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H.104

ANNOTATED VERSION
HIGHLIGHTING SENATE CHANGES TO HOUSE BILL TO DATE

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 121 is amended to read:

§ 121. DEFINITIONS

As used in this subchapter:

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

(2) “Licensing board” or “board” refers to the boards, commissions, and professions listed in section 122 of this ~~title~~ subchapter and, in the case of disciplinary matters or denials of licensure, either an administrative law officer appointed under subsection 129(j) of this ~~title~~ subchapter or the Director in advisor professions. Notwithstanding statutory language to the contrary, this subchapter shall apply to all those boards.

(3)(A) “License” includes any certification or registration or a permit, commission, or other official authorization to undertake a regulated activity.

(B) “Licensee” includes ~~registrants and holders of certificates or permits~~ any person to whom a license has been issued by a board or the Director.

(4) “Office” means the Office of Professional Regulation.

1 the violation occurred or the Washington County Superior Court and may be
2 assessed a civil penalty of not more than ~~\$1,000.00~~ \$5,000.00.

3 (2)(A) The Attorney General or an attorney assigned by the Office of
4 Professional Regulation may elect to bring an action seeking only a civil
5 penalty of not more than ~~\$1,000.00~~ \$2,500.00 for practicing or permitting the
6 practice of a regulated profession without authority before the board having
7 regulatory authority over the profession or before an administrative law officer.

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

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

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

16 (c) In addition to other provisions of law, unauthorized practice shall be
17 punishable by a fine of not more than \$5,000.00 or imprisonment for not more
18 than one year, or both. Prosecution may occur upon the complaint of the
19 Attorney General or a State's Attorney or an attorney assigned by the Office of
20 Professional Regulation under this section and shall not act as a bar to civil or
21 administrative proceedings involving the same conduct.

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Sec. 4. 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:

* * *

(26) Sexually harassing or exploiting a patient, client, or consumer, or doing so to a coworker in a manner that threatens the health, safety, or welfare of patients, clients, or consumers; failing to maintain professional boundaries; or violating a patient, client, or consumer’s reasonable expectation of privacy.

* * *

(d)(1) After hearing, and upon a finding of unprofessional conduct, a board or an administrative law officer may take disciplinary action against a licensee or applicant, including imposing an administrative penalty not to exceed ~~\$1,000.00~~ \$5,000.00 for each unprofessional conduct violation.

(2)(A) Any money received under this subsection shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this ~~title~~

1 chapter for the purpose of providing education and training for board members
2 and advisor appointees.

3 (B) The Director shall detail in the annual report receipts and
4 expenses from money received under this subsection.

5 * * *

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

7 § 129b. BOARD MEMBER AND ADVISOR APPOINTMENTS

8 * * *

9 (g) For advisor professions, ~~advisors~~:

10 (1) Advisors shall be appointed by the Secretary of State and shall serve
11 at the pleasure of the Secretary of State. Advisor appointments shall be subject
12 to the same conditions as those for board members under this section.

13 (2) The Office shall warn and conduct an open meeting including
14 advisors, program staff, and interested members of the public:

15 (A) at least once per year for each profession with 500 or fewer
16 active licensees; and

17 (B) at least twice per year for each profession with more than 500
18 active licensees.

1 Sec. 6. 3 V.S.A. § 135 is amended to read:

2 § 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING
3 EXTENDED ABSENCE

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

11 * * *

12 Sec. 7. PROFESSIONAL REGULATION; ANALYSIS OF STATE
13 REGULATORY STRUCTURES

14 (a) Findings.

15 (1) The General Assembly finds that multiple State agencies regulate a
16 variety of professions and occupations, resulting in professional regulatory
17 structures that vary throughout the State.

18 (2) The General Assembly further finds that the State should review
19 whether transferring the regulation of certain professions and occupations to a
20 different State agency would enhance the effectiveness of those professional
21 regulatory structures, including by improving public protection and customer

1 service, reducing unnecessary barriers to licensure, and increasing efficiencies
2 in the staffing, information technology, and other necessary costs associated
3 with professional regulation.

4 (b) Office of Professional Regulation, Agency of Administration, and other
5 specified agencies; analysis and report.

6 (1) The Office of Professional Regulation and the Agency of Education,
7 the Agency of Human Services, the Agency of Natural Resources, the
8 Department of Public Safety, and the Department of Health shall collaborate in
9 analyzing the professions and occupations that each of those agencies regulate
10 in order to determine whether the effectiveness of those professional regulatory
11 structures, including the elements of effectiveness described in subdivision
12 (a)(2) of this section, would be enhanced by transferring an agency's
13 professional regulation to a different agency.

14 (2) In conducting their analysis, the agencies shall consider the
15 professional regulation reports and other information gathered as a result of
16 2016 Acts and Resolves No. 156, Secs. 20 and 21.

17 (3) The Office of Professional Regulation and the Agency of
18 Administration shall lead this collaboration among all the agencies named in
19 subdivision (1) of this subsection, but are encouraged to seek any available
20 grants from outside resources that may enable the agencies to contract with an
21 independent entity to conduct this analysis.

1 (4) On or before January 15, 2020, the independent entity or, if a
2 contract with such an entity was not executed, the Office of Professional
3 Regulation and the Agency of Administration shall report to the House
4 Committees on Government Operations, on Education, on Human Services, on
5 Health, on Natural Resources, Fish, and Wildlife, and on Commerce and
6 Economic Development and the Senate Committees on Government
7 Operations, on Education, on Health and Welfare, on Natural Resources and
8 Energy, and on Economic Development, Housing and General Affairs with its
9 findings and any recommendations for legislative action.

10 Sec. 8. CREATION OF POSITION WITHIN THE OFFICE OF
11 PROFESSIONAL REGULATION; LICENSING

12 (a) There is created within the Secretary of State's Office of Professional
13 Regulation one new permanent classified Licensing Administrator position.

14 (b) Any funding necessary to support the position created in subsection (a)
15 of this section shall be derived entirely from the Office's Professional
16 Regulatory Fee Fund.

1 or in continuing education courses approved by the Board. A dental hygienist
2 may perform tasks in the office of any licensed dentist consistent with ~~the~~ rules
3 adopted by the Board.

4 (b) ~~In public or private schools or institutions, a dental~~ A public-health
5 hygienist, who shall be a dental hygienist with no ~~less~~ fewer than three years of
6 experience, ~~may perform tasks under the general supervision of a licensed~~
7 ~~dentist with no less than three years of experience as prescribed in out-of-~~
8 office settings, including residences, schools, nursing home and long-term care
9 facilities, clinics, hospitals, medical facilities, community health centers
10 licensed or approved by the Department of Health, Head Start programs, and
11 any other facilities or programs deemed appropriate by the Department of
12 Health in a manner consistent with guidelines adopted by the Board by rule.

