

# House Calendar

---

Wednesday, February 21, 2018

50th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

---

## TABLE OF CONTENTS

---

**Page No.**

### **ACTION CALENDAR**

#### **Third Reading**

<b>H. 571</b> Creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.....	455
Rep. LaClair Amendment.....	455
<b>H. 576</b> Stormwater management.....	456
<b>H. 693</b> Designating the Honor and Remember Flag as the State Veterans Flag .....	456
<b>H. 779</b> The legislative directory prepared by the Secretary of State.....	456
<b>H. 892</b> Regulation of short-term, limited-duration health insurance coverage and association health plans.....	456

#### **Favorable with Amendment**

<b>H. 636</b> Miscellaneous fish and wildlife subjects.....	456
Rep. Squirrell for Natural Resources, Fish, and Wildlife	
Rep. Lucke for Ways and Means.....	467
Rep. Willhoit Amendment.....	467
Rep. Smith of Derby, et al. Amendment.....	467
<b>H. 718</b> Creation of the Restorative Justice Study Committee.....	467
Rep. Macaig for Corrections and Institutions	

### **NOTICE CALENDAR**

#### **Committee Bill for Second Reading**

<b>H. 894</b> Pensions, retirement, and setting the contribution rates for municipal employees.....	471
Rep. Devereux for Government Operations	

**Favorable with Amendment**

**H. 684** Professions and occupations regulated by the Office of Professional Regulation..... 471  
Rep. LaClair for Government Operations

**H. 731** The classification of employees..... 509  
Rep. Hill for Commerce and Economic Development

**H. 828** Disclosures in campaign finance law.....513  
Rep. Gannon for Government Operations

**Ordered to Lie**

**H. 167** Alternative approaches to addressing low-level illicit drug use..... 514

**H. 219** The Vermont spaying and neutering program.....514

**S. 103** An act relating to the regulation of toxic substances and hazardous materials..... 514

---

**ORDERS OF THE DAY**

---

**ACTION CALENDAR**

**Third Reading**

**H. 571**

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery

**Amendment to be offered by Rep. LaClair of Barre Town to H. 571**

Representative LaClair of Barre Town moves that the bill be amended as follows:

First: In Sec. 90, 31 V.S.A. § 654a, multijurisdictional lottery games, by striking out the section in its entirety and inserting in lieu thereof a new Sec. 90 to read:

Sec. 90. 31 V.S.A. § 654a is redesignated and amended to read:

§ ~~654a~~ 652. MULTIJURISDICTIONAL LOTTERY GAME GAMES

(a)(1) In addition to the Tri-State Lotto Compact provided for in subchapter 2 of this chapter, and the other authority to operate lotteries contained in this chapter, the ~~Commission~~ Board of Liquor and Lottery is authorized to negotiate and contract with ~~up to~~ not more than four multijurisdictional lotteries to offer and provide multijurisdictional lottery games. The ~~Commission Board~~ may join any multijurisdictional lottery that provides indemnification for its standing committee members, officers, directors, employees, and agents.

(2)(A) The ~~Commission Board~~ shall adopt ~~rules under 3 V.S.A. chapter 25~~ procedures pursuant to 3 V.S.A. § 835 to govern the establishment and operation of any multijurisdictional lottery game authorized by this section. For each procedure proposed to be adopted or amended pursuant to this section, the Board shall publish the proposal on the Department of Liquor and Lottery's website, provide notice of the proposal to all persons licensed to sell lottery tickets, provide not less than 30 days for public comment on the proposal, and hold not less than two public hearings at which members of the public may seek additional information or submit oral or written comments on the proposal.

(B) The Board of Liquor and Lottery shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to a procedure adopted pursuant to this section.

(C) A procedure adopted pursuant to this section shall be binding on

all persons who play or sell the multijurisdictional lottery game.

\* \* \*

(c) The provisions of subdivisions 674L.1.1A through 674L.1.1I of this title shall apply to the payment of prizes to a person other than a winner for prizes awarded under any multijurisdictional lottery authorized by this section, except that the ~~Vermont Lottery Commission~~ Board of Liquor and Lottery shall be responsible for implementing ~~such~~ the provisions under this section, rather than the Tri-State Lotto Commission.

Second: After Sec. 90, 31 V.S.A. § 654a, by inserting a Sec. 90a to read:

Sec. 90a. ADOPTION OF PROCEDURES; REPEAL OF RULES

On or before September 15, 2018, the Board of Liquor and Lottery shall adopt procedures governing the operation of all multijurisdictional lottery games offered pursuant to 31 V.S.A. § 654a. Upon the adoption of procedures governing the operation of a multijurisdictional lottery game, any rules adopted pursuant to 3 V.S.A. chapter 25 in relation to that game shall be deemed to be repealed.

