outlet.~~

~~(2) Institutional drug outlet.~~

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

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

~~(5) Investigative and research projects.~~

~~(6) Compounding.~~

~~(7) Outsourcing.~~

~~(8) Home infusion.~~

~~(9) Nuclear.~~

§ 2064. VIOLATIONS AND PENALTIES

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

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

*Subchapter 6. Wholesale Drug Distributors*

§ 2067. WHOLESALE DRUG DISTRIBUTOR; LICENSURE REQUIRED

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

~~(b) [Repealed.]~~

\* \* \*

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

\* \* \*

§ 2071. *APPLICATION OF FEDERAL GUIDELINES*

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

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

§ 2072. *LICENSE RENEWAL*

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

§ 2073. *RULES*

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

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

§ 2074. *COMPLAINTS*

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

§ 2075. *PENALTIES*

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

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

*(2) has been convicted of a violation of a federal or state drug law.*

*[Repealed.]*

§ 2076. *INSPECTION POWERS; ACCESS TO WHOLESALE DRUG*

*DISTRIBUTOR RECORDS*

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

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

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

\* \* \*

*Sec. 21. CREATION OF POSITION WITHIN THE OFFICE OF  
PROFESSIONAL REGULATION; PHARMACY*

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

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

*\* \* \* Real Estate Brokers and Salespersons \* \* \**

*Sec. 22. 26 V.S.A. § 2211 is amended to read:*

*§ 2211. DEFINITIONS*

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

\* \* \*

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

\* \* \*

(5) *“Real estate salesperson” or “salesperson” means any person who for a fee, compensation, salary, or other consideration, or in the expectation or upon the promise thereof, is employed by or associated with a licensed real estate broker to do any act or deal in any transaction as provided in subdivision (4) of this subsection ~~(a)~~ for or on behalf of ~~such a~~ licensed real estate broker.*

(b) *The terms “real estate broker,” “real estate salesperson,” or “broker” shall not ~~be held to~~ include:*

(1) *Any person, partnership, association, or corporation who as a bona fide owner performs any of the ~~aforesaid~~ acts set forth in subdivision (a)(4) of this section with reference to property owned by them, nor shall it apply to regular employees thereof, ~~where~~ when such acts are performed in the regular course of or as an incident to the management of such property and the investment therein. This subdivision (1) shall not apply to licensees.*

\* \* \*

\* \* \* *Radiologic Technicians* \* \* \*

*Sec. 23. 26 V.S.A. § 2803 is amended to read:*

*§ 2803. EXEMPTIONS*

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

\* \* \*

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

*(A) a licensed dental therapist;*

*(B) a licensed dental hygienist;*

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

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

\* \* \*

*\* \* \* Private Investigators and Security Guards \* \* \**

*Sec. 24. 26 V.S.A. chapter 59 is amended to read:*

*CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES*

*Subchapter 1. General Provisions*

*§ 3151. DEFINITIONS*

*As used in this chapter:*

*\* \* \**

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

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

*§ 3151a. EXEMPTIONS*

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

*\* \* \**

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

*\* \* \**

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



\* \* \*

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

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

\* \* \*

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

*The Board may:*

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

*(1) security guards who may:*

*(A) practice independently or head agencies; or*

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

*(2) private investigators who may:*

*(A) practice independently or head agencies; or*

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

*(3) agencies; and*

*(4) recognized trainers and training programs.*

*~~(2) Conduct any necessary hearings in connection with the issuance, renewal, denial, suspension, or revocation of a license or registration or~~*

~~otherwise related to the disciplining of a licensee, registrant, or applicant.~~

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

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

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

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

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

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

~~(C)(i) Part-time employees shall complete not fewer than eight hours of training prior to being issued a part-time employee temporary registration, which shall be valid for not more than 180 days from the date of issuance. The remaining training hours for part-time employees shall be completed within the temporary registration period of 180 days or before the employee has~~

~~worked 500 hours, whichever occurs first. The part-time employee temporary registration may be issued only once and shall expire after 180 days or 500 hours.~~

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

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

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

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

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

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

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

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

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

\* \* \*

*Subchapter 3. Licensing*

\* \* \*

*§ 3173. PRIVATE INVESTIGATOR LICENSES*

*(a) A person shall not engage in the business of private investigation or provide private investigator services in this State without first obtaining a license. The Board shall issue a license to a private investigator 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.*

\* \* \*

*(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;<sup>2</sup> 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.*

\* \* \*

*(c) The Board shall require that ~~the~~ a person licensed to practice independently has had experience satisfactory to the Board in security work<sup>2</sup> for a period of not less than two years. Such experience may include having been licensed as a security guard in another state or regularly employed as a security guard for a security agency licensed in this or another state<sup>2</sup> or 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<sup>2</sup>; upon a finding that the applicant does not meet a high standard as to character, integrity, and reputation<sup>2</sup>; or for*