13 * * *

14 * * * Nursing * * *

15 Sec. 11. 26 V.S.A. chapter 28 is amended to read:

16 CHAPTER 28. NURSING

17 Subchapter 1. General Provisions

18 * * *

19 § 1574. POWERS AND DUTIES

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

21 * * *

1 population focus in which the APRN has met the requirements of this
2 subsection.

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

6 * * *

7 * * * Optometrists * * *

8 Sec. 12. 26 V.S.A. chapter 30 is amended to read:

9 CHAPTER 30. OPTOMETRY

10 * * *

11 § 1703. DEFINITIONS

12 As used in this chapter:

13 * * *

14 (2) The “practice of optometry” means any one or combination of the
15 following practices:

16 (A) ~~The examination of~~ Examining the human eyes and visual system
17 for purposes of:

18 (i) diagnosing refractive and functional ability; or

19 (ii) diagnosing the presence of eye and adnexa disease or injury,

20 treating the disease or injury with the appropriate pharmaceutical agents and

1 procedures in accordance with this chapter, and making referrals to the
2 appropriate health care provider when warranted.

3 (B) ~~The diagnosis and correction of~~ Diagnosing and correcting
4 anomalies of the refractive and functional ability of the visual system and the
5 enhancement of visual performance including, ~~but not limited to,~~ the
6 following:

7 (i) ~~the prescribing and employment of~~ using ophthalmic lenses,
8 prisms, autorefractor or other automatic testing devices, frames, ophthalmic
9 aids, and prosthetic materials as consistent with the health of the eye;

10 (ii) ~~the prescribing and employment of~~ employing contact lenses;
11 and

12 (iii) administering visual training, vision therapy, orthoptics, and
13 pleoptics.

14 (C) Prescribing appropriate pharmaceutical agents for the diagnosis,
15 management, and treatment of the eye and adnexa.

16 (D) Removing superficial foreign bodies from the eye and adnexa;
17 epilating the eyelashes, including by electrolysis; and punctal dilation, lacrimal
18 irrigation, and punctal plugs insertion.

19 (E) Managing the following types of glaucoma in patients who are 16
20 years of age or older:

21 (i) adult primary open angle glaucoma;

- 1 (ii) exfoliative glaucoma;
- 2 (iii) pigmentary glaucoma;
- 3 (iv) low tension glaucoma;
- 4 (v) inflammatory (uveitic) glaucoma; and
- 5 (vi) emergency treatment of angle closure glaucoma.

6 (3) ~~“Disciplinary action” or “disciplinary cases” includes any action~~
7 ~~taken by a board against a licensee or applicant premised upon a finding of~~
8 ~~wrongdoing or unprofessional conduct by the licensee or applicant. It includes~~
9 ~~all sanctions of any kind, including obtaining injunctions, issuing warnings,~~
10 ~~reprimands, suspensions, or revocations of licenses, and other similar sanctions~~
11 ~~and ordering restitution.~~ “Director” means the Director of the Office of
12 Professional Regulation.

13 (4) “Financial interest” means being:
14 (A) a licensed practitioner of optometry; or
15 (B) a person who deals in goods and services ~~which~~ that are uniquely
16 related to the practice of optometry; or
17 (C) a person who has invested anything of value in a business ~~which~~
18 that provides optometric services.

19 (5) “Contact lenses” means those lenses that are worn for cosmetic,
20 therapeutic, or refractive purposes.

1 § 1704. PENALTIES

2 A person who obtains a license by fraud or misrepresentation or who
3 practices or attempts to practice optometry or hold himself or herself out as
4 being able to do so in this ~~state~~ State without first having obtained the license
5 required by this chapter shall be subject to the penalties provided in
6 3 V.S.A. § 127~~(e)~~.

7 Subchapter 2. State Board of Optometry ~~Board~~

8 § 1707. QUALIFICATIONS; TERM OF OFFICE; REMOVAL

9 (a) ~~A state board of optometry~~ The State Board of Optometry is created
10 ~~which shall be the continuation of and successor to the state board of~~
11 ~~examiners in optometry heretofore established by chapter 29 of this title.~~

12 (b) The ~~board~~ Board shall consist of five members, three of whom shall be
13 residents of the ~~state~~, State ~~who~~ have had at least five years' experience in the
14 practice of optometry in the ~~state~~, State and are in the active practice of
15 optometry at the time of their appointment; and two members who shall be
16 representatives of the public, who shall be residents of the ~~state~~ State for five
17 years and who shall have no financial interest in the profession other than as a
18 consumer or potential consumer of its services.

19 * * *

1 § 1708. POWERS AND DUTIES

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

3 (1) Adopt rules under ~~3 V.S.A. chapter 25~~ the Vermont Administrative
4 Procedure Act necessary for the performance of its duties, ensuring that at least
5 the following are established by statute or rule:

6 (A) ~~A~~ a definition of the behavior for which a license is required;

7 (B) ~~Explanations~~ explanations of appeal and other significant rights
8 given by law to licensees, applicants, and the public; and

9 (C) standards for acceptance of continuing education, which may
10 identify mandatory content specific to pharmacology, and management of
11 adverse drug reactions.

12 (b) ~~The board may:~~

13 (1) ~~exercise authority granted under 3 V.S.A. chapter 5.;~~

14 (2) ~~use the administrative services provided by the office of professional~~
15 ~~regulation under 3 V.S.A. chapter 5.;~~

16 (3) ~~Receive legal assistance from the attorney general of the state and~~
17 ~~from the legal counsel for the director of the office of professional regulation.~~

18 [Repealed.]

19 (c) The ~~board~~ Board shall not limit the:

20 (1) ~~limit the~~ ownership of optometric practices to licensed optometrists;

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§ 1716a. RENEWAL

Licenses shall be renewed every two years upon payment of the required fee, provided that the person applying for renewal completes at least ~~20~~ 40 hours of continuing education, approved by the ~~board~~ Board, during the preceding two-year period and holds a current cardiopulmonary resuscitation certification. ~~If the applicant has a special endorsement for the use of pharmaceutical agents as provided in section 1729 of this title, the applicant shall, during the preceding two-year period, complete at least 40 hours of continuing education, approved by the board, of which at least 20 hours shall be related to the use of therapeutic pharmaceutical agents. The board may specify particular areas of study which must be completed to satisfy the requirements of this section. The board may, by rule, adopt continuing education requirements for those who renew their licenses after less than a full two-year period.~~

* * *

Subchapter 4. Unprofessional Conduct and Discipline

§ 1719. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a, whether ~~or not taken by a license holder~~ committed by a licensee, an applicant, or a person who later becomes an applicant.

1 (b) Unprofessional conduct means:

2 (1) Conduct ~~which~~ that evidences moral unfitness to practice the
3 occupation.

4 (2) Any of the following except when reasonably undertaken in an
5 emergency situation in order to protect life, health, or property:

6 (A) Practicing or offering to practice beyond the scope permitted by
7 law.

8 (B) Performing treatments or providing services ~~which~~ that a licensee
9 is not qualified to perform or ~~which~~ that are beyond the scope of the licensee's
10 education, training, capabilities, experience, or scope of practice.