**H. 576**

An act relating to stormwater management

**H. 693**

An act relating to designating the Honor and Remember Flag as the State Veterans Flag

**H. 779**

An act relating to the legislative directory prepared by the Secretary of State

**H. 892**

An act relating to regulation of short-term, limited-duration health insurance coverage and association health plans

**Favorable with Amendment**

**H. 636**

An act relating to miscellaneous fish and wildlife subjects

**Rep. Squirrel of Underhill**, for the Committee on Natural Resources; Fish and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Information Collection \* \* \*

Sec. 1. 10 V.S.A. § 4132 is amended to read:

§ 4132. GENERAL DUTIES OF COMMISSIONER

(a) The Commissioner shall have charge of the enforcement of the provisions of this part.

\* \* \*

(f) The Commissioner may collect data, conduct scientific research, and contract with qualified consultants for the purposes of managing fish and wildlife in the State and achieving the requirements and policies of this part. The Commissioner may designate as confidential any records produced or acquired by Department staff or contractors in the conduct of a study of or research related to fish, wildlife, wild plants, or the habitat or fish, wildlife, or wild plants, if release of the records would present a threat of harm to a species or the habitat of a species. Records designated as confidential under this subsection shall be exempt from inspection and copying under the Public Records Act. Records of Department staff or contractors that are not designated as confidential under this subsection shall be available for inspection and copying under the Public Records Act.

\* \* \* Acquisition of Property; Grants \* \* \*

Sec. 2. 10 V.S.A. § 4144(a) is amended to read:

(a) ~~The secretary~~ Secretary with approval of the Governor may acquire for the use of the State Department of Fish and Wildlife by gift, purchase, or lease ~~in the name of the State,~~ any and all rights and interests in lands, ponds, or streams, and hunting and fishing rights and privileges in any lands or waters in the State, ~~with~~ and the necessary rights of ingress or egress to and from such lands and waters. The Secretary's authority to acquire property interests under this section shall include all of the interests that may be acquired under subsection 6303(a) of this title.

Sec. 3. 10 V.S.A. § 4147 is amended to read:

§ 4147. FISH AND WILDLIFE LANDS

(a) Notwithstanding the provisions of 29 V.S.A. § 166, the Secretary with the approval of the Governor, may convey, exchange, sell, or lease lands under the Secretary's jurisdiction of the Department of Fish and Wildlife for one or more of the following purposes:

(1) resolving trespass issues and implementing boundary line adjustments and right-of-way and deed corrections, provided that the transfers are advantageous to the State;

(2) implementing the acquisition of new lands for conservation and public recreation when, in his or her judgment, it is advantageous to the State to do so in the highest orderly development of such lands and management of

game thereon.

~~(b) Provided, however, such~~ The lease, sale, or exchange of lands under this section shall not include oil and gas leases and shall not be contrary to the terms of any contract which that has been entered into by the State.

\* \* \*

\* \* \* Licensing; Lottery Applications \* \* \*

Sec. 4. 10 V.S.A. § 4254(e) is amended to read:

(e) The Commissioner shall establish:

(1) license agencies, for the sale and distribution of licenses or lottery applications for licenses, including any town clerk who desires to sell licenses or process lottery applications for licenses;

(2) the number, type, and location of license agencies, other than town clerk agencies;

(3) the qualifications of all agencies and agents except town clerks;

(4) controls for the inventory, safeguarding, issue, and recall of all licensing materials;

(5) the times and methods for reporting the sale and issuance of all licenses;

(6) procedures for accounting for and return of all monies and negotiable documents due the Department from agencies in accordance with the provisions of this title and Title 32 of the Vermont Statutes Annotated;

(7) procedures for the audit of all license programs and license agency transactions and the proper retention and inspection of all accounting and inventory records related to the sale or issuance of licenses;

(8) procedures for the suspension of any license agent or agency, including a town clerk agent, for noncompliance with the provisions of this title, any written agreement between the agent and the Department, or any licensing rule established by the Department;

(9) that for each license or lottery application, \$1.50 of the fee is a filing fee that may be retained by the agent, except for the super sport license for which \$5.00 of the fee is a filing fee that may be retained by the agent; and

(10) that for licenses, lottery applications, and tags issued where the Department does not receive any part of the fee, \$1.50 may be charged as a filing fee and retained by the agent.

\* \* \* Migratory Waterfowl Stamp Program \* \* \*

Sec. 5. 10 V.S.A. § 4277 is amended to read:

§ 4277. MIGRATORY WATERFOWL STAMP PROGRAM

(a) Definitions. As used in this section:

(1) “Migratory waterfowl” means all waterfowl species in the family anatidae, including wild ducks, geese, brant, and swans.

