

1 H.438

2 Introduced by Representative Lippert of Hinesburg

3 Referred to Committee on

4 Date:

5 Subject: Health; professions and occupations; physicians; Board of Medical
6 Practice

7 Statement of purpose of bill as introduced: This bill proposes to amend the
8 laws relating to the Board of Medical Practice and the licensure of physicians
9 and podiatrists.

10 An act relating to the Board of Medical Practice and the licensure of
11 physicians and podiatrists

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

13 ~~*** Board of Medical Practice and Physician Licensure ***~~

14 Sec. 1. 26 V.S.A. chapter 23 is amended to read:

15 CHAPTER 23. MEDICINE

16 Subchapter 1. General Provisions

17 § 1311. DEFINITIONS

18 For the purposes of As used in this chapter:

19 (1) "Practice of medicine" means:

20 ~~(A) using the designation "Doctor," "Doctor of Medicine,"~~

1 sician," "Dr.," "M.D.," or any combination thereof in the conduct of any
2 occupation or profession pertaining to the prevention, diagnosis, or treatment
3 of human disease or condition unless the designation additionally contains the
4 description of another branch of the healing arts for which one holds a valid
5 license in Vermont;

6 (B) advertising, holding out to the public, or representing in any
7 manner that one is authorized to practice medicine in the jurisdiction;

8 (C) offering or undertaking to prescribe, order, give, or administer
9 any drug or medicine for the use of any other person;

10 (D) offering or undertaking to prevent, diagnose, correct, or treat in
11 any manner or by any means, methods, or devices any disease, illness, pain,
12 wound, fracture, infirmity, defect, or abnormal physical or mental condition of
13 any person, including the management of all aspects of pregnancy, labor and
14 delivery, and parturition postpartum care;

15 (E) offering or undertaking to perform any surgical operation upon
16 any person;

17 (F) rendering a written or otherwise documented medical opinion
18 concerning the diagnosis or treatment of a patient or the actual rendering of
19 treatment to a patient within the State by a physician located outside the State
20 as a result of the transmission of individual patient data by electronic or other
21 means from within the State to the physician or his or her agent, or

1 ~~(G) rendering a determination of medical necessity or a decision~~
2 affecting the diagnosis or treatment of a patient.

3 (2) "Board" means the State Board of Medical Practice established
4 under section 1351 of this title.

5 (3) "License" means license to practice medicine and surgery in the
6 State as defined in subchapter 3 of this chapter. "Licensee" includes any
7 individual licensed or certified by the Board.

8 (4) "Medical director" means, for purposes of this chapter, a physician
9 who is Board-certified or Board-eligible in his or her field of specialty, as
10 determined by the American Board of Medical Specialties (ABMS), and who
11 is charged by a health maintenance organization with responsibility for
12 overseeing all clinical activities of the plan in this State, or his or her designee.

13 (5) "Health maintenance organization," as used in this section, ~~shall~~
14 ~~have~~ has the same meaning as defined in 18 V.S.A. § 9402(9).

15 (6) "Members" means members of the Board.

16 (7) "Secretary" means the ~~Secretary~~ secretary of the Board.

17 * * *

18 § 1313. EXEMPTIONS

19 (a) The provisions of this chapter shall not apply to the following:

20 (1) a A health care professional licensed or certified by the Office of
21 Professional Regulation when that person is practicing within the scope of his

1 or her profession;

2 (2) a A member of the U.S. Armed Forces or National Guard carrying
3 out official military duties, including a National Guard member in state status,
4 or to any person giving aid, assistance, or relief in emergency or accident
5 cases, pending the arrival of a regularly licensed physician;

6 (3) a A nonresident physician coming into this State to consult or using
7 telecommunications to consult with a duly licensed practitioner herein;

8 (4) a A duly licensed physician in another state, in Canada, or in another
9 nation as approved by the Board, who is visiting a medical school or a
10 teaching hospital in this State to receive or conduct medical instruction for a
11 period not to exceed three months, provided the practice is limited to that
12 instruction and is under the supervision of a physician licensed by the Board;
13 or;

14 (5) a A physician who is duly licensed and in good standing in another
15 state, territory, or jurisdiction of the United States or in Canada if the physician
16 is employed as or formally designated as the team physician by an athletic
17 team visiting Vermont for a specific sporting event and the physician limits the
18 practice of medicine in this State to medical treatment of the members,
19 coaches, and staff of the sports team employing or designating the physician.

20 (6) A student who is enrolled in an accredited educational program that
21 leads to the issuance of a degree that would satisfy the educational requiremen

1 ~~for a profession licensed or certified by the Board, who is engaged in an~~
2 ~~organized clinical training program, and who engages in acts constituting the~~
3 ~~practice of medicine while under the supervision of a Vermont-licensed or~~
4 ~~Vermont-certified health care professional who is qualified to supervise any~~
5 ~~acts by the student that constitute the practice of medicine. This exemption~~
6 ~~does not apply to postgraduate trainees who are required to obtain a training~~
7 ~~license.~~

8 * * *

9 § 1317. UNPROFESSIONAL CONDUCT TO BE REPORTED TO BOARD

10 (a) Required reporters. Any hospital, clinic, community mental health
11 center, or other health care institution in which a licensee performs
12 professional services shall report to the Board, along with supporting
13 information and evidence, any reportable disciplinary action taken by it or its
14 staff that significantly limits the licensee's privilege to practice or leads to
15 suspension or expulsion from the institution, a nonrenewal of medical staff
16 membership, or the restrictions of privileges at a hospital taken in lieu of, or in
17 settlement of, a pending disciplinary case related to unprofessional conduct as
18 defined in sections 1354 and 1398 of this title. The Commissioner of Health
19 shall forward any such information or evidence he or she receives immediately
20 to the Board. The report shall be made within 10 days of the date such
21 ~~disciplinary action was taken, and, in the case of disciplinary action taken~~

1 ~~against a licensee based on the provision of mental health services, a copy of~~
2 ~~the report shall also be sent to the Commissioner of Mental Health and the~~
3 ~~Commissioner of Disabilities, Aging, and Independent Living. This section~~
4 ~~shall not apply to cases of resignation or separation from service for reasons~~
5 ~~unrelated to disciplinary action.~~

6 (b) ~~Within 30 days of any judgment or settlements involving a claim of~~
7 ~~professional negligence by a licensee, any insurer of the licensee shall report~~
8 ~~the information to the Commissioner of Health and, to the extent the claim~~
9 ~~relates to the provision of mental health services, to the Commissioner of~~
10 ~~Mental Health.~~

11 Definition of reportable disciplinary action. A reportable disciplinary
12 action is an action based on one or more of the following:

13 (1) Acts or omissions of a licensee that relate to the licensee's fitness or
14 competence to practice medicine under the license held.

15 (2) Acts or omissions of the licensee that constitute a violation of a law
16 or rule that relates in any way to the practice of medicine.

17 (3) Acts or omissions of the licensee that occur in the course of practice
18 and result in one or more of the following:

19 (A) Resignation, leave of absence, termination, or nonrenewal of an
20 employment relationship or contract. This includes a licensee's own initiation
21 of such action following notification to the licensee by the reporter that the

1 reporter or an affiliated entity is conducting an investigation or inquiry
2 regarding an event that, assuming the accuracy of the information or
3 allegation, is likely to result in reportable disciplinary action. The reporter or
4 affiliated entity shall complete the investigation or inquiry even if the licensee
5 initiates a resignation, leave of absence, termination, or nonrenewal, and shall
6 make a report to the Board if the investigation results in a finding of a
7 reportable disciplinary action. Resignations and leaves of absence that are
8 entirely voluntary by the licensee, and terminations and nonrenewals of
9 employment or contract by a required reporter that are not related to acts or
10 omissions of the licensee, are not reportable disciplinary actions.

11 (B) Revocation, suspension, restriction, relinquishment, or
12 nonrenewal of a right or privilege. This includes a licensee's own initiation of
13 such action following notification to the licensee by the reporter that the
14 reporter or an affiliated entity is conducting an investigation or inquiry
15 regarding an event that, assuming the accuracy of the information or
16 allegation, is likely to result in reportable disciplinary action. The reporter or
17 affiliated entity shall complete the investigation or inquiry even if the licensee
18 initiates a resignation, leave of absence, termination, or nonrenewal, and shall
19 make a report to the Board if the investigation results in a finding of a
20 reportable disciplinary action. Relinquishments of privileges that are entirely
21 voluntary by the licensee, and revocations, nonrenewals, or other limitations

1 on privileges by a required reporter that are not related to acts or omissions of
2 the licensee, are not reportable disciplinary actions.

3 (C) Written discipline that constitutes a censure, reprimand, or
4 admonition, if it is the second or subsequent censure, reprimand, or
5 admonition within a 12-month period for the same or related acts or omissions
6 that previously resulted in written censure, reprimand, or admonition. The
7 same or related acts or omissions includes similar behavior or behavior
8 involving the same parties, or both. Oral censure, oral reprimand, and oral
9 admonition are not considered reportable disciplinary actions, and notation of
10 an oral censure, oral reprimand, or oral admonition in a personnel or
11 supervisor's file does not transform the action from oral to written.

12 (D) Fine or any other form of monetary penalty imposed as a form of
13 discipline.

14 (E) Required education, remedial counseling, or monitoring that is
15 imposed as a result of a completed, contested disciplinary process. This
16 includes recommendation or referral for services from the Vermont
17 Practitioner Recovery Network established pursuant to section 1401a of this
18 chapter, or from an employer wellness program or similar program, as a result
19 of a completed, contested disciplinary process.

20 (c) Timing of reports. A required report of reportable disciplinary action
21 under subsection (b) of this section shall be made within 30 days following the

1 ~~date on which the disciplinary action was taken or upon completion of an~~
2 investigation or inquiry pursuant to subdivision (b)(3)(A) or (B) of this
3 section.

4 (d) Mental health services. If reportable disciplinary action is reported to
5 the Board based on a licensee's provision of mental health services, the
6 Commissioner of Health shall forward the report to the Commissioners of
7 Mental Health and of Disabilities, Aging, and Independent Living. Except as
8 provided in section 1368 of this title, information provided to the Department
9 of Health, the Department of Mental Health, or the Department of Disabilities,
10 Aging, and Independent Living under this section shall be confidential unless
11 the Department of Health decides to treat the report as a complaint; in which
12 case, the provisions of section 1318 of this title shall apply.

13 ~~(d)~~(e) Limitation on liability. A person who acts in good faith in accord
14 accordance with the provisions of this section shall not be liable for damages
15 in any civil action based on the fact that a report was made.

16 ~~(e)~~(f) Violations. A person reporter who violates this section shall be
17 subject to a civil penalty of not more than \$5,000.00, provided that a reporter
18 who employs or grants privileges to five or more Board licensees and who
19 violates this section shall be subject to a civil penalty of not more than
20 \$10,000.00.

21

Subchapter 2. Board of Medical Practice

§ 1351. BOARD OF MEDICAL PRACTICE

(a) A State Board of Medical Practice is created. The Board shall be composed of 17 members, nine of whom shall be licensed physicians, one of whom shall be a physician assistant licensed pursuant to chapter 31 of this title, one of whom shall be a podiatrist licensed pursuant to chapter 7 of this title, and six of whom shall be persons not associated with the medical field. The Governor, with the advice and consent of the Senate, shall appoint the members of the Board. Appointments shall be for a term of five years, except that a vacancy occurring during a term shall be filled by an appointment by the Governor for the unexpired term. No member shall be appointed to more than two consecutive full terms, but a member appointed for less than a full term, (originally or to fill a vacancy), may serve two full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of one or more years. Any member of the Board may be removed by the Governor at any time. The Board shall elect from its members a chair, vice chair, and secretary who shall serve for one year and until their successors are appointed and qualified. The Board shall meet upon the call of the Chair or the Commissioner of Health, or at such other times and places as the Board may determine. Except as otherwise provided in section ~~1360~~ sections 1371, 1372, and 1373 of this title, nine members of the Board

1 ~~shall constitute a quorum for the transaction of business. The affirmative vote~~
2 of the majority of the members present and voting shall be required to carry
3 any motion or resolution, to adopt any rule, to pass any measure, or to
4 authorize any decision or order of the Board.

5 * * *

6 § 1353. POWERS AND DUTIES OF THE BOARD

7 The Board shall have the following powers and duties to:

8 (1) License and certify health professionals pursuant to this title.

9 (2) Investigate all complaints and charges of unprofessional conduct
10 against any holder of a license or certificate, or any medical practitioner
11 practicing pursuant to section 1313 of this title, and to hold hearings to
12 determine whether such charges are substantiated or unsubstantiated. The
13 Board may employ or contract with one or more hearing officers to schedule,
14 oversee prehearing processes, preside over hearings, and assist with the
15 preparation of reports and decisions.

16 (3) Issue subpoenas and administer oaths in connection with any
17 investigations, hearings, or disciplinary proceedings held under this chapter.

18 Any individual or entity served with a subpoena issued by the Board shall
19 comply notwithstanding the patient's privilege established in 12 V.S.A.
20 § 1612.

21 ~~(4) Take or cause depositions to be taken as needed in any investigation,~~

1 ~~hearing, or proceeding~~

2 * * *

3 (8) Obtain, at the Board's discretion, from the Vermont Crime
4 Information Center a Vermont criminal history record, an out-of-state criminal
5 history record, and a criminal history record from the Federal Bureau of
6 Investigation, for any applicant, licensee, or holder of certification. The Board
7 may also inquire of Interpol for any information on criminal history records of
8 an applicant, licensee, or holder of certification. Each applicant, licensee, or
9 holder of certification shall consent to the release of criminal history records to
10 the Board on forms substantially similar to the release forms developed in
11 accordance with 20 V.S.A. § 2056c. When the Board obtains a criminal history
12 record, it shall promptly provide a copy of the record to the applicant, licensee,
13 or holder of certification and inform him or her of the right to appeal the
14 accuracy and completeness of the record pursuant to rules adopted by the
15 Vermont Crime Information Center. When fingerprinting is required pursuant
16 to this subdivision, the applicant, licensee, or holder of certification shall bear
17 all costs associated with fingerprinting. The Board shall comply with all laws
18 regulating the release of criminal history records and the protection of
19 individual privacy.

20 (A) Inquire into the criminal history backgrounds of applicants for
21 licensure and for biennial license renewal for all professionals licensed or

1 ~~certified by the Board. In obtaining these background checks:~~

2 ~~(i) the Board may inquire directly of the Vermont Crime~~
3 ~~Information Center, the Federal Bureau of Investigation, the National Crime~~
4 ~~Information Center, and other holders of official criminal record information,~~
5 ~~and may arrange for these inquiries to be made by a commercial service;~~

6 ~~(ii) the Board may require the background checks to be~~
7 ~~fingerprint-supported, and fingerprints obtained for that purpose may be~~
8 ~~retained on file by the Board, by holders of official criminal record~~
9 ~~information, or by a service acting on behalf of the Board, and used to notify~~
10 ~~the Board of information added to the criminal background history of Board~~
11 ~~licensees in the future; and~~

12 ~~(iii) the Board shall notify applicants subject to background~~
13 ~~checks that the check is required, that fingerprints will be retained on file, and~~
14 ~~that criminal convictions are not an absolute bar to licensure, and shall provide~~
15 ~~applicants and licensees with such other information as may be required by~~
16 ~~federal law or regulation.~~

17 ~~(B) An applicant or licensee shall bear any cost of obtaining a~~
18 ~~required criminal history background check.~~

19 ~~(C) The Board shall comply with all laws regulating the release of~~
20 ~~criminal history records and the protection of individual privacy.~~

21 ~~(D) No person shall confirm the existence or nonexistence of~~

1 ~~criminal history record information to any person who would not be eligible to~~
2 ~~receive the information pursuant to this chapter. As used in this subdivision~~
3 ~~“criminal history record” is as defined~~ has the same meaning as in 20 V.S.A.
4 § 2056a.

