

Senate Calendar

FRIDAY, JUNE 5, 2020

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**ACTION CALENDAR
UNFINISHED BUSINESS OF JANUARY 7, 2020
GOVERNOR'S VETOES**

S. 37.

An act relating to medical monitoring.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

(For text of veto message, see Senate Calendar for January 7, 2020, page 1.)

S. 169.

An act relating to firearms procedures.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

(For text of veto message, see Senate Calendar for January 7, 2020, page 9.)

UNFINISHED BUSINESS OF MARCH 12, 2020

Second Reading

Favorable

S. 287.

An act relating to the contractual rights of members of the Vermont State Employees' Retirement System.

Pending Question: Shall the bill be read the third time?

UNFINISHED BUSINESS OF MARCH 17, 2020

Second Reading

Favorable with Recommendation of Amendment

S. 265.

An act relating to the use of food residuals for farming.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Agriculture.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) “Development” means each of the following:

* * *

(D) The word “development” does not include:

(i) The construction of improvements for farming, logging, or forestry purposes below the elevation of 2,500 feet.

* * *

(vii) The construction of improvements below the elevation of 2,500 feet for the onsite storage, preparation, and sale of compost, provided that one of the following applies:

* * *

(III) The compost is principally used on the farm where it was produced.

* * *

(22) “Farming” means:

(A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or

(B) the raising, feeding, or management of livestock, poultry, fish, or bees; or

(C) the operation of greenhouses; or

(D) the production of maple syrup; or

(E) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(F) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(H) the importation of up to 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

* * *

(38) “Farm” means, for the purposes of subdivision (22)(H) of this section, a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria as established under the Required Agricultural Practices.

(39) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” does not include food residuals from markets, groceries, or restaurants.

(40) “Food residuals” has the same meaning as in section 6602 of this title.

(41) “Principally used” means, for the purposes of subdivision (3)(D)(vii)(III) or (22)(H) of this section, that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

(42) “Small farm” has the same meaning as in 6 V.S.A. § 4871.

Sec. 2. Section 2 of the Agency of Agriculture, Food and Markets, Vermont Required Agricultural Practices Rule for the Agricultural Nonpoint Source Pollution Control Program is amended to read:

Section 2. Definitions

* * *

2.16 Farming means:

(a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and orchard crops; or

(b) the raising, feeding, or management of livestock, poultry, fish, or bees;
or

(c) the operation of greenhouses; or

(d) the production of maple syrup; or

(e) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(f) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(g) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(h) the importation of up to 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

* * *

2.44 “Food residual” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with 10 V.S.A. § 6605k. Food residual may include preconsumer and postconsumer food scraps. “Food residual” does not mean meat and meat-related products when the food residuals are composted by a resident on site.

2.45 “Principally used” means that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

Sec. 3. 6 V.S.A. chapter 218 is added to read:

CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

§ 5131. PURPOSE

The purpose of this chapter is to establish a program for the management of residual wastes generated, imported to, or managed on a farm for farming in Vermont.

§ 5132. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Compost” means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage, septage, or materials derived from sewage or septage.

(3) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria for regulation under the Required Agricultural Practices.

(4) “Farming” has the same meaning as in 10 V.S.A. § 6001(22).

(5) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” do not include food residuals from markets, groceries, or restaurants.

(6) “Food residuals” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable or compostable. “Food residuals” may include preconsumer and postconsumer food scraps. “Food residuals” include meat and meat-related products when the disposition of the products is managed on a farm.

(7) “Secretary” means the Secretary of Agriculture, Food and Markets.

(8) “Source separation” has the same meaning as in 10 V.S.A. § 6602.

§ 5133. FOOD RESIDUALS; RULEMAKING

(a) The Secretary shall regulate the importation of food residuals or food processing residuals onto a farm.

(b)(1) The Secretary shall adopt by rule requirements for the management of food residuals and food processing residuals on a farm. The rules may include requirements regarding:

(A) the proper composting of food residuals or food processing residuals;

(B) destruction of pathogens in food residuals, food processing residuals, or compost;

(C) prevention of public health threat from food residuals, food processing residuals, or compost;

(D) protection of natural resources or the environment; and

(E) prevention of objectionable odors, noise, vectors, or other nuisance conditions.

(2) The Secretary may adopt the rules required by this section as part of the Required Agricultural Practices or as independent rules under this chapter.

(c) A farm producing compost under 10 V.S.A. § 6001(22)(H) shall be regulated under this chapter and shall not require a certification or other approval from the Agency of Natural Resources under 10 V.S.A. chapter 159.

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

* * *

(2) Certification shall be valid for a period not to exceed 10 years.

* * *

(n) A farm producing compost under subdivision 6001(22)(H) is exempt from the requirements of this section.

Sec. 5. 10 V.S.A. § 6605h is amended to read:

§ 6605h. COMPOSTING REGISTRATION

Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary may, by rule, authorize a person engaged in the production or management of compost at a small scale composting facility to register with the Secretary instead of obtaining a facility certification under section 6605 or 6605c of this title. This section shall not apply to a farm producing compost under subdivision 6001(22)(H).

Sec. 6. 10 V.S.A. § 6605j is amended to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The Secretary, in consultation with the Secretary of Agriculture, Food and Markets, shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall implement and enforce accepted composting practices for the management of composting in the State. These accepted composting practices shall address:

(1) standards for the construction, alteration, or operation of a composting facility;

(2) standards for facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(3) standards for siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(4) standards for the composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(5) standards for management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas;

(6) specified areas of the State unsuitable for the siting of commercial composting that utilizes post-consumer food residuals or animal mortalities, such as designated downtowns, village centers, village growth areas, or areas of existing residential density; and

(7) definitions of “small-scale composting facility,” “medium-scale composting facility,” and “de minimis composting exempt from regulation.”

(b) A person operating a small scale composting facility ~~or operating a composting facility on a farm~~ who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the Secretary of Natural Resources determines that a permit is necessary to protect public health or the environment.

~~(c) The Secretary of Natural Resources shall coordinate with the Secretary of Agriculture, Food and Markets in implementing and enforcing the accepted composting practices. The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices. [Repealed.]~~

~~(d) The Secretary shall not regulate under this section a farm producing compost under subdivision 6001(22)(H).~~

Sec. 7. APPLICATION OF SOLID WASTE MANAGEMENT RULE

Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of Agriculture, Food and Markets shall require a person producing compost on a farm under subdivision 6001(22)(H) to comply with Sections 6-1101 through 6-1110 of the Agency of Natural Resources' Vermont Solid Waste Management Rules. After adoption of rules under 6 V.S.A. § 5133, Sections 6-1101 through 6-1110 of the Agency of Natural Resources' Vermont Solid Waste Management Rules shall not apply to a person producing compost on a farm under subdivision 6001(22)(H).

Sec. 8. UPDATE ON IMPLEMENTATION OF IMPORT OF FOOD RESIDUALS ONTO FARM FOR COMPOSTING

On or before January 15, 2022, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall consult and present or submit testimony to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry regarding the import of food residuals onto farms for the purpose of compost production.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

UNFINISHED BUSINESS OF MARCH 24, 2020

Third Reading

S. 191.

An act relating to tax increment financing districts.

UNFINISHED BUSINESS OF MARCH 27, 2020

Committee Resolution for Second Reading

J.R.S. 45.

Joint resolution urging Congress to reassess the federal definition of hemp in order to allow the product to contain up to one percent delta-9 tetrahydrocannabinol (THC).

By the Committee on Agriculture. (Senator Star for the Committee.)

Text of Resolution:

Whereas, under the Agriculture Improvement Act of 2018, also known as the 2018 Farm Bill, hemp was removed from the list of controlled substances and production was therefore legalized throughout the United States, and

Whereas, a variety of products can be made from hemp through the use of its fiber, seed, seed oil, or floral extracts. Hemp can be found in products such as paper, fabric, auto parts, animal bedding, body care products, and essential oils, and

Whereas, cannabidiol (CBD) is a chemical compound of *Cannabis sativa*, bearing little to no psychoactive effects, and is being evaluated for its role as a food additive or health supplement, and

Whereas, economic forecasts predict that the total collective market in CBD sales in the United States will be between \$15 billion to \$20 billion annually by 2025, and

Whereas, in 2019, the Vermont Agency of Agriculture, Food and Markets approved 983 permits to grow or process hemp on 8,880 acres in Vermont, and

Whereas, hemp was grown in every county of the State in 2019, and

Whereas, cultivators and processors of hemp in Vermont have invested millions of dollars to purchase the equipment and resources necessary to successfully produce hemp and hemp products, and

Whereas, the development and growth of the hemp industry in Vermont is critical to improving the health and vitality of the rural economy of the State; and

Whereas, the federal government defines hemp in the 2018 Farm Bill as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol level of not more than 0.3 percent on a dry weight basis,” and

Whereas, hemp farmers and processors encourage Congress to reassess the definition of hemp as referenced in the 2018 Farm Bill and increase the farm production values to one percent tetrahydrocannabinol (THC) in order to allow hemp farmers to increase yield potential per acre and profitability for all hemp grown in the State, and

Whereas, increasing yield potential per acre equates to increased profit potential for Vermont’s farm families and hemp processors, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to revise the current definition of hemp found in the Agriculture Improvement Act of 2018, increasing the THC threshold from 0.3 percent to 1.0 percent, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation, the President Pro Tempore and Secretary of the U.S. Senate, and the Speaker of the U.S. House of Representatives.

Second Reading

Favorable with Recommendation of Amendment

S. 218.

An act relating to the Department of Mental Health’s Ten-Year Plan.

Reported favorably with recommendation of amendment by Senator Westman for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. MENTAL HEALTH INTEGRATION COUNCIL; REPORT

(a) Creation. There is created the Mental Health Integration Council for the purpose of helping to ensure that all sectors of the health care system actively participate in the State’s principles for mental health integration established pursuant to 18 V.S.A. § 7251(4) and (8) and as envisioned in the Department of Mental Health’s 2020 report “Vision 2030: A 10-Year Plan for an Integrated and Holistic System of Care.”

(b) Membership.

(1) The Council shall be composed of the following members:

(A) the Commissioner of Mental Health or designee;

(B) the Commissioner of Health or designee;

- (C) the Commissioner of Vermont Health Access or designee;
- (D) the Commissioner for Children and Families or designee;
- (E) the Commissioner of Corrections or designee;
- (F) the Commissioner of Financial Regulation or designee;
- (G) the executive director of the Green Mountain Care Board or designee;
- (H) the Secretary of Education or designee;
- (I) a representative, appointed by the Vermont Medical Society;
- (J) a representative, appointed by the Vermont Association for Hospitals and Health Systems;
- (K) a representative, appointed by Vermont Care Partners;
- (L) a representative, appointed by the Vermont Association of Mental Health and Addiction Recovery;
- (M) a representative, appointed by Bi-State Primary Care;
- (N) a representative, appointed by the University of Vermont Medical School;
- (O) the chief executive officer of OneCare Vermont or designee;
- (P) the Health Care Advocate established pursuant to 18 V.S.A. § 9602;
- (Q) the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259;
- (R) a representative, appointed by the insurance plan with the largest number of covered lives in Vermont;
- (S) two persons who have received mental health services in Vermont, appointed by Vermont Psychiatric Survivors, including one person who has delivered peer services;
- (T) one family member of a person who has received mental health services, appointed by the Vermont chapter of National Alliance on Mental Illness; and
- (U) one family member of a child who has received mental health services, appointed by the Vermont Federation of Families for Children's Mental Health.

(2) The Council may create subcommittees comprising the Council's members for the purpose of carrying out the Council's charge.

(c) Powers and duties. The Council shall address the integration of mental health in the health care system including:

(1) identifying obstacles to the full integration of mental health into a holistic health care system and identifying means of overcoming those barriers;

(2) helping to ensure the implementation of existing law to establish full integration within each member of the Council's area of expertise;

(3) establishing commitments from non-state entities to adopt practices and implementation tools that further integration;

(4) proposing legislation where current statute is either inadequate to achieve full integration or where it creates barriers to achieving the principles of integration; and

(5) fulfilling any other duties the Council deems necessary to achieve its objectives.

(d) Assistance. The Council shall have the administrative, technical, and legal assistance of Department of Mental Health.

(e) Report.

(1) On or before December 15, 2021, the Commissioners of Mental Health and of Health shall report on the Council's progress to the Joint Health Reform Oversight Committee.

(2) On or before January 15, 2023, the Council shall submit a final written report to the House Committee on Health Care and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action, including a recommendation as to whether the term of the Council should be extended.

(f) Meetings.

(1) The Commissioner of Mental Health shall call the first meeting of the Council.

(2) The Commissioner of Mental Health shall serve as chair. The Commissioner of Health shall serve as vice chair.

(3) The Council shall meet bimonthly between July 1, 2020 and January 1, 2023.

(4) The Council shall cease to exist on July 30, 2023.

(g) Compensation and reimbursement. Members of the Council shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the Department of Mental Health.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1, subsection (b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) The Council shall be composed of the following members:

(A) the Commissioner of Mental Health or designee;

(B) the Commissioner of Health or designee;

(C) the Commissioner of Vermont Health Access or designee;

(D) the Commissioner for Children and Families or designee;

(E) the Commissioner of Corrections or designee;

(F) the Commissioner of Financial Regulation or designee;

(G) the Director of Health Care Reform or designee;

(H) the Executive Director of the Green Mountain Care Board or designee;

(I) the Secretary of Education or designee;

(J) a representative, appointed by the Vermont Medical Society;

(K) a representative, appointed by the Vermont Association for Hospitals and Health Systems;

(L) a representative, appointed by Vermont Care Partners;

(M) a representative, appointed by the Vermont Association of Mental Health and Addiction Recovery;

(N) a representative, appointed by Bi-State Primary Care;

(O) a representative, appointed by the University of Vermont Medical School;

(P) the Chief Executive Officer of OneCare Vermont or designee;

(Q) the Health Care Advocate established pursuant to 18 V.S.A. § 9602;

(R) the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259;

(S) a representative, appointed by the insurance plan with the largest number of covered lives in Vermont;

(T) two persons who have received mental health services in Vermont, appointed by Vermont Psychiatric Survivors, including one person who has delivered peer services;

(U) one family member of a person who has received mental health services, appointed by the Vermont chapter of National Alliance on Mental Illness; and

(V) one family member of a child who has received mental health services, appointed by the Vermont Federation of Families for Children's Mental Health.

Second: In Sec. 1, subsection (f), subdivision (2), in the second sentence, by striking the word "Health" and inserting in lieu thereof the words Vermont Health Access

And that after passage of the bill the title be amended to read:

An act relating to establishing the Mental Health Integration Council.

(Committee vote: 5-1-1)

S. 241.

An act relating to motor vehicle manufacturers that sell directly to consumers.