(2) “Stamp” means the State migratory waterfowl hunting stamp furnished by the Department of Fish and Wildlife as provided for in this section and the federal migratory waterfowl stamp furnished by the U.S. Department of the Interior.

(b) Waterfowl stamp required. No person 16 years of age or older shall attempt to take or take any migratory waterfowl in this State without first obtaining a State and federal migratory waterfowl stamp for the current year in addition to a regular hunting license as provided by section 4251 of this title. A stamp shall not be transferable. The State stamp year shall run from January 1 to December 31.

(c) Waterfowl stamp design, production, and distribution. The Commissioner of Fish and Wildlife shall be responsible for the design, production, procurement, distribution, and sale of ~~all stamps~~ the State stamp and all marketable stamp ~~byproducts~~ by-products such as posters, artwork, calendars, and other items.

(d) Fee. ~~Stamps~~ State stamps shall be sold at the direction of the Commissioner for a fee of \$7.50. The issuing agent may retain a fee of \$1.00 for each stamp and shall remit \$6.50 of each fee to the Department of Fish and Wildlife. The Commissioner shall establish a uniform sale price for all categories of ~~byproducts~~ by-products.

(e) Disposition of waterfowl receipts. All State waterfowl stamp receipts and all receipts from the sale of State stamp ~~byproducts~~ by-products shall be deposited in the Fish and Wildlife Fund. All State stamp and ~~byproducts~~ by-products receipts shall be expended through the appropriation process for waterfowl acquisition and improvement projects.

(f) Advisory ~~committee~~ Committee. There is hereby created a the Migratory Waterfowl Advisory Committee which shall consist of five persons and up to three alternates appointed by and serving at the pleasure of the Commissioner of Fish and Wildlife. The Commissioner shall designate a the Chair. The Committee shall be consulted with and may make recommendations to the Commissioner in regard to all projects and activities supported with the funds derived from the implementation of this section. The Commissioner shall make an annual financial and progress report to the Committee with regard to all activities authorized by this section.

\* \* \* Forfeiture \* \* \*

Sec. 6. 10 V.S.A. § 4505 is amended to read:

§ 4505. HEARING; FORFEITURE

The game warden or other officer shall retain possession of firearms, jacks, lights, motor vehicles, and devices taken until final disposition of the charge against the owner, possessor, or person using the same in violation of the provisions of section 4745, 4781, 4783, 4784, 4705(a), 4280, 4747, or 4606 of this title, in accordance with the provisions of section 4503 of this title. When the owner, possessor, or person using firearms, jacks, lights, motor vehicles, and devices in violation of the section is convicted of the offense, the court where the conviction is had shall cause the owner, if known, and possessor, and all persons having the custody of or exercising any control over the firearms, jacks, lights, motor vehicles, and devices seized, either as principal, clerk, servant, or agent and the respondent to appear and show cause, if any they have, why a forfeiture or condemnation order should not issue. The hearings may be held as a collateral proceeding to the trial of the respondent in the discretion of the court.

\* \* \* Enforcement; Violations \* \* \*

Sec. 7. 10 V.S.A. § 4551 is amended to read:

§ 4551. FISH AND WILDLIFE VIOLATION DEFINED

A violation of any provision of this part, other than a violation for which a term of imprisonment may be imposed, or a minor violation as defined in section 4572 of this title, ~~or a violation of a rule adopted under this part~~ shall be ~~known~~ as a fish and wildlife violation.

Sec. 8. 10 V.S.A. § 4705 is amended to read:

§ 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT;  
SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

(a) A person shall not take, or attempt to take, a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other ~~motor propelled~~ motor-propelled craft or any vehicle drawn by a ~~motor-propelled~~ motor-propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the ~~right-of-way~~ right-of-way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or



muzzle-loading shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this section. A person who possesses a rifle, crossbow, or shotgun, including a muzzle-loading rifle or muzzle-loading shotgun, in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a ~~right-of-way~~ right-of-way of a public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within 25 feet of the traveled portion of a public highway, except a public highway designated Class 4 on a town highway map, shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person while on or within the traveled portion of a public highway designated Class 4 on a town highway map shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a firearm, a muzzle loader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway, except for a person shooting over or across the traveled portion of a public highway from a sport shooting range, as that term is defined in section 5227 of this title, provided that:

(1) the sport shooting range was established before January 1, 2014; and

(2) the operators of the sport shooting range post signage warning users of the public highway of the potential danger from the sport shooting range.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his or her duty.