5 * * *

6 § 1354. UNPROFESSIONAL CONDUCT

7 (a) The Board shall find that any one of the following, or any combination
8 of the following, whether the conduct at issue was committed within or outside
9 the State, constitutes unprofessional conduct:

10 * * *

11 (23) revocation of a license to practice medicine or surgery in, or other
12 disciplinary sanction, by another jurisdiction on one or more of the grounds
13 specified in this section;

14 * * *

15 (27) failure to comply with provisions of federal or State statutes or
16 regulations, or the statutes or rules of this or any other state, governing the
17 practice of medicine or surgery;

18 * * *

19 § 1355. ~~COMPLAINTS; HEARING COMMITTEE~~

20 ~~(a) Any person, firm, corporation, or public officer may submit a written~~
21 ~~complaint to the board alleging any person practicing medicine in the state~~

1 ~~committed unprofessional conduct, specifying the grounds therefor. The board~~
2 ~~shall initiate an investigation of the physician when a complaint is received or~~
3 ~~may act on its own initiative without having received a complaint. The~~
4 ~~chairperson shall designate four members, including one public member, to~~
5 ~~serve as a committee to hear or investigate and report upon such charges.~~

6 (b) ~~The chair may designate a hearing committee constituting less than a~~
7 ~~quorum of the board, to conduct hearings which would otherwise be heard by~~
8 ~~the board. A hearing committee shall consist of at least one physician member~~
9 ~~of the board and one public member of the board. No member of the hearing~~
10 ~~committee shall have been a member of the investigative committee which~~
11 ~~reviewed the matter at the investigative stage. When the board is unable to~~
12 ~~assign one or more members to investigate a complaint or serve on a hearing~~
13 ~~committee by reason of disqualification, resignation, vacancy, or necessary~~
14 ~~absence, the commissioner may, at the request of the board, appoint ad hoc~~
15 ~~members to serve on the investigation or the hearing for that matter only.~~
16 ~~When a hearing is conducted by a hearing committee, the committee shall~~
17 ~~report its findings and conclusions to the board, within 60 days of the~~
18 ~~conclusion of the hearing unless the board grants an extension. The board may~~
19 ~~take additional evidence and may accept, reject, or modify the findings and~~
20 ~~conclusions of the committee. Judgment on the findings shall be rendered by~~
21 ~~the board. Nothing herein is intended to limit the discretion of the board to~~

~~1 determine whether a matter will proceed to hearing before a hearing committee
2 under this subsection or by a quorum of the board.~~

~~3 (c) A person or organization shall not be liable in a civil action for
4 damage resulting from the good faith reporting of information to the board
5 about alleged incompetent, unprofessional, or unlawful conduct of a licensee.~~

~~6 (d) The hearing committee may close portions of hearings to the public if
7 the hearing committee deems it appropriate in order to protect the
8 confidentiality of an individual or for medical and other protected health
9 information pertaining to any identifiable person that is otherwise confidential
10 by state or federal law.~~

~~11 (e) In any proceeding under this section which addresses an applicant's or
12 licensee's alleged sexual misconduct, evidence of the sexual history of the
13 victim of the alleged sexual misconduct shall neither be subject to discovery
14 nor be admitted into evidence. Neither opinion evidence nor evidence of the
15 reputation of the victim's sexual conduct shall be admitted. At the request of
16 the victim, the hearing committee may close portions of hearings to the public
17 if the board deems it appropriate in order to protect the identity of the victim
18 and the confidentiality of his or her medical records. [Repealed.]~~

~~19 § 1356. SPECIFICATION OF CHARGES~~

~~20 If the board or committee determines that a hearing is warranted, the
21 secretary shall prepare a specification of the charge or charges of~~

1 ~~unprofessional conduct made against a medical practitioner, a copy of which~~
2 ~~shall be served upon the person complained against, together with a notice of~~
3 ~~the hearing, as provided in section 1357 of this title. [Repealed.]~~

4 ~~§ 1357. TIME AND NOTICE OF HEARING~~

5 ~~The time of hearing shall be fixed by the secretary as soon as convenient,~~
6 ~~but not earlier than 30 days after service of the charge upon the person~~
7 ~~complained against. The secretary shall issue a notice of hearing of the~~
8 ~~charges, which notice shall specify the time and place of hearing and shall~~
9 ~~notify the person complained against that he or she may file with the secretary~~
10 ~~a written response within 20 days of the date of service. The notice shall also~~
11 ~~notify the person complained against that a stenographic record of the~~
12 ~~proceeding will be kept, that he or she will have the opportunity to appear~~
13 ~~personally and to have counsel present, with the right to produce witnesses and~~
14 ~~evidence in his or her own behalf, to cross-examine witnesses testifying~~
15 ~~against him or her and to examine such documentary evidence as may be~~
16 ~~produced against him or her. [Repealed.]~~

17 ~~§ 1358. SUBPOENAS; CONTEMPT~~

18 ~~Subpoenas may be issued by the board to compel the attendance of~~
19 ~~witnesses at any investigation or hearing. The board shall issue subpoenas at~~
20 ~~the request and on the behalf of the person complained against. [Repealed.]~~

21 ~~§ 1359. REPORT OF HEARING~~

1 ~~Within 30 days after holding a hearing under the provisions of section 1357~~
2 ~~of this title, the committee shall make a written report of its findings of fact~~
3 ~~and its recommendations, and the same shall be forthwith transmitted to the~~
4 ~~secretary with a transcript of the evidence. [Repealed.]~~

5 ~~§ 1360. HEARING BEFORE BOARD~~

6 ~~(a) If the board deems it necessary, the board may, after further notice to~~
7 ~~the person complained against, take testimony at a hearing before the board,~~
8 ~~conducted as provided for hearings before the hearing committee. In any~~
9 ~~event, whether the board makes its determination on the findings of the~~
10 ~~hearing committee, on the findings of the committee as supplemented by a~~
11 ~~second hearing before the board or on its own findings, the board shall~~
12 ~~determine the charge or charges upon the merits on the basis of the evidence in~~
13 ~~the record before it. Five members of the board, including at least one public~~
14 ~~member, shall constitute a quorum for purposes of this section.~~

15 ~~(b) Members of the committee designated under section 1355 of this title to~~
16 ~~investigate the complaint shall not sit with the board when it conducts hearings~~
17 ~~under this section.~~

18 ~~(c) In any proceeding under this section which addresses an applicant's or~~
19 ~~licensee's alleged sexual misconduct, evidence of the sexual history of the~~
20 ~~victim of the alleged sexual misconduct shall neither be subject to discovery~~
21 ~~nor be admitted into evidence. Neither opinion evidence of nor evidence of~~

1 ~~the protection of the victim. At the request~~
2 of the victim, the hearing committee may close portions of hearings to the
3 public. If the board deems it appropriate to close portions of the hearing in
4 order to protect the identity of the victim and the confidentiality of his or her
5 medical records.

6 (d) ~~The board may close portions of hearings to the public if the board~~
7 ~~deems it appropriate in order to protect the confidentiality of an individual or~~
8 ~~for medical and other protected health information pertaining to any~~
9 ~~identifiable person that is otherwise confidential by state or federal law.~~

10 [Repealed.]

11 § 1361. ~~DECISION AND ORDER~~

12 (a) ~~If a majority of the members of the board vote in favor of finding the~~
13 ~~person complained against guilty of unprofessional conduct as specified in the~~
14 ~~charges, or any of them, the board shall prepare written findings of fact,~~
15 ~~conclusions and order, a copy of which shall be served upon the person~~
16 ~~complained against.~~

17 (b) ~~In such order, the board may reprimand the person complained against,~~
18 ~~as it deems appropriate; condition, limit, suspend, or revoke the license,~~
19 ~~certificate, or practice of the person complained against; or take such other~~
20 ~~action relating to discipline or practice as the board determines is proper,~~
21 ~~including imposing an administrative penalty not to exceed \$1,000.00 for each~~

1 ~~of that conviction to a professional conduct violation. Any amount~~
2 ~~from the imposition of an administrative penalty imposed under this subsection~~
3 ~~shall be deposited into the board of medical practice regulatory fee fund for~~
4 ~~the purpose of providing education and training for board members and~~
5 ~~licensees. The commissioner shall detail in the annual report receipts and~~
6 ~~expenses from money received under this subsection.~~

7 (c) ~~If the person complained against is found not guilty, or the proceedings~~
8 ~~against him or her are dismissed, the board shall forthwith order a dismissal of~~
9 ~~the charges and the exoneration of the person complained against.~~

10 (d) ~~Any order issued under this section shall be in full force and effect until~~
11 ~~further order of the board or a court of competent jurisdiction. [Repealed.]~~

12 * * *

13 § 1365. NOTICE OF CONVICTION OF CRIME; INTERIM SUSPENSION
14 OF LICENSE

15 (a) ~~The board~~ Board ~~shall treat a certified copy of the judgment notice of~~
16 ~~conviction of a crime for which a licensee may be disciplined under section~~
17 ~~1354 of this title as an unprofessional conduct complaint. The record~~ A
18 ~~certified copy of the judgment of conviction shall be conclusive evidence of~~
19 ~~the fact that the conviction occurred. If a person licensed under this chapter is~~
20 ~~convicted of a crime by a court in this state, the clerk of the court shall within~~
21 ~~10 days of such conviction transmit a certified copy of the judgment of~~

1 conviction to the board

2 * * *

3 § 1366. OUT-OF-STATE DISCIPLINE; INTERIM SUSPENSION OF
4 LICENSE

5 (a) The ~~board~~ Board shall treat a certified copy of an order revoking or
6 suspending the license of a person licensed to practice medicine or surgery in
7 another jurisdiction on grounds for which a licensee may be disciplined under
8 subdivision 1354(a)(23) of this title as an unprofessional conduct complaint.

9 The A certified copy of the order of revocation or suspension shall be
10 conclusive evidence of the fact that the revocation or suspension occurred.

11 (b) The ~~board~~ Board shall treat ~~a certified copy as an unprofessional~~
12 conduct complaint any notice of a statement of a licensing entity in another
13 jurisdiction ~~which~~ that verifies that a person licensed to practice medicine or
14 surgery in that jurisdiction failed to renew, surrendered, or otherwise
15 terminated his or her license during, or prior to initiation of, proceedings to
16 revoke or suspend his or her license as ~~an unprofessional conduct complaint~~.

17 The A certified copy of the statement shall be conclusive evidence of the fact
18 that such termination occurred.

19 (c) Upon receipt of the certified copy of an order or statement referred to in
20 ~~subsections~~ subsection (a) or (b) of this section, the ~~board~~ Board shall follow
21 ~~the procedures for interim suspension set forth in subsection 1365(b) of this~~

1 ~~e chapter~~

2 (d) The sole issue to be determined at the disciplinary hearing on a
3 complaint filed under subsection (a) of this section shall be the nature of the
4 disciplinary action to be taken by the board.

5 § 1367. APPEALS FROM BOARD ORDERS

6 A party aggrieved by a final order of the ~~board~~ Board may, within 30 days
7 of the order, appeal that order to the Vermont ~~supreme court~~ Supreme Court on
8 the basis of the record created before the ~~board~~ Board.

9 * * *

10 § 1370. COMPLAINTS; INVESTIGATIVE COMMITTEE

11 (a)(1) Any individual, organization, or public officer may submit a written
12 complaint to the Board alleging that any individual practicing medicine in the
13 State committed unprofessional conduct or that an individual practiced without
14 being licensed in violation of section 1314 of this chapter. The complaint shall
15 specify the grounds on which the allegations of unprofessional conduct are
16 based.

17 (2) A person or organization shall not be liable in a civil action for
18 damages resulting from the good faith reporting of information to the Board
19 about alleged incompetent, unprofessional, or unlawful conduct of a licensee.

20 (b)(1) The Board shall initiate an investigation of the individual
21 complained against whenever a complaint is received. The Board may also act

1 ~~on its own initiative without having received a complaint.~~

2 (2) The Executive Director shall designate three or more members,
3 including at least one public member, to serve as an investigative committee to
4 investigate and report to the Board its findings regarding the complaint and
5 whether an evidentiary hearing is warranted. If there is an insufficient number
6 of members to investigate a complaint by reason of disqualification,
7 resignation, vacancy, or necessary absence, the Commissioner of Health may,
8 at the request of the Board, appoint ad hoc members to serve on the
9 investigative committee for that matter only.

10 (3) If the investigative committee determines that an evidentiary hearing
11 is warranted, the Executive Director shall prepare a specification of the charge
12 or charges of unprofessional conduct made against the individual licensed by
13 the Board, a copy of which shall be served upon subject of the charge or
14 charges, together with the notice of hearing set forth in subsection 1371(b) of
15 this chapter.

16 § 1371. HEARING PANEL

17 (a) Composition of hearing panel.

18 (1) The Executive Director may designate a hearing panel constituting
19 less than a quorum of the Board to conduct hearings that would otherwise be
20 heard by the full Board. A hearing panel shall consist of at least three
21 members, including at least one physician member of the Board and at least

1 ~~one public member of the Board. No member of the hearing panel shall have~~
2 ~~been a member of the investigative committee that reviewed the matter at the~~
3 ~~investigative stage.~~

4 ~~(2) If there is an insufficient number of members to serve on a hearing~~
5 ~~panel by reason of disqualification, resignation, vacancy, or necessary absence,~~
6 ~~the Commissioner of Health may, at the request of the Board, appoint ad hoc~~
7 ~~members to serve on the hearing panel for that matter only.~~

8 ~~(b) Time and notice of hearing.~~

9 ~~(1) The Executive Director or a hearing officer shall set a time for the~~
10 ~~evidentiary hearing as soon as convenient following the determination by the~~
11 ~~investigative committee that an evidentiary hearing is warranted, but no earlier~~
12 ~~than 30 days after service of the charge upon the individual complained~~
13 ~~against.~~

14 ~~(2) The Executive Director shall issue a notice of the evidentiary~~
15 ~~hearing on the charges, which notice shall specify the time and place of the~~
16 ~~hearing and shall notify the individual complained against that he or she may~~
17 ~~file with the Executive Director a written response within 20 days of the date~~
18 ~~of service. The notice shall also notify the individual complained against that a~~
19 ~~record of the proceeding will be kept and that he or she will have the~~
20 ~~opportunity to appear personally and to have counsel present, with the right to~~
21 ~~produce witnesses and evidence on his or her own behalf, to cross-examine~~

1 ~~witnesses testifying against him or her, and to examine such documentary~~
2 evidence as may be produced against him or her.

3 (c) Hearing panel report. Within 60 days after holding an evidentiary
4 hearing under this section, unless the Board grants an extension, the hearing
5 panel shall provide a written report of its findings of fact and its
6 recommendations to the full Board, with a transcript of the evidence.

7 § 1372. HEARING BEFORE THE BOARD

8 (a) If the Board deems it necessary, following receipt of the report of the
9 hearing panel pursuant to section 1371 of this chapter and after further notice
10 to the individual complained against, the Board may take additional evidence
11 at a hearing before the Board, which shall be conducted according to the same
12 process as provided for the hearing panel.

13 (b)(1) Five members of the Board, including at least one physician member
14 and at least one public member, shall constitute a quorum for purposes of this
15 section.

16 (2) Members of the investigative committee designated pursuant to
17 section 1370 of this chapter shall not sit with the Board when it conducts
18 hearings under this section.

19 § 1373. DECISION AND ORDER

20 (a) Regardless of whether the Board makes its determination on the
21 findings of the hearing panel pursuant to section 1371 of this chapter alone, or

1 ~~the findings of the hearing panel as supplemented by a hearing before the~~
2 Board pursuant to section 1372 of this chapter, or on its own findings, the
3 Board shall render its decision on the merits of the charge or charges on the
4 basis of the evidence in the record before it.

5 (b)(1) If a majority of the members of the Board present and voting find
6 that the individual complained against committed unprofessional conduct as
7 specified in one or more of the charges, the Board shall prepare written
8 findings of fact, conclusions, and an order, copies of which shall be served
9 upon the individual complained against.

10 (2)(A) In its order, the Board may do one or more of the following:

11 (i) reprimand the individual complained against;

12 (ii) condition, limit, suspend, or revoke the license, certificate, or
13 practice of the individual complained against; or

14 (iii) take such other action relating to discipline or practice as the
15 Board determines appropriate, including imposing an administrative penalty of
16 not more than \$1,000.00 for each act that constitutes an unprofessional
17 conduct violation.

18 (B) Any monies received from the imposition of an administrative
19 penalty imposed pursuant to this subdivision (2) shall be deposited into the
20 Board of Medical Practice Regulatory Fee Fund for the purpose of providing
21 education and training for Board members and licensees. The Commissioner

1 of Health's accounting under section 1351 of this chapter shall detail the
2 receipts of administrative penalties and the purposes for which such monies
3 were used.

4 (c) If the Board finds the individual complained against not guilty of the
5 charge or charges, or the charges against the individual are dismissed, the
6 Board shall promptly order a dismissal of the charges and issue a statement
7 that the charges were not proved.

8 (d) Any order issued by the Board under this section shall be in full force
9 and effect until further order of the Board or of a court of competent
10 jurisdiction.

11 § 1374. SUBPOENAS; CONTEMPT

12 (a) The Board may issue subpoenas to compel the attendance of witnesses
13 at any investigation or hearing.

14 (b) The Board shall issue subpoenas on behalf of the individual complained
15 against at the request of such person.

16 § 1375. CONFIDENTIALITY; INADMISSIBILITY OF CERTAIN

17 EVIDENCE

18 (a) A hearing panel or the Board, or both, may close portions of a hearing
19 or hearings to the public if the panel or Board deems it appropriate in order to
20 protect the confidentiality of an individual or for medical and other protected
21 health information pertaining to any identifiable person that is otherwise

1 idential under State or federal law.

2 (b) In any proceeding under section 1371 or 1372 of this chapter that
3 addresses an applicant's or licensee's alleged sexual misconduct, evidence of
4 the sexual history of a victim of the alleged sexual misconduct shall neither be
5 subject to discovery nor be admitted into evidence. Neither opinion evidence
6 nor evidence of the reputation of a victim's sexual conduct shall be admitted.
7 At the request of a victim, a hearing panel or the Board may close portions of
8 hearings to the public if the panel or Board deems it appropriate in order to
9 protect the identity of a victim and the confidentiality of his or her medical
10 records.

11 § 1376. NONDISCIPLINARY FINANCIAL PENALTY

12 (a) For violations of statutes and Board rules of an administrative nature,
13 the Board may, in its sole discretion, elect to offer a licensee the opportunity to
14 pay a nondisciplinary financial penalty of not more than \$250.00 for each
15 instance of noncompliance. If the licensee accepts the offer and submits the
16 required payment, the matter shall be considered to be closed in lieu of
17 investigating the failure to comply with the rule or statute as unprofessional
18 conduct.

19 (b) A matter closed by payment of a nondisciplinary financial penalty shall
20 not be considered to be a disciplinary action, and the matter shall remain
21 confidential in the manner of dismissed charges in accordance with section

1 ~~1318 of this chapter.~~

2 ~~(c) The Board shall not be required to offer the option of a nondisciplinary~~
3 ~~financial penalty in any particular case and may elect to process any matter as~~
4 ~~a disciplinary action.~~

5 Subchapter 3. Licenses

6 § 1391. QUALIFICATIONS FOR MEDICAL LICENSURE

7 ~~(a) Upon payment of an examination fee, a person who has attained the age~~
8 ~~of majority, and is of good moral character, who is a graduate of a legally~~
9 ~~chartered college or university, authorized to confer degrees in medicine and~~
10 ~~surgery, which is recognized by the board, shall be entitled to examination.~~
11 ~~Evidence of good moral character and competence in being able to~~
12 ~~communicate in reading, writing, and speaking the English language, shall be~~
13 ~~presented from the chief of service and two other active physician staff~~
14 ~~members at the hospital where the person was last affiliated. In the discretion~~
15 ~~of the board, evidence from different sources may be presented~~

16 Basic requirements.

17 (1) An applicant for physician licensure as a medical doctor shall meet
18 each of the requirements set forth in subdivisions (2)(A) through (D) of this
19 subsection. A requirement may be met either by satisfying the requirement on
20 its own terms or by qualifying for an exception established in this chapter or
21 by the Board by rule.

1 ~~(2) An applicant shall submit evidence of identity acceptable to the~~
2 ~~Board as set forth by rule and shall establish that the applicant:~~
3 ~~(A) is at least 18 years of age;~~
4 ~~(B) has completed high school, or the equivalent, and at least two~~
5 ~~years of undergraduate postsecondary school;~~
6 ~~(C) has graduated from a medical school accredited by an~~
7 ~~organization that is acceptable to the Board, or from a medical school that has~~
8 ~~been approved by the Board by rule, with a degree of doctor of medicine or an~~
9 ~~equivalent as may be determined by the Board; and~~
10 ~~(D) is of sound moral character and professional competence as~~
11 ~~evidenced by:~~
12 ~~(i) references submitted in accordance with rules adopted by the~~
13 ~~Board;~~
14 ~~(ii) a personal interview, as may be required in the discretion of~~
15 ~~the Board; and~~
16 ~~(iii) the applicant's entire personal history, as established by~~
17 ~~information about the applicant's academic, licensing examination,~~
18 ~~employment, professional credentialing, professional certification, professional~~
19 ~~regulation, civil litigation, and criminal records submitted by the applicant or~~
20 ~~otherwise obtained by the Board in the application process.~~

21 ~~(b) If a person successfully completes the examination, he or she may then~~

1 ~~apply for licensure to practice medicine in the state of Vermont. In addition,~~
2 ~~each applicant may be interviewed by a board member~~

3 Postgraduate training requirements.

4 (1) A graduate of a U.S. or Canadian medical school accredited by a
5 body that is acceptable to the Board shall submit evidence of the successful
6 completion of at least two years of postgraduate training in a U.S. or Canadian
7 program accredited by an organization that is acceptable to the Board and that
8 meets such other requirements as the Board may establish by rule.