11 (C) Performing occupational services ~~which~~ that have not been
12 authorized by the consumer or his or her legal representative.

13 * * *

14 Subchapter 5. Diagnostic Pharmaceutical Agents

15 * * *

16 § 1727. EXPIRATION DATE

17 (a) An optometrist shall state the expiration date on the face of every
18 prescription written by that optometrist for contact lenses. The expiration date
19 shall be one year after the examination date unless a medical or refractive
20 problem affecting vision requires an earlier expiration date.

1 ~~(3) a licensee to perform indocyanine green angiography, removal of~~
2 ~~benign skin lesions involving subcutaneous injections, sub-tenons injections,~~
3 ~~retrobulbar injections, intraocular injections, ketamine (IM) for an infant's~~
4 ~~examination under anesthesia, management of skin and conjunctival~~
5 ~~neoplasms, and botox injections.~~

6 (a)(1) A licensee who employs an oral therapeutic pharmaceutical agent
7 that might prove to have significant systemic adverse reactions or systemic
8 side effects shall, in a manner consistent with Vermont law, ascertain the risk
9 of systemic side effects through either a case history or by communicating with
10 the patient's primary care provider.

11 (2) The licensee shall also communicate with the patient's primary care
12 provider, or with a physician skilled in diseases of the eye, when, in the
13 professional judgment of the licensee, it is medically appropriate.

14 (3) Any communication shall be noted in the patient's permanent record.
15 The methodology of communication shall be determined by the licensee.

16 (b)(1) If a glaucoma patient does not respond to up to three topically
17 administered pharmaceutical agents within a reasonable time, the licensee shall
18 refer the patient to a licensed ophthalmologist.

19 (2) A glaucoma patient shall not be treated by an optometrist with more
20 than three topically administered agents at any given time.

1 § 1728c. ~~USE OF ORAL THERAPEUTIC PHARMACEUTICAL AGENT;~~
2 ~~COMMUNICATION WITH PRIMARY CARE PROVIDER~~

3 ~~A licensee who employs an oral therapeutic pharmaceutical agent that might~~
4 ~~prove to have significant systemic adverse reactions or systemic side effects~~
5 ~~shall, in a manner consistent with Vermont law, ascertain the risk of systemic~~
6 ~~side effects through either a case history or by communicating with the~~
7 ~~patient's primary care provider. The licensee shall also communicate with the~~
8 ~~patient's primary care provider, or with a physician skilled in diseases of the~~
9 ~~eye, when in the professional judgment of the licensee, it is medically~~
10 ~~appropriate. The communication shall be noted in the patient's permanent~~
11 ~~record. The methodology of communication shall be determined by the~~
12 ~~licensee. [Repealed.]~~

13 § 1728d. ~~DURATION OF GLAUCOMA TREATMENT WITHOUT~~
14 ~~REFERRAL~~

15 ~~(a) If a glaucoma patient does not respond to up to three topically~~
16 ~~administered pharmaceutical agents within a reasonable time, the licensee shall~~
17 ~~refer the patient to a licensed ophthalmologist. No glaucoma patient shall be~~
18 ~~treated by an optometrist with more than three topically administered agents at~~
19 ~~any given time.~~

20 ~~(b) If an oral medication is required to obtain an adequate clinical response,~~
21 ~~the licensee shall consult with a licensed ophthalmologist as soon as clinically~~

1 ~~prudent following initiation of the oral medication. This section shall not~~
2 ~~require that the licensee transfer care of the patient to the consulting~~
3 ~~ophthalmologist, but does require that the patient be seen by the consulting~~
4 ~~ophthalmologist. [Repealed.]~~

5 § 1729. ~~ENDORSEMENTS AND REQUIREMENTS~~

6 ~~(a) Upon application, the board shall certify eligible licensees to use and~~
7 ~~prescribe therapeutic drugs and to perform those procedures authorized by~~
8 ~~subdivision 1728(a)(2) of this title, if the applicant meets the requirements of~~
9 ~~section 1715 of this chapter for licensure by examination or meets the~~
10 ~~requirements of section 1716 of this chapter for licensure by endorsement, and~~
11 ~~is authorized under the license of another jurisdiction to use therapeutic~~
12 ~~pharmaceutical agents.~~

13 ~~(b) A licensee certified under this section shall affix current documentation~~
14 ~~of certification to the license in the manner provided by the board.~~

15 ~~(c) A licensee who is certified to use therapeutic pharmaceutical agents~~
16 ~~shall demonstrate proof of current cardiopulmonary resuscitation certification~~
17 ~~as a condition of initial certification and of license renewal. Acceptable courses~~
18 ~~shall include:~~

19 ~~(1) courses in external cardiopulmonary resuscitation which are~~
20 ~~approved by the Vermont Heart Association or the American Red Cross; and~~

1 ~~(2) courses which include a review of diseases or conditions which~~
2 ~~might produce emergencies such as anaphylactic shock, diabetes, heart~~
3 ~~condition, or epilepsy.~~

4 ~~(d) A licensee certified to use therapeutic pharmaceutical agents shall, as~~
5 ~~part of required continuing education, receive not less than 50 percent of his or~~
6 ~~her continuing education in the use of pharmaceuticals, including treating~~
7 ~~possible complications arising from their use, and the treatment of glaucoma.~~

8 ~~[Repealed.]~~

9 § 1729a. ~~PREREQUISITES TO TREATING GLAUCOMA~~

10 ~~A licensee who is already certified to use therapeutic pharmaceutical agents~~
11 ~~and who graduated from a school of optometry prior to 2003 and is not~~
12 ~~certified in another jurisdiction having substantially similar prerequisites to~~
13 ~~treating glaucoma shall, in addition to being certified to use therapeutic~~
14 ~~pharmaceutical agents, provide to the board verification of successful~~
15 ~~completion of an 18-hour course and examination offered by the State~~
16 ~~University of New York State College of Optometry or similar accredited~~
17 ~~institution. Successful completion shall include passing an examination~~
18 ~~substantially equivalent to the relevant portions on glaucoma and orals of the~~
19 ~~examination given to current graduates of optometry school and shall require~~
20 ~~the same passing grade. The course shall cover the diagnosis and treatment of~~
21 ~~glaucoma and the use of oral medications and shall be taught by both~~

1 ~~optometrists and ophthalmologists. In addition, the licensee shall collaborate~~
2 ~~with an optometrist who has been licensed to treat glaucoma for at least two~~
3 ~~years or an ophthalmologist regarding his or her current glaucoma patients for~~
4 ~~six months and at least five new glaucoma patients before treating glaucoma~~
5 ~~patients independently. These five new glaucoma patients shall be seen at least~~
6 ~~once by the collaborating glaucoma licensed optometrist or ophthalmologist.~~

7 [Repealed.]