*unprofessional conduct defined in section 3181 of this title chapter.*

\* \* \*

*§ 3176b. TEMPORARY REGISTRATION FOR EMPLOYEES OF  
AGENCIES*

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

*(b) Temporary registrations shall expire at the end of the 60-day period or by final action on the application, whichever occurs first. For good cause shown, the board may extend a temporary registration one time for an additional period of 60 days. [Repealed.]*

*§ 3176c. TEMPORARY EMERGENCY REGISTRATION*

*(a) If the board determines that the public health, safety, or welfare so requires, it may grant to an applicant a temporary registration to practice as a security guard. To qualify under this section, an applicant shall have a license in good standing to practice as a security guard in another jurisdiction within the United States that regulates the practice. The person seeking the temporary registration shall document to the board's satisfaction that the*

~~applicant will otherwise meet all state and federal requirements necessary to perform the specific security duties arising out of the emergency circumstances warranting temporary licensure.~~

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

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

~~[Repealed.]~~

\* \* \*

§ 3178. RENEWALS AND REINSTATEMENT

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

\* \* \*

§ 3179. PENALTIES

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

\* \* \*

*Subchapter 4. Unprofessional Conduct and Discipline*

*§ 3181. UNPROFESSIONAL CONDUCT*

\* \* \*

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

\* \* \* *Clinical Mental Health Counselors* \* \* \*

*Sec. 25. 26 V.S.A. chapter 65 is amended to read:*

*CHAPTER 65. CLINICAL MENTAL HEALTH COUNSELORS*

\* \* \*

*§ 3262a. BOARD OF ALLIED MENTAL HEALTH PRACTITIONERS*

*(a) A The Board of Allied Mental Health Practitioners is established.*

\* \* \*

~~(c) A majority of the members of the Board shall constitute a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting.~~

\* \* \*



§ 3265. ELIGIBILITY

*To be eligible for licensure as a clinical mental health counselor an applicant shall satisfy all of the following have:*

*(1) ~~Shall have completed a minimum of 60 graduate hours and received~~ Received a master's degree or higher degree in counseling or a related field, from an accredited educational institution, after having successfully completed a course of study as defined by the board, by rule, which included requiring a minimum number of graduate credit hours established by the Board by rule and a supervised practicum, internship, or field experience, as defined by the ~~board,~~ Board by rule, in a mental health counseling setting.*

*(2) ~~Shall have documented~~ Documented a minimum of 3,000 hours of supervised work in clinical mental health counseling ~~over~~ during a minimum of two years of post-master's experience. ~~Persons engaged in supervised work shall be entered on the roster of nonlicensed, noncertified psychotherapists and shall comply with the laws of that profession, and shall have documented a minimum of, including at least 100 hours of face-to-face supervision over~~ during a minimum of two years of post-master's experience. ~~Clinical work shall be performed under the supervision of a licensed physician certified in psychiatry by the American Board of Medical Specialties, a licensed psychiatric nurse practitioner, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist, a licensed clinical~~*

~~mental health counselor; or a person certified or licensed in another jurisdiction in one of these professions or in a profession which is the substantial equivalent, or a supervisor trained by a regional or national organization which has been approved by the board~~ Persons engaged in supervised work shall be registered on the roster of nonlicensed, noncertified psychotherapists and shall comply with the laws applicable to registrants.

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

§ 3266. APPLICATION

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

§ 3267. EXAMINATION

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

~~(b) Examinations administered by the board and the procedures of administration shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted licensure if they demonstrate that they possess the minimal occupational qualifications which~~

~~are consistent with the public health, safety, and welfare. They shall not be designed or implemented for the purpose of limiting the number of license holders. The board with the advice of the clinical mental health counselors who are members of the special panel, shall establish, by rule, fixed criteria for passing the examination that shall apply to all persons taking the examination.~~

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

\* \* \*

§ 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.]~~

\* \* \*

\* \* \* Effective Dates \* \* \*

Sec. 26. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except:

(1) this section and Secs. 2, amending 3 V.S.A. § 125 (fees) and 13 (Director of Professional Regulation; barbers and cosmetologists; rulemaking) shall take effect on passage, except that in Sec. 2, 3 V.S.A. § 125:

(A) subdivisions (b)(2)(A) (application for barbering and cosmetology schools and shops) and (b)(4)(E) and (F) (renewal for barbering and cosmetology professionals and schools) shall take effect on January 1, 2019; and

(B) subdivisions (b)(2)(B) and (b)(4)(G)-(I) (application and renewal for funeral service professionals and establishments) shall take effect on June 1, 2023;

(2) Sec. 6, amending 3 V.S.A. § 129a (unprofessional conduct), shall take effect on July 1, 2019; and

(3) Sec. 12, amending 26 V.S.A. chapter 6 (barbers and cosmetologists), shall take effect on January 1, 2019.