Reported favorably with recommendation of amendment by Senator Perchlik for the Committee on Transportation.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STUDY ON DIRECT-TO-CONSUMER MOTOR VEHICLE SALES;
REPORT

(a) The Agency of Transportation, in consultation with the Attorney General's Office, the Department of Financial Regulation, a manufacturer that engages in direct-to-consumer motor vehicle sales to Vermont consumers, and the Vermont Vehicle and Automotive Distributors Association, shall conduct a study and, on or before December 15, 2020, file a written report on the findings of its study, sources reviewed, and recommendations regarding the regulation of direct-to-consumer motor vehicle sales with the Senate Committees on Economic Development, Housing and General Affairs and on Transportation and the House Committees on Commerce and Economic Development and on Transportation.

(b) The report shall, at a minimum, include a review of:

(1) all Vermont consumer protection laws and regulations that currently apply when a consumer purchases a motor vehicle from a dealer registered pursuant to 23 V.S.A. chapter 7, subchapter 4, whether those consumer protections currently apply to direct-to-consumer motor vehicle sales, and, if not, whether those consumer protections should apply to direct-to-consumer motor vehicle sales;

(2) how consumers currently obtain financing in direct-to-consumer motor vehicle sales and any proposals that would better protect Vermont consumers who engage in direct-to-consumer motor vehicle sales;

(3) how consumers are currently taxed in direct-to-consumer motor vehicle sales and whether there are steps the State can take to maximize the collection of taxes owed on direct-to-consumer motor vehicle sales where the vehicles are operated in Vermont;

(4) any enforcement issues related to direct-to-consumer motor vehicle sales;

(5) what reasons, if any, exist to prohibit manufacturers engaged in direct-to-consumer motor vehicle sales from owning, operating, or controlling a motor vehicle warranty or service facility in the State and a recommendation on whether a sales center should be required if a manufacturer engaged in direct-to-consumer motor vehicle sales is permitted to own, operate, or control a motor vehicle warranty or service facility in the State;

(6) laws, rules, and best practices from other jurisdictions and any model legislation related to the regulation of direct-to-consumer motor vehicle sales; and

(7) how any proposed amendments to Vermont law regulating direct-to-consumer motor vehicle sales will affect dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; franchisors and franchisees, as defined in 9 V.S.A. § 4085; and other persons who are selling motor vehicles to Vermonters.

(c) As used in this section “direct-to-consumer motor vehicle sales” means sales made by:

(1) motor vehicle manufacturers that sell or lease vehicles they manufacture directly to Vermont consumers and not through dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; or

(2) other persons that sell or lease new or used motor vehicles directly to Vermont consumers and not through Vermont licensed dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4 on websites such as Carvana, Vroom, and TrueCar.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

S. 252.

An act relating to stem cell therapies not approved by the U.S. Food and Drug Administration.

Reported favorably with recommendation of amendment by Senator Westman for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. STEM CELL PRODUCTS

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Health care practitioner” means an individual licensed by the Board of Medical Practice or by a board attached to the Office of Professional Regulation to provide professional health care services in this State.

(2) “Stem cell products” has the same meaning as “human cells, tissues, or cellular or tissue-based products” in 21 C.F.R. § 1271.3, as in effect on January 1, 2020, and applies to both homologous and nonhomologous use. The term also includes homologous use of minimally manipulated cell or

tissue products, as those terms are defined in 21 C.F.R. § 1271.3, as in effect on January 1, 2020, when used or proposed for use in one or more applications not approved by the U.S. Food and Drug Administration.

§ 4502. UNAPPROVED STEM CELL PRODUCTS; NOTICE;
DISCLOSURE

(a) Notice.

(1) A health care practitioner who administers one or more stem cell products that are not approved by the U.S. Food and Drug Administration shall provide each patient with the following written notice prior to administering any such product to the patient for the first time:

“THIS NOTICE MUST BE PROVIDED TO YOU UNDER VERMONT LAW. This health care practitioner administers one or more stem cell products that have not been approved by the U.S. Food and Drug Administration. You are encouraged to consult with your primary care provider prior to having an unapproved stem cell product administered to you.”

(2)(A) The written notice required by subdivision (1) of this subsection shall:

(i) be at least 8.5 by 11 inches and printed in not less than 40-point type; and

(ii) include information on methods for filing a complaint with the applicable licensing authority and for making a consumer inquiry.

(B) The health care practitioner shall also prominently display the written notice required by subdivision (1) of this subsection, along with the information required to be included by subdivision (A)(ii) of this subdivision (2), at the entrance and in an area visible to patients in the health care practitioner’s office.

(b) Disclosure.

(1) A health care practitioner who administers stem cell products that are not approved by the U.S. Food and Drug Administration shall provide a disclosure form to a patient for the patient’s signature prior to each administration of an unapproved stem cell product.

(2) The disclosure form shall state, in language that the patient could reasonably be expected to understand, the stem cell product’s U.S. Food and Drug Administration approval status.

(3) The health care practitioner shall retain in the patient’s medical record a copy of each disclosure form signed and dated by the patient.

(c) Advertisements. A health care practitioner shall include the notice set forth in subdivision (a)(1) of this section in any advertisements relating to the use of stem cell products that are not approved by the U.S. Food and Drug Administration. In print advertisements, the notice shall be clearly legible and in a font size not smaller than the largest font size used in the advertisement. For all other forms of advertisements, the notice shall either be clearly legible in a font size not smaller than the largest font size used in the advertisement or clearly spoken.

(d) Nonapplicability. The provisions of this section shall not apply to the following:

(1) a health care practitioner who has obtained approval or clearance for an investigational new drug or device from the U.S. Food and Drug Administration for the use of stem cell products; or

(2) a health care practitioner who administers a stem cell product pursuant to an employment or other contract to administer stem cell products on behalf of or under the auspices of an institution certified by the Foundation for the Accreditation of Cellular Therapy, the National Institutes of Health Blood and Marrow Transplant Clinical Trials Network, or AABB, formerly known as the American Association of Blood Banks.

(e) Violations. A violation of this section constitutes unprofessional conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354.

Sec. 2. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(27) For a health care practitioner, failing to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell products not approved by the U.S. Food and Drug Administration.

* * *

Sec. 3. 26 V.S.A. § 1354 is amended to read:

§ 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:

* * *

(39) use of the services of a physician assistant by a physician in a manner that is inconsistent with the provisions of chapter 31 of this title; or

(40) use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age; or

(41) failure to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell products not approved by the U.S. Food and Drug Administration.

* * *

Sec. 4. DEPARTMENT OF HEALTH; ADVANCE DIRECTIVES;
RULEMAKING

The Department of Health shall amend its rules on advance directives to further clarify the scope of experimental treatments to which an agent may and may not provide consent on behalf of a principal. The Department's amended rules shall take effect not later than January 1, 2021.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that after passage the title of the bill be amended to read:

An act relating to administering stem cell products not approved by the U.S. Food and Drug Administration.

(Committee vote: 5-0-0)

S. 254.

An act relating to union organizing.

Reported favorably with recommendation of amendment by Senator Sirotkin for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Bargaining Unit Contact Information * * *

Sec. 1. 3 V.S.A. § 941 is amended to read:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND
REPRESENTATION

* * *

(c) A petition may be filed with the Board, in accordance with procedures prescribed by the Board:

(1) By an employee or group of employees, or any individual or employee organization purporting to act in their behalf, alleging by filing a petition or petitions bearing signatures of not less than 30 percent of the employees, that they wish to form a bargaining unit and be represented for collective bargaining, or that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit, or that they are now included in an approved bargaining unit and wish to form a separate bargaining unit under Board criteria for purposes of collective bargaining.

(2)(A)(i) An employee or group of employees, or any individual or employee organization purporting to act in their behalf, that is seeking to determine interest in the formation of a bargaining unit or representation for collective bargaining may petition the employer and the Board for a list of the employees in the proposed bargaining unit.

(ii) An employee or group of employees, or any person purporting to act on their behalf, that is seeking to demonstrate that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit shall not be entitled to obtain a list of the employees in the proposed bargaining unit pursuant to this subdivision (c)(2).

(B) Within two business days after receiving the petition, the employer shall file with the Board and the employee or group of employees, or the individual or employee organization purporting to act in their behalf, a list of the names and job titles of the employees in the proposed bargaining unit. To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(d)(1) The Board, a Board member thereof, or a person or persons designated by the Board shall investigate the petition, and do one of the following:

(A) Determine that a sufficient showing of interest has been made by the petition.

(1)(B)(i) if If it finds reasonable cause to believe that a question of unit determination or representation exists, an appropriate hearing shall be scheduled before the Board upon due notice the Board shall schedule a hearing to be held before the Board not more than eight days after the petition was filed with the Board unless:

(I) the parties named in the petition mutually agree to extend the time for the hearing; or

(II) the Board determines that the time for the hearing must be extended due to an insufficient number of Board members being available to hold a hearing or the Executive Director of the Board is unavailable due to leave.

(ii)(I) Once scheduled, the date of the hearing shall not be subject to change except for good cause as determined by the Board. Upon request, the results of the investigation shall be made available by the Board to the petitioners and all intervenors, if any, including the duly certified bargaining representative prior to giving notice of hearing. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven calendar days before the hearing.

(II) The time for a hearing shall not be extended pursuant to subdivisions (d)(1)(B)(i)(I) or (II) of this section for more than an additional 30 days.

(iii) Hearing procedure and notification of the results of same the hearing shall be in accordance with rules prescribed adopted by the Board, or except that the parties shall not be permitted to submit briefs to the Board after the conclusion of the hearing unless the parties mutually agree to do so and the Board consents.

(iv) The Board shall issue its decision not more than two business days after the hearing or 10 days after the petition was submitted, whichever is later.

(2)(C) dismiss the petition, based upon the If the Board finds an absence of substantive evidence, it shall dismiss the petition.

(2) Upon request, the results of the investigation shall be made available by the Board to the petitioners and all intervenors, if any, including the duly certified bargaining representative as soon as practicable after the investigation is completed.

(e)(1)(A) Whenever, as a result of a petition and an appropriate or hearing, the Board finds substantial interest among employees in forming a bargaining unit or being represent for purposes of collective bargaining, a secret ballot election shall be conducted by the Board to be taken in such manner as to show not more than 21 days after the petition is filed with the Board.

(B) The time to conduct the election may be extended by:

(i) mutual agreement of the parties; or

(ii) the Board due to a lack of staff available to conduct the election or other circumstances that make it impracticable for the Board to conduct the election within 21 days after the petition is filed.

(C) The Board shall not hold a hearing to resolve any disputes related to the membership of the bargaining unit until after the election unless the parties mutually agree to extend the time for the election for the purpose of resolving those issues.

(2) The election shall be conducted so that it shows separately the wishes of the employees in the voting group involved as to the determination of the collective bargaining unit, including the right not to be organized. In order for a The collective bargaining unit to or collective bargaining representative shall be recognized and certified by the Board, there must be upon a majority vote cast by those of the employees voting.

(3)(A) Unless the employer and labor organization agree to a longer period, the employer shall file with the Board and the labor organization that will be named on the ballot a list of the employees in the bargaining unit within two business days after:

(i) the Board determines that substantial interest exists and a secret ballot election shall be conducted; or

(ii) the parties stipulate to the composition of the bargaining unit.

(B) The list shall include, as appropriate, each employee's name, work location, shift, job classification, and contact information. As used in this subdivision (2), "contact information" includes an employee's home address, personal e-mail address, and home and personal cellular telephone numbers.

(C) To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(D) The list shall be kept confidential by the employer and the labor organization and shall be exempt from copying and inspection under the Public Records Act.

(E) Failure to file the list within the time required pursuant to subdivision (A) of this subdivision (2) shall be grounds for the Board to set aside the results of the election if an objection is filed within the time required pursuant to the Board's rules.

* * *

(g)(1) In determining the representation of State employees in a collective bargaining unit, the Board shall conduct a secret ballot of the employees not more than 21 days after the petition is filed with the Board, unless the time to conduct the election is extended pursuant to subdivision (e)(1)(B) of this section, and certify the results to the interested parties and to the State employer. The original ballot shall be so prepared as to permit a vote against representation by anyone named on the ballot. No representative will be certified with less than a majority of the votes cast.

* * *

Sec. 2. 16 V.S.A. § 1992 is amended to read:

§ 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

(a)(1) An organization purporting to represent a majority of all of the teachers or administrators employed by the school board may be recognized by the school board without the necessity of a referendum upon the submission of a petition bearing the valid signatures of a majority of the teachers or administrators employed by that school board. Within 15 days after receiving the petition the school board shall notify the teachers or administrators of the school district in writing of its intention to either require or waive a secret ballot referendum. If the school board gives notice of its intention to waive a referendum and recognize an organization, 10 percent of the teachers or administrators employed by the school board may submit a petition within 15 days thereafter, objecting to the granting ~~or~~ of recognition without a referendum, in which event a secret ballot referendum shall be held in the district for the purpose of choosing an exclusive representative ~~according to the guidelines for referendum contained in this legislation~~ as provided pursuant to the provisions of this section.

(2)(A)(i) An organization seeking to represent the teachers or administrators employed by a school board may petition the school board and the Vermont Labor Relations Board for a list of the teachers or administrators in the proposed bargaining unit.

(ii) An organization or group of teachers or administrators, or any person purporting to act on their behalf, that is seeking to demonstrate that the teachers' or administrators' organization that is currently the exclusive

representative of the teachers or administrators is no longer supported by a majority of the teachers or administrators employed by that school board shall not be entitled to obtain a list of the employees in the proposed bargaining unit pursuant to this subdivision (a)(2).

(B) Within two business days after receiving the petition, the school board shall file with the Vermont Labor Relations Board and the organization a list of the names and job titles of the teachers or administrators in the proposed bargaining unit. To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

* * *

(c)(1)(A) A secret ballot referendum shall be held ~~any time that~~ not more than 21 days after 20 percent of the teachers or administrators employed by the school board present a petition requesting a referendum on the matter of representation, except during a period of prior recognition, as ~~hereinbefore~~ provided pursuant to subsection (b) of this section.

(B) The parties may mutually agree to extend the time to hold the election set forth in subdivision (A) of this subdivision (1).

(C) Any organization interested in representing teachers or administrators in the school district shall have the right to appear on the ballot by submitting a petition supported by ten percent or more of the teachers or administrators in the school district.

(2)(A) Unless the school board and the organization agree to a longer period, within two business days after the petition is presented, the school board shall file with the organization that will be named on the ballot a list of the teachers or administrators in the bargaining unit.

(B) The list shall include, as appropriate, each teacher's or administrator's name, work location, job classification, and contact information. As used in this subdivision (2), "contact information" includes a teacher's or administrator's home address, personal e-mail address, and home and personal cellular telephone numbers.

(C) To the extent possible, the list of teachers or administrators shall be in alphabetical order by last name and provided in electronic format.

(D) The list shall be kept confidential by the school board and the organization and shall be exempt from copying and inspection under the Public Records Act.

(E) Failure to file the list within the time required pursuant to subdivision (A) of this subdivision (2) shall be an unfair labor practice and

grounds for the Vermont Labor Relations Board to set aside the results of the referendum if an unfair labor practice charge is filed not more than 10 business days after the referendum.