\* \* \*

Sec. 9. 10 V.S.A. § 4709 is amended to read:

§ 4709. TRANSPORT, IMPORTATION, POSSESSION, AND STOCKING  
OF WILD ANIMALS; POSSESSION OF WILD BOAR

(a) A person shall not bring into ~~the State~~, transport into, transport within, transport through, or possess in the State any live wild bird or animal of any kind, ~~unless, upon application in writing therefor, the person obtains~~ without authorization from the Commissioner ~~a permit to do so or his or her designee~~. The importation permit may be granted under such regulations therefor as the ~~Board~~ Commissioner shall prescribe and only after the Commissioner has made such investigation and inspection of the birds or animals as she or he may deem necessary. The Department may dispose of unlawfully possessed or imported wildlife as it may judge best, and the State may collect treble damages from the violator of this subsection for all expenses incurred.

(b) No person shall bring into the State from another country, state, or province wildlife illegally taken, transported, or possessed contrary to the laws governing the country, state, or province from which the wildlife originated.

(c) No person shall place a Vermont-issued tag on wildlife taken outside the State. No person shall report big game in Vermont when the wildlife is taken outside the State.

(d) Nothing in this section shall prohibit the Commissioner or duly authorized agents of the Department of Fish and Wildlife from bringing into the State for the purpose of planting, introducing, or stocking, or from planting, introducing, or stocking in the State, any wild bird or animal.

~~(e)~~(e) Applicants shall pay a permit fee of \$100.00.

~~(d)~~(f)(1) The Commissioner shall not issue a permit under this section for the importation or possession of the following live species, a hybrid or genetic variant of the following species, offspring of the following species, or offspring or a hybrid of a genetically engineered variant of the following species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, old world swine, razorback, Eurasian wild boar, or Russian wild boar (*Sus scrofa* Linnaeus).

(2) This subsection shall not apply to the domestic pig (*Sus domesticus*) involved in domestic hog production and shall not restrict or limit the authority of the Secretary of Agriculture, Food and Markets to regulate the importation or possession of the domestic pig as livestock or as a domestic animal under Title 6 of the Vermont Statutes Annotated.

\* \* \* Trapping \* \* \*

Sec. 10. 10 V.S.A. § 4254c is amended to read:

§ 4254c. NOTICE OF TRAPPING; DOMESTIC PET

A person who incidentally traps a domestic pet found to be injured or killed shall notify a fish and wildlife warden if the contact identification for the owner of the domestic pet is readily available.

Sec. 11. 10 V.S.A. § 4828 is amended to read:

§ 4828. TAKING OF RABBIT OR FUR-BEARING ANIMALS BY

LANDOWNER; SELECTBOARD; CERTIFICATE; PENALTY

(a)(1) The provisions of law or ~~regulations~~ rules of the Board relating to the taking of rabbits or fur-bearing animals shall not apply to:

(A) an owner, the owner's employee, tenant, or caretaker of property protecting the property from damage by rabbits or fur-bearing animals; or

(B) to a member of the selectboard of a town protecting public highways or bridges from such damage or submersion with the permission of the owner of lands affected.

(2) A person who for compensation sets a trap for rabbits or furbearing animals on the property of another in defense of that property shall possess a valid trapping license.

(3)(A) However, if If required by rule of the board Board, an owner; the owner's employee, tenant, or caretaker; or the members; a member of the selectboard; or a person who sets a trap for compensation who desire desires to possess during the closed season the skins of any fur-bearing animals taken in defense of property, highways, or bridges shall notify the Commissioner or the Commissioner's representative within 84 hours after taking such the animal, and shall hold such the pelts for inspection by such authorized representatives.

(b) Before disposing of such pelts taken under this section, if required by rule of the Board, the property owner; the owner's employee, tenant, or caretaker; or; a member of the selectboard; or a person who sets a trap for compensation shall secure from the Commissioner or a designee a certificate describing the pelts, and showing that the pelts were legally taken during a closed season and in defense of property, highways, or bridges. In the event of storage, sale, or transfer, such the certificates shall accompany the pelts described therein.

Sec. 12. 10 V.S.A. § 4001 is amended to read:

#### § 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

\* \* \*

(9) Game: game birds or game quadrupeds, or both.

(10) Game birds: quail, partridge, woodcock, pheasant, plover of any kind, Wilson snipe, other shore birds, rail, coot, gallinule, wild ducks, wild geese, and wild turkey.

\* \* \*

(13) Rabbit: to include wild hare.

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals, domestic fowl, or

domestic pets.

\* \* \*

(23) Take and taking: pursuing, shooting, hunting, killing, capturing, trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts, such as disturbing, harrying or worrying, or wounding or placing, setting, drawing, or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in a lawful manner.

\* \* \*

(27) Commissioner: Commissioner of Fish and Wildlife.

\* \* \*

(31) Big game: deer, bear, moose, wild turkey, caribou, elk, and anadromous Atlantic salmon taken in the Connecticut River Basin.