8 Sec. 13. OFFICE OF PROFESSIONAL REGULATION; STUDY OF
9 OPTOMETRIC ADVANCED PROCEDURES

10 (a) The Office of Professional Regulation shall conduct a study to evaluate
11 the safety and public health needs of enlarging the scope of practice of
12 optometrists to include advanced procedures. In conducting this study, the
13 Office shall consult with relevant stakeholders, including the Vermont Board
14 of Optometry, the Vermont Optometric Association, the Vermont Board of
15 Medical Practice, the Vermont Department of Health, and the Vermont
16 Ophthalmological Society.

17 (b) The study shall evaluate, among other considerations, approaches to
18 advanced procedures in jurisdictions outside Vermont, patient need for access
19 to additional practitioners, effects on patient access to care, effects on patient
20 safety, costs to the health care system, and the existing education and training
21 for optometrists, including the degree to which it addresses training in

1 advanced procedures. The Office shall inquire into the specific clinical
2 training for both optometrists and ophthalmologists for specific procedures.

3 (c) On or before January 15, 2020, the Office shall report its findings,
4 including any recommendations for legislative action, to the House
5 Committees on Government Operations and on Health Care and to the Senate
6 Committees on Government Operations and on Health and Welfare.

7 * * * Pharmacy * * *

8 Sec. 14. 26 V.S.A. chapter 36 is amended to read:

9 CHAPTER 36. PHARMACY

10 Subchapter 1. General Provisions

11 * * *

12 § 2022. DEFINITIONS

13 As used in this chapter:

14 * * *

15 (7) “Drug outlet” means all pharmacies, wholesalers, manufacturers, and
16 other entities that are engaged in the manufacture, dispensing, delivery, or
17 distribution of prescription drugs.

18 * * *

19 (11)(A) “Manufacturing” means the production, preparation,
20 propagation, conversion, or processing of a drug or device, either directly or

1 indirectly, by extraction from substances of natural origin or independently by
2 means of chemical or biological synthesis.

3 (B) “Manufacturing” includes the packaging or repackaging of a drug
4 or device ~~or~~; the labeling or relabeling of the container of a drug or device for
5 resale by a pharmacy, practitioner, or other person; and virtual manufacturing
6 by an entity that sells its own prescription drug or device without physically
7 possessing the product.

8 * * *

9 (19)(A) “Wholesale distributor” means any person who is engaged in
10 wholesale distribution of prescription drugs, ~~but~~ including virtual distribution
11 by an entity that sells a prescription drug or device without physically
12 possessing the product.

13 (B) “Wholesale distributor” does not include any for-hire carrier or
14 person hired solely to transport prescription drugs.

15 * * *

16 Subchapter 2. Board of Pharmacy

17 § 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION

18 (a)(1) There is hereby created the Board of Pharmacy to enforce the
19 provisions of this chapter.

20 (2) The Board shall consist of ~~seven~~ eight members, five of whom shall
21 be pharmacists licensed under this chapter with five years of experience in the

1 practice of pharmacy in this State. One member shall be a pharmacy
2 technician registered under this chapter. Two members shall be members of
3 the public having no financial interest in the practice of pharmacy.

4 (b) Members of the Board shall be appointed by the Governor pursuant to
5 3 V.S.A. §§ 129b and 2004.

6 § 2032. POWERS; DUTIES; LIMITATIONS

7 (a) The Board shall adopt rules necessary for the performance of its duties,
8 including:

9 (1) scope of the practice of pharmacy;

10 (2) qualifications for obtaining licensure;

11 (3) explanations of appeal and other rights given to licensees, applicants,
12 and the public; ~~and~~

13 (4) rules regulating pharmacy technicians; and

14 (5) provisions for the inspection of any regulated entity or commercial
15 location where legend drugs are manufactured or kept.

16 * * *

17 (c) The Board of Pharmacy shall also have the following responsibilities in
18 regard to medications, drugs, legend devices, and other materials used in this
19 State in the diagnosis, mitigation, and treatment or prevention of injury, illness,
20 and disease:

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Subchapter 3. Licensing

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

~~(a) Notwithstanding any other provision of law, a registered pharmacy technician may perform packaging or other nondiscretionary tasks only while assisting and under the supervision and control of a pharmacist.~~

~~(b) This section does not authorize a pharmacy technician to perform packaging or other nondiscretionary tasks without a pharmacist on duty, and without being under the supervision and control of a pharmacist.~~

~~(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.~~

~~(d) The Board may adopt rules to specify tasks that a pharmacy technician may perform under the supervision and control of a pharmacist pursuant to subsection (a) of this section. A pharmacy or pharmacist that employs a pharmacy technician to perform tasks specified in subsection (a) shall do so in conformity with the rules adopted by the Board pursuant to this section.~~

~~(e) [Repealed.]~~

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

1 * * *

2 Subchapter 6. Wholesale Distributors and Manufacturers

3 § 2067. WHOLESALE ~~DISTRIBUTOR~~ DISTRIBUTORS AND
4 MANUFACTURERS; LICENSURE REQUIRED

5 (a) A person who is not licensed under this subchapter shall not engage in
6 wholesale distribution or manufacturing in this State.

7 * * *

8 (c) The Board may require a separate license for each facility directly or
9 indirectly owned or operated by the same business entity ~~within this State~~, or
10 for a parent entity with divisions, subsidiaries, or affiliate companies ~~within~~
11 ~~this State~~ when operations are conducted at more than one location and there
12 exists joint ownership and control among all the entities.

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

17 § 2068. REQUIREMENTS; APPLICANTS; LICENSES

18 An applicant shall satisfy the ~~board~~ Board that it has, and licensees shall
19 maintain, the following:

- 20 (1) Acceptable storage and handling conditions plus facilities standards.

1 reciprocity for out-of-state ~~wholesale drug distributors~~ entities inspected by a
2 third party organization recognized by the ~~board~~ Board or inspected and
3 licensed by a ~~state~~ State licensing authority with legal standards for licensure
4 that are comparable to the standards adopted by the ~~board~~ Board pursuant to
5 this subdivision (10), protection of ~~a wholesale drug distributor's~~ proprietary
6 information, and any other requirements consistent with the purposes of this
7 subdivision (10).

8 (B) The ~~board~~ Board rules may recognize third party accreditation in
9 satisfaction of some or all of the requirements of this subdivision (10).