* * *

Sec. 3. 21 V.S.A. § 1724 is amended to read:

§ 1724. CERTIFICATION PROCEDURE

(a)(1) A petition may be filed with the Board, in accordance with regulations prescribed rules adopted by the Board:

(1)(A) By an employee or group of employees, or any individual or employee organization purporting to act in their behalf, alleging that not less than 30 percent of the employees, wish to form a bargaining unit and be represented for collective bargaining, or assert that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit, or that not less than 51 percent of the employees now included in an approved bargaining unit wish to form a separate bargaining unit under Board criteria for purposes of collective bargaining.

(2)(B) By the employer alleging that the presently certified bargaining unit is no longer appropriate under Board criteria.

(2)(A)(i) An employee or group of employees, or any individual or employee organization purporting to act in their behalf, that is seeking to determine interest in the formation of a bargaining unit or representation for collective bargaining may petition the employer and the Board for a list of the employees in the proposed bargaining unit.

(ii) An employee or group of employees, or any person purporting to act on their behalf, that is seeking to demonstrate that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit shall not be entitled to obtain a list of the employees in the proposed bargaining unit pursuant to this subdivision (a)(2).

(B) Within two business days after receiving the petition, the employer shall file with the Board and the employee or group of employees, or the individual or employee organization purporting to act in their behalf, a list of the names and job titles of the employees in the proposed bargaining unit. To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(b)(1) The Board, a Board member thereof, or a person or persons designated by the Board shall investigate the petition, and do one of the following:

(A) Determine that a sufficient showing of interest has been made by the petition.

~~(1)(B)(i) If it finds reasonable cause to believe that a question of unit determination or representation exists, an appropriate hearing shall be scheduled before the Board upon due notice. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than 14 calendar days before the hearing. the Board shall schedule a hearing to be held before the Board not more than eight days after the petition was filed with the Board unless:~~

(I) the parties named in the petition mutually agree to extend the time for the hearing; or

(II) the Board determines that the time for the hearing must be extended due to an insufficient number of Board members being available to hold a hearing or the Executive Director of the Board is unavailable due to leave.

(ii)(I) Once scheduled, the date of the hearing shall not be subject to change except for good cause as determined by the Board.

(II) The time for a hearing shall not be extended pursuant to subdivisions (d)(1)(B)(i)(I) or (II) of this section for more than an additional 30 days.

(iii) Hearing procedure and notification of the results thereof of the hearing shall be in accordance with rules prescribed adopted by the Board or, except that the parties shall not be permitted to submit briefs to the Board after the conclusion of the hearing unless the parties mutually agree to do so and the Board consents.

(iv) The Board shall issue its decision not more than two business days after the hearing or 10 days after the petition was submitted, whichever is later.

~~(2)(C) dismiss the petition, based upon the~~ If the Board finds an absence of substantive evidence it shall dismiss the petition.

(2) Upon request, the results of the investigation shall be made available by the Board to the petitioners and all intervenors, if any, including the duly certified bargaining representative as soon as practicable after the investigation is completed.

* * *

(e)(1)(A) In determining the representation of municipal employees in a collective bargaining unit, the Board shall conduct a an election by secret ballot of the employees and certify the results to the interested parties and to the employer. The election shall be held not more than 21 days after the petition is filed with the Board.

(B) The time to conduct the election may be extended by:

(i) mutual agreement of the parties; or

(ii) the Board due to a lack of staff available to conduct the election or other circumstances that make it impracticable for the Board to conduct the election within 21 days after the petition is filed.

(C) The Board shall not hold a hearing to resolve any disputes related to the membership of the bargaining unit until after the election unless the parties mutually agree to extend the time for the election for the purpose of resolving those issues.

(2) The original ballot shall be so prepared as to permit a vote against representation by anyone named on the ballot. No representative will be certified with less than a 51 percent affirmative vote of all votes cast. In the case where If it is asserted that the certified bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit and there is no attempt to seek the election of another employee organization or individual as bargaining representative, there shall be at least 51 percent negative vote of all votes cast to decertify the existing bargaining agent.

(A) Unless the employer and the individual or labor organization seeking to represent the bargaining unit agree to a longer period, the employer shall file with the Board and the individual or labor organization that will be named on the ballot a list of the employees in the bargaining unit within two business days after:

(i) the Board determines that substantial interest exists and a secret ballot election shall be conducted; or

(ii) the parties stipulate to the composition of the bargaining unit.

(B) The list shall include, as appropriate, each employee's name, work location, shift, job classification, and contact information. As used in this subdivision (2), "contact information" includes an employee's home address, personal e-mail address, and home and personal cellular telephone numbers.

(C) To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(D) The list shall be kept confidential by the employer and the individual or labor organization seeking to represent the bargaining unit and shall be exempt from copying and inspection under the Public Records Act.

(E) Failure to file the list within the time required pursuant to subdivision (A) of this subdivision (2) shall be grounds for the Board to set aside the results of the election if an objection is filed within the time required pursuant to the Board's rules.

* * *

* * * Automatic Membership Dues Deduction * * *

Sec. 4. 3 V.S.A. § 903 is amended to read:

§ 903. EMPLOYEES' RIGHTS AND DUTIES; PROHIBITED ACTS

* * *

(e) Employees who are members of the employee organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an employee, the employer shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the employee's wages the amount of membership dues certified by the employee organization. The employer shall transmit the amount withheld to the employee organization on the same day as the employee is paid. Nothing in this subsection shall be construed to require a member of an employee organization to participate in automatic dues deduction.

Sec. 5. 3 V.S.A. § 1012 is amended to read:

§ 1012. EMPLOYEES' RIGHTS AND DUTIES; PROHIBITED ACTS

* * *

(e) Employees who are members of the employee organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an employee, the employer shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the employee's wages the amount of membership dues certified by the employee organization. The employer shall transmit the amount withheld to the employee organization on the same day as the employee is paid. Nothing in this subsection shall be construed to require a member of an employee organization to participate in automatic dues deduction.

Sec. 6. 16 V.S.A. § 1982 is amended to read:

§ 1982. RIGHTS

* * *

(f) A teacher or administrator who is a member of the teachers' or administrators' organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from a teacher or administrator, the school board shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the teacher's or administrator's wages the amount of membership dues certified by the teachers' or administrators' organization. The school board shall transmit the amount withheld to the teachers' or administrators' organization on the same day as the teacher or administrator is paid. Nothing in this subsection shall be construed to require a member of a teachers' or administrators' organization to participate in automatic dues deduction.

Sec. 7. 21 V.S.A. § 1645 is added to read:

§ 1645. AUTOMATIC MEMBERSHIP DUES DEDUCTION

Independent direct support providers who are members of the labor organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an independent direct support provider, the State shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the independent direct support provider's wages the amount of membership dues certified by the labor organization. The State shall transmit the amount withheld to the labor organization on the same day as the independent direct support provider is paid. Nothing in this section shall be construed to require a member of a labor organization to participate in automatic dues deduction.

Sec. 8. 21 V.S.A. § 1737 is added to read:

§ 1737. AUTOMATIC MEMBERSHIP DUES DEDUCTION

Employees who are members of the employee organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an employee, the employer shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the employee's wages the amount of membership dues certified by the employee organization. The employer shall transmit the amount withheld to the employee organization on the same day as the employee is paid. Nothing

in this section shall be construed to require a member of an employee organization to participate in automatic dues deduction.

Sec. 9. 33 V.S.A. § 3618 is added to read:

§ 3618. AUTOMATIC MEMBERSHIP DUES DEDUCTION

Early care and education providers who are members of the labor organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an early care and education provider, the State shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the subsidies paid to the early care and education provider the amount of membership dues certified by the labor organization. The State shall transmit the amount withheld to the labor organization on the same day as the subsidies are paid to the early care and education provider. Nothing in this section shall be construed to require a member of a labor organization to participate in automatic dues deduction.

* * * Access to Employees in Bargaining Unit * * *

Sec. 10. 3 V.S.A. § 909 is added to read:

§ 909. ACCESS TO NEW EMPLOYEES IN BARGAINING UNIT

(a) An employer shall provide the employee organization that is the exclusive representative of the employees in a bargaining unit with an opportunity to meet with each newly hired employee in the bargaining unit to present information about the employee organization.

(b)(1) The meeting shall occur during the new employee's orientation or, if the employer does not conduct an orientation for newly hired employees, within 30 calendar days from the date on which the employee was hired.

(2) If the meeting is not held during the new employee's orientation, it shall be held during the new employee's regular work hours and at his or her regular worksite or a location mutually agreed to by the employer and the employee organization.

(3) The employee organization shall be permitted to meet with the employee for not less than 60 minutes.

(4) The employee shall be paid for attending the meeting at his or her regular rate of pay.

(c)(1) Within 10 days after hiring a new employee in a bargaining unit, the employer shall provide the employee organization with his or her name, job title, worksite location, work telephone number and e-mail address, home

address, personal e-mail address, home and personal cellular telephone numbers, and date of hire.

(2) The employee's home address, personal e-mail address, and home and personal cellular telephone numbers shall be kept confidential by the employer and the employee organization and shall be exempt from copying and inspection under the Public Records Act.

(d) The employer shall provide the employee organization with not less than 10 days' notice of an orientation for newly hired employees in a bargaining unit.

Sec. 11. 3 V.S.A. § 1022 is added to read:

§ 1022. ACCESS TO NEW EMPLOYEES IN BARGAINING UNIT

(a) An employer shall provide the employee organization that is the exclusive representative of the employees in a bargaining unit with an opportunity to meet with each newly hired employee in the bargaining unit to present information about the employee organization.

(b)(1) The meeting shall occur during the new employee's orientation or, if the employer does not conduct an orientation for newly hired employees, within 30 calendar days from the date on which the employee was hired.

(2) If the meeting is not held during the new employee's orientation, it shall be held during the new employee's regular work hours and at his or her regular worksite or a location mutually agreed to by the employer and the employee organization.

(3) The employee organization shall be permitted to meet with the employee for not less than 60 minutes.

(4) The employee shall be paid for attending the meeting at his or her regular rate of pay.

(c)(1) Within 10 days after hiring a new employee in a bargaining unit, the employer shall provide the employee organization with his or her name, job title, worksite location, work telephone number and e-mail address, home address, personal e-mail address, home and personal cellular telephone numbers, and date of hire.

(2) The employee's home address, personal e-mail address, and home and personal cellular telephone numbers shall be kept confidential by the employer and the employee organization and shall be exempt from copying and inspection under the Public Records Act.

(d) The employer shall provide the employee organization with not less than 10 days' notice of an orientation for newly hired employees in a bargaining unit.

Sec. 12. 16 V.S.A. 1984 is added to read:

§ 1984. ACCESS TO NEW TEACHERS OR ADMINISTRATORS IN
BARGAINING UNIT

(a) A school board shall provide a teachers' or administrators' organization that is the exclusive representative of the teachers or administrators in a bargaining unit with an opportunity to meet with each newly hired teacher or administrator in the bargaining unit to present information about the teachers' or administrators' organization.

(b)(1) The meeting shall occur during the new teacher's or administrator's orientation or, if the school board does not conduct an orientation for newly hired teachers or administrators, within 30 calendar days from the date on which the teacher or administrator was hired.

(2) If the meeting is not held during the new teacher's or administrator's orientation, it shall be held during the new teacher's or administrator's regular work hours and at his or her regular worksite or a location mutually agreed to by the school board and the teacher's or administrator's organization.

(3) The employee organization shall be permitted to meet with the employee for not less than 60 minutes.

(4) The teacher or administrator shall be paid for attending the meeting at his or her regular rate of pay.

(c)(1) Within 10 days after hiring a new teacher or administrator, the school board shall provide the teacher's or administrator's organization, as appropriate, with his or her name, job title, worksite location, work telephone number and e-mail address, home address, personal e-mail address, home and personal cellular telephone numbers, and date of hire.

(2) The teacher's or administrator's home address, personal e-mail address, and home and personal cellular telephone numbers shall be kept confidential by the employer and the teacher's or administrator's organization and shall be exempt from copying and inspection under the Public Records Act.

(d) The school board shall provide the teacher's or administrator's organization with not less than 10 days' notice of an orientation for newly hired teachers or administrators in its bargaining unit.

Sec. 13. 21 V.S.A. § 1738 is added to read:

§ 1738. ACCESS TO NEW EMPLOYEES IN BARGAINING UNIT

(a) An employer shall provide the employee organization that is the exclusive representative of the employees in a bargaining unit with an opportunity to meet with each newly hired employee in the bargaining unit to present information about the employee organization.

(b)(1) The meeting shall occur during the new employee's orientation or, if the employer does not conduct an orientation for newly hired employees, within 30 calendar days from the date on which the employee was hired.

(2) If the meeting is not held during the new employee's orientation, it shall be held during the new employee's regular work hours and at his or her regular worksite or a location mutually agreed to by the employer and the employee organization.

(3) The employee organization shall be permitted to meet with the employee for not less than 60 minutes.

(4) The employee shall be paid for attending the meeting at his or her regular rate of pay.

(c)(1) Within 10 days after hiring a new employee in a bargaining unit, the employer shall provide the employee organization with his or her name, job title, worksite location, work telephone number and e-mail address, home address, personal e-mail address, home and personal cellular telephone numbers, and date of hire.

(2) The employee's home address, personal e-mail address, and home and personal cellular telephone numbers shall be kept confidential by the employer and the employee organization and shall be exempt from copying and inspection under the Public Records Act.

(d) The employer shall provide the employee organization with not less than 10 days' notice of an orientation for newly hired employees in a bargaining unit.

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 285.

An act relating to the State House Artwork and Portrait Project Committee.

Reported favorably with recommendation of amendment by Senator Benning for the Committee on Institutions.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2 V.S.A. § 651 is amended to read:

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

(a) The Legislative Advisory Committee on the State House is created.

* * *

(d) The Committee shall meet at the State House at least one time ~~during the months of July and December~~ when the General Assembly is in session and at least one time when the General Assembly is not in session or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

(e) The Committee shall have the assistance of the Office of Legislative Council.

Sec. 2. 2 V.S.A. § 653 is amended to read:

§ 653. FUNCTIONS

(a)(1) The Legislative Advisory Committee on the State House shall be consulted on all activities relating to the acquisition and care of paintings and historic artifacts and furnishings, and the refurbishing, renovation, preservation, and expansion of the building and its interior.

(2) The Legislative Advisory Committee on the State House shall develop a plan for the acquisition or commission of artwork for the State House collection that represents Vermont's diverse people and history, including diversity of gender, race, ethnicity, sexuality, and disability status.

* * *

Sec. 3. STATE HOUSE ARTWORK AND PORTRAIT PROJECT;
LEGISLATIVE ADVISORY COMMITTEE ON THE STATE
HOUSE; REPORT

(a) Intent. It is the intent of the General Assembly:

(1) to expand the State House artwork and portrait collection to represent the diverse stories of those who have significantly contributed to Vermont's history;

(2) to give special consideration to the State House as a place of employment for a diverse workforce and as an institution of public education for students and members of the general public; and

(3) that the State have a policy of including diverse leadership stories that reflect all of Vermont's history when acquiring or commissioning artistic representation for the State House art collection.