\* \* \*

(40) Domestic pet: domesticated dogs, domesticated cats, domesticated ferrets, psittacine birds, or any domesticated animal that is kept for pleasure rather than utility.

### Sec. 13. FISH AND WILDLIFE BOARD RULES; TRAPPING

On or before January 1, 2019, the Fish and Wildlife Board shall adopt by rule those requirements of Fish and Wildlife Board Rule 44 regarding the trapping of fur-bearing animals that shall apply to persons trapping for compensation under 10 V.S.A. § 4828.

\* \* \* Antlerless Deer; Posting with Permission \* \* \*

Sec. 14. 10 V.S.A. § 4081(g) is amended to read:

(g) If the Board finds that an antlerless season is necessary to maintain the health and size of the herd, the Department shall administer an antlerless deer program. Annually, the Board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents, a person may apply for a permit. Each person may submit only one application for a permit. The Department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before

any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation, or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except with permission-only signs under section 5201 of this title or as a safety zone under the provisions of section 4710 of this title. As used in this section, “post” means any signage, other than permission-only signs authorized under section 5201 of this title, that would lead a reasonable person to believe that hunting is restricted on the land. If the number of landowners who apply exceeds the number of permits for that district, the Department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to subdivisions (1) and (2) of this subsection shall be issued by the Department for a \$10.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a \$25.00 fee.

\* \* \* Coyote Hunting \* \* \*

Sec. 15. 10 V.S.A. § 4716 is added to read:

§ 4716. COYOTE-HUNTING COMPETITIONS; PROHIBITION

(a) As used in this section, “coyote-hunting competition” means a contest in which people compete in the capturing or taking of coyotes for a prize or recognition.

(b) A person shall not hold or conduct a coyote-hunting competition in the State.

(c) A person shall not participate in a coyote-hunting competition in the State.

Sec. 16. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in this title of the Vermont Statutes Annotated):

\* \* \*

(2) Ten points shall be assessed for:

\* \* \*

(TT) § 4716. Participating in a coyote-hunting competition.

(3) Twenty points shall be assessed for:

\* \* \*

(CC) § 4716. Holding or conducting a coyote-hunting competition.

Sec. 17. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS; THREATENED AND ENDANGERED SPECIES; COYOTE-HUNTING COMPETITION VIOLATIONS; SUSPENSION; VIOLATIONS

Whoever violates a provision of this part or orders or rules of the Board relating to taking, possessing, transporting, buying, or selling of big game; relating to holding or participating in a coyote-hunting competition; or relating to threatened or endangered species shall be fined not more than \$1,000.00 nor less than \$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, the violator shall be fined not more than \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 60 days, or both.

\* \* \* Fish and Wildlife Violations; Criminal or Civil \* \* \*

Sec. 18. DEPARTMENT OF FISH AND WILDLIFE; REVIEW OF CRIMINAL OR CIVIL NATURE OF VIOLATIONS

The Department of Fish and Wildlife shall conduct a review of the potential criminal and civil charges for all fish and wildlife violations. On or before January 15, 2019, the Department shall submit to the House Committees on Natural Resources, Fish, and Wildlife and on Judiciary and the Senate Committees on Natural Resources and Energy and on Judiciary a report recommending changes to the criminal and civil charges for fish and wildlife violations. The report shall summarize the process the Department used to review the charges for fish and wildlife violations and shall explain the basis for the Department's recommendations. Prior to preparing the report required by this section, the Department shall consult with interested stakeholders, the Judiciary, State's Attorneys, criminal defense lawyers, and fish and game groups.

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

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 10 (incidental trapping), 12 (definitions), 13 (trapping rules amendment), and 15-17 (coyote-hunting competitions) shall take effect on January 1, 2019.

(b) Sec. 11 (trapping for compensation) shall take effect on January 1, 2020.

(c) All other sections shall take effect on July 1, 2018.

**( Committee Vote: 6-2-1)**

**Rep. Lucke of Hartford**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Natural Resources; Fish and Wildlife.

**(Committee Vote: 8-1-2)**

**Amendment to be offered by Rep. Willhoit of St. Johnsbury to the recommendation of amendment of the Committee on Natural Resources; Fish and Wildlife to H. 636**

In Sec. 15, 10 V.S.A. § 4716, in subsection (a), after “for a prize or” and before “recognition.” by inserting the word “public”

**Amendment to be offered by Reps. Smith of Derby and Helm of Fair Haven to the recommendation of amendment of the Committee on Natural Resources; Fish and Wildlife to H. 636**

By striking out Secs. 15–17 (coyote hunting competitions; penalties) in their entirety and inserting in lieu thereof the following:

Sec. 15. [Deleted.]

Sec. 16. [Deleted.]

Sec. 17. [Deleted.]