10 * * *

11 § 2076. INSPECTION POWERS; ACCESS TO WHOLESAL
12 DISTRIBUTOR AND MANUFACTURER RECORDS

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

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

1 ~~established by the Director of the Office of Professional Regulation and shall~~
2 ~~not be assessed renewal fees for the years during which the license was~~
3 ~~expired.~~

4 ~~(2) Reinstatement shall not take place until the applicant completes the~~
5 ~~continuing education required for the previous renewal period.~~

6 ~~(c)(1) If a broker or salesperson's license has expired for greater than five~~
7 ~~consecutive years, the broker or salesperson shall apply for reinstatement in~~
8 ~~accordance with the initial licensure requirements as set forth in section 2292~~
9 ~~of this chapter, including a course of instruction and examination.~~

10 ~~(2) The Commission may waive the reinstatement requirements based~~
11 ~~upon licensed practice in another state.~~

12 ~~(d) The Commission may waive or postpone compliance with the~~
13 ~~instructional requirements of this section in cases of extreme hardship on the~~
14 ~~part of the licensee. No licensee, however, may receive a postponement or~~
15 ~~waiver for two successive two-year periods of licensure. The Commission may~~
16 ~~accept fewer hours of continuing education instruction for renewal of a license~~
17 ~~on a prorated basis following an initial licensing period of less than two years.~~

18 ~~(e) [Repealed.]~~

19 * * *

1 § 2296. UNPROFESSIONAL CONDUCT

2 ~~Unprofessional conduct means the following conduct and~~ In addition to the
3 conduct set forth in 3 V.S.A. § 129a, the following conduct by those regulated
4 under this chapter constitutes unprofessional conduct:

5 (1) ~~makes a material misstatement in the application for his or her~~
6 ~~license;~~

7 ~~(2) uses dishonest or misleading advertising;~~

8 ~~(3) demonstrates incompetency to act as a real estate broker or~~
9 ~~salesperson;~~

10 ~~(4) is found by the Commission to be guilty of fraud or fraudulent~~
11 ~~practices; or is convicted for violating this chapter; or is convicted of forgery,~~
12 ~~embezzlement, obtaining money under false pretenses, or conspiring to~~
13 ~~defraud;~~

14 ~~(5) commingles commingling money or other property to which the~~
15 ~~licensee's clients or other persons are entitled with the licensee's own, except~~
16 ~~to the extent nominal sums of the licensee's funds may be required to maintain~~
17 ~~an open trust account;~~

18 ~~(6)(2) fails failing to inform clients, establish trust and escrow accounts,~~
19 ~~maintain records, and otherwise act in accordance with the provisions of~~
20 ~~section 2214 of this chapter with respect to all monies received by the licensee~~

1 as a real estate broker, or as escrow agent, or as the temporary custodian of the
2 funds of others, in a real estate transaction;

3 ~~(7)(3)~~ fails failing promptly to segregate any properties received that are
4 to be held for the benefit of others;

5 ~~(8)~~ is found by the Commission to have engaged in any act or conduct,
6 whether of the same or different character as that described in this section, that
7 contributes to or demonstrates incompetency or dishonest fraudulent dealings;

8 ~~(9)(4)~~ fails failing to fully disclose to a buyer all material facts within
9 the licensee's knowledge concerning the property being sold;

10 ~~(10)(5)~~ fails failing to fully disclose to a buyer the existence of an
11 agency relationship between the licensee and the seller.

12 * * *

13 * * * Opticians * * *

14 Sec. 17. 26 V.S.A. chapter 47 is amended to read:

15 CHAPTER 47. OPTICIANS

16 * * *

17 Subchapter 2. Administration

18 § 2661. POWERS AND DUTIES OF THE DIRECTOR; ~~DUTIES~~

19 (a) The ~~director~~ Director shall:

20 (1) provide general information to applicants for licensure as opticians;

1 (2) explain appeal procedures to opticians and applicants and complaint
2 procedures to the public;

3 (3) administer fees established by law;

4 (4) receive applications for licensure, issue licenses, to applicants
5 qualified under this chapter, deny or renew licenses and issue, revoke, suspend,
6 condition, and reinstate licenses as ordered by an administrative law officer;

7 (5) refer ~~complaints and~~ disciplinary matters ~~to~~ for adjudication by an
8 administrative law officer;

9 (6) conduct or specify examinations and pass upon the qualifications of
10 applicants for reciprocal registration;

11 (7) conduct hearings as necessary for the issuance, renewal, or discipline
12 of a license; and

13 (8) establish by rule standards of education required of applicants, as
14 well as minimum standards for any school presenting a course for present or
15 future opticians.

16 (b) The ~~director~~ Director may, after consultation with the advisor
17 appointees, adopt rules necessary to perform the director's duties under this
18 chapter, including rules governing apprenticeship and continuing education.
19 Rules adopted under this section shall not prohibit lawful advertising, the
20 display of ophthalmic materials or merchandise, limit the place or location

1 where opticians may practice, nor be designed to limit the number of opticians
2 in the State.

3 * * *

4 ~~§ 2665. POWERS AND DUTIES OF THE DIRECTOR~~

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

6 ~~(1) adopt only those rules necessary for the full and efficient~~
7 ~~performance of its duties;~~

8 ~~(2) conduct examinations and pass upon the qualifications of applicants~~
9 ~~for reciprocal registration;~~

10 ~~(3) establish standards of education required of applicants for licensing~~
11 ~~and establish, by appropriate rules, the minimum standards for any school~~
12 ~~presenting a course for present or future opticians;~~

13 ~~(4) conduct any necessary hearings in connection with the issuance,~~
14 ~~renewal, suspension, or revocation of a license;~~

15 ~~(5) [Repealed.]~~

16 ~~(6) adopt rules establishing continuing education requirements and~~
17 ~~approve continuing education programs to assist a licensee in meeting these~~
18 ~~requirements.~~

1 (1) Education. Has completed:

2 ~~(A) Has obtained a high school education or its equivalent and has~~
3 ~~completed~~ at least a two-year course of study in a school of ophthalmic
4 dispensing approved by the ~~board~~ Director or a school ~~which~~ that is a
5 candidate for accreditation by an accreditation agency approved by the United
6 States Department of Education and by the ~~director~~ Director; ~~or~~

7 ~~(2)(B) Has completed three~~ at least two years of practical training and
8 experience, approved by the ~~director~~ Director, under the supervision of a
9 licensed optician, ophthalmologist, or optometrist; or

10 (C) the National Academy of Opticianry Ophthalmic Career
11 Progression Program, including at least one year of practical training and
12 experience, approved by the Director, under the supervision of a licensed
13 optician, ophthalmologist, or optometrist; and

14 (2) Examination. Has passed an examination recognized by the Director
15 that shall include assessment of competency in ophthalmic materials;
16 laboratory, practical, and physiological optics; prescription interpretation;
17 dispensing preparation; adjustment of lenses, spectacles, eyeglasses, prisms,
18 tinted lenses, and appurtenances; the use of lensometers or equivalent
19 instruments; adjusting instruments; and pupillary and facial measurements.

1 § 2673. ~~EXAMINATION; LICENSES~~

2 ~~(a) Examinations for licenses shall be conducted at least once each year and~~
3 ~~shall be devised in form and substance to evaluate fairly the applicant's~~
4 ~~qualifications to practice as a licensed optician. The examination shall include,~~
5 ~~but not be limited to, ophthalmic materials, laboratory, practical and~~
6 ~~physiological optics, prescription interpretation, dispensing preparation,~~
7 ~~adjustment of lenses, spectacles, eyeglasses, prisms, tinted lenses, and~~
8 ~~appurtenances, the use of lensometers or equivalent instruments, adjusting~~
9 ~~instruments, and pupillary and facial measurements.~~

10 ~~(b) Any applicant passing the examination and meeting the requirements~~
11 ~~established by the director shall be issued a license under this chapter.~~

12 [Repealed.]