(b) Policy. It is the policy of the General Assembly that the State House art collection shall reflect:

(1) those who have served as leaders and have significantly contributed to the history of Vermont;

(2) those whose service relates to the State or the Abenaki Nation, the civil rights of Vermonters, the legislative process, or the operation of the State House;

(3) stories of significance to a community, a tribe, or historical moments that demonstrate the diverse nature of Vermont's people and history; or

(4) the natural landscapes and environmental features of the State of Vermont.

(c) Plan. Pursuant to 2 V.S.A. § 653, the Legislative Advisory Committee on the State House, in consultation with the State Curator, shall develop a plan for the acquisition or commission of artwork for the State House collection that incorporates the intent and policies described in subsections (a) and (b) of this section.

(d) Recommendations. The Committee, in consultation with the public and relevant experts, including Vermont historians, artists, and diverse community leaders, shall research and recommend significant historical Vermont leadership stories that warrant artistic inclusion in the State House art collection using the intent and policies described in subsections (a) and (b) of this section.

(e) Report. On or before December 15, 2020, the Committee shall submit a written report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with the plan and recommendations described in this section and any recommendations for legislative action.

Sec. 4. 29 V.S.A. § 154a is amended to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, and tours; and

(3) acquisition, management, and care of State collections of art and historic furnishings, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a).

(c) Acquisition policy. In coordination with the Legislative Advisory Committee on the State House, and in accordance with the plan developed pursuant to 2 V.S.A. § 653, the State Curator shall adopt an acquisition policy that ensures that the acquisition of art for the State House reflects a diversity of artistic media and artists, the natural history of the State, and the diversity of the people and stories of Vermont throughout the history of the State.

(d) Interpretive plan. In coordination with the Friends of the Vermont State House and the Vermont Historical Society, the State Curator shall create an interpretive plan that tells the stories of the State House art collection through accessible written, multimedia, and oral means. The plan shall include appropriate and inclusive training of State House volunteers and staff.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator McCormack for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Institutions and when so amended ought to pass.

(Committee vote: 6-0-1)

S. 297.

An act relating to the Agency of Health Care Administration.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. AGENCY OF HUMAN SERVICES REORGANIZATION;
WORKING GROUP; REPORT

(a) Creation. There is created a working group to develop proposals for reorganizing the Agency of Human Services.

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

(1) the Secretary of Human Services or designee;

(2) the commissioner of each department within the Agency of Human Services or their designees; and

(3) other interested stakeholders.

(c) Powers and duties. The working group shall consider options for reorganizing, restructuring, or reconfiguring the Agency of Human Services and its departments to best serve Vermonters, including consideration of the following:

(1) whether the Agency of Human Services should be divided into two or more agencies, and if so, how they should be organized;

(2) whether the Agency of Human Services should be divided as follows:

(A) an Agency of Human Services, comprising the Department of Corrections; the Department for Children and Families; the Department of Independent Living, which would provide services to Vermonters who are elders and to individuals with disabilities; and the Human Services Board; and

(B) an Agency of Health Care Administration comprising the Departments of Health Access, of Mental Health and Substance Misuse, of Long-Term Care, and of Public Health; the Health Care Board; and the Vermont Health Benefit Exchange;

(3) how to improve collaboration, integration, and alignment of services across agencies and departments to deliver services built around the needs of individuals and families; and

(4) how to minimize any confusion or disruption that may result from implementing the recommended changes.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Report. On or before January 15, 2021, the working group shall provide its findings and recommendations to the General Assembly and the Governor.

(f) Meetings.

(1) The Secretary of Human Services or designee shall call the first meeting of the working group to occur on or before July 1, 2020.

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

(3) A majority of the working group's membership shall constitute a quorum.

(4) The working group shall cease to exist on January 15, 2021.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to reorganizing the Agency of Human Services.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Clarkson for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. AGENCY OF HUMAN SERVICES ORGANIZATIONAL STRUCTURE; WORKING GROUP; REPORT

(a) Creation. There is created a working group to evaluate the organizational structure of the Agency of Human Services and to recommend any appropriate modifications to that structure.

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

(1) the Secretary of Human Services or designee;

(2) the commissioner of each department within the Agency of Human Services or their designees; and

(3) three employees of the Agency of Human Services, appointed by the President of the Vermont State Employees Association.

(c) Powers and duties. The working group, in consultation with interested stakeholders, shall consider options for reorganizing, restructuring, or reconfiguring the Agency of Human Services and its departments to best serve Vermonters, including consideration of the following:

(1) whether the Agency of Human Services should be divided into two or more agencies, and if so, how they should be organized;

(2) how to improve collaboration, integration, and alignment of services across agencies and departments to deliver services built around the needs of individuals and families; and

(3) how to minimize any confusion or disruption that may result from implementing the recommended changes.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Report. On or before January 15, 2021, the working group shall provide its findings and recommendations to the General Assembly and the Governor.

(f) Meetings.

(1) The Secretary of Human Services or designee shall call the first meeting of the working group to occur on or before July 1, 2020.

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

(3) A majority of the working group's membership shall constitute a quorum.

(4) All of the working group's meetings shall be open to the public and all meeting dates, times, and locations shall be posted on the General Assembly's website.

(5) The working group shall cease to exist on January 15, 2021.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to the organizational structure of the Agency of Human Services.

(Committee vote: 4-1-0)

UNFINISHED BUSINESS OF JUNE 4, 2020

Third Reading

H. 750.

An act relating to creating a National Guard provost marshal.

House Proposal of Amendment

S. 345

An act relating to temporary municipal meeting provisions in response to the COVID-19 outbreak.

The House proposes to the Senate to amend the bill by striking out Sec. 2 in its entirety and inserting in lieu thereof:

Sec. 2. MUNICIPAL PROPERTY TAX; HIGHWAY EXPENDITURES;
GENERAL GOVERNMENT EXPENDITURES

(a) Notwithstanding 19 V.S.A. § 312 and any other provision of law to the contrary, during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, the legislative body of a municipality is authorized to:

(1) borrow monies appropriated from property taxes for the highway expenditures of the municipality as part of the budget approved by the legal voters of the municipality to expend on general government expenditures; and

(2) borrow monies appropriated from property taxes for the general government expenditures of the municipality as part of the budget approved by the legal voters of the municipality to expend on highway expenditures.

(b) The acts permitted by subsection (a) of this section may be adopted by majority vote of the legislative body of a municipality and shall expire on January 1, 2021.

(c) This section shall apply only to property taxes collected by a municipality from the taxpayers. This section shall not apply to any State aid for town highways distributed pursuant to 19 V.S.A. § 306.

(d) This section shall not alleviate the municipality of any Title 19 match requirements.

(e) A municipality that borrows and expends monies under this section shall, not later than December 31, 2021, transfer to any such fund from which such borrowing has been made an amount equal to such borrowed amount together with interest on the borrowed amount at such rate as the legislative body of the municipality shall determine.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to temporary municipal provisions in response to the COVID-19 outbreak.

NEW BUSINESS

Third Reading

H. 254.

An act relating to adequate shelter for livestock.

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 220.

An act relating to educating specified professionals on the State's energy goals.

Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(28) Audiologists and Hearing Aid Dispensers

* * *

(41) ~~Audiologists and~~ Speech-Language Pathologists

* * *

Sec. 2. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

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

* * *

(12) With the assistance of the boards, establishing a schedule of license renewal and termination dates so as to distribute the renewal work in the Office as effectively as possible.

(A) Licenses may be issued and renewed according to that schedule for periods of up to two years ~~with an appropriate pro-rata adjustment of fees.~~

(B) A person whose initial license is issued within 90 days prior to the set renewal date shall not be required to renew the license until the end of the first full biennial licensing period following initial licensure.

* * *

(i)(1) The Director shall actively monitor the actions of boards attached to the Office and shall ensure that all board actions pursued or decided are lawful, consistent with State policy, reasonably calculated to protect the public, and not an undue restraint of trade.

(2) If the Director finds a an exercise of board action authority or discretion does not meet those standards, the Director may, except in the case of disciplinary actions:

(A) provide written notice to the board explaining the perceived inconsistency, which notice shall have the effect of staying that action and implementing any alternative prescribed by the Director;

(B) schedule a public meeting with the board to resolve questions about the action and explore alternatives; and

(C) within 60 days following that meeting, issue a written directive finding that:

(i) ~~the action~~ exercise of board authority or discretion is consistent with State policy, in which case the action shall be reinstated;

(ii) ~~the action~~ exercise of board authority or discretion is inconsistent with State policy in form, but may be modified to achieve consistency, in which case the board may issue a modified action consistent with the Director's recommendation; or

(iii) ~~the action~~ exercise of board authority or discretion is inconsistent with State policy in purpose, in which case ~~the board shall terminate efforts to implement the action and shall not spend further funds toward its implementation~~ any alternative prescribed by the Director shall stand as the regulatory policy of the State.

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for ~~biennial~~ license renewal for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.

~~(2)(A)~~ The Office 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 such inquiries to be made by a commercial service.

~~(B) — Background checks may be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events.~~

~~(3) Applicants subject to background checks shall be notified that a check is required, if fingerprints will be retained on file, and that criminal convictions are not an absolute bar to licensure, and shall be provided such other information as may be required by federal law or regulation~~ Prior to acting on an initial or renewal application, the Office 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 Office of future triggering events. Each applicant shall consent to the release of criminal history records to the Office on forms developed by the Vermont Crime Information Center.

(k) When, by reason of disqualification, resignation, vacancy, or necessary absence, a board is unable to form a quorum or assign one or more members to assist in the investigation and prosecution of complaints or license applications, or to adjudicate a contested case, the Secretary of State may appoint ad hoc members, either as voting members to establish a quorum at a specific meeting or as nonvoting members to assist Office investigators and prosecutors.

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

§ 125. FEES

* * *

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

(1) Application for registration, \$75.00, except application for:

(A) Private investigator and security services employees, unarmed registrants, \$60.00.

(B) Private investigator and security service employees, transitory permits, \$60.00.

(C) Private investigator and security service employees, armed registrants, \$120.00.

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

* * *

(F) Private investigator or security services agency, \$340.00.

(G) Private investigator and security services agency, \$400.00.

(H) Private investigator or security services sole proprietor, \$250.00.

(I) Private investigator or security services unarmed licensee, \$150.00.

(J) Private investigator or security services armed licensee, \$200.00.

(K) Private investigator and security services instructor, \$120.00.

(3) Optician trainee registration, \$50.00.

(4) Biennial renewal, \$240.00, except biennial renewal for:

* * *

(M) Private investigator or security services agency, or both, \$300.00.

(N) Private investigator or security services unarmed licensee, \$120.00.

(O) Private investigator or security services armed licensee, \$180.00.

(P) Private investigator or security services unarmed registrant, \$80.00.

(Q) Private investigator or security services armed registrant, \$130.00.

(R) Private investigator or security services sole proprietor, \$250.00.

(S) Private investigator or security services instructor, \$180.00.

* * *

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

§ 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR PROFESSIONS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board or the Director, in the case of professions that have advisor appointees, may exercise the following powers:

* * *

(c)(1) Boards and administrative law officers sitting in disciplinary cases shall do so impartially and without ex parte knowledge of the case in controversy.

(2) A State prosecuting attorney assigned by the Office of Professional Regulation shall be responsible for prosecuting disciplinary cases before boards or administrative law officers.

* * *

(d) A board or the Director shall notify parties, in writing, of their right to appeal final decisions of the board. A board or the Director shall also notify complainants in writing of the result of any disciplinary investigation made with reference to a complaint brought by them to the board or Director. When a disciplinary investigation results in a stipulation filed with the board, the

board or the Director shall provide the complainant with a copy of the stipulation and notice of the stipulation review scheduled before the board. The complainant shall have the right to be heard at the stipulation review.

(e)(1) When a board or the Director, in the case of professions that have advisor appointees, intends to deny an application for a license, the board or Director shall send the applicant written notice of the decision by certified mail. The notice shall include a statement of the reasons for the action and shall advise the applicant that the applicant may file a petition within 30 days of the date on which the notice is mailed with the board or the Director for review of its or his or her preliminary decision.

(2) At the hearing, the applicant shall bear the burden of proving that the preliminary denial should be reversed and that the license should be granted.

(3) After the hearing, the board or Director shall affirm or reverse the preliminary denial, explaining the reasons therefor in writing.

(f)(1)(A) ~~A board~~ The Director may appoint a hearing officer, who shall be an attorney admitted to practice in this State, to conduct a hearing that would otherwise be heard by ~~the~~ a board. A hearing officer appointed under this subsection may administer oaths and exercise the powers of the board properly incidental to the conduct of the hearing.

(B) When disciplinary charges are pending concurrently against a single individual or entity, in one profession or multiple, the Director is authorized to order that the matters be consolidated in a single proceeding.

(2) ~~When~~ In board professions, when a hearing is conducted by a hearing officer, the officer shall report findings of fact and conclusions of law to the board. The report shall be made within 60 days of the conclusion of the hearing unless the board grants an extension. The provisions of section 811 of this title regarding proposals for decision shall not apply to the hearing officer report.

(3) The board may take additional evidence and may accept, reject, or modify the findings and conclusions of the hearing officer. Judgment on the findings shall be rendered by the board.

* * *

(h)(1) A board member, hearing officer, or administrative law officer having a personal or pecuniary interest or the appearance of a personal or pecuniary interest in the outcome of any board decision shall not participate in deciding the matter.

(2)(A) A board member, hearing officer, or administrative law officer whose disqualification is sought shall either disqualify himself or herself or, without ruling on the request for disqualification, refer the request to the Secretary of State, who shall rule on the request.

(B) The ruling of the Secretary of State on a request for disqualification shall be final and shall be subject to review only upon appeal of a final order of a board under section 130a of this title or of an administrative law officer under subsection (j) of this section. ~~When a board is unable to convene a quorum by reason of disqualification, resignation, vacancy, or necessary absence, the Secretary of State shall appoint ad hoc members to serve on the board for that matter only, after consulting with the chair of the board involved. Ad hoc members shall have the same qualifications as required by law for the absent members.~~

* * *

~~(j)~~ Notwithstanding the provisions of section 130a of this title, hearings involving denials of licensure or disciplinary matters concerning persons in professions that have advisor appointees shall be heard by an administrative law officer appointed by the Secretary of State.

(k)(1) Whenever completion of certain continuing education requirements is a condition of renewal, the board may require the applicant to develop and complete a specific corrective action plan, to be completed within 90 days.

~~(4)(2)~~ A board may grant a temporary renewal license pending the completion of the required continuing education.

(l) Unless a disciplinary order expressly provides to the contrary, discipline against any license or credential issued by a regulatory body attached to the Office to an individual or entity shall be applicable as a matter of law to all other licenses issued to that licensee by that regulatory body.

* * *

* * * Accountants * * *

Sec. 5. 26 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ACCOUNTANTS

* * *

Subchapter 2. Board of Public Accountancy

* * *

§ 54. GENERAL POWERS AND DUTIES OF THE BOARD

* * *

(c) ~~The Board annually may submit a proposed budget to the Secretary of State.~~ [Repealed.]

* * *

§ 56. FEES

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

* * *

(4) ~~Registration of foreign firm for temporary practice~~ \$
50.00 [Repealed.]