## **H. 718**

An act relating to creation of the Restorative Justice Study Committee

**Rep. Macaig of Williston**, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Restorative justice has proven to be very helpful in reducing offender recidivism, and, in many cases, has resulted in positive outcomes for victims.

(2) Victims thrive when they have options. Because the criminal justice system does not always meet victims’ needs, restorative justice may provide options to improve victims’ outcomes.

(3) Restorative justice as an alternative to incarceration of domestic and sexual assault offenders should be assessed to determine whether the necessary tools exist to ensure the safety of victims.

(4) Cultural shifts occur when communities are engaged in changing violent behaviors and when victims and perpetrators have access to options that support change and offer healing to families and communities. Allowing for restorative justice intervention when deemed safe and appropriate may achieve these goals.

## Sec. 2. RESTORATIVE JUSTICE STUDY COMMITTEE

(a) Creation. There is created the Restorative Justice Study Committee for the purpose of conducting a comprehensive examination of whether there is a role for restorative justice principles and processes in domestic and sexual violence and stalking cases.

(b) Membership. The Committee shall be composed of the following members:

(1) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(2) an executive director of a dual domestic and sexual violence Network Member Program or designee, appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence;

(3) an executive director of a sexual violence Network Member Program or designee, appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence;

(4) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(5) a representative of the Vermont Association of Court Diversion Programs;

(6) a representative of a Vermont community justice program;

(7) a prosecutor who handles, in whole or in part, domestic violence, sexual violence, and stalking cases, appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(8) the Executive Director of Vermonters for Criminal Justice Reform or designee;

(9) three representatives of organizations serving marginalized Vermonters, appointed by the Vermont Network Against Domestic and Sexual Violence;



(10) a representative of the Vermont Abenaki community, appointed by the Governor;

(11) the Executive Director of the Discussing Intimate Partner Violence and Accessing Support (DIVAS) Program for incarcerated women;

(12) the Coordinator of the Vermont Domestic Violence Council;

(13) the Commissioner of Corrections or a designee familiar with community and restorative justice programs;

(14) a representative of the Office of the Defender General;

(15) the Court Diversion and Pretrial Services Director; and

(16) two victims of domestic and sexual violence or stalking appointed by the Vermont Network Against Domestic and Sexual Violence.

(c) Powers and duties. The Committee shall study whether restorative justice can be an effective process for holding perpetrators of domestic and sexual violence and stalking accountable, while preventing future crime and keeping victims and the greater community safe. In deciding whether restorative justice can be suitable for each subset of cases, the Committee shall study the following:

(1) the development of specialized processes to ensure the safety, confidentiality, and privacy of victims;

(2) the nature of different offenses such as domestic violence, sexual violence, and stalking, including the level of harm caused by or violence involved in the offenses;

(3) the appropriateness of restorative justice in relation to the offense;

(4) a review of the potential power imbalances between the people who are to take part in restorative justice for these offenses;

(5) ways to protect the physical and psychological safety of anyone who is to take part in restorative justice for these offenses;

(6) training opportunities related to intake-level staff in domestic and sexual violence and stalking;

(7) community collaboration opportunities in the implementation of statewide protocols among restorative justice programs and local domestic and sexual violence organizations, prosecutors, corrections, and organizations that represent marginalized Vermonters;

(8) the importance of victims' input in the development of any restorative justice process related to domestic and sexual violence and stalking cases;

(9) opportunities for a victim to participate in a restorative justice process, which may include alternatives to face-to-face meetings with an offender;

(10) risk-assessment tools that can assess perpetrators for risk prior to acceptance of referral;

(11) any necessary data collection to provide the opportunity for ongoing improvement of victim-centered response; and

(12) resources required to provide adequate trainings, ensure needed data gathering, support collaborative information sharing, and sustain relevant expertise at restorative justice programs.

(d) Assistance. The Vermont Network Against Domestic and Sexual Violence shall convene the first meeting of the Committee and provide support services.

(e) Reports. On or before December 1, 2018, the Vermont Network Against Domestic and Sexual Violence, on behalf of the Committee, shall submit an interim written report to the House Committee on Corrections and Institutions and to the House and Senate Committees on Judiciary. On or before July 1, 2019, the Vermont Network Against Domestic and Sexual Violence, on behalf of the Committee, shall submit a final report to the House Committee on Corrections and Institutions and to the House and Senate Committees on Judiciary.

(f) Meetings.

(1) The Vermont Network Against Domestic and Sexual Violence shall convene the meetings of the Committee, the first one to occur on or before August 1, 2018.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on July 1, 2019.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

**NOTICE CALENDAR**  
**Committee Bill for Second Reading**

**H. 894**

An act relating to pensions, retirement, and setting the contribution rates for municipal employees.

(Rep. Devereux of Mount Holly will speak for the Committee on Government Operations.)