13 * * *

14 * * * Radiology * * *

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

16 CHAPTER 51. RADIOLOGY

17 Subchapter 1. General Provisions

18 § 2801. DEFINITIONS

19 As used in this chapter:

20 (1) ~~“Board”~~ “Director” means the ~~board of radiologic technology~~
21 Director of the Office of Professional Regulation.

1 (2) “Practice of radiologic technology” means the practice of:

2 (A) radiography; ~~or~~

3 (B) nuclear medicine technology; or

4 (C) radiation therapy.

5 (3) “Practice of radiography” means the direct application of ionizing
6 radiation to human beings.

7 (4) “Practice of nuclear medicine technology” means the act of giving a
8 radioactive substance to a human being or the act of performing associated
9 imaging procedures, or both.

10 (5) “Practice of radiation therapy” means the direct application of
11 ionizing radiation to human beings for therapeutic purposes or the act of
12 performing associated imaging procedures, or both.

13 (6) “Licensed practitioner” means a person licensed under this title to
14 practice medicine, osteopathy, advanced practice registered nursing, dentistry,
15 podiatry, naturopathic medicine, or chiropractic.

16 (7) “Financial interest” means being:

17 (A) a licensed practitioner of radiologic technology; ~~or~~

18 (B) a person who deals in goods and services ~~which~~ that are uniquely
19 related to the practice of radiologic technology; or

20 (C) a person who has invested anything of value in a business ~~which~~
21 that provides radiologic technology services.

1 (8) “Unauthorized practice” means conduct prohibited by section 2802
2 of this ~~title~~ chapter and not exempted by section 2803 of this ~~title~~ chapter.

3 (9) “Direct ~~personal~~ supervision” means that the person being
4 supervised remains in the physical presence of the supervisor at all times.

5 (10) “General supervision” means that the supervisor is readily available
6 for consultation or intervention on the premises where radiologic technology
7 services are being provided.

8 (11) “ARRT” means the American Registry of Radiologic
9 Technologists.

10 (12) “NMTCB” means the Nuclear Medicine Technologist Certification
11 Board.

12 (13) “Office” means the Office of Professional Regulation.

13 § 2802. PROHIBITIONS

14 (a) [Repealed.]

15 (b) ~~No~~ A person shall not practice radiologic technology unless he or she is
16 licensed in accordance with the provisions of this chapter.

17 (c) ~~No~~ A person shall not practice radiography without a license for
18 radiography ~~from the board~~ unless exempt under section 2803 of this ~~title~~
19 chapter.

20 (d) [Repealed.]

1 (e) ~~No~~ A person shall not practice nuclear medicine technology without a
2 license for that purpose ~~from the board~~ unless exempt under section 2803 of
3 this ~~title~~ chapter.

4 (f) ~~No~~ A person shall not practice radiation therapy technology without a
5 license for that purpose ~~from the board~~ unless exempt under section 2803 of
6 this ~~title~~ chapter.

7 § 2803. EXEMPTIONS

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

11 (1) Licensed practitioners acting within the scope of practice for their
12 licensed field, provided that their practice acts and rules adopted thereunder
13 ~~make provisions for~~ have been expressly found by the Director, in consultation
14 with advisors appointed under this chapter, to match or surpass the training in
15 radiation safety and proper radiation practices ~~determined in consultation with~~
16 ~~the Board~~ required by this chapter and rules adopted under this chapter.

17 * * *

18 (5) Any of the following when operating dental radiographic equipment
19 to conduct intraoral radiographic examinations under the general supervision
20 of a licensed practitioner; and any of the following when operating dental
21 radiographic equipment to conduct specialized radiographic examinations,

1 including tomographic, cephalometric, or temporomandibular joint
2 examinations, if the person has completed a course in radiography approved by
3 the Board of Dental Examiners and practices under the general supervision of a
4 licensed practitioner:

5 * * *

6 (D) a student of dental therapy, dental hygiene, or dental assisting as
7 part of the training program when ~~directly supervised by~~ under the direct
8 supervision of a licensed dentist, licensed dental therapist, licensed dental
9 hygienist, or registered dental assistant.

10 * * *

11 (7) Researchers operating bone densitometry equipment for body
12 composition upon successful completion of courses on body composition and
13 radiation safety approved by the ~~Board~~ Director. The ~~Board~~ Director shall not
14 require this coursework to exceed eight hours. The ~~Board~~ Director may
15 consider other exemptions from licensure for bona fide research projects
16 subject to course and examination requirements as deemed necessary for
17 public protection.

18 § 2804. COMPETENCY REQUIREMENT OF CERTAIN LICENSED
19 PRACTITIONERS

20 (a) Unless the requirements of subdivision 2803(1) of this chapter have
21 been satisfied, a ~~physician, as defined in chapter 23 of this title; podiatrist, as~~

1 ~~defined in chapter 7 of this title; chiropractic physician, as defined in chapter~~
2 ~~10 of this title; osteopathic physician, as defined in chapter 33 of this title; or~~
3 ~~naturopathic physician, as defined in chapter 81 of this title, licensed~~
4 practitioner shall not apply ionizing radiation to human beings without first
5 having satisfied the ~~Board~~ Director of his or her competency to do so.

6 (b) The ~~Board~~ Director shall:

7 (1) consult with the appropriate licensing boards concerning suitable
8 performance standards; and

9 (2) by rule, provide for periodic recertification of competency.

10 (c) A person subject to the provisions of this section shall be subject to the
11 fees established under subdivisions 2814(4) and (5) of this chapter.

12 (d) This section does not apply to radiologists who are certified or eligible
13 for certification by the American Board of Radiology, nuclear cardiologists
14 who are certified or eligible for certification by the Certification Board of
15 Nuclear Cardiology, or interventional cardiologists and electrophysiologists
16 who are certified or eligible for certification by the American Board of Internal
17 Medicine.

18 § 2805. PENALTY AND ENFORCEMENT

19 A person found guilty of violating section 2802 or 2804 of this ~~title~~ chapter
20 shall be subject to the penalties provided in 3 V.S.A. § 127(~~e~~).

1 Subchapter 2. ~~Board of Radiologic Technology~~ Administration

2 § 2811. ~~BOARD~~ REGULATION OF RADIOLOGIC TECHNOLOGY;

3 DIRECTOR; ADVISOR APPOINTEES

4 (a)(1) ~~A board of radiologic technology is created, consisting of six~~
5 ~~members. The board shall be attached to the office of professional regulation~~
6 The Director shall administer the provisions of this chapter.

7 (2)(A) The Secretary of State shall appoint six persons of suitable
8 qualifications in accordance with this section to advise the Director in matters
9 concerning radiologic technology, radiologic safety, and the optimal
10 administration of this chapter.