* * *

Subchapter 3. Licenses

* * *

§ 74. FIRMS; REGISTRATION AND OWNERSHIP

(a) A firm shall be required to obtain registration pursuant to this section if the firm:

* * *

(3) does not have an office in this State but performs services described in subdivision 13(1)(A)(i), (iii), or (iv) of this ~~title~~ chapter for a client with a home office in this State.

(b) A firm that does not have an office in this State may perform those services set forth in subdivision 13(1)(A)(ii), 13(1)(A)(v), or 13(3) of this chapter for a client with a home office in this State, may otherwise practice public accounting as authorized under this chapter, and may use the title “CPA” or “CPA firm” without a registration issued only if the firm:

(1) meets the qualifications set forth in subsections (c) and (d) of this section;

(2) meets the requirements of ~~section 75c~~ subsection 75(c) of this ~~title~~ chapter, as applicable; and

(3) performs services through an individual with practice privileges set forth under section 74c of this ~~title~~ chapter.

* * *

(d) Any CPA or RPA firm as defined in this chapter may include nonlicensee owners, provided that:

(1) The firm designates a licensee of this State or, in the case of a firm that is required to have a registration pursuant to subsection (a) of this section, a licensee who meets the requirements set forth in section 74c of this ~~title~~ chapter who is responsible for the proper registration of the firm, and identifies that individual to the Board.

* * *

(f) Any individual exercising practice privileges pursuant to section 74c of this ~~title~~ chapter, and who is responsible for supervising attest services and signs or authorizes someone to sign the accountant's report on behalf of the firm, shall meet the experience and competency requirements set forth in the professional standards for those services.

* * *

Subchapter 4. Discipline

* * *

§ 78. DISCIPLINARY MATTERS

~~(a) In addition to other powers specifically established by law, the Board may:~~

~~(1) Refuse to accept the return of a license tendered by the subject of a disciplinary investigation;~~

~~(2) Refuse to license a person who is under investigation in another jurisdiction for an offense that would constitute unprofessional conduct in this State; and~~

~~(3) Issue warnings and reprimands, condition, suspend, revoke, or reinstate licenses, and order restitution to aggrieved consumers.~~

~~(b) The Board shall accept complaints from any member of the public, any licensee, any state or federal agency, or the Attorney General. The Board may initiate disciplinary action in any complaint against a licensee and may act without having received a complaint.~~

~~(c) After hearing, the Board may take disciplinary action against a licensee, registrant, or applicant found guilty of unprofessional conduct.~~

~~(d) On petition, the Board may reinstate any license or registration it earlier conditioned, revoked, or suspended.~~

~~(e) Appeals from final Board decisions shall be taken in accordance with 3 V.S.A. § 130a. [Repealed.]~~

* * * Funeral Services * * *

Sec. 6. 26 V.S.A. § 1252 is amended to read:

§ 1252. APPLICATION; QUALIFICATIONS

(a) Funeral director.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination as a funeral director provided that he or she has:

* * *

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection (a), the Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the Director to ensure competence as a funeral director.

(b) Embalmer.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination in embalming provided that he or she has:

* * *

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection, the Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the Director to ensure competence as an embalmer.

* * *

* * * Nursing * * *

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

CHAPTER 28. NURSING

Subchapter 1. General Provisions

* * *

§ 1573. VERMONT STATE BOARD OF NURSING

* * *

(c) Each member of the Board shall be a ~~citizen of the United States and a~~ resident of this State.

* * *

§ 1574. POWERS AND DUTIES

(a) In addition to the powers granted by 3 V.S.A. § 129, the Board shall:

* * *

(3) Adopt rules setting standards for approval of medication nursing assistant and nursing education programs in Vermont, including all clinical facilities. The Board may require reimbursement for actual and necessary costs incurred for site surveys.

(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.

(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.

(C) Standards for nursing education programs and clinical facilities shall:

(i) rely upon the standards of recognized national accrediting bodies without duplicating the function of those bodies;

(ii) call for the annual reporting of data, including graduation rates and examination pass rates, appropriate to verify that programs are capable of meeting national standards and sustaining responsible operation in the interests of the public; and

(iii) be waivable by the Director of Professional Regulation if the Director finds that a program has exhausted reasonable efforts to comply and that such waiver will not compromise a program's educational integrity.

(4) [Repealed.]

~~(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.~~

~~(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.~~

* * *

Sec. 8. REPEAL OF BOARD OF NURSING FACULTY REQUIREMENTS
IN RULE

The rules of the Board of Nursing governing the faculty of bachelor and associate degree programs and the faculty of practical nursing programs, set forth in Administrative Rules of the Board of Nursing, CVR 03-030-170, §§ 4.23 (faculty, bachelor and associate degree programs) and 4.24 (faculty, practical nursing programs), are repealed.

* * * Optometry * * *

Sec. 9. 26 V.S.A. chapter 30 is amended to read:

CHAPTER 30. OPTOMETRY

* * *

Subchapter 3. Examinations and Licenses

* * *

§ 1718. FEES

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

- | | |
|----------------------|-------------------------------------|
| (1) Application | \$225.00 |
| (2) Biennial renewal | \$425.00 <u>\$350.00</u> |

* * *

Subchapter 6. Therapeutic Pharmaceutical Agents

§ 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

* * *

* * * Osteopathy * * *

Sec. 10. 26 V.S.A. § 1794 is amended to read:

§ 1794. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

- | | |
|-------------------------------|-------------------------------------|
| (1) Application | |
| (A) Licensure | \$500.00 |
| (B) Limited temporary license | \$ 50.00 |
| (2) Biennial license renewal | \$350.00 <u>\$300.00</u> |

* * *

* * * Pharmacy * * *

Sec. 11. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

* * *

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(15)(A) “Practice of pharmacy” means:

* * *

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

* * *

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

(i) the health science discipline in which, in conjunction with the patient’s other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient’s health and wellness;

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

(iii) practicing pharmacy pursuant to a collaborative practice agreement; or

(iv) prescribing as provided under section 2023 of this subchapter.

* * *

(21) “Self-administered hormonal contraceptive” means a contraceptive medication or device approved by the U.S. Food and Drug Administration that prevents pregnancy by using hormones to regulate or prevent ovulation and that uses an oral, transdermal, or vaginal route of administration.

* * *

§ 2023. CLINICAL PHARMACY; PRESCRIBING

(a) In accordance applicable with rules adopted by the Board, a pharmacist may engage in the practice of clinical pharmacy, including prescribing as set forth in subsection (b) of this section, provided that a pharmacist shall not:

(1) prescribe a regulated drug as defined in 18 V.S.A. § 4201;

(2) prescribe a biological product as defined in 18 V.S.A. § 4601, other than a vaccine or insulin medication; or

(3) initiate antibiotic therapy, except pursuant to a collaborative practice agreement.

(b) A pharmacist may prescribe in the following contexts:

(1) Collaborative practice agreement. A pharmacist may prescribe, for the patient or patients of a prescribing practitioner licensed pursuant to this title, within the scope of a written collaborative practice agreement with that primary prescriber.

(A) The collaborative practice agreement shall require the pharmacist and collaborating practitioner to contemporaneously notify each other of any change in the patient's pharmacotherapy or known medical status.

(B) Under a collaborative practice agreement, a pharmacist may select or modify antibiotic therapy for a diagnosed condition under the direction of the collaborating practitioner.

(2) State protocol.

(A) A pharmacist may prescribe in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

(i) opioid antagonists;

(ii) epinephrine auto-injectors;

(iii) tobacco cessation products;

(iv) tuberculin purified protein derivative products;

(v) self-administered hormonal contraceptives;

(vi) dietary fluoride supplements;

(vii) influenza vaccines; and

(viii) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services.

(B)(i) State protocols shall be valid if signed by the Commissioner of Health and the Director of Professional Regulation, and the Board of Pharmacy shall feature the active protocol conspicuously on its website.

(ii) The Commissioner of Health may invalidate a protocol if the Commissioner finds that the protocol's continued operation would pose an undue risk to the public health, safety, or welfare and signs a declaration to that effect. Upon such a declaration, the Director shall remove the invalidated protocol from the Board website and shall cause electronic notice of the protocol's discontinuation to be transmitted to all Vermont drug outlets.

(3) Accessory devices. A pharmacist may prescribe accessory-type devices, such as spacers, needles, and diabetic testing supplies, where clinically indicated in the judgment of the pharmacist.

(4) Prescriber-authorized substitution. A prescribing practitioner licensed pursuant to this title may authorize a pharmacist to substitute a drug with another drug in the same therapeutic class that would, in the opinion of the pharmacist, have substantially equivalent therapeutic effect even though the substitute drug is not a therapeutic equivalent drug, provided:

(A) the prescriber has clearly indicated that drug product substitution is permissible by indicating "therapeutic substitution allowed" or similar designation;

(B) the drug product substitution is intended to ensure formulary compliance with the patient's health insurance plan or otherwise to minimize cost to the patient;

(C) the patient's voluntary, informed consent is obtained in writing;
and

(D) the pharmacist or designee notifies the prescriber which drug was dispensed as a substitute within five days of dispensing.

(5) Over-the-counter availability. A pharmacist may prescribe over-the-counter drugs where appropriate to reduce costs to the patient, such as by drawing from a health savings account or flexible spending account.

(6) Short-term extensions.

(A) A pharmacist may extend a previous prescription in the absence of a collaborative practice agreement or a State protocol so long as the pharmacist provides only sufficient quantity to the patient until the patient is able to consult with another practitioner, not to exceed a five-day supply or the

smallest available unit, and takes all reasonable measures to notify the patient's primary care provider of record or the appropriate original prescriber, if the original prescriber is different from the primary care provider of record.

(B) A short-term extension shall be provided on a one-time basis.

(c) Board rules shall:

(1) specify the required elements of a collaborative practice agreement;

(2) prohibit conflicts of interest and inappropriate commercial incentives related to prescribing, such as reimbursement based on brands or numbers of prescriptions filled, renewing prescriptions without request by a patient, steering patients to particular brands or selections of products based on any commercial relationships, or acceptance of gifts offered or provided by manufactures in violation of 18 V.S.A. § 4631a;

(3) define appropriate bounds of short-term extension prescribing; and

(4) establish minimum standards for patient privacy in clinical consultation.

* * *

Subchapter 5. Registration of Facilities Drug Outlets

§ 2061. REGISTRATION AND LICENSURE

* * *

(g) Any nonpharmacist owner of a retail or institutional drug outlet may be denied the right to own another pharmacy for a period to be determined by the Board, if he or she is found to be in violation of any of the grounds listed under ~~section 2051 of this title~~ 3 V.S.A. § 129a.

* * *

§ 2063. NOTIFICATIONS

(a) All licensed drug outlets shall report to the Board of Pharmacy within 48 hours the occurrence of any of the following changes:

* * *

(3) any and all other matters and occurrences as the Board may properly require by ~~rules and regulations~~ rule.

* * *

~~Subchapter 6. Wholesale Distributors and Manufacturers~~

* * *

Sec. 12. PROTOCOL IMPLEMENTATION; TARGET DATES;
RULEMAKING

(a) On or before January 1, 2021, the Commissioner of Health shall:

(1) approve State protocols respecting opioid antagonists, self-administered hormonal contraceptives, and influenza vaccines in accordance with the procedure for establishing valid protocols set forth in 26 V.S.A. § 2023(b)(2) in Sec. 11 of this act; or

(2) provide affirmative notice to the Senate Committees on Government Operations and on Health and Welfare and the House Committees on Government Operations and on Health Care that the Commissioner was unable to approve those protocols by that date.

(b) On or before January 1, 2021, the Board of Pharmacy shall adopt rules consistent with the provisions of 26 V.S.A. § 2023(c) as set forth in Sec. 11 of this act. If the Board is unable to adopt rules by that date, the Board shall adopt an emergency rule until such time as it completes the rulemaking process.

* * * Physical Therapists * * *

Sec. 13. 26 V.S.A. § 2103 is amended to read:

§ 2103. EXAMINATION

* * *

(e) An applicant for licensure who does not pass the examination on the first attempt may retake the examination one additional time without reapplication for licensure within six months of the first ~~or~~ examination. Before the Director may approve an applicant for subsequent testing beyond two attempts, an applicant shall reapply for licensure and shall submit evidence satisfactory to the Director of having successfully completed additional clinical training or course work, or both, as determined by the Director.

* * *

* * * Veterinary Medicine * * *

Sec. 14. 26 V.S.A. § 2414 is amended to read:

§ 2414. FEES

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

(1) Application \$ 100.00

(2) Biennial renewal \$~~200.00~~ \$175.00

* * * Landscape Architects * * *

Sec. 15. 26 V.S.A. § 2613 is amended to read:

§ 2613. EXEMPTIONS

(a) This chapter shall not affect or prevent:

* * *

(7) the design of irrigation systems; ~~and~~ or

(8) officers or employees of the federal government from working in connection with their employment.

* * *

* * * Review of Regulatory Laws * * *

Sec. 16. 26 V.S.A. chapter 57 is amended to read:

CHAPTER 57. REVIEW OF REGULATORY LAWS

* * *

§ 3105. CRITERIA AND STANDARDS

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

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

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

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

* * *

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation and upon the request of the House or Senate Committee on Government Operations, the Office shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the ~~appropriate House or~~ and ~~Senate Committee~~ Committees on Government Operations.

(e) After the review of a proposal to regulate a profession or to amend the scope of a regulated profession, the Office may decline to conduct an analysis and evaluation of the proposed regulation if it finds that:

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

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

(3) a proposal presented by petition would, in the opinion of the Director, call for the unwarranted expenditure of State resources.

* * *

§ 3107. INFORMATION REQUIRED OF APPLICANTS

Prior to review under this chapter and prior to consideration by the General Assembly of any bill that proposes to regulate a profession or occupation, the profession or occupation being reviewed or seeking regulation shall explain each of the following factors, in writing, to the extent requested by the House or Senate Committee on Government Operations:

* * *

§ 3108. PRELIMINARY ASSESSMENT OF SCOPE OF PRACTICE

(a) Office preliminary assessment.

(1) Prior to review under this chapter and consideration by the General Assembly of any bill to materially amend the scope of practice permitted for a regulated profession or occupation, and upon the request of the House or Senate Committee on Government Operations or upon the direct petition from a regulated profession or occupation, the Office shall make, in writing, a preliminary assessment of whether the proposed scope of practice amendment is consistent with the principles and standards set forth in this chapter.

(2) The Office shall report its preliminary assessment to the House and Senate Committees on Government Operations and, where a report pertains to a health care profession, to the House Committee on Health Care and the Senate Committee on Health and Welfare.

(b) Required supporting information. A profession proposing by petition a material amendment of a scope of practice shall explain each of the following factors, in writing, to the extent requested by the Office or the House or Senate

Committee on Government Operations, not later than July 1 of the year preceding the next regular session of the General Assembly:

(1) A description of the practices and activities that the profession or occupation would be permitted to engage in if the scope of practice is amended.

(2) Public health, safety, or welfare benefits, including economic benefits that the requestor believes will be achieved if the request is implemented and, if applicable, a description of any harm to public health if the request is implemented.

(3) The impact the amendment of the scope of practice will have on the public's access to occupational services.