9 (2) A graduate of a Board-approved medical school outside the United
10 States or Canada shall submit evidence of success of completing at least three
11 years of postgraduate training in a U.S. or Canadian program accredited by an
12 organization that is acceptable to the Board and that meets such other
13 requirements as the Board may establish by rule.

14 ~~(c) Students who have completed the studies of anatomy, physiology,~~
15 ~~chemistry and histology may be examined after presenting a certificate from~~
16 ~~the secretary of the college or university in which they are pursuing their~~
17 ~~studies that they have completed the work of the second year. The fee which~~
18 ~~shall accompany such certificate shall be half of that for the final examination~~
19 ~~and shall be credited to the student as a part of the whole fee when he or she~~
20 ~~takes his or her final examination, which examination shall not include the~~
21 ~~subjects in which such student was found qualified by such previous~~

1 ~~examination~~

2 ~~Examination. An applicant shall satisfy the Board's requirements for~~
3 ~~medical licensing examination as established by the Board by rule. The Board~~
4 ~~may identify which examinations are accepted, set passing standards, and set~~
5 ~~limits on time and numbers of attempts for exams. The Board may establish~~
6 ~~by rule exceptions or alternative means to meet examination requirements.~~

7 ~~(d) In its discretion, the board may refuse applicants who are graduates of~~
8 ~~foreign universities or medical schools unless their credentials have first been~~
9 ~~passed upon and approved by the educational council for foreign medical~~
10 ~~graduates~~

11 ~~ECFMG certificate. A graduate of a medical school outside the United~~
12 ~~States or Canada shall also submit evidence of certification by the Educational~~
13 ~~Commission for Foreign Medical Graduates unless the individual qualifies for~~
14 ~~licensure as a Fifth Pathway applicant, as established by the Board by rule.~~

15 ~~(e) An applicant for limited temporary license, who shall furnish the board~~
16 ~~with satisfactory proof that he or she has attained the age of majority, is of~~
17 ~~good moral character, is a graduate of a legally chartered medical school of~~
18 ~~this country or of a foreign country that is recognized by the board and which~~
19 ~~has power to grant degrees in medicine, that all other eligibility requirements~~
20 ~~for house officer status have been met, and that he or she has been appointed~~
21 ~~an intern, resident, fellow, or medical officer in a licensed hospital or in a~~

1 ~~clinic which is affiliated with a licensed hospital, or in any hospital or~~
2 ~~institution maintained by the state, or in any clinic or outpatient clinic~~
3 ~~affiliated with or maintained by the state, may upon the payment of the~~
4 ~~required fee, be granted a limited temporary license by the board as a hospital~~
5 ~~medical officer for a period of up to 54 weeks and such license may be~~
6 ~~renewed or reissued, upon payment of the fee, for the period of the applicant's~~
7 ~~postgraduate training, internship, or fellowship program. Such limited~~
8 ~~temporary license shall entitle the said applicant to practice medicine only in~~
9 ~~the hospital or other institution designated on his or her certificate of limited~~
10 ~~temporary license and in clinics or outpatient clinics operated by or affiliated~~
11 ~~with such designated hospital or institution and only if such applicant is under~~
12 ~~the direct supervision and control of a licensed physician. Such licensed~~
13 ~~physician shall be legally responsible and liable for all negligent or wrongful~~
14 ~~acts or omissions of the limited temporary licensee and shall file with the~~
15 ~~board the name and address both of himself or herself and the limited~~
16 ~~temporary licensee and the name of such hospital or other institution. Such~~
17 ~~limited temporary license shall be revoked upon the death or legal~~
18 ~~incompetency of the licensed physician or, upon ten days written notice, by~~
19 ~~withdrawal of his or her filing by such licensed physician. The limited~~
20 ~~temporary licensee shall at all times exercise the same standard of care and~~
21 ~~skill as a licensed physician, practicing in the same specialty, in the state of~~

1 ~~Vermont. Termination of appointment as intern, resident, fellow, or medical~~
2 ~~officer of such designated hospital or institution shall operate as a revocation~~
3 ~~of such limited temporary license. An application for limited temporary license~~
4 ~~shall not be subject to subsection 1391(d) of this title.~~

5 Current medical practice. An applicant for licensure shall have actively
6 engaged in the practice of medicine, as defined by section 1311 of this chapter,
7 within three years prior to the date on which the application for licensure
8 becomes complete. In its discretion, the Board may license an applicant who
9 does not meet this practice requirement but who agrees to such conditions as
10 the Board may reasonably require to verify or confirm the applicant's
11 readiness to reenter the practice of medicine.

12 (f) License by faculty appointment.

13 (1) The Board may issue a license without examination to a reputable
14 physician who is a resident of a foreign country and who furnishes to the
15 Board satisfactory proof of appointment to the faculty of a medical college in
16 Vermont that is accredited by the Liaison Committee on Medical Education
17 (LCME). The Board may establish additional conditions and requirements by
18 rule for this type of license.

19 (2) An applicant for a license pursuant to this subsection shall furnish to
20 the Board satisfactory proof that the applicant is at least 18 years of age, has
21 ~~good moral character, is licensed to practice medicine in the applicant's~~

1 ~~country of residence, and has been appointed to the faculty of an LCME~~
2 accredited medical college located in Vermont. The application shall include
3 detailed information concerning the nature and term of the appointment, the
4 method by which the applicant's performance will be monitored and
5 evaluated, and any other information the Board may require by rule.

6 (3) A license issued pursuant to this subsection shall be for a period not
7 to exceed the term of the faculty appointment and may, in the Board's
8 discretion, be for a shorter period.

9 (4) A license issued pursuant to this subsection shall expire
10 automatically upon termination for any reason of the licensee's faculty
11 appointment.

12 § 1392. LIMITED TEMPORARY LICENSE FOR POSTGRADUATE

13 TRAINING

14 (a) Qualifications for limited training license.

15 (1) An applicant for a limited training license to practice medicine in a
16 postgraduate training program shall meet each of requirements set forth in
17 subdivisions (2)(A) through (E) of this subsection. A requirement may be met
18 either by satisfying the requirement on its own terms or by qualifying for an
19 exception established in this chapter or by the Board by rule.

20 (2) An applicant shall submit evidence of identity acceptable to the

21 ~~Board and shall establish that the applicant.~~

- 1 ~~(A) is at least 18 years of age;~~
- 2 (B) has graduated from a medical school accredited by an
3 organization that is acceptable to the Board, or from a medical school that has
4 been approved by the Board by rule;
- 5 (C) has been accepted to participate in a postgraduate medical
6 training program accredited by a body approved by the Board by rule;
- 7 (D) is of sound moral character and professional competence as
8 evidenced by the applicant's entire personal history, as established by
9 information about the applicant's academic, licensing examination,
10 employment, professional credentialing, professional certification, professional
11 regulation, civil litigation, and criminal records submitted by the applicant or
12 otherwise obtained by the Board in the application process; and
- 13 (E) will be practicing in a program under the supervision of a
14 Vermont-licensed physician who has acknowledged in writing:
- 15 (i) the responsibility to ensure that the program operates in
16 accordance with the requirements of the accrediting body; and
- 17 (ii) the responsibility to ensure that physicians in training practice
18 only under the close supervision and control of Vermont-licensed physicians.
- 19 (b) Terms of limited training license.
- 20 (1) A limited training license shall be issued for the period of a "training
21 year," which shall run from July 1 through June 30. All limited training

1 ~~licenses shall expire at 12:00 midnight on July 1, regardless of when issued,~~
2 ~~unless the holder leaves the program before that date, in which case the license~~
3 ~~expires upon the holder leaving the program. The Board may issue a limited~~
4 ~~training license up to 90 days prior to the beginning of a training year.~~

5 ~~(2) A limited training license shall be renewed annually for each~~
6 ~~licensee who intends to continue to practice in a training program, in~~
7 ~~accordance with such requirements as the Board may provide by rule.~~

8 ~~(3) A limited training license authorizes the holder to practice only~~
9 ~~within the approved training program and only at sites that are part of the~~
10 ~~hospital or other facility hosting the training program, along with such other~~
11 ~~locations as may be formally designated as a training site of the program.~~

12 ~~(4) A limited training license shall become invalid 14 days after the~~
13 ~~supervising physician described in subdivision (a)(2)(E) of this subsection~~
14 ~~stops supervising the program for any reason, unless documentation of a new~~
15 ~~supervising physician is filed with the Board prior to the expiration of the 14-~~
16 ~~day period.~~

17 ~~(5) A physician practicing under a limited training license is subject to~~
18 ~~the provisions of section 1354 of this chapter.~~

19 § 1393. EXAMINATIONS

20 The examinations shall be wholly or partly in writing, in the English
21 ~~language, and shall be of a practical character, sufficiently strict to test the~~

1 ~~qualifications of the applicant. In its discretion the board may use multiple~~
2 ~~choice style examinations provided by the National Board of Medical~~
3 ~~Examiners or by the Federation of State Medical Boards, or as determined by~~
4 ~~rule. The examination shall embrace the general subjects of anatomy,~~
5 ~~physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine,~~
6 ~~surgery, obstetrics, gynecology, materia medica, therapeutics, and legal~~
7 ~~medicine. The subject covered by the National Board of Medical Examiners~~
8 ~~examination shall be considered to have met the requirements of this section.~~
9 ~~If the applicant passes the examination approved by the board and meets the~~
10 ~~other standards for licensure, he or she will qualify for licensure. [Repealed.]~~

11 § 1394. REEXAMINATIONS

12 ~~A person failing an examination may be reexamined. The limitation on the~~
13 ~~number of reexaminations shall be determined by the board, by rule. The fee~~
14 ~~for reexamination shall be as required by subsection 1391(a) of this title.~~

15 ~~[Repealed.]~~

16 § 1395. LICENSE WITHOUT EXAMINATION

17 ~~(a) Without examination, the Board may, upon payment of the required fee,~~
18 ~~issue a license to a reputable physician who personally appears and presents a~~
19 ~~certified copy of a certificate of registration or a license issued to him or her in~~
20 ~~a jurisdiction whose requirements for registration are deemed by the Board as~~
21 ~~equivalent to those of this State, providing that such jurisdiction grants the~~

1 ~~same reciprocity to a Vermont physician or by the National Board of Medical~~

2 ~~Examiners.~~

3 ~~(b) Without examination, the Board may issue a license to a reputable~~
4 ~~physician who is a resident of a foreign country and who shall furnish the~~
5 ~~Board with satisfactory proof that he or she has been appointed to the faculty~~
6 ~~of a medical college accredited by the Liaison Committee on Medical~~
7 ~~Education (LCME) and located within the State of Vermont. An applicant for~~
8 ~~a license under this subsection shall furnish the Board with satisfactory proof~~
9 ~~that he or she has attained the age of majority, is of good moral character, is~~
10 ~~licensed to practice medicine in his or her country of residence, and that he or~~
11 ~~she has been appointed to the faculty of an LCME accredited medical college~~
12 ~~located within the State of Vermont. The information submitted to the Board~~
13 ~~concerning the applicant's faculty appointment shall include detailed~~
14 ~~information concerning the nature and term of the appointment and the method~~
15 ~~by which the performance of the applicant will be monitored and evaluated. A~~
16 ~~license issued under this subsection shall be for a period no longer than the~~
17 ~~term of the applicant's faculty appointment and may, in the discretion of the~~
18 ~~Board, be for a shorter period. A license issued under this subsection shall~~
19 ~~expire automatically upon termination for any reason of the licensee's faculty~~
20 ~~appointment. [Repealed.]~~

21 ~~§ 1206. REQUIREMENTS FOR ADMISSION TO PRACTICE~~

1 ~~(a) The standard of requirements for admission to practice in this state,~~
2 ~~under section 1395 of this title, shall be as follows:~~

3 ~~(1) Academic: Preliminary requirements to be a high school education~~
4 ~~or its equivalent, such as would admit the student to a recognized university,~~
5 ~~and a two years' course of study in a college of arts and sciences.~~

6 ~~(2) Medical: Be a graduate of a medical college approved by the board~~
7 ~~or approved by an accrediting body satisfactory to the board.~~

8 ~~(3) Postgraduate training: Have completed at least a one-year hospital~~
9 ~~program of postgraduate training approved by the board or approved by an~~
10 ~~accrediting body satisfactory to the board.~~

11 ~~(4) Moral: Shall present letters of reference as to moral character and~~
12 ~~professional competence from the chief of service and two other active~~
13 ~~physician staff members at the hospital where he or she was last affiliated. In~~
14 ~~the discretion of the board, letters from different sources may be presented.~~

15 ~~(5) Language: Shall demonstrate competence in reading, writing, and~~
16 ~~speaking the English language.~~

17 ~~(6) Examination: The examination in writing shall have embraced 13~~
18 ~~subjects of 90 questions, viz.: anatomy, physiology, chemistry, pathology,~~
19 ~~bacteriology, hygiene, practice of medicine, surgery, obstetrics, gynecology,~~
20 ~~materia medica, therapeutic and legal medicine. The grade achieved in each~~
21 ~~subject must have been at least 75 percent, and a license shall not be~~

1 ~~recognized when a lower rating was obtained.~~

2 ~~(7) Practice: Shall have practiced medicine within the last three years as~~
3 ~~defined in section 1311 of this title or shall comply with the requirements for~~
4 ~~updating knowledge and skills as defined by board rules.~~

5 ~~(b) In cases it deems appropriate, the board may waive the requirements of~~
6 ~~subdivisions (a)(1) and (2) of this section for an applicant who is a graduate of~~
7 ~~a medical college that is neither approved by the board nor by an accrediting~~
8 ~~body satisfactory to the board. As a condition of granting a waiver, the board~~
9 ~~may require that the applicant complete up to three years of postgraduate~~
10 ~~training satisfactory to the board. A waiver granted under this section shall be~~
11 ~~in writing and shall include a statement of the board's reasons for granting the~~
12 ~~waiver. [Repealed.]~~

13 * * *

14 § 1398. REFUSAL OR REVOCATION OF LICENSES

15 ~~(a) The board Board may refuse to issue the license provided for in~~
16 ~~section 1391 of this title to persons a license or certificate to an applicant who~~
17 ~~applies to be licensed or certified under this chapter and who, by false or~~
18 ~~fraudulent representations, have has obtained or sought to obtain practice in~~
19 ~~their the profession, or by false or fraudulent representations of their~~
20 ~~profession in practice, have has obtained or sought to obtain money or any~~
21 ~~other thing of value, or who assume names a name other than their the~~

1 ~~applicant's own for the purpose of misleading others, or for any other~~

2 immoral, unprofessional, or dishonorable conduct. ~~However, a~~

3 (b) A license or certificate shall not be suspended, except as provided in
4 section 1365 or 1366 of this chapter; revoked; or refused until the holder or
5 applicant:

6 (1) is given a hearing before the board Board using the same procedures
7 as a hearing on disciplinary matters as set forth in sections 1371 through 1375
8 of this chapter;

9 (2) is offered and declines or fails to attend a hearing; or

10 (3) agrees to the action.

11 (c) In the event of a revocation, the holder of any license or certificate so
12 revoked shall ~~forthwith~~ promptly relinquish the ~~same~~ license or certificate to
13 the secretary of the ~~board~~ Board.

14 * * *

15 * * * Licensure of Podiatrists * * *

16 Sec. 2. 26 V.S.A. § 371 is amended to read:

17 § 371. ELIGIBILITY

18 To be eligible for licensure as a podiatrist, an applicant must:

19 * * *

20 (4) successfully complete all required steps of the examinations given

21 ~~by the National Board of Podiatry Podiatric Medical Examiners, as set forth by~~

1 ~~the Board by rule; and~~

2 * * *

3 Sec. 3. 26 V.S.A. § 373(b) is amended to read:

4 (b) A license ~~which~~ that has lapsed for up to 364 days may be reinstated on
5 payment of a renewal fee and a late renewal penalty. A license that has lapsed
6 for one year or longer may be reinstated upon payment of the reinstatement fee
7 and completion of the reinstatement application as set forth by the Board by
8 rule. The applicant shall not be required to pay renewal fees during periods
9 when the license was lapsed. However, if such license remains lapsed for a
10 period of three years or longer, the ~~board~~ Board may, after notice and an
11 opportunity for hearing, require reexamination ~~as a condition~~ or other
12 conditions of renewal.

13 Sec. 4. 26 V.S.A. § 373(b) is amended to read:

14 (b) A license that has lapsed for up to 364 days may be reinstated on
15 payment of a renewal fee and a late renewal penalty. A license that has lapsed
16 for one year or longer may be reinstated upon payment of the reinstatement fee
17 and completion of the reinstatement application as set forth by the Board by
18 rule. The applicant shall not be required to pay renewal fees during periods
19 when the license was lapsed. However, if such license remains lapsed for a
20 period of three years or longer, the Board may, ~~after notice and an opportunity~~
21 ~~for hearing, require reexamination or other conditions of renewal~~ require the

1 ~~licensee to update his or her knowledge and skills as defined by Board rules.~~

2 * * * Addition of Board of Medical Practice to Description of Professional
3 Licensing Boards Entitled to Inspect Prescription Records * * *

4 Sec. 5. 18 V.S.A. § 4211 is amended to read:

5 § 4211. RECORDS CONFIDENTIAL

6 Prescriptions, orders, and records required by this chapter, and stocks of
7 regulated drugs, shall be open for inspection only to federal or state officers or
8 their specifically authorized agent whose duty it is to enforce the federal drug
9 laws or this chapter, ~~or to~~ authorized agents of professional licensing boards,
10 as that term is defined under 3 V.S.A. chapter 5, or authorized agents of the
11 Board of Medical Practice. No person having knowledge by virtue of his or
12 her office of any such prescription, order, or record shall divulge such
13 knowledge, except in connection with a prosecution, or proceeding before the
14 Board of Health, Board of Pharmacy, Board of Medical Practice, or another
15 licensing or registration board, to which prosecution or proceeding the person
16 to whom such prescriptions, orders, or records relate is a party.