**Favorable with Amendment**

**H. 684**

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

**Rep. LaClair of Barre Town**, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* 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 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.

(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 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. [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 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:~~
  - (A) ~~Barber~~ \$110.00
  - (B) ~~Cosmetologist~~ \$110.00
  - (C) ~~Nail technician~~ \$110.00
  - (D) ~~Shop~~ \$330.00
  - (F) ~~School~~ \$330.00
- (2) ~~Biennial renewal:~~
  - (A) ~~Barber~~ \$130.00
  - (B) ~~Cosmetologist~~ \$130.00
  - (C) ~~Nail technician~~ \$130.00
  - (D) ~~Esthetician~~ \$130.00
  - (E) ~~Shop~~ \$225.00



~~(F) School \$330.00~~

~~(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.]~~

\* \* \* 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;<sub>2</sub> two practical nurses;<sub>2</sub> one nursing assistant;<sub>2</sub> 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).

~~(c) [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 ~~1,600~~ 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. APNRs shall have and maintain signed and dated copies of all required collaborative provider agreements as part of the practice guidelines. An APNR 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 APNR has met the requirements of this subsection; or~~

~~(2) document that the APNR'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 APNR is providing clinical health care services and accessible by phone or otherwise by alternative means, as defined by Board rule.~~

~~(b) An APNR 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. APNR RENEWAL

An APNR license renewal application shall include:

- ~~(1) documentation of completion of the APNR practice requirement;~~
- ~~(2) and possession of a current certification by a national APNR 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~~ 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. 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 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 ~~aforsaid~~ 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.~~

~~(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<sub>;</sub> upon a finding that the applicant does not meet a high standard as to character, integrity, and reputation<sub>;</sub> 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, 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

§ 3401. DEFINITIONS

As used in this chapter:

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

\* \* \*

§ 3408. 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.

**( Committee Vote: 9-0-2)**

**H. 731**

An act relating to the classification of employees

**Rep. Hill of Wolcott**, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Workers' Compensation; Protection Against Retaliation \* \* \*

Sec. 1. 21 V.S.A. § 710 is amended to read:

## § 710. UNLAWFUL DISCRIMINATION

(a) No person, firm, or corporation shall refuse to employ any applicant for employment because ~~such~~ the applicant asserted a claim for workers' compensation benefits under this chapter or under the law of any state or of the United States. Nothing in this section shall require a person to employ an applicant who does not meet the qualifications of the position sought.

(b) No person shall discharge or discriminate against an employee from employment because ~~such~~ the employee asserted or attempted to assert a claim for benefits under this chapter or under the law of any state or of the United States.

(c) The Department shall not include in any publication or public report the name or contact information of any individual who has alleged that an employer has made a false statement or misclassified any employees, unless it is required by law or necessary to enable enforcement of this chapter.

(d) An employer shall not retaliate or take any other negative action against an individual because the employer knows or suspects that the individual has filed a complaint ~~with the Department or other authority~~, or reported a violation of this chapter, or has testified, assisted, or cooperated in any manner with the Department or other appropriate governmental agency or department in an investigation of misclassification, discrimination, or other violation of this chapter.

(e) The Attorney General or a State's Attorney may enforce the provisions of this section by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though ~~discrimination under a violation of~~ this section were an unfair act in commerce.

(f) The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this ~~subchapter~~ section.

\* \* \* Workers' Compensation Administration Fund \* \* \*

## Sec. 2. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2019, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly has established that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall remain at the rate of 1.4 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

\* \* \* Discontinuance of Workers' Compensation Benefits \* \* \*

Sec. 3. 2014 Acts and Resolves No. 199, Sec. 54a is amended to read:

Sec. 54a. REPEAL

21 V.S.A. § 643a shall be repealed on July 1, ~~2018~~ 2023.

Sec. 4. 2014 Acts and Resolves No. 199, Sec. 69 is amended to read:

Sec. 69. EFFECTIVE DATES

\* \* \*

(b) Sec. 54b (reinstatement of current law governing discontinuance of workers' compensation insurance benefits) shall take effect on July 1, ~~2018~~ 2023.

\* \* \*

\* \* \* Vermont Occupational Safety and Health Act \* \* \*

Sec. 5. 21 V.S.A. § 225 is amended to read:

§ 225. CITATIONS

(a)(1) If, upon inspection or investigation, the Commissioner or the Director, or the agent of either of them, finds that an employer has violated a requirement of the VOSHA Code, the Commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the Superior Court. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, or order alleged to have been violated, as well as the penalty, if any, proposed to be assessed pursuant to section 210 of this title. In addition, the citation shall fix a reasonable time for the abatement of the violation.