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

14 (3) The Director shall consult the appointed advisors prior to exercising
15 interpretive discretion, adopting or amending rules, and determining any
16 substantial regulatory question presented in the course of administering this
17 chapter.

18 (b) One ~~member of the board~~ advisor shall be a member of the public who
19 has no financial interest in radiologic technology other than as a consumer or
20 possible consumer of its services. The public member shall have no financial
21 interest personally or through a spouse.

1 (c) One ~~member of the board~~ advisor shall be a radiologist certified by the
2 American Board of Radiology.

3 (d) Three ~~members of the board~~ advisors shall be licensed under this
4 chapter, one representing each of the three following primary modalities:
5 radiography; nuclear medicine technology; and radiation therapy.

6 (e) One ~~member of the board~~ advisor shall be a representative from the
7 radiological health program of the Vermont ~~department of health~~ Department
8 of Health.

9 (f) ~~Board members shall be appointed by the governor.~~ [Repealed.]

10 § 2812. DIRECTOR; POWERS AND DUTIES

11 (a) The ~~Board~~ Director shall adopt rules necessary for the ~~performance~~
12 effective administration of its duties this chapter, including:

13 (1) a definition of the practice of radiologic technology, interpreting
14 section 2801 of this ~~title~~ chapter;

15 (2) qualifications for obtaining licensure, interpreting sections 2821a
16 and 2821b of this chapter;

17 (3) explanations of appeal and other significant rights given to
18 applicants and the public;

19 (4) procedures for disciplinary and reinstatement cases;

20 (5) [Repealed.]

1 (6) procedures for mandatory reporting of unsafe radiologic conditions
2 or practices;

3 (7) procedures for continued competency evaluation;

4 (8) procedures for radiation safety;

5 (9) procedures for competency standards for license applications and
6 renewals.

7 (b) The ~~Board~~ Director shall:

8 (1) [Repealed.]

9 (2) ~~use the administrative and legal services provided by the Office of~~
10 ~~Professional Regulation under 3 V.S.A. chapter 5; [Repealed.]~~

11 (3) investigate suspected unprofessional conduct;

12 (4) periodically determine whether a sufficient supply of good quality
13 radiologic technology services is available in Vermont at a competitive and
14 reasonable price and take suitable action, within the scope of ~~its~~ the Office's
15 powers, to solve or bring public and professional attention to any problem that
16 it finds in this area; and

17 (5) as a condition of renewal require that a licensee establish that he or
18 she has completed a minimum of 24 hours of continuing education ~~as approved~~
19 ~~by the Board, the specific requirements of which may be specified by rule.~~

1 (c) The ~~Board~~ Director may:

2 (1) Refer cases of apparent improper radiologic technology practice to
3 any occupational board with authority over the person concerned.

4 (2) Investigate suspected cases of unauthorized practice of radiologic
5 technology, and refer any such case to the Office's State prosecuting attorney,
6 the Attorney General, or a State's Attorney for possible prosecution and
7 injunctive relief.

8 * * *

9 (8)(A) Conduct a competency evaluation where radiographic services
10 are performed by licensees and licensed practitioners required to demonstrate
11 competency under section 2804 of this ~~title~~ chapter to ensure that optimum
12 radiologic technology practices are used to minimize patient and occupational
13 radiation dose. ~~The fee required under section 2814 of this title shall not be~~
14 ~~assessed more than once in any two-year period against any licensed~~
15 ~~practitioner evaluated under this subdivision.~~

16 (B) The Director of ~~the Office of Professional Regulation~~ may
17 contract with the Department of Health or others to perform evaluations under
18 this ~~subsection~~ subdivision (8).

1 practice in one of the following three primary modalities to any person who in
2 addition to the other requirements of this section, has reached the age of
3 majority and has completed preliminary education equivalent to at least
4 four years of high school:

5 (1) Radiography. The ~~board~~ Director shall issue a radiography license
6 to any person who, in addition to meeting the general requirements of this
7 section:

8 * * *

9 (2) Nuclear medicine technology. The ~~board~~ Director shall issue a
10 nuclear medicine technology license to any person who, in addition to meeting
11 the general requirements of this section:

12 * * *

13 (3) Radiation therapy. The ~~board~~ Director shall issue a radiation therapy
14 license to any person who, in addition to meeting the general requirements of
15 this section:

16 * * *

17 § 2821b. LICENSE FOR POSTPRIMARY MODALITIES

18 (a) The ~~Board recognizes and follows~~ Director shall recognize and follow
19 the ARRT and NMTCB postprimary certification process ~~for~~ in the following
20 postprimary practice categories: mammography, computed tomography (CT),

1 cardiac-interventional radiography, vascular-interventional radiography, and
2 positron emission tomography (PET).

3 * * *

4 § 2822. ~~PROCEDURE FOR DENIAL OF LICENSE~~

5 ~~When the board intends to deny an application for license, it shall send the~~
6 ~~applicant written notice of its decision by certified mail. The notice shall~~
7 ~~include a statement of the reasons for the action. Within 30 days of the date~~
8 ~~that an applicant receives such notice, the applicant may file a petition with the~~
9 ~~board for review of its preliminary decision. At the hearing, the burden shall~~
10 ~~be on the applicant to show that a license should be issued. After the hearing,~~
11 ~~the board shall affirm or reverse its preliminary denial. [Repealed.]~~

12 § 2823. ~~RENEWAL AND PROCEDURE FOR NONRENEWAL~~

13 ~~(a) Each radiographer, nuclear medicine technologist, and radiation~~
14 ~~therapist licensed to practice by the board shall apply biennially for the~~
15 ~~renewal of a license. One month prior to the renewal date, the office of~~
16 ~~professional regulation shall send to each of those licensees a license renewal~~
17 ~~application form and a notice of the date on which the existing license will~~
18 ~~expire. The licensee shall file the application for license renewal and pay a~~
19 ~~renewal fee. In order to be eligible for renewal, an applicant shall document~~
20 ~~completion of no fewer than 24 hours of board-approved continuing education.~~

1 ~~Required accumulation of continuing education hours shall begin on the first~~
2 ~~day of the first full biennial licensing period following initial licensure.~~

3 ~~(b) A person who practices radiography, nuclear medicine technology, or~~
4 ~~radiation therapy and who fails to renew a license or registration or fails to pay~~
5 ~~the fees required by this chapter shall be an illegal practitioner and shall forfeit~~
6 ~~the right to practice until reinstated by the board.~~

7 ~~(c) The board shall adopt rules setting forth qualifications for reinstating~~
8 ~~lapsed licenses. [Repealed.]~~

9 * * *

10 § 2825a. LICENSURE BY ENDORSEMENT

11 The ~~board~~ Director may grant a license to an applicant who possesses a
12 license in good standing in another state and possesses the applicable ARRT or
13 NMTCB primary and postprimary certifications as set forth in sections 2821a
14 and 2821b of this subchapter, respectively.