17 * * * Effective Dates * * *

18 Sec. 6. EFFECTIVE DATES

19 (a) Sec. 1 (26 V.S.A. chapter 23) shall take effect on July 1, 2019, except
20 that 26 V.S.A. § 1376 (nondisciplinary financial penalty) shall take effect upon
21 the Board's adoption of a rule setting forth the schedule of statutory and rule
22 violations and penalties.

1 ~~(b) Secs. 2 (26 V.S.A. § 271), 3 (26 V.S.A. § 272(b)), 5 (18 V.S.A.~~

2 ~~§ 4211), and this section shall take effect on July 1, 2019.~~

3 ~~(c) Sec. 4 (26 V.S.A. § 373(b)) shall take effect 60 days after the Board's~~

4 ~~adoption of a maintenance of licensure rule for podiatrists in accordance with~~

5 ~~2011 Acts and Resolves No. 61, Sec. 10.~~

~~*** Board of Medical Practice and Physician Licensure ***~~

~~Sec. 1. 26 V.S.A. chapter 23 is amended to read:~~

~~CHAPTER 23. MEDICINE~~

~~Subchapter 1. General Provisions~~

~~§ 1311. DEFINITIONS~~

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

~~(1) "Practice of medicine" means:~~

~~(A) using the designation "Doctor," "Doctor of Medicine," "Physician," "Dr.," "M.D.," or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license in Vermont;~~

~~(B) advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine in the jurisdiction;~~

~~(C) offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other person;~~

~~(D) offering or undertaking to prevent, diagnose, correct, or treat in any manner or by any means, methods, or devices any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any person, including the management of all aspects of pregnancy, labor and delivery, and parturition postpartum care;~~

~~(E) offering or undertaking to perform any surgical operation upon any person;~~

~~(F) rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within the State by a physician located outside the State;~~

~~as a result of the transmission of individual patient data by electronic or other means from within the State to the physician or his or her agent; or~~

~~(G) rendering a determination of medical necessity or a decision affecting the diagnosis or treatment of a patient.~~

~~(2) "Board" means the State Board of Medical Practice established under section 1351 of this title.~~

~~(3) "License" means license to practice medicine and surgery in the State as defined in subchapter 3 of this chapter. "Licensee" includes any individual licensed or certified by the Board.~~

~~(4) "Medical director" means, for purposes of this chapter, a physician who is Board-certified or Board-eligible in his or her field of specialty, as determined by the American Board of Medical Specialties (ABMS), and who is charged by a health maintenance organization with responsibility for overseeing all clinical activities of the plan in this State, or his or her designee.~~

~~(5) "Health maintenance organization," as used in this section, shall have has the same meaning as defined in 18 V.S.A. § 9402(9).~~

~~(6) "Members" means members of the Board.~~

~~(7) "Secretary" means the ~~Secretary~~ secretary of the Board.~~

~~**~~

~~§ 1313. EXEMPTIONS~~

~~(a) The provisions of this chapter shall not apply to the following:~~

~~(1) a A health care professional licensed or certified by the Office of Professional Regulation when that person is practicing within the scope of his or her profession;~~

~~(2) a A member of the U.S. Armed Forces or National Guard carrying out official military duties, including a National Guard member in state active duty status, or to any person giving aid, assistance, or relief in emergency or accident cases, pending the arrival of a regularly licensed physician;~~

~~(3) a A nonresident physician coming into this State to consult or using telecommunications to consult with a duly licensed practitioner herein;~~

~~(4) a A duly licensed physician in another state, in Canada, or in another nation as approved by the Board, who is visiting a medical school or a teaching hospital in this State to receive or conduct medical instruction for a period not to exceed three months, provided the practice is limited to that instruction and is under the supervision of a physician licensed by the Board;~~

~~(5) A physician who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the physician is employed as or formally designated as the team physician by an athletic team visiting Vermont for a specific sporting event and the physician limits the practice of medicine in this State to medical treatment of the members, coaches, and staff of the sports team employing or designating the physician.~~

~~(6) A student who is enrolled in an accredited educational program that leads to the issuance of a degree that would satisfy the educational requirement for a profession licensed or certified by the Board, who is engaged in an organized clinical training program, and who engages in acts constituting the practice of medicine while under the supervision of a Vermont-licensed or Vermont-certified health care professional who is qualified to supervise any acts by the student that constitute the practice of medicine. This exemption does not apply to postgraduate trainees who are required to obtain a training license.~~

~~***~~

~~§ 1317. UNPROFESSIONAL CONDUCT TO BE REPORTED TO BOARD~~

~~(a) Required reporters. Any hospital, clinic, community mental health center, or other health care institution in which a licensee performs professional services shall report to the Board, along with supporting information and evidence, any reportable disciplinary action taken by it or its staff that significantly limits the licensee's privilege to practice or leads to suspension or expulsion from the institution, a nonrenewal of medical staff membership, or the restrictions of privileges at a hospital taken in lieu of, or in settlement of, a pending disciplinary case related to unprofessional conduct as defined in sections 1354 and 1398 of this title. The Commissioner of Health shall forward any such information or evidence he or she receives immediately to the Board. The report shall be made within 10 days of the date such disciplinary action was taken, and, in the case of disciplinary action taken against a licensee based on the provision of mental health services, a copy of the report shall also be sent to the Commissioner of Mental Health and the Commissioner of Disabilities, Aging, and Independent Living. This section shall not apply to cases of resignation or separation from service for reasons unrelated to disciplinary action.~~

~~(b) Within 30 days of any judgment or settlements involving a claim of professional negligence by a licensee, any insurer of the licensee shall report the information to the Commissioner of Health and, to the extent the claim~~

~~relates to the provision of mental health services, to the Commissioner of Mental Health.~~

~~Definition of reportable disciplinary action. A reportable disciplinary action is an action based on one or more of the following:~~

~~(1) Acts or omissions of a licensee that relate to the licensee's fitness or competence to practice medicine under the license held.~~

~~(2) Acts or omissions of the licensee that constitute a violation of a law or rule that relates in any way to the practice of medicine.~~

~~(3) Acts or omissions of the licensee that occur in the course of practice and result in one or more of the following:~~

~~(A) Resignation, leave of absence, termination, or nonrenewal of an employment relationship or contract. This includes a licensee's own initiation of such action following notification to the licensee by the reporter that the reporter or an affiliated entity is conducting an investigation or inquiry regarding an event that, assuming the accuracy of the information or allegation, is likely to result in reportable disciplinary action. The reporter or affiliated entity shall complete the investigation or inquiry even if the licensee initiates a resignation, leave of absence, termination, or nonrenewal, and shall make a report to the Board if the investigation results in a finding of a reportable disciplinary action. Resignations and leaves of absence that are entirely voluntary by the licensee, and terminations and nonrenewals of employment or contract by a required reporter that are not related to acts or omissions of the licensee, are not reportable disciplinary actions.~~

~~(B) Revocation, suspension, restriction, relinquishment, or nonrenewal of a right or privilege. This includes a licensee's own initiation of such action following notification to the licensee by the reporter that the reporter or an affiliated entity is conducting an investigation or inquiry regarding an event that, assuming the accuracy of the information or allegation, is likely to result in reportable disciplinary action. The reporter or affiliated entity shall complete the investigation or inquiry even if the licensee initiates a resignation, leave of absence, termination, or nonrenewal, and shall make a report to the Board if the investigation results in a finding of a reportable disciplinary action. Relinquishments of privileges that are entirely voluntary by the licensee, and revocations, nonrenewals, or other limitations on privileges by a required reporter that are not related to acts or omissions of the licensee, are not reportable disciplinary actions.~~

~~(C) Written discipline that constitutes a censure, reprimand, or admonition, if it is the second or subsequent censure, reprimand, or admonition within a 12-month period for the same or related acts or omissions.~~

~~that previously resulted in written censure, reprimand, or admonition. The same or related acts or omissions includes similar behavior or behavior involving the same parties, or both. Oral censure, oral reprimand, and oral admonition are not considered reportable disciplinary actions, and notation of an oral censure, oral reprimand, or oral admonition in a personnel or supervisor's file does not transform the action from oral to written.~~

~~(D) Fine or any other form of monetary penalty imposed as a form of discipline.~~

~~(E) Required education, remedial counseling, or monitoring that is imposed as a result of a completed, contested disciplinary process. This includes recommendation or referral for services from the Vermont Practitioner Recovery Network established pursuant to section 1401a of this chapter; or from an employer wellness program or similar program, as a result of a completed, contested disciplinary process.~~

~~(c) Timing of reports. A required report of reportable disciplinary action under subsection (b) of this section shall be made within 30 days following the date on which the disciplinary action was taken or upon completion of an investigation or inquiry pursuant to subdivision (b)(3)(A) or (B) of this section.~~

~~(d) Mental health services. If reportable disciplinary action is reported to the Board based on a licensee's provision of mental health services, the Commissioner of Health shall forward the report to the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living. Except as provided in section 1368 of this title, information provided to the Department of Health, the Department of Mental Health, or the Department of Disabilities, Aging, and Independent Living under this section shall be confidential unless the Department of Health decides to treat the report as a complaint; in which case, the provisions of section 1318 of this title shall apply.~~

~~(d)(e) Limitation on liability. A person who acts in good faith in accordance with the provisions of this section shall not be liable for damages in any civil action based on the fact that a report was made.~~

~~(e)(f) Violations. A person reporter who violates this section shall be subject to a civil penalty of not more than \$5,000.00, provided that a reporter who employs or grants privileges to five or more Board licensees and who violates this section shall be subject to a civil penalty of not more than \$10,000.00.~~

* * *

Subchapter 2. Board of Medical Practice

~~§ 1351. BOARD OF MEDICAL PRACTICE~~

~~(c) 4. State. The Board of Medical Practice is created. The Board shall be composed of 17 members, nine of whom shall be licensed physicians, one of whom shall be a physician assistant licensed pursuant to chapter 31 of this title, one of whom shall be a podiatrist licensed pursuant to chapter 7 of this title, and six of whom shall be persons not associated with the medical field. The Governor, with the advice and consent of the Senate, shall appoint the members of the Board. Appointments shall be for a term of five years, except that a vacancy occurring during a term shall be filled by an appointment by the Governor for the unexpired term. No member shall be appointed to more than two consecutive full terms, but a member appointed for less than a full term, (originally or to fill a vacancy), may serve two full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of one or more years. Any member of the Board may be removed by the Governor at any time. The Board shall elect from its members a chair, vice chair, and secretary who shall serve for one year and until their successors are appointed and qualified. The Board shall meet upon the call of the Chair or the Commissioner of Health, or at such other times and places as the Board may determine. Except as otherwise provided in section ~~1360~~ sections 1372, 1373, and 1374 of this title, nine members of the Board shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the members present and voting shall be required to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize any decision or order of the Board.~~

~~***~~

~~§ 1353. POWERS AND DUTIES OF THE BOARD~~

~~The Board shall have the following powers and duties to:~~

- ~~(1) License and certify health professionals pursuant to this title.~~
- ~~(2) Investigate all complaints and charges of unprofessional conduct against any holder of a license or certificate, or any medical practitioner practicing pursuant to section 1313 of this title, and to hold hearings to determine whether such charges are substantiated or unsubstantiated. The Board may employ or contract with one or more hearing officers to schedule, oversee prehearing processes, preside over hearings, and assist with the preparation of reports and decisions.~~
- ~~(3) Issue subpoenas and administer oaths in connection with any investigations, hearings, or disciplinary proceedings held under this chapter. Any individual or entity served with a subpoena issued by the Board shall comply notwithstanding the patient's privilege established in 12 V.S.A. § 1612.~~
- ~~(4) Take or cause depositions to be taken as needed in any investigation.~~

~~hearing or proceeding~~

~~* * *~~

~~(8) Obtain, at the Board's discretion, from the Vermont Crime Information Center a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation, for any applicant, licensee, or holder of certification. The Board may also inquire of Interpol for any information on criminal history records of an applicant, licensee, or holder of certification. Each applicant, licensee, or holder of certification shall consent to the release of criminal history records to the Board on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c. When the Board obtains a criminal history record, it shall promptly provide a copy of the record to the applicant, licensee, or holder of certification and inform him or her of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont Crime Information Center. When fingerprinting is required pursuant to this subdivision, the applicant, licensee, or holder of certification shall bear all costs associated with fingerprinting. The Board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy.~~

~~(A) Inquire into the criminal history backgrounds of applicants for licensure and for biennial license renewal for all professionals licensed or certified by the Board. In obtaining these background checks:~~

~~(i) the Board may inquire directly of the Vermont Crime Information Center, the Federal Bureau of Investigation, the National Crime Information Center, and other holders of official criminal record information, and may arrange for these inquiries to be made by a commercial service;~~

~~(ii) the Board may require the background checks to be fingerprint-supported, and fingerprints obtained for that purpose may be retained on file by the Board, by holders of official criminal record information, or by a service acting on behalf of the Board, and used to notify the Board of information added to the criminal background history of Board licensees in the future; and~~

~~(iii) the Board shall notify applicants subject to background checks that the check is required, that fingerprints will be retained on file, and that criminal convictions are not an absolute bar to licensure, and shall provide applicants and licensees with such other information as may be required by federal law or regulation.~~

~~(B) An applicant or licensee shall bear any cost of obtaining a required criminal history background check.~~

~~(C) The Board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy.~~

~~(D) No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter. As used in this subdivision, "criminal history record" is as defined has the same meaning as in 20 V.S.A. § 2056a.~~

~~***~~

~~§ 1354. UNPROFESSIONAL CONDUCT~~

~~(a) The Board shall find that any one of the following, or any combination of the following, whether the conduct at issue was committed within or outside the State, constitutes unprofessional conduct:~~

~~***~~

~~(23) revocation of a license to practice medicine or surgery in, or other disciplinary sanction, by another jurisdiction on one or more of the grounds specified in this section;~~

~~***~~

~~(27) failure to comply with provisions of federal or State statutes or regulations, or the statutes or rules of this or any other state, governing the practice of medicine or surgery;~~

~~***~~

~~§ 1355. COMPLAINTS; HEARING COMMITTEE~~

~~(a) Any person, firm, corporation, or public officer may submit a written complaint to the Board alleging any person practicing medicine in the State committed unprofessional conduct, specifying the grounds therefor. The Board shall initiate an investigation of the physician when a complaint is received or may act on its own initiative without having received a complaint. The Chair shall designate four members, including one public member, to serve as a committee to hear or investigate and report upon such charges.~~

~~(b) The Chair may designate a hearing committee constituting less than a quorum of the Board, to conduct hearings that would otherwise be heard by the Board. A hearing committee shall consist of at least one physician member of the Board and one public member of the Board. No member of the hearing committee shall have been a member of the investigative committee that reviewed the matter at the investigative stage. When the Board is unable to assign one or more members to investigate a complaint or serve on a hearing committee by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner may, at the request of the Board, appoint ad hoc~~

~~members to serve on the investigation or the hearing for that matter only. When a hearing is conducted by a hearing committee, the committee shall report its findings and conclusions to the Board, within 60 days of the conclusion of the hearing unless the Board grants an extension. The Board may take additional evidence and may accept, reject, or modify the findings and conclusions of the Committee. Judgment on the findings shall be rendered by the Board. Nothing herein is intended to limit the discretion of the Board to determine whether a matter will proceed to hearing before a hearing committee under this subsection or by a quorum of the Board.~~

~~(c) A person or organization shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Board about alleged incompetent, unprofessional, or unlawful conduct of a licensee.~~

~~(d) The hearing committee may close portions of hearings to the public if the hearing committee deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential by State or federal law.~~

~~(e) In any proceeding under this section that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence nor evidence of the reputation of the victim's sexual conduct shall be admitted. At the request of the victim, the hearing committee may close portions of hearings to the public if the Board deems it appropriate in order to protect the identity of the victim and the confidentiality of his or her medical records. [Repealed.]~~

~~§ 1356. SPECIFICATION OF CHARGES~~

~~If the Board or committee determines that a hearing is warranted, the Secretary shall prepare a specification of the charge or charges of unprofessional conduct made against a medical practitioner, a copy of which shall be served upon the person complained against, together with a notice of the hearing, as provided in section 1357 of this title. [Repealed.]~~

~~§ 1357. TIME AND NOTICE OF HEARING~~

~~The time of hearing shall be fixed by the Secretary as soon as convenient, but not earlier than 30 days after service of the charge upon the person complained against. The Secretary shall issue a notice of hearing of the charges, which notice shall specify the time and place of hearing and shall notify the person complained against that he or she may file with the Secretary a written response within 20 days of the date of service. The notice shall also notify the person complained against that a stenographic record of the~~

~~proceeding will be kept, that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence in his or her own behalf, to cross-examine witnesses testifying against him or her and to examine such documentary evidence as may be produced against him or her. [Repealed.]~~

~~§ 1358. SUBPOENAS; CONTEMPT~~

~~Subpoenas may be issued by the Board to compel the attendance of witnesses at any investigation or hearing. The Board shall issue subpoenas at the request and on the behalf of the person complained against. [Repealed.]~~

~~§ 1359. REPORT OF HEARING~~

~~Within 30 days after holding a hearing under the provisions of section 1357 of this title, the committee shall make a written report of its findings of fact and its recommendations, and the same shall be forthwith transmitted to the Secretary, with a transcript of the evidence. [Repealed.]~~

~~§ 1360. HEARING BEFORE BOARD~~

~~(a) If the Board deems it necessary, the Board may, after further notice to the person complained against, take testimony at a hearing before the Board, conducted as provided for hearings before the hearing committee. In any event, whether the Board makes its determination on the findings of the hearing committee, on the findings of the committee as supplemented by a second hearing before the Board, or on its own findings, the Board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it. Five members of the Board, including at least one public member, shall constitute a quorum for purposes of this section.~~

~~(b) Members of the committee designated under section 1355 of this title to investigate the complaint shall not sit with the Board when it conducts hearings under this section.~~

~~(c) In any proceeding under this section that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence of nor evidence of the reputation of the victim's sexual conduct shall be admitted. At the request of the victim, the hearing committee may close portions of hearings to the public if the Board deems it appropriate to close portions of the hearing in order to protect the identity of the victim and the confidentiality of his or her medical records.~~

~~(d) The Board may close portions of hearings to the public if the Board deems it appropriate in order to protect the confidentiality of an individual or~~

~~for medical and other protected health information pertaining to any identifiable person that is otherwise confidential by State or federal law. [Repealed.]~~