(4) A description of the current laws and regulations, both federal and State, pertaining to the profession, including a description of the current education, training, and examination requirements and any relevant certification requirements applicable to the profession for which the amended scope of practice is being sought.

(5) The extent to which the public can be confident that a practitioner is competent to perform the activities and practices permitted under the amended scope of practice, including a description of the nature and duration of the education and training for performing these activities and practices, if any. The description of the education and training shall include the following information:

(A) whether the educational requirement includes a substantial amount of supervised practical experience;

(B) a description of the courses and professional educational programs, including relevant syllabi and curricula, training professionals to perform the activities and practices being proposed under the expanded scope of practice;

(C) whether educational programs exist in this State;

(D) whether there will be an experience requirement;

(E) whether the experience must be acquired under a registered, certified, or licensed practitioner;

(F) whether there are alternative routes of entry or methods of satisfying the eligibility requirements and qualifications; and

(G) whether all applicants will be required to pass an examination and, if an examination is required, by whom it will be developed and how the costs of development will be met.

(6) A description of how the request relates to the profession's ability to practice to the full extent of the profession's education and training.

(7) For health care professionals, a description of the impact an amendment to the scope of practice will have within the health care system, including:

(A) the anticipated economic impact such an expansion will have for the system, for patients, and for other health care providers; and

(B) identification of any health care professions that can reasonably be anticipated to be directly impacted by the request, the nature of the impact, and efforts made by the requestor to discuss the request with such health care professionals.

(8) A summary of the known scope of practice changes either requested or enacted in the State concerning the profession in the five-year period preceding the date of the current request.

(9) A summary of regional and national trends, legislation, laws, and regulations concerning licensure of the profession making the request, and a summary of relevant scope of practice provisions enacted in other states.

(10) How the standards of the profession or occupation will be maintained, including whether effective quality assurance standards pertaining to the activities and practices permitted under the proposed expanded scope of practice exist in the profession or occupation, such as legal requirements associated with specific programs that define or enforce standards.

(11) A profile of the practitioners in this State, including a list of associations, organizations, and other groups representing the practitioners and including an estimate of the number of practitioners in each group.

(c) Exemption. In lieu of submitting a scope of practice request as described in subsection (b) of this section, a person proposing an amendment to a scope of practice may submit a request for an exemption. The request for exemption shall be submitted to the Office not later than July 1 of the year preceding the next regular session of the General Assembly and shall include a plain language description of the request. The Office may grant the exemption if:

(1) there exist exigent circumstances that necessitate an immediate response to the request, and the delay imposed by analysis would threaten the public health, safety, or welfare;

(2) there is not substantial dispute concerning the scope of practice request; or

(3) the requested amendment is not material, meaning the amendment would not alter the balance of risks and harms to the public health, safety, or welfare; the regulatory burdens on any other group; or the enforcement authority or character of the regulatory program.

(d) Impacted persons.

(1) Any person acting on behalf of a profession that may be directly impacted by a scope of practice request submitted pursuant to this section may submit to the Office a written statement identifying the nature of the impact not later than October 1 of the year preceding the next regular session of the General Assembly. That person shall indicate the nature of the impact by taking into consideration the criteria set forth in subsection (b) of this section and shall provide a copy of the written impact statement to the requestor.

(2) Not later than October 15 of that year, the requestor shall submit a written response to the Office and the person that provided the written impact statement. The requestor's written response shall include a description of areas of agreement and disagreement between the respective professions.

* * * Private Investigative and Security Services * * *

Sec. 17. 26 V.S.A. chapter 59 is amended to read:

CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

Subchapter 1. General Provisions

§ 3151. DEFINITIONS

As used in this chapter:

(1)(A) "Director" means the Director of the Office.

(B) "Board" means the State Board of Private Investigative and Security Services "Office" means the Office of Professional Regulation.

* * *

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

~~§ 3161. STATE BOARD REGULATION OF PRIVATE INVESTIGATIVE
AND SECURITY SERVICES; DIRECTOR; ADVISOR
APPOINTEES~~

~~The State Board of Private Investigative and Security Services is created. The Board shall consist of five members appointed by the Governor: one shall be a provider of private investigative services; one shall be a provider of private security services; two shall be members of the public with no financial~~

~~interest in either service other than as a consumer or potential consumer. The remaining member shall be a provider of private investigative services or a provider of private security services, or a provider of both types of services. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.~~

(a)(1) The Director shall administer the provisions of this chapter.

(2) The Director shall consult the advisor appointees prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter.

(b)(1) The Secretary of State shall appoint five persons of suitable qualifications in accordance with this section to advise the Director in matters concerning private investigative and security services.

(A) Two advisors shall be members of the public with no financial interest, either personally or through a spouse, in private investigative services or security services.

(B) One advisor shall be a provider of private investigative services.

(C) One advisor shall be a provider of private security services.

(D) The remaining member shall be a provider of private investigative services or a provider of private security services, or a provider of both types of services.

(2) The Secretary of State shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms.

§ 3162. BOARD RULEMAKING AUTHORITY DIRECTOR; POWERS AND DUTIES

~~The Board may~~ Director shall adopt rules necessary for the performance of ~~its duties~~ effective administration of this chapter, including rules prescribing minimum standards and qualifications for:

* * *

Subchapter 3. Licensing

§ 3171. LICENSING

* * *

(c) Individual registrations may be transferred upon approval by the Board Director.

§ 3172. LICENSES

The Board Director shall issue agency licenses for private investigative services, private security guard services, or combination guard agency licenses to applicants that submit all of the following:

* * *

§ 3173. PRIVATE INVESTIGATOR LICENSES

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

(1) ~~an application filed in proper form~~ evidence that the applicant has attained the age of majority;

(2) ~~the application fee~~ evidence that the applicant has successfully passed any examination required by rule; and

(3) ~~evidence that the applicant has attained the age of majority; and~~

(4) ~~evidence that the applicant has successfully passed any examination required by rule~~ the application fee.

(b) The Board Director may make inquiries if he or she deems necessary into the character, integrity, and reputation of the applicant.

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

* * *

§ 3174. SECURITY GUARD LICENSES

~~(a) A person shall not engage in the business of a security guard or provide guard services in this State without first obtaining a license.~~ The Board Director shall issue a license to a security guard after obtaining and approving all of the following:

(1) ~~an application filed in proper form~~ evidence that the applicant has attained the age of majority;

~~(2) the application fee~~ evidence that the applicant has successfully passed any examination required by rule; and

~~(3) evidence that the applicant has attained the age of majority;~~

~~(4) evidence that the applicant has successfully passed any examination required by rule~~ the application fee.

(b) The ~~Board~~ Director may make inquiries if he or she deems necessary into the character, integrity, and reputation of the applicant.

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

* * *

§ 3175. EXAMINATIONS

The ~~Board~~ Director shall prepare, or have prepared, and administer, separate examinations for private investigators and private security services. Each examination shall be designed to test the competency of the applicant with respect to the lawful and safe provision of each respective service to the public.

§ 3175a. FIREARMS INSTRUCTOR LICENSURE; PROGRAM OF INSTRUCTION

(a) The ~~Board~~ Director shall license firearms training course instructors of private investigators and security guards licensed under this chapter and shall adopt rules governing the licensure of instructors and the approval of firearms and guard dog training programs.

(b) The ~~Board~~ Director shall not issue a license as a firearms training program instructor without first obtaining and approving all of the following:

~~(1) the application filed in the proper form~~ evidence that the applicant has attained the age of majority;

~~(2) the application fee established in subdivision 3178a(a)(5)(A) of this title~~ a copy of the applicant's training program;

~~(3) evidence that the applicant has obtained the age of majority~~ proof of certification as an instructor from an instructor's course approved by the Director;

~~(4) a copy of the applicant's training program federal background check; and~~

~~(5) proof of certification as an instructor from an instructor's course approved by the Board;~~

~~(6) a federal background check the application fee.~~

~~(c) Instructors licensed under this section are subject to the same renewal requirements as others licensed under this chapter, and prior to renewal are required to show proof of current instructor licensure and pay the renewal fee established in subdivision 3178a(a)(5)(B) of this title. [Repealed.]~~

§ 3175b. GUARD DOG TRAINING INSTRUCTOR LICENSE

(a) An applicant for a license to provide guard dog services shall demonstrate to the Board Director competence in the handling of guard dogs in a guard dog training program approved by the Board Director and taught by an instructor currently licensed under this section.

(b) The Board Director shall not issue a license as a guard dog training program instructor without first obtaining and approving all of the following:

~~(1) the application filed in the proper form evidence that the applicant has attained the age of majority;~~

~~(2) the application fee set forth in section 3178 of this title a copy of the applicant's training program;~~

~~(3) evidence that the applicant has obtained the age of majority proof of certification as an instructor from an instructor's course approved by the Director;~~

~~(4) a copy of the applicant's training program federal background check; and~~

~~(5) proof of certification as an instructor from an instructor's course approved by the Board;~~

~~(6) a federal background check the application fee.~~

§ 3175c. FIREARMS TRAINING AND CERTIFICATION

(a) A licensee seeking a firearms certification shall ~~meet the following requirements:~~

~~(1) An applicant for a private investigator or security guard license to provide armed services shall demonstrate to the Board Director competence in the safe use of firearms by successfully completing a firearms training program approved by the Board Director;~~

(2) ~~An applicant shall~~ pay the required fee;

(3) ~~An applicant shall obtain~~ provide the Director with evidence that the applicant has attained the age of majority; and

(4) ~~An applicant shall~~ receive a satisfactory federal background check.

(b) ~~No A licensee may~~ shall not possess a firearm while performing professional services unless certified and in good standing under this section.

§ 3176. EMPLOYEES OF AGENCIES

* * *

(b) An agency shall register all agency investigative and security employees with the ~~Board~~ Office. Employees shall carry identification ~~in a form satisfactory to the Board~~ indicating the licensee by whom the person is employed.

(c) An employee of a licensee shall not function as an armed private investigator, armed guard, armed courier, or handler of guard dogs unless the employee ~~demonstrates to the Board competency in a manner deemed appropriate by the Board~~ holds an active specialty designation authorizing the use of firearms or guard dogs, as applicable.

(d) The ~~Board~~ Director may make inquiries it deems necessary into the character, integrity, and reputation of the employee.

(e) As a prerequisite to registration, all investigative and security employees shall take and successfully complete a training program approved by the ~~Board~~ Director.

(f) A licensed agency or other entity conducting a training program approved by the ~~Board~~ Director pursuant to this section shall maintain training records for not less than five years. The retained records shall include, at a minimum, records of the courses taught, subjects covered, and persons who have received instruction. Training records shall be made available to the ~~Office of Professional Regulation~~ upon request. A licensed agency shall maintain its training records at its regular place of business within the State of Vermont.

§ 3176a. TRANSITORY PRACTICE

The ~~Director of the Office of Professional Regulation,~~ under rules adopted by the ~~Board~~ Director, may grant a transitory permit to practice as a private investigator to a person who is not a resident of Vermont and has no established place of business in this State, if that person is legally qualified by license to practice as a private investigator in any state or country that

regulates such practice. Practice under a transitory permit shall not exceed 30 days in any calendar year.

* * *

§ 3178a. FEES

~~(a) Applicants and persons regulated under this chapter shall pay the following fees:~~

~~(1) Application for agency license:~~

(A) Investigative agency	\$ 340.00
(B) Security agency	\$ 340.00
(C) Investigative/security agency	\$ 400.00
(D) Sole proprietor	\$ 250.00

~~(2) Application for individual license:~~

(A) Unarmed licensee	\$ 150.00
(B) Armed licensee	\$ 200.00

~~(3) Application for employee registration:~~

(A) Unarmed registrants	\$ 60.00
(B) Armed registrants	\$ 120.00
(C) Transitory permits	\$ 60.00

~~(4) Biennial renewal:~~

(A) Investigative agency	\$ 300.00
(B) Security agency	\$ 300.00
(C) Investigative/security agency	\$ 300.00
(D) Unarmed licensee	\$ 120.00
(E) Armed licensee	\$ 180.00
(F) Unarmed registrants (agency employees)	\$ 80.00
(G) Armed registrants (agency employees)	\$ 130.00
(H) Sole proprietor	\$ 250.00

~~(5) Instructor licensure:~~

(A) Application for licensure	\$ 120.00
(B) Biennial renewal	\$ 180.00

~~(b) A sole proprietor of an investigative agency or security agency shall only pay the sole proprietor fees pursuant to this section, provided the agency has no other registered investigative or security employees. [Repealed.]~~

* * *

Subchapter 4. Unprofessional Conduct and Discipline

§ 3181. UNPROFESSIONAL CONDUCT

(a) It shall be unprofessional conduct for a licensee, registrant, or applicant to engage in conduct prohibited by this section, or by 3 V.S.A. § 129a.

(b) Unprofessional conduct means any of the following:

* * *

(13) failing to provide information requested by the ~~Board~~ Director;

* * *

(15) failing to notify the ~~Board~~ Director of a change in ownership, partners, officers, or qualifying agent;

* * *

* * * Real Estate Appraisers * * *

Sec. 18. 26 V.S.A. chapter 69 is amended to read:

CHAPTER 69. REAL ESTATE APPRAISERS

* * *

Subchapter 3. Licenses, Certifications, and Registrations

§ 3316. LICENSING AND REGISTRATION FEES

~~In addition to the fees otherwise authorized by law, the Director may charge the fees for professions Applicants and persons regulated by the Director as under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).~~

* * *

§ 3321. RENEWALS

(a) ~~A Except for a license issued to an appraisal management company, a licensed issued under this chapter shall be renewed biennially upon payment of the required fee and upon satisfactory completion of the minimum continuing education requirements established by AQB during the immediately preceding two-year period. An appraisal management company shall renew its license annually in compliance with State and federal regulations.~~

(b) If an individual or an appraisal management company fails to renew in a timely manner, ~~he or she, or it~~ may renew the license within 30 days of the renewal date by satisfying all requirements set forth in law, including, as applicable, those requirements of AQB for reactivation and payment of an additional late renewal penalty.

(c) The Director may reactivate the license of an individual or an appraisal management company whose license has lapsed for more than 30 days upon payment of the renewal fee, the reactivation fee, and the late renewal penalty, provided the individual ~~has satisfied all~~ or appraisal management company has satisfied all the requirements set forth in law, including, as applicable, those requirements of AQB for reactivation.

(d) The Director may require, by rule, as a condition of reactivation, that an applicant, other than an appraisal management company, undergo review of one or more aspects of the applicant's professional work in the practice of real estate appraising, provided that the manner and performance results of the review be specified by the Director. Such a review requirement shall:

* * *

~~(e) An appraisal management company shall renew its registration biennially. [Repealed.]~~

* * *

* * * Dieticians * * *

Sec. 19. 26 V.S.A. § 3387 is amended to read:

§ 3387. APPLICATION

A person who desires to be certified as a dietitian shall apply to the Director in writing, on a form furnished by the Director, accompanied by payment of a the required fee required pursuant to section 3388 of this title and evidence that the applicant meets the requirements set forth in section 3385 of this title chapter.