(2) By rule, the Commissioner shall ~~prescribe~~ adopt procedures for issuance of a notice in lieu of a citation with respect to de ~~minimus~~ minimis violations ~~which~~ that have no direct or immediate relationship to safety or health, and for hearing interested parties before a civil penalty is assessed.

(b) Each citation issued under this section, or a copy or copies ~~thereof~~ of the citation, shall be prominently posted, as prescribed in rules ~~promulgated~~ adopted by the Commissioner, at or near each place a violation referred to in the citation occurred or existed.

\* \* \*

Sec. 6. 21 V.S.A. § 226 is amended to read:

§ 226. ENFORCEMENT

~~(a)(1) After issuing a citation under section 225 of this title, the Commissioner shall notify the employer by certified mail or by service by an agent, of the penalty, if any, proposed to be assessed under section 210 of this title. The An employer shall have, within 20 days after personal service or receipt of the notice within which to a citation issued under section 225 of this title, notify the Commissioner that he or she wishes to appeal the citation or proposed assessment of penalty, and if no notice is filed by .~~

(2) If an employer does not notify the Commissioner as provided in this subsection and an employee does not file a notice under subsection (c) of this section, the citation and assessment penalty, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

~~(b)(1)(A) If the Commissioner on inspection or investigation finds that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Review Board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, or on the day the citation and assessment becomes final under subsection (a) of this section), the Commissioner shall notify the employer by certified mail of such the failure and of the penalty proposed to be assessed under section 210 of this title by reason of such the failure.~~

(B) The period to correct a violation shall begin to run:

(i) when a final order is entered by the Review Board in relation to review proceedings under this section that are initiated by an employer in good faith and not solely for delay or avoidance of penalties; or

(ii) on the day the citation and penalty become final under subsection (a) of this section.

(2) The employer shall have 20 days after the receipt of the notice within which to notify the Commissioner that he or she wishes to appeal the Commissioner's notification citation or the proposed assessment of penalty. If within 20 days from the receipt of the notification issued by the Commissioner, the employer fails to notify the Commissioner that he or she intends to appeal the notification or proposed assessment of penalty, the notification citation and assessment, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

(c) If an employer notifies the Commissioner that he or she intends to contest a citation issued under section 225 of this title or notification issued under subsection (a) or (b) of this section, or if, within 20 days of after the

issuance of a citation issued under section 225 of this title, any employee or representative of employees files a notice with the Commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Commissioner shall immediately advise the Review Board of ~~such~~ the notification and the Review Board shall afford an opportunity for a hearing. Unless ~~the~~ a notice is timely filed, the proposed penalty and, in appropriate cases, the ~~notification of the Commissioner~~ citation shall be deemed a final order of the Review Board not subject to review by any court or agency.

(d) After hearing an appeal, the Review Board shall ~~thereafter~~ issue an order based on findings of fact ~~affirming, modifying, or vacating~~ that affirms, modifies, or vacates the Commissioner's citation or proposed penalty, ~~or both, or directing~~ provides other appropriate relief, ~~and the~~. The order shall become final 30 days after its issuance unless judicial review is timely taken under section 227 of this title. The rules of procedure ~~prescribed~~ adopted by the Review Board shall provide affected employees or their representatives with an opportunity to participate as parties in ~~hearings~~ a hearing under this subsection.

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

#### Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 3 and 4 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2018.

**( Committee Vote: 10-0-1)**

#### **H. 828**

An act relating to disclosures in campaign finance law

**Rep. Gannon of Wilmington**, for the Committee on Government Operations, recommends the bill be amended as follows:

In Sec. 1, in 17 V.S.A. § 2968(a) (campaign reports; local candidates), following "30 days before, 10 days before," by striking out "on the Friday before," and inserting in lieu thereof "four days before,"

**( Committee Vote: 8-1-2)**

## **Ordered to Lie**

### **H. 167**

An act relating to alternative approaches to addressing low-level illicit drug use.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

### **H. 219**

An act relating to the Vermont spaying and neutering program.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

### **S. 103**

An act relating to the regulation of toxic substances and hazardous materials.

Pending Question: Shall the House concur in the Senate proposal of amendment to the House proposal of amendment??

## **Public Hearings**

Public Hearing on Judicial Retention. **Thursday, February 22, 2018**, 7:00 PM in Room 11.

**February 21, 2018**, House Committee on Ways and Means Public hearing on potential changes to the Education Funding System. Room 11, 4:00-6:00 PM,

## **Information Notice**

### **CROSS OVER DATES**

The Joint Rules Committee established the following Crossover deadlines:

(1) All **House** bills must be reported out of the last committee of reference including the Committees on Appropriations and Ways and Means, except as provided below in (2) on or before **Friday, March 2, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **House** bills referred pursuant to House Rule 35(a) to the Committees on Appropriations and Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.