~~§ 1361. DECISION AND ORDER~~

~~(a) If a majority of the members of the Board vote in favor of finding the person complained against guilty of unprofessional conduct as specified in the charges, or any of them, the Board shall prepare written findings of fact, conclusions, and order, a copy of which shall be served upon the person complained against.~~

~~(b) In such order, the Board may reprimand the person complained against, as it deems appropriate; condition, limit, suspend, or revoke the license, certificate, or practice of the person complained against; or take such other action relating to discipline or practice as the Board determines is proper, including imposing an administrative penalty not to exceed \$1,000.00 for each act that constitutes an unprofessional conduct violation. Any money received from the imposition of an administrative penalty imposed under this subsection shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees. The Commissioner shall detail in the annual report receipts and expenses from money received under this subsection.~~

~~(c) If the person complained against is found not guilty, or the proceedings against him or her are dismissed, the Board shall forthwith order a dismissal of the charges and the exoneration of the person complained against.~~

~~(d) Any order issued under this section shall be in full force and effect until further order of the Board or a court of competent jurisdiction. [Repealed.]~~

~~* * *~~

~~§ 1365. NOTICE OF CONVICTION OF CRIME; INTERIM SUSPENSION
OF LICENSE~~

~~(a) The Board shall treat a certified copy of the judgment notice of conviction of a crime for which a licensee may be disciplined under section 1354 of this title as an unprofessional conduct complaint. The record A certified copy of the judgment of conviction shall be conclusive evidence of the fact that the conviction occurred. If a person licensed under this chapter is convicted of a crime by a court in this State, the clerk of the court shall within 10 days of such conviction transmit a certified copy of the judgment of conviction to the Board.~~

~~* * *~~

~~§ 1366. OUT OF STATE DISCIPLINE, INTERIM SUSPENSION OF
LICENSE~~

~~(a) The Board shall treat a certified copy of an order revoking or suspending the license of a person licensed to practice medicine or surgery in another jurisdiction on grounds for which a licensee may be disciplined under subdivision 1354(a)(23) of this title as an unprofessional conduct complaint. The A certified copy of the order of revocation or suspension shall be conclusive evidence of the fact that the revocation or suspension occurred.~~

~~(b) The Board shall treat a certified copy as an unprofessional conduct complaint any notice of a statement of a licensing entity in another jurisdiction that verifies that a person licensed to practice medicine or surgery in that jurisdiction failed to renew, surrendered, or otherwise terminated his or her license during, or prior to initiation of, proceedings to revoke or suspend his or her license as an unprofessional conduct complaint. The A certified copy of the statement shall be conclusive evidence of the fact that such termination occurred.~~

~~(c) Upon receipt of the certified copy of an order or statement referred to in ~~subsections~~ subsection (a) or (b) of this section, the Board shall follow the procedures for interim suspension set forth in subsection 1365(b) of this ~~title~~ chapter.~~

~~(d) The sole issue to be determined at the disciplinary hearing on a complaint filed under subsection (a) of this section shall be the nature of the disciplinary action to be taken by the Board.~~

~~* * *~~

§ 1370. COMPLAINTS; INVESTIGATIVE COMMITTEE

(a)(1) Any individual, organization, or public officer may submit a written complaint to the Board alleging that any individual practicing medicine in the State committed unprofessional conduct or that an individual practiced without being licensed in violation of section 1314 of this chapter. The complaint shall specify the grounds on which the allegations of unprofessional conduct are based.

(2) A person or organization shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Board about alleged incompetent, unprofessional, or unlawful conduct of a licensee.

(b)(1) The Board shall initiate an investigation of the individual complained against whenever a complaint is received. The Board may also act on its own initiative without having received a complaint.

~~(2) The Executive Director shall designate three or more members, including at least one public member, to serve as an investigative committee to investigate and report to the Board its findings regarding the complaint and whether an evidentiary hearing is warranted. If there is an insufficient number of members to investigate a complaint by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner of Health may, at the request of the Board, appoint ad hoc members to serve on the investigative committee for that matter only.~~

~~(3) If the investigative committee determines that an evidentiary hearing is warranted, the Executive Director shall prepare a specification of the charge or charges of unprofessional conduct made against the individual licensed by the Board, a copy of which shall be served upon subject of the charge or charges, together with the notice of hearing set forth in subsection 1372(b) of this chapter.~~

§ 1371. ACCESS TO DOCUMENTS; DISCOVERY

~~(a)(1) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to inspect and copy all information in the possession of the Department of Health pertaining to the licensee, except:~~

~~(A) investigatory files that have not resulted in charges of unprofessional conduct;~~

~~(B) materials that constitute attorney work product; and~~

~~(C) any other document or information that the Board has an obligation to protect from disclosure.~~

~~(2) The Executive Director shall notify the licensee of the right to inspect and copy information as provided in subsection 1372(b) of this chapter.~~

~~(b) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to produce fact witnesses, expert witnesses, and evidence on the licensee's own behalf, to cross-examine witnesses testifying against the licensee, and to engage in other methods of discovery as set forth by order of the Board or its hearing officer.~~

~~(c) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to request to depose witnesses by motion to the Board or its hearing officer. Any deposition so ordered shall be subject to:~~

~~(1) the provisions of section 1376 of this chapter, relating to confidentiality and the inadmissibility of certain evidence;~~

~~(2) limitations or conditions necessary to protect witnesses who are minors or who are adults subject to a guardianship or conservatorship; and~~

~~(3) such other reasonable limitations as the Board or its hearing officer may provide in the interests of justice and consistent with the provisions of 3 V.S.A. § 810, relating to rules of evidence and official notice in contested cases.~~

§ 1372. HEARING PANEL

(a) Composition of hearing panel.

~~(1) The Executive Director may designate a hearing panel constituting less than a quorum of the Board to conduct hearings that would otherwise be heard by the full Board. A hearing panel shall consist of at least three members, including at least one physician member of the Board and at least one public member of the Board. No member of the hearing panel shall have been a member of the investigative committee that reviewed the matter at the investigative stage. A party may move to disqualify a member of a hearing panel due to a conflict of interest.~~

~~(2) If there is an insufficient number of members to serve on a hearing panel by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner of Health may, at the request of the Board, appoint ad hoc members to serve on the hearing panel for that matter only.~~

(b) Time and notice of hearing.

~~(1) The Executive Director or a hearing officer shall set a time for the evidentiary hearing as soon as convenient following the determination by the investigative committee that an evidentiary hearing is warranted, subject to the discovery needs of the parties as established in any prehearing or discovery conference or in any orders regulating discovery and depositions, or both, but no earlier than 30 days after service of the charge upon the individual complained against. A party may file motions to extend the time of the hearing for good cause.~~

~~(2) The Executive Director shall issue a notice of the evidentiary hearing on the charges, which notice shall specify the time and place of the hearing and shall notify the individual complained against that he or she may file with the Executive Director a written response within 20 days of the date of service. The notice shall also notify the individual complained against that a record of the proceeding will be kept, that he or she will have the right to inspect and copy information as set forth in section 1371 of this chapter, and~~

~~that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence on his or her own behalf, to cross-examine witnesses testifying against him or her, and to examine such documentary evidence as may be produced against him or her.~~

~~(c) Hearing panel report. Within 60 days after holding an evidentiary hearing under this section, unless the Board grants an extension, the hearing panel shall provide a written report of its findings of fact and its recommendations to the full Board, with a transcript of the evidence.~~

~~§ 1373. HEARING BEFORE THE BOARD~~

~~(a) If the Board deems it necessary, following receipt of the report of the hearing panel pursuant to section 1372 of this chapter and after further notice to the individual complained against, the Board may take additional evidence at a hearing before the Board, which shall be conducted according to the same process as provided for the hearing panel.~~

~~(b)(1) Five members of the Board, including at least one physician member and at least one public member, shall constitute a quorum for purposes of this section.~~

~~(2) Members of the investigative committee designated pursuant to section 1370 of this chapter shall not sit with the Board when it conducts hearings under this section.~~

~~§ 1374. DECISION AND ORDER~~

~~(a) Regardless of whether the Board makes its determination on the findings of the hearing panel pursuant to section 1372 of this chapter alone, on the findings of the hearing panel as supplemented by a hearing before the Board pursuant to section 1373 of this chapter, or on its own findings, the Board shall render its decision on the merits of the charge or charges on the basis of the evidence in the record before it.~~

~~(b)(1) If a majority of the members of the Board present and voting find that the individual complained against committed unprofessional conduct as specified in one or more of the charges, the Board shall prepare written findings of fact, conclusions, and an order, copies of which shall be served upon the individual complained against.~~

~~(2)(A) In its order, the Board may do one or more of the following:~~

~~(i) reprimand the individual complained against;~~

~~(ii) condition, limit, suspend, or revoke the license, certificate, or practice of the individual complained against; or~~

~~(iii) take such other action relating to discipline or practice as the~~

Board determines appropriate, including imposing an administrative penalty of not more than \$1,000.00 for each act that constitutes an unprofessional conduct violation.

(B) Any monies received from the imposition of an administrative penalty imposed pursuant to this subdivision (2) shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees. The Commissioner of Health's accounting under section 1351 of this chapter shall detail the receipts of administrative penalties and the purposes for which such monies were used.

(c) If the Board finds the individual complained against not guilty of the charge or charges, or the charges against the individual are dismissed, the Board shall promptly order a dismissal of the charges and issue a statement that the charges were not proved.

(d) Any order issued by the Board under this section shall be in full force and effect until further order of the Board or of a court of competent jurisdiction.

§ 1375. SUBPOENAS; CONTEMPT

(a) The Board may issue subpoenas to compel the attendance of witnesses at any investigation or hearing.

(b) The Board shall issue subpoenas on behalf of the individual complained against at the request of such person.

§ 1376. CONFIDENTIALITY; INADMISSIBILITY OF CERTAIN

EVIDENCE

(a) A hearing panel or the Board, or both, may close portions of a hearing or hearings to the public if the panel or Board deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential under State or federal law.

(b) In any proceeding under section 1372 or 1373 of this chapter that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of a victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence nor evidence of the reputation of a victim's sexual conduct shall be admitted. At the request of a victim, a hearing panel or the Board may close portions of hearings to the public if the panel or Board deems it appropriate in order to protect the identity of a victim and the confidentiality of his or her medical records.

~~§ 1377. NONDISCIPLINARY FINANCIAL PENALTY~~

~~(a) For violations of statutes and Board rules of an administrative nature, the Board may, in its sole discretion, elect to offer a licensee the opportunity to pay a nondisciplinary financial penalty of not more than \$250.00 for each instance of noncompliance. If the licensee accepts the offer and submits the required payment, the matter shall be considered to be closed in lieu of investigating the failure to comply with the rule or statute as unprofessional conduct.~~

~~(b) A matter closed by payment of a nondisciplinary financial penalty shall not be considered to be a disciplinary action, and the matter shall remain confidential in the manner of dismissed charges in accordance with section 1318 of this chapter.~~

~~(c) The Board shall not be required to offer the option of a nondisciplinary financial penalty in any particular case and may elect to process any matter as a disciplinary action.~~

~~Subchapter 3. Licenses~~

~~§ 1391. QUALIFICATIONS FOR MEDICAL LICENSURE~~

~~(a) Upon payment of an examination fee, a person who has attained the age of majority, and is of good moral character, who is a graduate of a legally chartered college or university authorized to confer degrees in medicine and surgery, which is recognized by the Board, shall be entitled to examination. Evidence of good moral character and competence in being able to communicate in reading, writing, and speaking the English language, shall be presented from the chief of service and two other active physician staff members at the hospital where the person was last affiliated. In the discretion of the Board, evidence from different sources may be presented.~~

~~Basic requirements.~~

~~(1) An applicant for physician licensure as a medical doctor shall meet each of the requirements set forth in subdivisions (2)(A) through (D) of this subsection. A requirement may be met either by satisfying the requirement on its own terms or by qualifying for an exception established in this chapter or by the Board by rule.~~

~~(2) An applicant shall submit evidence of identity acceptable to the Board as set forth by rule and shall establish that the applicant:~~

~~(A) is at least 18 years of age;~~

~~(B) has completed high school, or the equivalent, and at least two years of undergraduate postsecondary school;~~

~~(C) has graduated from a medical school accredited by an organization that is acceptable to the Board, or from a medical school that has been approved by the Board by rule, with a degree of doctor of medicine or an equivalent as may be determined by the Board; and~~

~~(D) is of sound moral character and professional competence as evidenced by:~~

~~(i) references submitted in accordance with rules adopted by the Board;~~

~~(ii) a personal interview, as may be required in the discretion of the Board; and~~

~~(iii) the applicant's entire personal history, as established by information about the applicant's academic, licensing examination, employment, professional credentialing, professional certification, professional regulation, civil litigation, and criminal records submitted by the applicant or otherwise obtained by the Board in the application process.~~

~~(b) If a person successfully completes the examination, he or she may then apply for licensure to practice medicine in the State of Vermont. In addition, each applicant may be interviewed by a Board member~~

~~Postgraduate training requirements.~~

~~(1) A graduate of a U.S. or Canadian medical school accredited by a body that is acceptable to the Board shall submit evidence of the successful completion of at least two years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board and that meets such other requirements as the Board may establish by rule.~~

~~(2) A graduate of a Board-approved medical school outside the United States or Canada shall submit evidence of success of completing at least three years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board and that meets such other requirements as the Board may establish by rule.~~

~~(c) Students who have completed the studies of anatomy, physiology, chemistry, and histology may be examined after presenting a certificate from the secretary of the college or university in which they are pursuing their studies that they have completed the work of the second year. The fee that shall accompany such certificate shall be half of that for the final examination and shall be credited to the student as a part of the whole fee when he or she takes his or her final examination, which examination shall not include the subjects in which such student was found qualified by such previous~~

~~Examination. An applicant shall satisfy the Board's requirements for medical licensing examination as established by the Board by rule. The Board may identify which examinations are accepted, set passing standards, and set limits on time and numbers of attempts for exams. The Board may establish by rule exceptions or alternative means to meet examination requirements.~~

~~(d) In its discretion, the Board may refuse applicants who are graduates of foreign universities or medical schools unless their credentials have first been passed upon and approved by the educational council for foreign medical graduates~~

~~ECFMG certificate. A graduate of a medical school outside the United States or Canada shall also submit evidence of certification by the Educational Commission for Foreign Medical Graduates unless the individual qualifies for licensure as a Fifth Pathway applicant, as established by the Board by rule.~~

~~(e) An applicant for limited temporary license, who shall furnish the Board with satisfactory proof that he or she has attained the age of majority, is of good moral character, is a graduate of a legally chartered medical school of this country or of a foreign country that is recognized by the Board and which has power to grant degrees in medicine, that all other eligibility requirements for house officer status have been met, and that he or she has been appointed an intern, resident, fellow, or medical officer in a licensed hospital or in a clinic that is affiliated with a licensed hospital, or in any hospital or institution maintained by the State, or in any clinic or outpatient clinic affiliated with or maintained by the State, may upon the payment of the required fee, be granted a limited temporary license by the Board as a hospital medical officer for a period of up to 54 weeks and such license may be renewed or reissued, upon payment of the fee, for the period of the applicant's postgraduate training, internship, or fellowship program. Such limited temporary license shall entitle the said applicant to practice medicine only in the hospital or other institution designated on his or her certificate of limited temporary license and in clinics or outpatient clinics operated by or affiliated with such designated hospital or institution and only if such applicant is under the direct supervision and control of a licensed physician. Such licensed physician shall be legally responsible and liable for all negligent or wrongful acts or omissions of the limited temporary licensee and shall file with the Board the name and address both of himself or herself and the limited temporary licensee and the name of such hospital or other institution. Such limited temporary license shall be revoked upon the death or legal incompetency of the licensed physician or, upon ten days written notice, by withdrawal of his or her filing by such licensed physician. The limited temporary licensee shall at all times exercise~~

~~the same standard of care and skill as a licensed physician, practicing in the same specialty, in the State of Vermont. Termination of appointment as intern, resident, fellow, or medical officer of such designated hospital or institution shall operate as a revocation of such limited temporary license. An application for limited temporary license shall not be subject to subsection 1391(d) of this title.~~

~~Current medical practice. An applicant for licensure shall have actively engaged in the practice of medicine, as defined by section 1311 of this chapter, within three years prior to the date on which the application for licensure becomes complete. In its discretion, the Board may license an applicant who does not meet this practice requirement but who agrees to such conditions as the Board may reasonably require to verify or confirm the applicant's readiness to reenter the practice of medicine.~~

~~(f) License by faculty appointment.~~

~~(1) The Board may issue a license without examination to a reputable physician who is a resident of a foreign country and who furnishes to the Board satisfactory proof of appointment to the faculty of a medical college in Vermont that is accredited by the Liaison Committee on Medical Education (LCME). The Board may establish additional conditions and requirements by rule for this type of license.~~

~~(2) An applicant for a license pursuant to this subsection shall furnish to the Board satisfactory proof that the applicant is at least 18 years of age, has good moral character, is licensed to practice medicine in the applicant's country of residence, and has been appointed to the faculty of an LCME-accredited medical college located in Vermont. The application shall include detailed information concerning the nature and term of the appointment, the method by which the applicant's performance will be monitored and evaluated, and any other information the Board may require by rule.~~

~~(3) A license issued pursuant to this subsection shall be for a period not to exceed the term of the faculty appointment and may, in the Board's discretion, be for a shorter period.~~

~~(4) A license issued pursuant to this subsection shall expire automatically upon termination for any reason of the licensee's faculty appointment.~~

~~§ 1392. LIMITED TEMPORARY LICENSE FOR POSTGRADUATE
TRAINING~~

~~(a) Qualifications for limited training license.~~

~~(1) An applicant for a limited training license to practice medicine in a~~

~~Postgraduate training program shall meet each of requirements set forth in subdivisions (2)(A) through (E) of this subsection. A requirement may be met either by satisfying the requirement on its own terms or by qualifying for an exception established in this chapter or by the Board by rule.~~

~~(2) An applicant shall submit evidence of identity acceptable to the Board and shall establish that the applicant:~~

~~(A) is at least 18 years of age;~~

~~(B) has graduated from a medical school accredited by an organization that is acceptable to the Board, or from a medical school that has been approved by the Board by rule;~~

~~(C) has been accepted to participate in a postgraduate medical training program accredited by a body approved by the Board by rule;~~

~~(D) is of sound moral character and professional competence as evidenced by the applicant's entire personal history, as established by information about the applicant's academic, licensing examination, employment, professional credentialing, professional certification, professional regulation, civil litigation, and criminal records submitted by the applicant or otherwise obtained by the Board in the application process; and~~