* * * Naturopathic Physicians * * *

Sec. 20. 26 V.S.A. § 4126 is amended to read:

§ 4126. ADVISOR APPOINTEES

* * *

~~(d) Notwithstanding 3 V.S.A. § 129(j), when an advisor appointee is unable to serve as an administrative law officer by reason of disqualification or necessary absence, the Secretary of State may appoint a suitable person to~~

~~serve as the administrative law officer in lieu of the advisor appointee.~~
[Repealed.]

* * * Midwives * * *

Sec. 21. 26 V.S.A. chapter 85 is amended to read:

CHAPTER 85. MIDWIVES

§ 4181. DEFINITIONS

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise:

* * *

~~(6) "VMA" means the Vermont Midwives Alliance.~~

* * *

§ 4185. DIRECTOR; DUTIES

* * *

(b)(1) The Director shall adopt general rules necessary to perform his or her duties under this chapter, maintain and make available a list of approved programs for continuing education, and, by January 1, 2001, in consultation with the Commissioner of Health, the Vermont Medical Society, and the Vermont chapter of the American College of Nurse-Midwives, adopt specific rules defining the scope and practice standards, including risk-assessment criteria, based at a minimum, on the practice standards of the ~~Vermont Midwives Alliance (VMA)~~ and the Midwives Alliance of North America (MANA), and defining a protocol and formulary for drug use by licensed midwives, including anti-hemorrhagic drugs and oxygen.

(2)(A) Once initially established by rule, the formulary for medication use by licensed midwives, including anti-hemorrhagic agents and oxygen, shall be updated by the Director as necessary, subject to the approval of the Commissioner of Health and notwithstanding the provisions of 3 V.S.A. chapter 25.

(B) The Director shall update the protocol and formulary, in consultation with the Commissioner of Health or ~~his or her~~ designee, the Vermont Midwives Association, the Vermont Medical Society, and the Vermont chapter of the American College of Nurse-Midwives to ensure licensed midwives have available those medications deemed necessary to maintain best practice standards and deemed necessary for licensed midwives to provide prenatal and postpartum care consistent with accepted and prevailing standards of care for mothers and their babies.

* * *

Sec. 22. MIDWIVES, DEPARTMENT OF HEALTH; REPEAL OF DATA
SUBMISSION AND DATA ACCESS REQUIREMENTS

2011 Acts and Resolves No. 35, Secs. 7 (requiring midwives and APRN certified nurse midwives to submit data on home births) and 8(a) (requiring the Department of Health to access midwife data) are repealed.

* * * Electrologists * * *

Sec. 23. 26 V.S.A. § 4404 is amended to read:

§ 4404. DIRECTOR; DUTIES

* * *

(b) The Director may inspect electrology offices used for the practice of electrology. ~~No A fee shall not be charged for initial inspections under this subsection; however, if the Director determines that it is necessary to inspect the same premises under the same ownership more than once in any two-year period, a reinspection fee may be charged, as provided in section 4410 of this title. The Director may waive all or a part of the reinspection fee in accordance with criteria established by rule.~~

* * *

* * * Respiratory Care * * *

Sec. 24. 26 V.S.A. § 4712 is amended to read:

§ 4712. EXEMPTIONS FROM LICENSURE

(a) ~~No A~~ person shall not practice respiratory care or represent himself or herself to be a respiratory care practitioner unless he or she is licensed under this chapter, except that this chapter shall not prohibit:

(1) A person matriculated in an education program approved by the ~~board~~ Director who is pursuing a degree in respiratory care or respiratory therapy from satisfying supervised clinical education requirements related to the person's respiratory care education while under direct supervision of a respiratory care practitioner or physician.

* * *

* * * Motor Vehicle Racing * * *

Sec. 25. 26 V.S.A. § 4801 is amended to read:

§ 4801. DEFINITIONS

As used in this chapter:

* * *

(8) "Regulation," unless otherwise specified, means a regulation or rule or amendment, revision, or repeal of a regulation or rule adopted by the ~~commission~~ Director.

* * *

* * * Pollution Abatement Facility Operators * * *

Sec. 26. 26 V.S.A. § 5121 is amended to read:

§ 5121. ELIGIBILITY FOR LICENSURE

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

* * *

* * * Notaries Public * * *

Sec. 27. 24 V.S.A. § 183 is amended to read:

§ 183. ~~CERTIFICATE OF APPOINTMENT OF NOTARY PUBLIC~~

~~Immediately after the appointment of a notary public, the county clerk shall send to the Secretary of State a certificate of such appointment, on blanks furnished by the Secretary, containing the name, signature, and legal residence of the appointee, and the term of office of each notary public. The Secretary shall cause such certificates to be bound in suitable volumes and to be indexed. Upon request, the Secretary may certify the appointment, qualification, and signature of a notary public on tender of his or her legal fees. [Repealed.]~~

* * * Massage Therapists, Bodyworkers, and Touch Professionals * * *

Sec. 28. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(49) Massage Therapists, Bodyworkers, and Touch Professionals

Sec. 29. 26 V.S.A. chapter 105 is added to read:

CHAPTER 105. MASSAGE THERAPISTS, BODYWORKERS, AND TOUCH PROFESSIONALS

Subchapter 1. General Provisions

§ 5401. DEFINITIONS

As used in this chapter:

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

(2)(A) “Establishment” means any place of business that:

(i) offers the practice of massage or the practice of bodywork or where the practice of massage or the practice of bodywork is conducted on the premises of the business; or

(ii) represents itself to the public by any title or description of services incorporating the words “touch professional,” “bodywork,” “massage,” “massage therapy,” “massage therapist,” “massage practitioner,” “massagist,” “masseur,” “masseuse,” “energy work,” or other words identified by the Director in rules.

(B) A “place of business” includes any office, clinic, facility, salon, spa, or other location not otherwise exempted under section 5404 of this chapter where a person or persons engage in the practice of massage or the practice of bodywork.

(3) “Practice of massage” and “practice of bodywork” mean offering or engaging in massage or bodywork in exchange for consideration.

(4)(A) “Massage” and “Bodywork” mean systems of structured touch that are:

(i)(I) applied to the superficial, soft or deep tissue, muscle, or connective tissue of another person by manual means, including friction, gliding, rocking, tapping, kneading, and nonspecific stretching; or

(II) designed to affect the energy fields of the body for the purpose of promoting and maintaining health and well-being; and

(ii) provided to clients in a manner in which the clients remove street clothing and have a reasonable expectation of privacy.

(B) Massage and bodywork may include the use of therapies such as heliotherapy or hydrotherapy; the use of moist, hot, and cold external applications; and the use of oils or other lubricants.

(C) Neither massage nor bodywork include the diagnosis of illness, disease, impairment, or disability.

(5) “Massage therapist, bodyworker, or touch professional” means a person who holds a registration from the Office to practice massage or practice bodywork or both.

§ 5402. PROHIBITIONS

(a) An individual shall not engage in or offer the practice of massage or the practice of bodywork unless the individual is registered with the Office.

(b) It shall be a violation of this chapter for any individual to engage in the practice of massage or the practice of bodywork, or to offer to engage in the practice of massage or the practice of bodywork, if the individual’s registration has been suspended or revoked.

(c) An individual shall not use in connection with the individual’s name any letters, words, titles, or insignia indicating or implying that the individual is offering or engaging in the practice of massage or the practice of bodywork, including the terms “massage therapist,” “bodyworker,” or “touch professional,” unless the individual holds a registration in accordance with this chapter.

§ 5403. UNAUTHORIZED PRACTICE

Any individual who engages in the practice of massage or the practice of bodywork without a registration from the Office shall be subject to the penalties provided in 3 V.S.A. § 127 (unauthorized practice).

§ 5404. EXEMPTIONS

(a) The following shall not require a registration under this chapter:

(1) the practice of massage or the practice of bodywork by a student as part of a professional massage or bodywork education program;

(2) the practice of massage or the practice of bodywork by an apprentice as part of a massage or bodywork apprenticeship; or

(3) the practice of massage or the practice of bodywork provided to clients in a manner in which the clients do not remove street clothing or do not have a reasonable expectation of privacy.

(b) The provisions of this chapter requiring individuals to be registered shall not apply to individuals who engage in or offer the practice of massage or the practice of bodywork in the course of their customary duties as physicians, podiatrists, physician assistants, nurses, osteopaths, acupuncturists, athletic trainers, barbers, cosmetologists, estheticians, electrologists, chiropractors,

midwives, naturopathic physicians, occupational therapists, physical therapists, or respiratory care practitioners.

(c) Nothing in this chapter shall prohibit a massage therapist, bodyworker, or touch professional from engaging in or offering the practice of massage or the practice of bodywork at a location that is not an establishment, so long as prior to engaging in that practice at that location, the registrant and his or her client agree that the location is acceptable.

Subchapter 2. Administration

§ 5411. DUTIES OF THE DIRECTOR

(a) Generally. The Director shall:

(1) provide general information to applicants for registration as a massage therapist, bodyworker, or touch professional;

(2) receive applications for registration and provide registrations to applicants qualified under this chapter;

(3) administer fees as established by law;

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

(5) explain appeal procedures to applicants and registrants; and

(6) explain complaint procedures to the public.

(b) Rules.

(1) The Director shall adopt rules requiring a massage therapist, bodyworker, or touch professional to disclose to each new client before the first treatment the following information:

(A) the professional qualifications and experience of the registrant;

(B) actions that constitute unprofessional conduct;

(C) the method for filing a complaint against a registrant; and

(D) the method for making a consumer inquiry with the Office.

(2) The Director shall adopt rules regarding the display of:

(A) the registrations of employed or contracted massage therapists, bodyworkers, or touch professionals at an establishment; and

(B) information regarding unprofessional conduct and filing complaints with the Office.

(3) The rules described in this subsection (b) shall include provisions relating to the manner in which the information disclosed shall be distributed

or displayed, and a requirement that a massage therapist, bodyworker, or touch professional and his or her client sign an acknowledgement that the information was disclosed.

(4) The Director may adopt other rules as necessary to perform his or her duties under this chapter.

§ 5412. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three advisors of suitable qualifications, as described in this section, to advise the Director on matters relating to the practice of massage and the practice of bodywork.

(b) The Secretary shall appoint the advisors to serve, at the Secretary's pleasure, for five-year staggered terms. To stagger the advisors' terms, the Secretary may initially appoint two of the advisors for less than a five-year term.

(c) Two of the three advisors shall be massage therapists, bodyworkers, or touch professionals registered under this chapter who have been actively engaged in the practice of massage or the practice of bodywork, or both for the three-year period immediately preceding appointment. These two advisors shall maintain their registrations in this State and be actively engaged in the practice of massage or the practice of bodywork, or both during their incumbency.

(d) The Director shall seek the advice of the advisors in carrying out the provisions of this chapter.

Subchapter 3. Registrations

§ 5421. APPLICATION

A person who desires to be registered under this chapter shall apply for a registration in the manner specified by the Director, accompanied by payment of the required fee.

§ 5422. REGISTRATION BY ENDORSEMENT

The Director may issue a registration to an individual under this chapter if the individual holds a license, registration, certification, or other authorization to practice massage therapy or bodywork from a U.S. or Canadian jurisdiction.

§ 5423. ESTABLISHMENTS; DESIGNEE AND INSPECTION

(a) An establishment shall designate a massage therapist, bodyworker, or touch professional to be responsible for ensuring the establishment complies with the requirements of this chapter and the rules adopted by the Director.

(b) A person authorized by the Director may enter any establishment for the purpose of inspection when a complaint has been filed with the Office regarding the practice of massage or the practice of bodywork at that establishment. A fee shall not be charged for any inspection under this subsection.

§ 5424. REGISTRATION RENEWAL

(a) A registration under this chapter shall be renewed every two years by submission of a new, completed application and shall be accompanied by payment of the required fee.

(b) A registration that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

§ 5426. FEES

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

§ 5427. DISPLAY OF REGISTRATION

A massage therapist, bodyworker, or touch professional shall conspicuously display his or her registration in any establishment where the registrant is engaged in the practice of massage or the practice of bodywork.

§ 5428. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct set forth in 3 V.S.A. § 129a and the following:

- (1) engaging in activities in violation of 13 V.S.A. § 2605 (voyeurism);
- (2) engaging in a sexual act with a client;
- (3) conviction of a crime committed while engaged in the practice of massage or the practice of bodywork;
- (4) performing massage or bodywork that the massage therapist, bodyworker, or touch professional knows or has reason to know has not been authorized by a client or the client's legal representative; and
- (5) engaging in conduct of a character likely to deceive, defraud, or harm the public.

Sec. 30. TRANSITIONAL PROVISION; ADVISOR APPOINTEES

Notwithstanding the provisions of 26 V.S.A. § 5412 in Sec. 29 of this act that require a massage therapist, bodyworker, or touch professional advisor appointee to be registered under 26 V.S.A. chapter 105, the Secretary of State may initially appoint advisor appointees who are not registered under this

chapter because the law has yet to take effect, provided those advisor appointees otherwise meet the requirements of 26 V.S.A. § 5412.

Sec. 31. CREATION OF POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION; LICENSING.

(a) There are created within the Secretary of State's Office of Professional Regulation one new position in the licensing division and one new position in the enforcement division.

(b) Any funding necessary to support the positions created in subsection (a) of this section and the implementation of 26 V.S.A. chapter 105 set forth in Sec. 29 of this act shall be derived from the Office's Professional Regulatory Fee Fund and not from the General Fund.

Sec. 32. OFFICE OF PROFESSIONAL REGULATION; REGULATORY REVIEW

On or before November 1, 2023, the Office of Professional Regulation shall assess the manner in which the public is protected by the registration of massage therapists, bodyworkers, and touch professionals as set forth in this act and submit any recommended amendments to the law to the Senate and House Committees on Government Operations.

* * * Climate Change and State Energy Goals * * *

Sec. 33. SPECIFIED REGULATORY ENTITIES; OFFICE OF PROFESSIONAL REGULATION; REPORT ON CURRENT AND RECOMMENDED CONTINUING EDUCATION; CLIMATE CHANGE AND STATE ENERGY GOALS

(a)(1) On or before November 15, 2020, the regulatory entity for each of the following professions shall submit to the Director of the Office of Professional Regulation the information described in subdivision (2) of this subsection:

(A) architects licensed under 26 V.S.A. chapter 3;

(B) landscape architects licensed under 26 V.S.A. chapter 46;

(C) pollution abatement facility operators licensed under 26 V.S.A. chapter 99;

(D) potable water supply and wastewater system designers licensed under 26 V.S.A. chapter 97;

(E) professional engineers licensed under 26 V.S.A. chapter 20;

(F) property inspectors licensed under 26 V.S.A. chapter 19;

(G) real estate appraisers licensed under 26 V.S.A. chapter 69;

(H) real estate brokers and salespersons licensed under 26 V.S.A. chapter 41;

(I) gas appliance installers, inspectors, and servicers certified under 20 V.S.A. § 2731(c)(4)(C);

(J) oil burning equipment installers, inspectors, and servicers certified under 20 V.S.A. § 2731(c)(4)(D); and

(K) limited oil burning equipment installers, inspectors, and services certified under 20 V.S.A. § 2731(c)(4)(F);

(L) each type of electrician licensed under 26 V.S.A. chapter 15; and

(M) each type of plumber licensed under 26 V.S.A. chapter 39.