~~(E) will be practicing in a program under the supervision of a Vermont-licensed physician who has acknowledged in writing:~~

~~(i) the responsibility to ensure that the program operates in accordance with the requirements of the accrediting body; and~~

~~(ii) the responsibility to ensure that physicians in training practice only under the close supervision and control of Vermont-licensed physicians.~~

~~(b) Terms of limited training license.~~

~~(1) A limited training license shall be issued for the period of a "training year," which shall run from July 1 through June 30. All limited training licenses shall expire at 12:00 midnight on July 1, regardless of when issued, unless the holder leaves the program before that date, in which case the license expires upon the holder leaving the program. The Board may issue a limited training license up to 90 days prior to the beginning of a training year.~~

~~(2) A limited training license shall be renewed annually for each licensee who intends to continue to practice in a training program, in accordance with such requirements as the Board may provide by rule.~~

~~(3) A limited training license authorizes the holder to practice only within the approved training program and only at sites that are part of the hospital or other facility hosting the training program, along with such other~~

~~Locations as may be formally designated as a training site of the program.~~

~~(4) A limited training license shall become invalid 14 days after the supervising physician described in subdivision (a)(2)(E) of this subsection stops supervising the program for any reason, unless documentation of a new supervising physician is filed with the Board prior to the expiration of the 14-day period.~~

~~(5) A physician practicing under a limited training license is subject to the provisions of section 1354 of this chapter.~~

~~§ 1393. EXAMINATIONS~~

~~The examinations shall be wholly or partly in writing, in the English language, and shall be of a practical character, sufficiently strict to test the qualifications of the applicant. In its discretion the Board may use multiple choice style examinations provided by the National Board of Medical Examiners or by the Federation of State Medical Boards, or as determined by rule. The examination shall embrace the general subjects of anatomy, physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine, surgery, obstetrics, gynecology, materia medica, therapeutics, and legal medicine. The subjects covered by the National Board of Medical Examiners examination shall be considered to have met the requirements of this section. If the applicant passes the examination approved by the Board and meets the other standards for licensure, he or she will qualify for licensure. [Repealed.]~~

~~§ 1394. REEXAMINATIONS~~

~~A person failing an examination may be reexamined. The limitation on the number of reexaminations shall be determined by the Board, by rule. The fee for reexamination shall be as required by subsection 1391(a) of this title. [Repealed.]~~

~~§ 1395. LICENSE WITHOUT EXAMINATION~~

~~(a) Without examination, the Board may, upon payment of the required fee, issue a license to a reputable physician who personally appears and presents a certified copy of a certificate of registration or a license issued to him or her in a jurisdiction whose requirements for registration are deemed by the Board as equivalent to those of this State, providing that such jurisdiction grants the same reciprocity to a Vermont physician or by the National Board of Medical Examiners.~~

~~(b) Without examination, the Board may issue a license to a reputable physician who is a resident of a foreign country and who shall furnish the Board with satisfactory proof that he or she has been appointed to the faculty of a medical college accredited by the Liaison Committee on Medical Education (LCME) and located within the State of Vermont. An applicant for a license under this subsection shall furnish the Board with satisfactory proof that he or she has attained the age of majority, is of good moral character, is licensed to practice medicine in his or her country of residence, and that he or she has been appointed to the faculty of an LCME accredited medical college located within the State of Vermont. The information submitted to the Board concerning the applicant's faculty appointment shall include detailed information concerning the nature and term of the appointment and the method by which the performance of the applicant will be monitored and evaluated. A license issued under this subsection shall be for a period no longer than the term of the applicant's faculty appointment and may, in the discretion of the Board, be for a shorter period. A license issued under this subsection shall expire automatically upon termination for any reason of the licensee's faculty appointment. [Repealed.]~~

~~§ 1396. REQUIREMENTS FOR ADMISSION TO PRACTICE~~

~~(a) The standard of requirements for admission to practice in this State, under section 1395 of this title, shall be as follows:~~

~~(1) Academic: Preliminary requirements to be a high school education or its equivalent, such as would admit the student to a recognized university, and a two years' course of study in a college of arts and sciences.~~

~~(2) Medical: Be a graduate of a medical college approved by the Board or approved by an accrediting body satisfactory to the Board.~~

~~(3) Postgraduate training: Have completed at least a one-year hospital program of postgraduate training approved by the Board or approved by an accrediting body satisfactory to the Board.~~

~~(4) Moral: Shall present letters of reference as to moral character and professional competence from the chief of service and two other active physician staff members at the hospital where he or she was last affiliated. In the discretion of the Board, letters from different sources may be presented.~~

~~(5) Language: Shall demonstrate competence in reading, writing, and speaking the English language.~~

~~(6) Examination: The examination in writing shall have embraced 13 subjects of 90 questions, viz.: anatomy, physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine, surgery, obstetrics, gynecology, materia medica, therapeutics, and legal medicine. The grade achieved in each~~

~~subject must have been at least 75 percent and a license shall not be recognized when a lower rating was obtained.~~

~~(7) Practice: Shall have practiced medicine within the last three years as defined in section 1311 of this title or shall comply with the requirements for updating knowledge and skills as defined by Board rules.~~

~~(b) In cases it deems appropriate, the Board may waive the requirements of subdivisions (a)(1) and (2) of this section for an applicant who is a graduate of a medical college that is neither approved by the Board nor by an accrediting body satisfactory to the Board. As a condition of granting a waiver, the Board may require that the applicant complete up to three years of postgraduate training satisfactory to the Board. A waiver granted under this section shall be in writing and shall include a statement of the Board reasons for granting the waiver. [Repealed.]~~

~~* * *~~

~~§ 1398. REFUSAL OR REVOCATION OF LICENSES~~

~~(a) The Board may refuse to issue the licenses provided for in section 1391 of this title to persons a license or certificate to an applicant who applies to be licensed or certified under this chapter and who, by false or fraudulent representations, have has obtained or sought to obtain practice in their the profession, or by false or fraudulent representations of their profession in practice, have has obtained or sought to obtain money or any other thing of value, or who assume names a name other than their the applicant's own for the purpose of misleading others, or for any other immoral, unprofessional, or dishonorable conduct. However, a~~

~~(b) A license or certificate shall not be suspended, except as provided in section 1365 or 1366 of this chapter; revoked; or refused until the holder or applicant;~~

~~(1) is given a hearing before the Board using the same procedures as a hearing on disciplinary matters as set forth in sections 1372 through 1376 of this chapter;~~

~~(2) is offered and declines or fails to attend a hearing; or~~

~~(3) agrees to the action.~~

~~(c) In the event of a revocation, the holder of any license or certificate so revoked shall forthwith promptly relinquish the same license or certificate to the Secretary of the Board.~~

~~* * *~~

Sec. 2. INVESTIGATIVE PROCEDURES

On or before July 1, 2020, the Board of Medical Practice shall post on its website an operations manual, covering topics including procedures for initiating investigations, procedures for notifying licensees of investigations, and standards for investigators' visiting practices. The Board shall inform licensees that the operations manual has been posted and is available for review and comment.

**** Licensure of Podiatrists ****

Sec. 3. 26 V.S.A. § 371 is amended to read:

§ 371. ELIGIBILITY

To be eligible for licensure as a podiatrist, an applicant must:

(4) successfully complete all required steps of the examinations given by the National Board of Podiatry; Podiatric Medical Examiners, as set forth by the Board by rule; and

Sec. 4. 26 V.S.A. § 373(b) is amended to read:

(b) A license that has lapsed for up to 364 days may be reinstated on payment of a renewal fee and a late renewal penalty. A license that has lapsed for one year or longer may be reinstated upon payment of the reinstatement fee and completion of the reinstatement application as set forth by the Board by rule. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if such license remains lapsed for a period of three years or longer, the Board may, after notice and an opportunity for hearing, require reexamination as a condition or other conditions of renewal.

Sec. 5. 26 V.S.A. § 373(b) is amended to read:

(b) A license that has lapsed for up to 364 days may be reinstated on payment of a renewal fee and a late renewal penalty. A license that has lapsed for one year or longer may be reinstated upon payment of the reinstatement fee and completion of the reinstatement application as set forth by the Board by rule. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if such license remains lapsed for a period of three years or longer, the Board may, after notice and an opportunity for hearing, require reexamination or other conditions of renewal require the licensee to update his or her knowledge and skills as defined by Board rules.

~~*** Addition of Board of Medical Practice to Description of Professional
Licensing Boards Entitled to Inspect Prescription Records ***~~

~~Sec. 6. 18 V.S.A. § 4211 is amended to read:~~

~~§ 4211. RECORDS CONFIDENTIAL~~

~~Prescriptions, orders, and records required by this chapter, and stocks of regulated drugs, shall be open for inspection only to federal or state officers or their specifically authorized agent whose duty it is to enforce the federal drug laws or this chapter, or to authorized agents of professional licensing boards, as that term is defined under 3 V.S.A. chapter 5, or authorized agents of the Board of Medical Practice. No person having knowledge by virtue of his or her office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution, or proceeding before the Board of Health, Board of Pharmacy, Board of Medical Practice, or another licensing or registration board, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.~~

~~*** Effective Dates ***~~

~~Sec. 7. EFFECTIVE DATES~~

~~(a) Sec. 1 (26 V.S.A. chapter 23) shall take effect on July 1, 2020, except that 26 V.S.A. § 1377 (nondisciplinary financial penalty) shall take effect upon the Board's adoption of a rule setting forth the schedule of statutory and rule violations and penalties.~~

~~(b) Secs. 2 (investigative procedures), 3 (26 V.S.A. § 371), 4 (26 V.S.A. § 373(b)), 6 (18 V.S.A. § 4211), and this section shall take effect on July 1, 2020.~~

~~(c) Sec. 5 (26 V.S.A. § 373(b)) shall take effect 60 days after the Board's adoption of a maintenance of licensure rule for podiatrists in accordance with 2011 Acts and Resolves No. 61, Sec. 10.~~

~~*** Board of Medical Practice and Physician Licensure ***~~

~~Sec. 1. 26 V.S.A. chapter 23 is amended to read:~~

~~CHAPTER 23. MEDICINE~~

~~Subchapter 1. General Provisions~~

~~§ 1311. DEFINITIONS~~

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

~~(1) "Practice of medicine" means:~~

(A) *using the designation “Doctor,” “Doctor of Medicine,” “Physician,” “Dr.,” “M.D.,” or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license in Vermont;*

(B) *advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine in the jurisdiction;*

(C) *offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other person;*

(D) *offering or undertaking to prevent, diagnose, correct, or treat in any manner or by any means, methods, or devices any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any person, including the management of all aspects of pregnancy, labor and delivery, and ~~parturition~~ postpartum care;*

(E) *offering or undertaking to perform any surgical operation upon any person;*

(F) *rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within the State by a physician located outside the State as a result of the transmission of individual patient data by electronic or other means from within the State to the physician or his or her agent; or*

(G) *rendering a determination of medical necessity or a decision affecting the diagnosis or treatment of a patient.*

(2) *“Board” means the State Board of Medical Practice established under section 1351 of this title.*

(3) *“License” means license to practice medicine and surgery in the State as defined in subchapter 3 of this chapter. “Licensee” includes any individual licensed or certified by the Board.*

(4) *“Medical director” means, for purposes of this chapter, a physician who is Board-certified or Board-eligible in his or her field of specialty, as determined by the American Board of Medical Specialties (ABMS), and who is charged by a health maintenance organization with responsibility for overseeing all clinical activities of the plan in this State, or his or her designee.*

(5) *“Health maintenance organization,” as used in this section, ~~shall~~ have has the same meaning as ~~defined~~ in 18 V.S.A. § 9402(9).*

(6) “Members” means members of the Board.

(7) “Secretary” means the ~~Secretary~~ secretary of the Board.

* * *

§ 1313. EXEMPTIONS

(a) The provisions of this chapter shall not apply to the following:

(1) ~~a~~ A health care professional licensed or certified by the Office of Professional Regulation when that person is practicing within the scope of his or her profession;

(2) ~~a~~ A member of the U.S. Armed Forces or National Guard carrying out official military duties, including a National Guard member in state active duty status, or to any person giving aid, assistance, or relief in emergency or accident cases, pending the arrival of a regularly licensed physician;

(3) ~~a~~ A nonresident physician coming into this State to consult or using telecommunications to consult with a duly licensed practitioner herein;

(4) ~~a~~ A duly licensed physician in another state, in Canada, or in another nation as approved by the Board, who is visiting a medical school or a teaching hospital in this State to receive or conduct medical instruction for a period not to exceed three months, provided the practice is limited to that instruction and is under the supervision of a physician licensed by the Board;

(5) ~~a~~ A physician who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the physician is employed as or formally designated as the team physician by an athletic team visiting Vermont for a specific sporting event and the physician limits the practice of medicine in this State to medical treatment of the members, coaches, and staff of the sports team employing or designating the physician.

(6) A student who is enrolled in an accredited educational program that leads to the issuance of a degree that would satisfy the educational requirement for a profession licensed or certified by the Board, who is engaged in an organized clinical training program, and who engages in acts constituting the practice of medicine while under the supervision of a Vermont-licensed or Vermont-certified health care professional who is qualified to supervise any acts by the student that constitute the practice of medicine. This exemption does not apply to postgraduate trainees who are required to obtain a training license.

* * *

§ 1317. UNPROFESSIONAL CONDUCT TO BE REPORTED TO BOARD

~~(a) Required reporters. Any hospital, clinic, community mental health center, or other health care institution in which a licensee performs professional services shall report to the Board, along with supporting information and evidence, any reportable disciplinary action taken by it or its staff that significantly limits the licensee's privilege to practice or leads to suspension or expulsion from the institution, a nonrenewal of medical staff membership, or the restrictions of privileges at a hospital taken in lieu of, or in settlement of, a pending disciplinary case related to unprofessional conduct as defined in sections 1354 and 1398 of this title. The Commissioner of Health shall forward any such information or evidence he or she receives immediately to the Board. The report shall be made within 10 days of the date such disciplinary action was taken, and, in the case of disciplinary action taken against a licensee based on the provision of mental health services, a copy of the report shall also be sent to the Commissioner of Mental Health and the Commissioner of Disabilities, Aging, and Independent Living. This section shall not apply to cases of resignation or separation from service for reasons unrelated to disciplinary action.~~

~~(b) Within 30 days of any judgment or settlements involving a claim of professional negligence by a licensee, any insurer of the licensee shall report the information to the Commissioner of Health and, to the extent the claim relates to the provision of mental health services, to the Commissioner of Mental Health.~~

~~Definition of reportable disciplinary action. A reportable disciplinary action is an action based on one or more of the following:~~

~~(1) Acts or omissions of a licensee that relate to the licensee's fitness or competence to practice medicine under the license held.~~

~~(2) Acts or omissions of the licensee that constitute a violation of a law or rule that relates in any way to the practice of medicine.~~

~~(3) Acts or omissions of the licensee that occur in the course of practice and result in one or more of the following:~~

~~(A) Resignation, leave of absence, termination, or nonrenewal of an employment relationship or contract. This includes a licensee's own initiation of such action following notification to the licensee by the reporter that the reporter or an affiliated entity is conducting an investigation or inquiry regarding an event that, assuming the accuracy of the information or allegation, is likely to result in reportable disciplinary action. The reporter or affiliated entity shall complete the investigation or inquiry even if the licensee initiates a resignation, leave of absence, termination, or nonrenewal, and shall~~

make a report to the Board if the investigation results in a finding of a reportable disciplinary action. Resignations and leaves of absence that are entirely voluntary by the licensee, and terminations and nonrenewals of employment or contract by a required reporter that are not related to acts or omissions of the licensee, are not reportable disciplinary actions.

(B) Revocation, suspension, restriction, relinquishment, or nonrenewal of a right or privilege. This includes a licensee's own initiation of such action following notification to the licensee by the reporter that the reporter or an affiliated entity is conducting an investigation or inquiry regarding an event that, assuming the accuracy of the information or allegation, is likely to result in reportable disciplinary action. The reporter or affiliated entity shall complete the investigation or inquiry even if the licensee initiates a resignation, leave of absence, termination, or nonrenewal, and shall make a report to the Board if the investigation results in a finding of a reportable disciplinary action. Relinquishments of privileges that are entirely voluntary by the licensee, and revocations, nonrenewals, or other limitations on privileges by a required reporter that are not related to acts or omissions of the licensee, are not reportable disciplinary actions.

(C) Written discipline that constitutes a censure, reprimand, or admonition, if it is the second or subsequent censure, reprimand, or admonition within a 12-month period for the same or related acts or omissions that previously resulted in written censure, reprimand, or admonition. The same or related acts or omissions includes similar behavior or behavior involving the same parties, or both. Oral censure, oral reprimand, and oral admonition are not considered reportable disciplinary actions, and notation of an oral censure, oral reprimand, or oral admonition in a personnel or supervisor's file does not transform the action from oral to written.

(D) Fine or any other form of monetary penalty imposed as a form of discipline.

(E) Required education, remedial counseling, or monitoring that is imposed as a result of a completed, contested disciplinary process. This includes recommendation or referral for services from the Vermont Practitioner Recovery Network established pursuant to section 1401a of this chapter; or from an employer wellness program or similar program, as a result of a completed, contested disciplinary process.

(c) Timing of reports. A required report of reportable disciplinary action under subsection (b) of this section shall be made within 30 days following the date on which the disciplinary action was taken or upon completion of an investigation or inquiry pursuant to subdivision (b)(3)(A) or (B) of this section.

(d) Mental health services. If reportable disciplinary action is reported to the Board based on a licensee's provision of mental health services, the Commissioner of Health shall forward the report to the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living. Except as provided in section 1368 of this title, information provided to the Department of Health, the Department of Mental Health, or the Department of Disabilities, Aging, and Independent Living under this section shall be confidential unless the Department of Health decides to treat the report as a complaint; in which case, the provisions of section 1318 of this title shall apply.

(d)(e) Limitation on liability. A person who acts in good faith in accordance with the provisions of this section shall not be liable for damages in any civil action based on the fact that a report was made.

(e)(f) Violations. A person reporter who violates this section shall be subject to a civil penalty of not more than \$5,000.00, provided that a reporter who employs or grants privileges to five or more Board licensees and who violates this section shall be subject to a civil penalty of not more than \$10,000.00.

* * *

Subchapter 2. Board of Medical Practice

§ 1351. BOARD OF MEDICAL PRACTICE

(a) A State The Board of Medical Practice is created. The Board shall be composed of 17 members, nine of whom shall be licensed physicians, one of whom shall be a physician assistant licensed pursuant to chapter 31 of this title, one of whom shall be a podiatrist licensed pursuant to chapter 7 of this title, and six of whom shall be persons not associated with the medical field. The Governor, with the advice and consent of the Senate, shall appoint the members of the Board. Appointments shall be for a term of five years, except that a vacancy occurring during a term shall be filled by an appointment by the Governor for the unexpired term. No member shall be appointed to more than two consecutive full terms, but a member appointed for less than a full term, (originally or to fill a vacancy), may serve two full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of one or more years. Any member of the Board may be removed by the Governor at any time. The Board shall elect from its members a chair, vice chair, and secretary who shall serve for one year and until their successors are appointed and qualified. The Board shall meet upon the call of the Chair or the Commissioner of Health, or at such other times and places as the Board may determine. Except as otherwise provided in section ~~1360~~ sections 1372, 1373, and 1374 of this title, nine members of the Board

shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the members present and voting shall be required to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize any decision or order of the Board.

** * **

§ 1353. POWERS AND DUTIES OF THE BOARD

The Board shall have the following powers and duties to:

(1) License and certify health professionals pursuant to this title.

(2) Investigate all complaints and charges of unprofessional conduct against any holder of a license or certificate, or any medical practitioner practicing pursuant to section 1313 of this title, and to hold hearings to determine whether such charges are substantiated or unsubstantiated. The Board may employ or contract with one or more hearing officers to schedule, oversee prehearing processes, preside over hearings, and assist with the preparation of reports and decisions.

(3) Issue subpoenas and administer oaths in connection with any investigations, hearings, or disciplinary proceedings held under this chapter. Any individual or entity served with a subpoena issued by the Board shall comply notwithstanding the patient's privilege established in 12 V.S.A. § 1612.

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

** * **

(8) ~~Obtain, at the Board's discretion, from the Vermont Crime Information Center a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation, for any applicant, licensee, or holder of certification. The Board may also inquire of Interpol for any information on criminal history records of an applicant, licensee, or holder of certification. Each applicant, licensee, or holder of certification shall consent to the release of criminal history records to the Board on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c. When the Board obtains a criminal history record, it shall promptly provide a copy of the record to the applicant, licensee, or holder of certification and inform him or her of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont Crime Information Center. When fingerprinting is required pursuant to this subdivision, the applicant, licensee, or holder of certification shall bear all costs associated with fingerprinting. The Board shall comply with all laws~~

~~regulating the release of criminal history records and the protection of individual privacy.~~

~~(A) Inquire into the criminal history backgrounds of applicants for licensure and for biennial license renewal for all professionals licensed or certified by the Board. In obtaining these background checks, the Board may inquire directly of the Vermont Crime Information Center, the Federal Bureau of Investigation, the National Crime Information Center, or other holders of official criminal record information, and may arrange for these inquiries to be made by a commercial service.~~

~~(B) Prior to acting on an initial or renewal application, the Board may obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Federal Bureau of Investigation background checks shall be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Board of future triggering events. Each applicant shall consent to the release of criminal history records to the Board on forms developed by the Vermont Crime Information Center.~~

~~(C) An applicant or licensee shall bear any cost of obtaining a required criminal history background check.~~

~~(D) The Board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy.~~

~~(E) No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter. As used in this subdivision, "criminal history record" ~~is as defined~~ has the same meaning as in 20 V.S.A. § 2056a.~~

* * *

§ 1354. UNPROFESSIONAL CONDUCT

~~(a) The Board shall find that any one of the following, or any combination of the following, whether the conduct at issue was committed within or outside the State, constitutes unprofessional conduct:~~

* * *

~~(23) revocation of a license to practice medicine or surgery ~~in~~, or other disciplinary sanction, by another jurisdiction on one or more of the grounds specified in this section;~~

* * *

~~(27) failure to comply with provisions of federal or State statutes or regulations, or the statutes or rules of this or any other state, governing the practice of medicine or surgery;~~

* * *

~~§ 1355. COMPLAINTS; HEARING COMMITTEE~~

~~(a) Any person, firm, corporation, or public officer may submit a written complaint to the Board alleging any person practicing medicine in the State committed unprofessional conduct, specifying the grounds therefor. The Board shall initiate an investigation of the physician when a complaint is received or may act on its own initiative without having received a complaint. The Chair shall designate four members, including one public member, to serve as a committee to hear or investigate and report upon such charges.~~

~~(b) The Chair may designate a hearing committee constituting less than a quorum of the Board, to conduct hearings that would otherwise be heard by the Board. A hearing committee shall consist of at least one physician member of the Board and one public member of the Board. No member of the hearing committee shall have been a member of the investigative committee that reviewed the matter at the investigative stage. When the Board is unable to assign one or more members to investigate a complaint or serve on a hearing committee by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner may, at the request of the Board, appoint ad hoc members to serve on the investigation or the hearing for that matter only. When a hearing is conducted by a hearing committee, the committee shall report its findings and conclusions to the Board, within 60 days of the conclusion of the hearing unless the Board grants an extension. The Board may take additional evidence and may accept, reject, or modify the findings and conclusions of the Committee. Judgment on the findings shall be rendered by the Board. Nothing herein is intended to limit the discretion of the Board to determine whether a matter will proceed to hearing before a hearing committee under this subsection or by a quorum of the Board.~~

~~(c) A person or organization shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Board about alleged incompetent, unprofessional, or unlawful conduct of a licensee.~~

~~(d) The hearing committee may close portions of hearings to the public if the hearing committee deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential by State or federal law.~~

~~(e) In any proceeding under this section that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence nor evidence of the reputation of the victim's sexual conduct shall be admitted. At the request of the victim, the hearing committee may close portions of hearings to the public if the Board deems it appropriate in order to protect the identity of the victim and the confidentiality of his or her medical records. [Repealed.]~~

~~§ 1356. SPECIFICATION OF CHARGES~~

~~If the Board or committee determines that a hearing is warranted, the Secretary shall prepare a specification of the charge or charges of unprofessional conduct made against a medical practitioner, a copy of which shall be served upon the person complained against, together with a notice of the hearing, as provided in section 1357 of this title. [Repealed.]~~

~~§ 1357. TIME AND NOTICE OF HEARING~~

~~The time of hearing shall be fixed by the Secretary as soon as convenient, but not earlier than 30 days after service of the charge upon the person complained against. The Secretary shall issue a notice of hearing of the charges, which notice shall specify the time and place of hearing and shall notify the person complained against that he or she may file with the Secretary a written response within 20 days of the date of service. The notice shall also notify the person complained against that a stenographic record of the proceeding will be kept, that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence in his or her own behalf, to cross-examine witnesses testifying against him or her and to examine such documentary evidence as may be produced against him or her. [Repealed.]~~

~~§ 1358. SUBPOENAS; CONTEMPT~~

~~Subpoenas may be issued by the Board to compel the attendance of witnesses at any investigation or hearing. The Board shall issue subpoenas at the request and on the behalf of the person complained against. [Repealed.]~~

~~§ 1359. REPORT OF HEARING~~

~~Within 30 days after holding a hearing under the provisions of section 1357 of this title, the committee shall make a written report of its findings of fact and its recommendations, and the same shall be forthwith transmitted to the Secretary, with a transcript of the evidence. [Repealed.]~~

~~§ 1360. HEARING BEFORE BOARD~~

~~(a) If the Board deems it necessary, the Board may, after further notice to the person complained against, take testimony at a hearing before the Board, conducted as provided for hearings before the hearing committee. In any event, whether the Board makes its determination on the findings of the hearing committee, on the findings of the committee as supplemented by a second hearing before the Board, or on its own findings, the Board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it. Five members of the Board, including at least one public member, shall constitute a quorum for purposes of this section.~~

~~(b) Members of the committee designated under section 1355 of this title to investigate the complaint shall not sit with the Board when it conducts hearings under this section.~~

~~(c) In any proceeding under this section that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence of nor evidence of the reputation of the victim's sexual conduct shall be admitted. At the request of the victim, the hearing committee may close portions of hearings to the public if the Board deems it appropriate to close portions of the hearing in order to protect the identity of the victim and the confidentiality of his or her medical records.~~

~~(d) The Board may close portions of hearings to the public if the Board deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential by State or federal law. [Repealed.]~~

§ 1361. ~~DECISION AND ORDER~~

~~(a) If a majority of the members of the Board vote in favor of finding the person complained against guilty of unprofessional conduct as specified in the charges, or any of them, the Board shall prepare written findings of fact, conclusions, and order, a copy of which shall be served upon the person complained against.~~

~~(b) In such order, the Board may reprimand the person complained against, as it deems appropriate; condition, limit, suspend, or revoke the license, certificate, or practice of the person complained against; or take such other action relating to discipline or practice as the Board determines is proper, including imposing an administrative penalty not to exceed \$1,000.00 for each act that constitutes an unprofessional conduct violation. Any money received from the imposition of an administrative penalty imposed under this subsection~~

~~shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees. The Commissioner shall detail in the annual report receipts and expenses from money received under this subsection.~~

~~(c) If the person complained against is found not guilty, or the proceedings against him or her are dismissed, the Board shall forthwith order a dismissal of the charges and the exoneration of the person complained against.~~

~~(d) Any order issued under this section shall be in full force and effect until further order of the Board or a court of competent jurisdiction. [Repealed.]~~

* * *

§ 1365. NOTICE OF CONVICTION OF CRIME; INTERIM SUSPENSION
OF LICENSE

~~(a) The Board shall treat a certified copy of the judgment notice of conviction of a crime for which a licensee may be disciplined under section 1354 of this title as an unprofessional conduct complaint. The record A certified copy of the judgment of conviction shall be conclusive evidence of the fact that the conviction occurred. If a person licensed under this chapter is convicted of a crime by a court in this State, the clerk of the court shall within 10 days of such conviction transmit a certified copy of the judgment of conviction to the Board.~~

* * *

§ 1366. OUT-OF-STATE DISCIPLINE; INTERIM SUSPENSION OF
LICENSE

~~(a) The Board shall treat a certified copy of an order revoking or suspending the license of a person licensed to practice medicine or surgery in another jurisdiction on grounds for which a licensee may be disciplined under subdivision 1354(a)(23) of this title as an unprofessional conduct complaint. The A certified copy of the order of revocation or suspension shall be conclusive evidence of the fact that the revocation or suspension occurred.~~

~~(b) The Board shall treat a certified copy as an unprofessional conduct complaint any notice of a statement of a licensing entity in another jurisdiction that verifies that a person licensed to practice medicine or surgery in that jurisdiction failed to renew, surrendered, or otherwise terminated his or her license during, or prior to initiation of, proceedings to revoke or suspend his or her license as an unprofessional conduct complaint. The A certified copy of the statement shall be conclusive evidence of the fact that such termination occurred.~~

(c) Upon receipt of the certified copy of an order or statement referred to in subsections subsection (a) or (b) of this section, the Board shall follow the procedures for interim suspension set forth in subsection 1365(b) of this ~~the~~ chapter.

(d) The sole issue to be determined at the disciplinary hearing on a complaint filed under subsection (a) of this section shall be the nature of the disciplinary action to be taken by the Board.

* * *

§ 1370. COMPLAINTS; INVESTIGATIVE COMMITTEE

(a)(1) Any individual, organization, or public officer may submit a written complaint to the Board alleging that any individual practicing medicine in the State committed unprofessional conduct or that an individual practiced without being licensed in violation of section 1314 of this chapter. The complaint shall specify the grounds on which the allegations of unprofessional conduct are based.

(2) A person or organization shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Board about alleged incompetent, unprofessional, or unlawful conduct of a licensee.

(b)(1) The Board shall initiate an investigation of the individual complained against whenever a complaint is received. The Board may also act on its own initiative without having received a complaint.

(2) The Executive Director shall designate three or more members, including at least one public member, to serve as an investigative committee to investigate and report to the Board its findings regarding the complaint and whether an evidentiary hearing is warranted. If there is an insufficient number of members to investigate a complaint by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner of Health may, at the request of the Board, appoint ad hoc members to serve on the investigative committee for that matter only.

(3) If the investigative committee determines that an evidentiary hearing is warranted, the Executive Director shall prepare a specification of the charge or charges of unprofessional conduct made against the individual licensed by the Board, a copy of which shall be served upon the subject of the charge or charges, together with the notice of hearing set forth in subsection 1372(b) of this chapter.

§ 1371. ACCESS TO DOCUMENTS; DISCOVERY

(a)(1) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in

accordance with subdivision 1370(b)(3) of this chapter shall be entitled to inspect and copy all information in the possession of the Department of Health pertaining to the licensee, except:

(A) investigatory files that have not resulted in charges of unprofessional conduct;

(B) materials that constitute attorney work product; and

(C) any other document or information that the Board has an obligation to protect from disclosure.

(2) The Executive Director shall notify the licensee of the right to inspect and copy information as provided in subsection 1372(b) of this chapter.

(b) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to produce fact witnesses, expert witnesses, and evidence on the licensee's own behalf, to cross-examine witnesses testifying against the licensee, and to engage in other methods of discovery as set forth by order of the Board or its hearing officer.

(c) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to request to depose witnesses by motion to the Board or its hearing officer. Any deposition so ordered shall be subject to:

(1) the provisions of section 1376 of this chapter, relating to confidentiality and the inadmissibility of certain evidence;

(2) limitations or conditions necessary to protect witnesses who are minors or who are adults subject to a guardianship or conservatorship; and

(3) such other reasonable limitations as the Board or its hearing officer may provide in the interests of justice and consistent with the provisions of 3 V.S.A. § 810, relating to rules of evidence and official notice in contested cases.

§ 1372. HEARING PANEL

(a) Composition of hearing panel.

(1) The Executive Director may designate a hearing panel constituting less than a quorum of the Board to conduct hearings that would otherwise be heard by the full Board. A hearing panel shall consist of at least three members, including at least one physician member of the Board and at least one public member of the Board. No member of the hearing panel shall have been a member of the investigative committee that reviewed the matter at the

investigative stage. A party may move to disqualify a member of a hearing panel due to a conflict of interest.

(2) If there is an insufficient number of members to serve on a hearing panel by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner of Health may, at the request of the Board, appoint ad hoc members to serve on the hearing panel for that matter only.

(b) Time and notice of hearing.

(1) The Executive Director or a hearing officer shall set a time for the evidentiary hearing as soon as convenient following the determination by the investigative committee that an evidentiary hearing is warranted, subject to the discovery needs of the parties as established in any prehearing or discovery conference or in any orders regulating discovery and depositions, or both, but no earlier than 30 days after service of the charge upon the individual complained against. A party may file motions to extend the time of the hearing for good cause.

(2) The Executive Director shall issue a notice of the evidentiary hearing on the charges, which notice shall specify the time and place of the hearing and shall notify the individual complained against that he or she may file with the Executive Director a written response within 20 days of the date of service. The notice shall also notify the individual complained against that a record of the proceeding will be kept, that he or she will have the right to inspect and copy information as set forth in section 1371 of this chapter, and that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence on his or her own behalf, to cross-examine witnesses testifying against him or her, and to examine such documentary evidence as may be produced against him or her.

(c) Hearing panel report. Within 60 days after holding an evidentiary hearing under this section, unless the Board grants an extension, the hearing panel shall provide a written report of its findings of fact and its recommendations to the full Board, with a transcript of the evidence.

§ 1373. HEARING BEFORE THE BOARD

(a) If the Board deems it necessary, following receipt of the report of the hearing panel pursuant to section 1372 of this chapter and after further notice to the individual complained against, the Board may take additional evidence at a hearing before the Board, which shall be conducted according to the same process as provided for the hearing panel.

(b)(1) Five members of the Board, including at least one physician member and at least one public member, shall constitute a quorum for purposes of this section.

(2) Members of the investigative committee designated pursuant to section 1370 of this chapter shall not sit with the Board when it conducts hearings under this section.

§ 1374. DECISION AND ORDER

(a) Regardless of whether the Board makes its determination on the findings of the hearing panel pursuant to section 1372 of this chapter alone, on the findings of the hearing panel as supplemented by a hearing before the Board pursuant to section 1373 of this chapter, or on its own findings, the Board shall render its decision on the merits of the charge or charges on the basis of the evidence in the record before it.

(b)(1) If a majority of the members of the Board present and voting find that the individual complained against committed unprofessional conduct as specified in one or more of the charges, the Board shall prepare written findings of fact, conclusions, and an order, copies of which shall be served upon the individual complained against.

(2)(A) In its order, the Board may do one or more of the following:

(i) reprimand the individual complained against;

(ii) condition, limit, suspend, or revoke the license, certificate, or practice of the individual complained against; or

(iii) take such other action relating to discipline or practice as the Board determines appropriate, including imposing an administrative penalty of not more than \$1,000.00 for each act that constitutes an unprofessional conduct violation.

(B) Any monies received from the imposition of an administrative penalty imposed pursuant to this subdivision (2) shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees. The Commissioner of Health's accounting under section 1351 of this chapter shall detail the receipts of administrative penalties and the purposes for which such monies were used.

(c) If the Board finds the individual complained against not guilty of the charge or charges, or the charges against the individual are dismissed, the Board shall promptly order a dismissal of the charges and issue a statement that the charges were not proved.

(d) Any order issued by the Board under this section shall be in full force and effect until further order of the Board or of a court of competent jurisdiction.

§ 1375. SUBPOENAS; CONTEMPT

(a) The Board may issue subpoenas to compel the attendance of witnesses at any investigation or hearing.

(b) The Board shall issue subpoenas on behalf of the individual complained against at the request of such person.

§ 1376. CONFIDENTIALITY; INADMISSIBILITY OF CERTAIN

EVIDENCE

(a) A hearing panel or the Board, or both, may close portions of a hearing or hearings to the public if the panel or Board deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential under State or federal law.

(b) In any proceeding under section 1372 or 1373 of this chapter that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of a victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence nor evidence of the reputation of a victim's sexual conduct shall be admitted. At the request of a victim, a hearing panel or the Board may close portions of hearings to the public if the panel or Board deems it appropriate in order to protect the identity of a victim and the confidentiality of his or her medical records.

§ 1377. NONDISCIPLINARY FINANCIAL PENALTY

(a) For violations of statutes and Board rules of an administrative nature, the Board may, in its sole discretion, elect to offer a licensee the opportunity to pay a nondisciplinary financial penalty of not more than \$250.00 for each instance of noncompliance. If the licensee accepts the offer and submits the required payment, the matter shall be considered to be closed in lieu of investigating the failure to comply with the rule or statute as unprofessional conduct.