(2) In accordance with subdivision (1) of this subsection, each regulatory entity shall submit to the Director of the Office the following information regarding its regulated profession:

(A) any current continuing education relating to climate change or the State's energy goals or both that is offered to the profession;

(B) any continuing education relating to climate change or the State's energy goals or both that should be offered to the profession; and

(C) a description of how the profession addresses its role in mitigating the effects of climate change and in furthering the State's energy goals, and how any current and recommended continuing education addresses those issues.

(3) "Regulatory entity" has the same meaning as in 26 V.S.A. § 3101a.

(b) On or before January 15, 2021, the Director of the Office of Professional Regulation shall compile the information submitted to the Director under subsection (a) of this section and report it, along with any further recommendations, to the Senate and House Committees on Government Operations.

* * * Effective Dates * * *

Sec. 34. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Secs. 28 and 29 (massage therapists, bodyworkers, and touch professionals) shall take effect on November 1, 2020.

And that after passage the title of the bill be amended to read:

An act relating to professional regulation.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Balint for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: In Sec. 3, 3 V.S.A. § 125 (fees), in subsection (b), following the subdivision (4) introductory paragraph (“Biennial renewal, \$240.00, except biennial renewal for:”), by inserting the following:

* * *

(J) ~~Appraisal—management—company—registration, \$600.00.~~
[Repealed.]

Second: In Sec. 3, 3 V.S.A. § 125 (fees), in subsection (b), after the last set of ellipses, by inserting the following:

(7) Annual renewal for appraisal management company registration, \$300.00.

* * *

(Committee vote: 7-0-0)

S. 227.

An act relating to the provision of personal care products by lodging establishments.

Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Single-use Products * * *

Sec. 1. 10 V.S.A. chapter 159, subchapter 5 is amended to read:

Subchapter 5. ~~Single-Use Carryout Bags; Expanded Polystyrene Food Service Products; Single-use Plastic Straws; and Single-use Plastic Stirrers~~ Products

§ 6691. DEFINITIONS

As used in this subchapter:

(1) "Agency" means the Agency of Natural Resources.

* * *

(6) "Plastic" means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petroleum or a biologically based polymer, such as corn or other plant sources. "Plastic" includes all materials identified with resin identification codes 1 to 7.

(7) "Point of sale" means a check-out stand, cash register, or other point of departure from a store or food service establishment, including the location where remotely ordered food or products are delivered to a purchaser.

* * *

(10) "Secretary" means the Secretary of Natural Resources.

* * *

(14) "Single-use product" or "single use" means a product that is generally recognized by the public as an item to be discarded after one use.

* * *

(16) "Lodging establishment" has the same meaning as in 18 V.S.A. § 4301.

(17) "Personal care product" means a product intended to be applied to or used on the human body in the shower or bath or on any part of the human body, including shampoo, hair conditioner, moisturizer, toothpaste, and bath soap.

(18) "Small container" means a container made of glass, plastic, or other material with less than six-ounce capacity that is intended to be nonreusable by the end user.

* * *

§ 6701. PERSONAL CARE PRODUCTS; SMALL CONTAINER;
LODGING ESTABLISHMENTS

(a) The purpose of this section is to encourage lodging establishments to use bulk dispensers of personal care products to reduce waste and lower operating costs while still providing products for the health and safety of guests.

(b) A lodging establishment shall not provide a personal care product in a small container in a sleeping room accommodation, in a space within the sleeping room accommodation, or within a bathroom used by the public or guests beginning on:

(1) January 1, 2023, for a lodging establishment with more than 50 rooms; and

(2) January 1, 2024, for a lodging establishment with 50 rooms or fewer.

(c) A lodging establishment may provide a personal care product in a small container to a person at no cost, upon request, at a place other than a sleeping room accommodation, a space within the sleeping room accommodation, or within a bathroom used by the public or guests.

(d) A lodging establishment that violates the requirements of this section shall be subject to a civil penalty of not more than \$300.00. Upon a second or subsequent violation, the lodging establishment shall be subject to a civil penalty of not more than \$500.00. A violation of this section shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by the Department of Health or the Agency of Natural Resources.

(e) Beginning on July 1, 2023, the requirements of this section preempt and supersede municipal bylaws regulating personal care products. A violation of this subsection is enforceable in the same manner as preemption under section 6699 of this title.

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.

* * *

(30) Violations of 10 V.S.A. § 6701, relating to the provision by lodging establishments of personal use products in small plastic bottles.

(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed for violations within the Judicial Bureau's jurisdiction, except municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

* * * Extended Producer Responsibility Report * * *

Sec. 3. REPORT ON EXTENDED PRODUCER RESPONSIBILITY FOR PACKAGING AND PRINTED MATERIALS

(a) The Office of Legislative Council, after consultation with the Chair of the Senate Committee on Natural Resources and Energy, the Chair of the House Committee on Natural Resources and Energy, the Solid Waste Division of the Department of Environmental Conservation, solid waste management entities, representatives of businesses, and other interested parties, shall draft legislation that would establish requirements under statute for an extended producer responsibility program in the State for packaging and printed material. The draft legislation shall consider inclusion of the following:

(1) A definition of packaging to include, at a minimum, material used to market, contain, wrap, protect, and deliver consumer goods, including food and beverages, personal care products, general consumer goods, and food service ware.

(2) A definition of printed material to include at a minimum newsprint and inserts, magazines and catalogues, direct mail, office paper, and telephone directories.

(3) A definition of a producer of a product that clearly identifies the manufacturer ultimately financially responsible for collection and recycling or disposal of packaging and printed material.

(4) Exemptions for small producers and for product packaging that is already covered under the Vermont beverage container redemption law and Vermont's other extended producer responsibility statutes.

(5) A definition of covered entities that includes at a minimum all generators of printed material and packaging in the State.

(6) Provisions for the establishment of a nonprofit stewardship organization or organizations of producers of packaging and printed material and how to set, collect, and track fees for producers based on what they sell

into the State and how the fees will be used to support the State's recycling programs including payment of:

(A) 100 percent of the cost of collection, transport, and recycling of packaging and printed material that is readily recyclable and sold into the State;

(B) the costs of waste reduction and recycling education; and

(C) the cost of recycling infrastructure.

(7) A requirement that fees established by a stewardship organization encourage packaging design that reduces its environmental impact by assessing higher fees for packaging and printed material sold into the State that are more harmful to the environment and lower fees for those that cause less environmental harm. The environmental considerations that the Secretary may address include recyclability of a product, recycled content in a product, greenhouse gas emissions from production of a product, and the toxicity of a product.

(8) Provisions of a stewardship plan to be submitted by a stewardship organization describing how producers will provide for the collection, transportation, and recycling of packaging and printed material using existing infrastructure.

(9) Requirements for a stewardship organization to submit data obtained from producers to the State including data regarding the amount of packaging and printed material sold into the State, recovery rates of recyclables, fees collected, and the entire cost of the program so that:

(A) there is transparency and accountability in assessing the success of the program;

(B) there is consistency with internationally accepted standards; and

(C) there is sufficient information to evaluate the effectiveness of the program.

(10) Performance goals to be set at or above existing recycling recovery rates, with penalties if the goals are not met.

(11) Convenience provisions that at a minimum meet the convenience requirements of 2012 Acts and Resolves No. 148.

(12) A recommended goal for the percentage reduction in the amount of waste generated State-wide from single-use products. The recommendation shall be based on review of similar percentage reduction goals in other states,

such as the California goal of reducing the amount of waste generated from single-use products by 75 percent by 2030.

(13) A recommended goal for the percentage of post-consumer recycled content in packaging, including recommendations for the reduction of plastic packaging. The recommendation shall be based on similar percentage goals for post-consumer content in other states, such as the Washington state goal of reducing plastic packaging 20 percent by 2025.

(14) Roles and responsibilities of the Agency of Natural Resources.

(15) A method by which producers can protect themselves against producers that fail to register with a program. These methods may include a private right of action, requirements that online retailers of packaging be responsible for paying into a fund in support of the program if the products they sell are from producers who are not part of the stewardship program, or other methods to ensure fairness and full compliance.

(16) A recommended method for coordinating among other northeastern states an extended producer responsibility program or other provisions for the management and disposition of packaging and printed material.

(b) The draft legislation required under subsection (a) of this section shall not include proposed changes to the beverage container redemption law under 10 V.S.A. chapter 53.

(c) On or before January 15, 2021, the Office of Legislative Council shall submit the draft legislation required by this section to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife.

* * * Beverage Container Redemption * * *

Sec. 4. 10 V.S.A. § 1522 is amended to read:

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers that contain liquor, a deposit of not less than five cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. that contain liquor, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is hereby retained by the Liquor Control Enterprise Fund for administration of this subsection.

(b) A retailer or a person operating a redemption center who redeems beverage containers shall be reimbursed by the manufacturer or distributor of ~~such~~ the beverage containers in an amount that is three and one-half cents per container for containers of beverage brands that are part of a commingling program and ~~four~~ five cents per container for containers of beverage brands that are not part of a commingling program.

* * *

Sec. 5. Subsection 10-109(b) of the Agency of Natural Resources' Environmental Protection Regulations for the Deposit for Beverage Containers is amended to read:

(b) Any commingling agreement shall contain, at a minimum, the following criteria:

(1) The agreement shall include pick up of commingled beverage containers from:

(A) at least 30 percent of the beverage containers redeemed in the ~~state~~ State of Vermont; or

(B) as otherwise approved by the Secretary.

* * * Product Stewardship Primary Batteries * * *

Sec. 6. 10 V.S.A. § 7581(10) is amended to read:

(10) "Primary battery" means a nonrechargeable battery weighing two kilograms or less, including alkaline, carbon-zinc, and lithium metal batteries. "Primary battery" shall not mean:

(A) ~~a battery intended for industrial, business-to-business, warranty or maintenance services, or nonpersonal use;~~

(B) a battery that is sold in a computer, computer monitor, computer peripheral, printer, television, or device containing a cathode ray tube;

~~(C)~~(B) a battery that is not easily removable or is not intended to be removed from a consumer product; and

~~(D)~~(C) a battery that is ~~sold or~~ used in a medical device, as that term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321(h), as may be amended, provided that the medical device is not designed and marketed for sale or resale principally to consumers for personal use.

Sec. 7. 10 V.S.A. § 7584 is amended to read:

§ 7584. PRIMARY BATTERY STEWARDSHIP PLAN

(a) Primary battery stewardship plan required. On or before June 1, 2015, each producer selling, offering for sale, distributing, or offering for promotional purposes a primary battery in the State shall individually or as part of a primary battery stewardship organization submit a primary battery stewardship plan to the Secretary for review.

(b) Primary battery stewardship plan; minimum requirements. Each primary battery stewardship plan shall include, at a minimum, all of the following elements:

* * *

(6) Education and outreach.

(A) A primary battery stewardship plan shall include an education and outreach program. The education and outreach program may include mass media advertising in radio or television broadcasts or newspaper publications of general circulation in the State, retail displays, articles in trade and other journals and publications, and other public educational efforts. The education and outreach program shall describe the outreach procedures that will be used to provide notice of the program to businesses, municipalities, certified solid waste management facilities, retailers, wholesalers, and haulers. At a minimum, the education and outreach program shall notify the public of the following:

~~(A)(i)~~ that there is a free collection program for all primary batteries; and

~~(B)(ii)~~ the location of collection points and how to access the collection program.

(B) In the event that a producer or primary battery stewardship organization does not meet the annual collection rate performance goal established under subdivision (8) of this subsection, the Secretary may require the producer or battery stewardship organization to conduct more outreach, provide additional educational materials, or improve collection accessibility.

* * *

(8) Performance goal; collection rate. A primary battery stewardship plan shall include a collection rate performance goal for the primary batteries subject to the plan. The collection rate includes the estimated total weight of primary batteries that will be sold or offered for sale in the State by the

producer or the producers participating in the primary battery stewardship plan.

* * *

Sec. 8. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

(1) ~~Lead-acid batteries~~ Batteries, after July 1, ~~1990~~ 2020.

* * *

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

Reported favorably by Senator Campion for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy and when so amended ought to pass.

(Committee vote: 6-1-0)

Favorable with Proposal of Amendment

H. 936.

An act relating to sexual exploitation of children.

Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 13 V.S.A. chapter 64, in section 2821, by striking out subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) "Sexual conduct" means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva, or the mouth and the vulva;

(B) any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(C) any intentional touching, not through the clothing, of the genitals, anus, or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(D) masturbation;

(E) bestiality; or

(F) sadomasochistic abuse for sexual purposes.

Second: In Sec. 1, 13 V.S.A. chapter 64, in section 2821, by adding a subdivision (6) to read as follows:

(6) "Peer-to-peer network" means a network in which two or more computers or devices share files without requiring a separate server computer or server software.

Third: By inserting a new Sec. 2 to read as follows:

Sec. 2. LEGISLATIVE PROPOSAL

The Attorney General, in collaboration with the Defender General and the Department of State's Attorneys and Sheriffs, shall examine the issue of simulated sexual conduct by, with, or on a child under 16 years of age as it relates to child sexual abuse material for the purpose of developing a clear, narrowly tailored legislative proposal that prohibits such conduct while ensuring that a substantial amount of constitutionally protected speech is not inadvertently swept into the purview of the statute. The Attorney General shall submit the recommendation not later than November 1, 2020 to the Joint Legislative Committee on Justice Oversight.

Fourth: By renumbering Sec. 2, effective date, to be Sec. 3, and by striking out "July 1, 2020" and inserting in lieu thereof passage

(Committee vote: 5-0-0)

(No House amendments.)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Craig Bolio of Winooski – Commissioner, Department of Taxes – By Sen. Cummings for the Committee on Finance. (01/21/20)

Sabina Brochu of Williston - Member, State Board of Education - By Sen. Ingram for the Committee on Education. (01/24/20)

Kyle Courtois of Georgia - Member, State Board of Education - By Sen. Perchlik for the Committee on Education. (01/24/20)

Margaret Tandoh of South Burlington – Member, Board of Medical Practice – By Sen. McCormack for the Committee on Health and Welfare. (02/11/20)

Holly Morehouse of Burlington – Member, Children and Family Council for Prevention Programs – By Sen. Lyons for the Committee on Health and Welfare. (02/12/20)

Susan Hayward of Middlesex – Member, Capitol Complex Commission – By Sen. Benning for the Committee on Institutions. (02/14/20)

Heather Shouldice – Member, Capitol Complex Commission – By Sen. Benning for the Committee on Institutions. (02/14/20)

Dorinne Dorfman – Member, Children and Family Council for Prevention Programs – Sen. Cummings for the Committee on Health and Welfare. (02/25/20)

Richard Bernstein of Jericho – Member, Board of Medical Practice – Sen. Ingram for the Committee on Health and Welfare. (03/10/20)

Dawn Philibert of Williston – Member, State Board of Health – Sen. Ingram for the Committee on Health and Welfare. (03/10/20)