(b) A matter closed by payment of a nondisciplinary financial penalty shall not be considered to be a disciplinary action, and the matter shall remain confidential in the manner of dismissed charges in accordance with section 1318 of this chapter.

(c) The Board shall not be required to offer the option of a nondisciplinary financial penalty in any particular case and may elect to process any matter as a disciplinary action.

(d) Any monies received from nondisciplinary financial penalties imposed pursuant to this section shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees.

Subchapter 3. Licenses

§ 1391. QUALIFICATIONS FOR MEDICAL LICENSURE

~~(a) Upon payment of an examination fee, a person who has attained the age of majority, and is of good moral character, who is a graduate of a legally chartered college or university authorized to confer degrees in medicine and surgery, which is recognized by the Board, shall be entitled to examination. Evidence of good moral character and competence in being able to communicate in reading, writing, and speaking the English language, shall be presented from the chief of service and two other active physician staff members at the hospital where the person was last affiliated. In the discretion of the Board, evidence from different sources may be presented~~

Basic requirements.

(1) An applicant for physician licensure as a medical doctor shall meet each of the requirements set forth in subdivisions (2)(A) through (D) of this subsection. A requirement may be met either by satisfying the requirement on its own terms or by qualifying for an exception established in this chapter or by the Board by rule.

(2) An applicant shall submit evidence of identity acceptable to the Board as set forth by rule and shall establish that the applicant:

(A) is at least 18 years of age;

(B) has completed high school, or the equivalent, and at least two years of undergraduate postsecondary school;

(C) has graduated from a medical school accredited by an organization that is acceptable to the Board, or from a medical school that has been approved by the Board by rule, with a degree of doctor of medicine or an equivalent as may be determined by the Board; and

(D) is of sound moral character and professional competence as evidenced by:

(i) references submitted in accordance with rules adopted by the Board;

(ii) a personal interview, as may be required in the discretion of the Board; and

(iii) the applicant's entire personal history, as established by information about the applicant's academic, licensing examination, employment, professional credentialing, professional certification, professional regulation, civil litigation, and criminal records submitted by the applicant or otherwise obtained by the Board in the application process.

~~(b) If a person successfully completes the examination, he or she may then apply for licensure to practice medicine in the State of Vermont. In addition, each applicant may be interviewed by a Board member~~

Postgraduate training requirements.

(1) A graduate of a U.S. or Canadian medical school accredited by a body that is acceptable to the Board shall submit evidence of the successful completion of at least two years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board and that meets such other requirements as the Board may establish by rule.

(2) A graduate of a Board-approved medical school outside the United States or Canada shall submit evidence of success of completing at least three years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board and that meets such other requirements as the Board may establish by rule.

~~(c) Students who have completed the studies of anatomy, physiology, chemistry, and histology may be examined after presenting a certificate from the secretary of the college or university in which they are pursuing their studies that they have completed the work of the second year. The fee that shall accompany such certificate shall be half of that for the final examination and shall be credited to the student as a part of the whole fee when he or she takes his or her final examination, which examination shall not include the subjects in which such student was found qualified by such previous examination~~

Examination. An applicant shall satisfy the Board's requirements for medical licensing examination as established by the Board by rule. The Board may identify which examinations are accepted, set passing standards, and set limits on time and numbers of attempts for exams. The Board may establish by rule exceptions or alternative means to meet examination requirements.

~~(d) In its discretion, the Board may refuse applicants who are graduates of foreign universities or medical schools unless their credentials have first been passed upon and approved by the educational council for foreign medical graduates~~

ECFMG certificate. A graduate of a medical school outside the United States or Canada shall also submit evidence of certification by the Educational Commission for Foreign Medical Graduates unless the individual qualifies for licensure as a Fifth Pathway applicant, as established by the Board by rule.

~~(e) An applicant for limited temporary license, who shall furnish the Board with satisfactory proof that he or she has attained the age of majority, is of good moral character, is a graduate of a legally chartered medical school of this country or of a foreign country that is recognized by the Board and which has power to grant degrees in medicine, that all other eligibility requirements for house officer status have been met, and that he or she has been appointed an intern, resident, fellow, or medical officer in a licensed hospital or in a clinic that is affiliated with a licensed hospital, or in any hospital or institution maintained by the State, or in any clinic or outpatient clinic affiliated with or maintained by the State, may upon the payment of the required fee, be granted a limited temporary license by the Board as a hospital medical officer for a period of up to 54 weeks and such license may be renewed or reissued, upon payment of the fee, for the period of the applicant's postgraduate training, internship, or fellowship program. Such limited temporary license shall entitle the said applicant to practice medicine only in the hospital or other institution designated on his or her certificate of limited temporary license and in clinics or outpatient clinics operated by or affiliated with such designated hospital or institution and only if such applicant is under the direct supervision and control of a licensed physician. Such licensed physician shall be legally responsible and liable for all negligent or wrongful acts or omissions of the limited temporary licensee and shall file with the Board the name and address both of himself or herself and the limited temporary licensee and the name of such hospital or other institution. Such limited temporary license shall be revoked upon the death or legal incompetency of the licensed physician or, upon ten days written notice, by withdrawal of his or her filing by such licensed physician. The limited temporary licensee shall at all times exercise the same standard of care and skill as a licensed physician, practicing in the same specialty, in the State of Vermont. Termination of appointment as intern, resident, fellow, or medical officer of such designated hospital or institution shall operate as a revocation of such limited temporary license. An application for limited temporary license shall not be subject to subsection 1391(d) of this title.~~

Current medical practice. An applicant for licensure shall have actively engaged in the practice of medicine, as defined by section 1311 of this chapter, within three years prior to the date on which the application for licensure becomes complete. In its discretion, the Board may license an applicant who does not meet this practice requirement but who agrees to such conditions as

the Board may reasonably require to verify or confirm the applicant's readiness to reenter the practice of medicine.

(f) License by faculty appointment.

(1) The Board may issue a license without examination to a reputable physician who is a resident of a foreign country and who furnishes to the Board satisfactory proof of appointment to the faculty of a medical college in Vermont that is accredited by the Liaison Committee on Medical Education (LCME). The Board may establish additional conditions and requirements by rule for this type of license.

(2) An applicant for a license pursuant to this subsection shall furnish to the Board satisfactory proof that the applicant is at least 18 years of age, has good moral character, is licensed to practice medicine in the applicant's country of residence, and has been appointed to the faculty of an LCME-accredited medical college located in Vermont. The application shall include detailed information concerning the nature and term of the appointment, the method by which the applicant's performance will be monitored and evaluated, and any other information the Board may require by rule.

(3) A license issued pursuant to this subsection shall be for a period not to exceed the term of the faculty appointment and may, in the Board's discretion, be for a shorter period.

(4) A license issued pursuant to this subsection shall expire automatically upon termination for any reason of the licensee's faculty appointment.

§ 1392. LIMITED TEMPORARY LICENSE FOR POSTGRADUATE
TRAINING

(a) Qualifications for limited training license.

(1) An applicant for a limited training license to practice medicine in a postgraduate training program shall meet each of requirements set forth in subdivisions (2)(A) through (E) of this subsection. A requirement may be met either by satisfying the requirement on its own terms or by qualifying for an exception established in this chapter or by the Board by rule.

(2) An applicant shall submit evidence of identity acceptable to the Board and shall establish that the applicant:

(A) is at least 18 years of age;

(B) has graduated from a medical school accredited by an organization that is acceptable to the Board, or from a medical school that has been approved by the Board by rule;

(C) has been accepted to participate in a postgraduate medical training program accredited by a body approved by the Board by rule;

(D) is of sound moral character and professional competence as evidenced by the applicant's entire personal history, as established by information about the applicant's academic, licensing examination, employment, professional credentialing, professional certification, professional regulation, civil litigation, and criminal records submitted by the applicant or otherwise obtained by the Board in the application process; and

(E) will be practicing in a program under the supervision of a Vermont-licensed physician who has acknowledged in writing:

(i) the responsibility to ensure that the program operates in accordance with the requirements of the accrediting body; and

(ii) the responsibility to ensure that physicians in training practice only under the close supervision and control of Vermont-licensed physicians.

(b) Terms of limited training license.

(1) A limited training license shall be issued for the period of a "training year," which shall run from July 1 through June 30. All limited training licenses shall expire at 12:00 midnight on July 1, regardless of when issued, unless the holder leaves the program before that date, in which case the license expires upon the holder leaving the program. The Board may issue a limited training license up to 90 days prior to the beginning of a training year.

(2) A limited training license shall be renewed annually for each licensee who intends to continue to practice in a training program, in accordance with such requirements as the Board may provide by rule.

(3) A limited training license authorizes the holder to practice only within the approved training program and only at sites that are part of the hospital or other facility hosting the training program, along with such other locations as may be formally designated as a training site of the program.

(4) A limited training license shall become invalid 14 days after the supervising physician described in subdivision (a)(2)(E) of this subsection stops supervising the program for any reason, unless documentation of a new supervising physician is filed with the Board prior to the expiration of the 14-day period.

(5) A physician practicing under a limited training license is subject to the provisions of section 1354 of this chapter.

§ 1393. *EXAMINATIONS*

~~The examinations shall be wholly or partly in writing, in the English language, and shall be of a practical character, sufficiently strict to test the qualifications of the applicant. In its discretion the Board may use multiple choice style examinations provided by the National Board of Medical Examiners or by the Federation of State Medical Boards, or as determined by rule. The examination shall embrace the general subjects of anatomy, physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine, surgery, obstetrics, gynecology, materia medica, therapeutics, and legal medicine. The subjects covered by the National Board of Medical Examiners examination shall be considered to have met the requirements of this section. If the applicant passes the examination approved by the Board and meets the other standards for licensure, he or she will qualify for licensure. [Repealed.]~~

§ 1394. *REEXAMINATIONS*

~~A person failing an examination may be reexamined. The limitation on the number of reexaminations shall be determined by the Board, by rule. The fee for reexamination shall be as required by subsection 1391(a) of this title. [Repealed.]~~

* * *

§ 1396. *REQUIREMENTS FOR ADMISSION TO PRACTICE*

~~(a) The standard of requirements for admission to practice in this State, under section 1395 of this title, shall be as follows:~~

~~(1) Academic: Preliminary requirements to be a high school education or its equivalent, such as would admit the student to a recognized university, and a two years' course of study in a college of arts and sciences.~~

~~(2) Medical: Be a graduate of a medical college approved by the Board or approved by an accrediting body satisfactory to the Board.~~

~~(3) Postgraduate training: Have completed at least a one-year hospital program of postgraduate training approved by the Board or approved by an accrediting body satisfactory to the Board.~~

~~(4) Moral: Shall present letters of reference as to moral character and professional competence from the chief of service and two other active physician staff members at the hospital where he or she was last affiliated. In the discretion of the Board, letters from different sources may be presented.~~

~~(5) Language: Shall demonstrate competence in reading, writing, and speaking the English language.~~

~~(6) Examination:—The examination in writing shall have embraced 13 subjects of 90 questions, viz.: anatomy, physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine, surgery, obstetrics, gynecology, materia medica, therapeutic, and legal medicine. The grade achieved in each subject must have been at least 75 percent, and a license shall not be recognized when a lower rating was obtained.~~

~~(7) Practice:—Shall have practiced medicine within the last three years as defined in section 1311 of this title or shall comply with the requirements for updating knowledge and skills as defined by Board rules.~~

~~(b) In cases it deems appropriate, the Board may waive the requirements of subdivisions (a)(1) and (2) of this section for an applicant who is a graduate of a medical college that is neither approved by the Board nor by an accrediting body satisfactory to the Board. As a condition of granting a waiver, the Board may require that the applicant complete up to three years of postgraduate training satisfactory to the Board. A waiver granted under this section shall be in writing and shall include a statement of the Board reasons for granting the waiver. [Repealed.]~~

* * *

§ 1398. REFUSAL OR REVOCATION OF LICENSES

~~(a) The Board may refuse to issue the licenses provided for in section 1391 of this title to persons a license or certificate to an applicant who applies to be licensed or certified under this chapter and who, by false or fraudulent representations, ~~have~~ has obtained or sought to obtain practice in ~~their~~ the profession, or by false or fraudulent representations ~~of their profession in practice,~~ has obtained or sought to obtain money or any other thing of value, or who assume ~~names~~ a name other than their the applicant's own for the purpose of misleading others, or for any other immoral, unprofessional, or dishonorable conduct. ~~However, a~~~~

~~(b) A license or certificate shall not be suspended, except as provided in section 1365 or 1366 of this chapter; revoked,; or refused until the holder or applicant;~~

~~(1) is given a hearing before the Board using the same procedures as a hearing on disciplinary matters as set forth in sections 1372 through 1376 of this chapter;~~

~~(2) is offered and declines or fails to attend a hearing; or~~

~~(3) agrees to the action.~~

(c) In the event of a revocation, the holder of any license or certificate so revoked shall ~~forthwith~~ promptly relinquish the ~~same~~ license or certificate to the Secretary of the Board.

§ 1400. RENEWAL OF LICENSE; CONTINUING MEDICAL
EDUCATION

(a) Every person licensed to practice medicine by the Board shall apply biennially for the renewal of his or her license. At least one month prior to the date on which renewal is required, the Board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee. The Board shall register the applicant and issue the renewal license. Within one month following the date renewal is required, the Board shall pay the license renewal fees into the ~~Medical Practice Board Special~~ Board of Medical Practice Regulatory Fee Fund.

* * *

(f) A person who practices medicine and who fails to renew his or her license in accordance with the provisions of this section shall be deemed an illegal practitioner and shall forfeit the right to so practice or to hold himself or herself out as a person licensed to practice medicine in the State until reinstated by the Board, ~~but nevertheless~~ except that a physician while on extended active duty in the uniformed services of the United States or as a member of the National Guard, State Guard, or reserve component as a member of the U.S. Armed Forces, a reserve component of the U.S. Armed Forces, the National Guard, or the State Guard who is licensed as a physician at the time of an activation or deployment shall receive an extension of licensure up to 90 days following the physician's return from activation or deployment, provided the physician notifies the Board of his or her activation or deployment prior to the expiration of the current license and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license.

* * *

Sec. 2. INVESTIGATIVE PROCEDURES

On or before July 1, 2020, the Board of Medical Practice shall post on its website an operations manual, covering topics including procedures for initiating investigations, procedures for notifying licensees of investigations, and standards for investigators' visiting practices. The Board shall inform licensees that the operations manual has been posted and is available for review and comment.

** * * Licensure of Podiatrists * * **

Sec. 3. 26 V.S.A. § 371 is amended to read:

§ 371. ELIGIBILITY

To be eligible for licensure as a podiatrist, an applicant must:

** * **

(4) successfully complete all required steps of the examinations given by the National Board of Podiatry Podiatric Medical Examiners, as set forth by the Board by rule; and

** * **

Sec. 4. 26 V.S.A. § 373 is amended to read:

§ 373. RENEWAL OF LICENSURE

(a) A person licensed by the Board to practice podiatry shall apply biennially for the renewal of his or her license. At least one month prior to the date on which renewal is required, the Board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee; however, any podiatrist while on extended active duty ~~in the uniformed services of the United States or as a member of the National Guard, State Guard, or reserve component~~ as a member of the U.S. Armed Forces, a reserve component of the U.S. Armed Forces, the National Guard, or the State Guard who is licensed as a podiatrist at the time of an activation or deployment shall receive an extension of licensure up to 90 days following the podiatrist's return from activation or deployment, provided the podiatrist notifies the Board of his or her activation or deployment prior to the expiration of the current license and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license. The Board shall register the applicant and issue the renewal license. Within one month following the date by which renewal is required, the Board shall pay the license renewal fees into the Medical Practice Board Special Board of Medical Practice Regulatory Fee Fund.

(b) A license that has lapsed for up to 364 days may be reinstated on payment of a renewal fee and a late renewal penalty. A license that has lapsed for one year or longer may be reinstated upon payment of the reinstatement fee and completion of the reinstatement application as set forth by the Board by rule. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if such license remains lapsed for a period of three years or longer, the Board may, after notice and an opportunity

for hearing, require reexamination ~~as a condition~~ or other conditions of renewal.

** * **

Sec. 5. 26 V.S.A. § 373(b) is amended to read:

(b) A license that has lapsed for up to 364 days may be reinstated on payment of a renewal fee and a late renewal penalty. A license that has lapsed for one year or longer may be reinstated upon payment of the reinstatement fee and completion of the reinstatement application as set forth by the Board by rule. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if such license remains lapsed for a period of three years or longer, the Board may, ~~after notice and an opportunity for hearing, require reexamination or other conditions of renewal~~ require the licensee to update his or her knowledge and skills as defined by Board rules.

** * * Addition of Board of Medical Practice to Description of Professional Licensing Boards Entitled to Inspect Prescription Records * * **

Sec. 6. 18 V.S.A. § 4211 is amended to read:

§ 4211. RECORDS CONFIDENTIAL

Prescriptions, orders, and records required by this chapter, and stocks of regulated drugs, shall be open for inspection only to federal or state officers or their specifically authorized agent whose duty it is to enforce the federal drug laws or this chapter, ~~or to~~ authorized agents of professional licensing boards, as that term is defined under 3 V.S.A. chapter 5, or authorized agents of the Board of Medical Practice. No person having knowledge by virtue of his or her office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution, or proceeding before the Board of Health, Board of Pharmacy, Board of Medical Practice, or another licensing or registration board, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

** * * Revisions to Maintenance of Licensure Rulemaking Requirement * * **

Sec. 7. 2011 Acts and Resolves No. 61, Sec. 10 is amended to read:

Sec. 10. ADOPTION OF RULES

The state board of medical practice ~~shall~~ may adopt maintenance of licensure rules for podiatrists, physicians, and physician assistants ~~by September 1, 2012.~~

** * * Effective Dates * * **

Sec. 8. EFFECTIVE DATES

(a) Sec. 1 (26 V.S.A. chapter 23) shall take effect on July 1, 2020, except that 26 V.S.A. § 1377 (nondisciplinary financial penalty) shall take effect upon the Board's adoption of a rule setting forth the schedule of statutory and rule violations and penalties.

(b) Secs. 2 (investigative procedures), 3 (26 V.S.A. § 371), 4 (26 V.S.A. § 373), 6 (18 V.S.A. § 4211), 7 (adoption of rules), and this section shall take effect on July 1, 2020.

(c) Sec. 5 (26 V.S.A. § 373(b)) shall take effect 60 days after the Board's adoption of a maintenance of licensure rule for podiatrists in accordance with 2011 Acts and Resolves No. 61, Sec. 10.