15 ~~Subchapter 4. Discipline [Repealed.]~~

16 § 2831. UNPROFESSIONAL CONDUCT

17 ~~(a) Unprofessional conduct is the conduct prohibited by this section and by~~
18 ~~3 V.S.A. § 129a, whether or not taken by a license holder.~~

19 ~~(b) Conduct by a radiologic technologist which evidences moral unfitness~~
20 ~~to practice the profession constitutes unprofessional conduct. When that~~

1 ~~conduct is by an applicant or person who later becomes an applicant, it may~~
2 ~~constitute grounds for denial of a license.~~

3 ~~(c) Unprofessional conduct includes the following actions by a licensee:~~

4 ~~(1) practicing or offering to practice beyond the scope permitted by law;~~

5 ~~(2) accepting and performing responsibilities which the licensee knows~~
6 ~~or has reason to know that he or she is not competent to perform;~~

7 ~~(3) making any material misrepresentation in the practice of the~~
8 ~~profession, whether by commission or omission;~~

9 ~~(4) agreeing with any other person or organization, or subscribing to any~~
10 ~~code of ethics or organizational bylaws, when the intent or primary effect of~~
11 ~~that agreement, code, or bylaw is to restrict or limit the flow of information~~
12 ~~concerning alleged or suspected unprofessional conduct to the board.~~

13 [Repealed.]

14 § 2832. ~~DISCIPLINE OF LICENSEES~~

15 ~~(a) The board shall accept oral and written complaints from any member of~~
16 ~~the public, any licensee, any state or federal agency, or the attorney general.~~

17 ~~The board may initiate disciplinary action in any complaint against a licensee~~
18 ~~and may act without having received a complaint.~~

19 ~~(b) The burden of proof shall be on the state to show by a preponderance of~~
20 ~~the evidence that the licensee has engaged in unprofessional conduct.~~

1 ~~(c) After hearing and upon a finding of unprofessional conduct, the board~~
2 ~~may:~~

3 ~~(1) revoke a license;~~

4 ~~(2) suspend a license; or~~

5 ~~(3) issue a warning to a licensee.~~

6 ~~(d) Before or after hearing, the board may approve a negotiated agreement~~
7 ~~between the parties when it is in the best interest of the public health, safety, or~~
8 ~~welfare to do so. Such an agreement may include, without limitation, any of~~
9 ~~the following conditions or restrictions which may be in addition to or in lieu~~
10 ~~of suspension:~~

11 ~~(1) a requirement that a licensee submit to care or counseling;~~

12 ~~(2) a restriction that a licensee practice only under supervision of a~~
13 ~~named person or a person with specified credentials;~~

14 ~~(3) a requirement that a licensee participate in continuing education in~~
15 ~~order to overcome specified practical deficiencies;~~

16 ~~(4) a requirement that the scope of practice permitted be restricted to a~~
17 ~~specified extent. Such an agreement may be modified by the parties after~~
18 ~~obtaining the approval of the board.~~

19 ~~(e) An interested party may petition the board for modification of the terms~~
20 ~~of an order under this section.~~

1 § 3312. PROHIBITIONS; PENALTY; EXEMPTION

2 (a) Unless licensed in accordance with the provisions of this chapter, ~~no a~~
3 person ~~may~~ shall not:

4 (1) ~~Perform~~ perform an appraisal in a federally related transaction when
5 a licensed or certified appraiser is required by the Act; or

6 (2) ~~Use~~ use in connection with his or her name any letters, words, or
7 insignia indicating that he or she is a ~~state~~ State certified or licensed real estate
8 appraiser.

9 (b) An individual who violates a provision of subsection (a) of this section
10 shall be subject to the penalties provided in 3 V.S.A. § 127(~~e~~).

11 (c) A registered appraisal management company shall not be required to be
12 licensed in order to acquire and provide finished appraisals to third parties.

13 Subchapter 2. Administration

14 § 3313. ~~BOARD~~ REGULATION OF REAL ESTATE APPRAISERS;
15 DIRECTOR; ADVISOR APPOINTEES

16 (a)(1) ~~A board of real estate appraisers is established. The board shall~~
17 ~~consist of six members appointed by the governor pursuant to 3 V.S.A. §§~~
18 ~~129b and 2004~~ The Director shall administer the provisions of this chapter.

19 (2)(A) The Secretary of State shall appoint six persons of suitable
20 qualifications in accordance with this section to advise the Director in matters
21 concerning real estate appraisal.

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

4 (3) The Director shall consult the appointed advisors prior to exercising
5 interpretive discretion, adopting or amending rules, and determining any
6 substantial regulatory question presented in the course of administering this
7 chapter.

8 (b) Three ~~members~~ advisors shall be real estate appraisers licensed under
9 this chapter who have been actively engaged in the full-time practice of real
10 estate appraising for five years preceding appointment and have been
11 practicing in Vermont for the two-year period immediately preceding
12 appointment.

13 (c) Two ~~members~~ advisors shall be public members who shall have no
14 direct financial interest personally or through a spouse, parent, child, brother,
15 or sister in real estate appraising.

16 (d) One ~~member~~ advisor shall be a public member actively engaged in the
17 business of banking, including lending for the purpose of buying real property,
18 or shall be a person who is a consumer of appraisal services in the regular
19 course of his or her business.

1 § 3314. ~~BOARD~~ DIRECTOR; POWERS AND DUTIES

2 (a) The ~~Board~~ Director shall administer the provisions of this chapter in a
3 manner that conforms in all respects with the requirements of the Act.

4 (b) In addition to ~~it's~~ the Director's other powers and duties under this
5 chapter, the ~~Board~~ Director shall:

6 (1) Receive and review applications.

7 (2) Collect the registry fee as required by the Act and transmit that fee to
8 the ASC. The registry fee shall be in addition to State licensing and
9 registration fees.

10 (3) Annually publish a roster of all licensees and transmit the roster to
11 the ASC as required by the Act.

12 (4) Register appraisal management companies.

13 (5) ~~The Board may make~~ Make inquiries ~~it~~ he or she deems necessary
14 into the character, integrity, and reputation of the applicant.

15 (6) Perform other functions and duties as may be necessary to carry out
16 the provisions of this chapter and to comply with the requirements of the Act,
17 including by adopting rules defining and regulating appraisal management
18 companies in a manner consistent with the Act.

19 § 3315. RULES

20 (a) The ~~Board~~ Director may adopt rules necessary to implement the
21 provisions of this chapter.

1 (b) The ~~Board~~ Director shall adopt rules relating to procedures for
2 processing applications, issuing licenses, registering trainees, inspecting
3 records, and instituting and conducting disciplinary proceedings.

4 Subchapter 3. Licenses, Certifications, and Registrations

5 § 3316. LICENSING AND REGISTRATION FEES

6 * * *

7 § 3317. APPLICATION

8 An individual who desires to be licensed under this chapter shall ~~apply to~~
9 submit an application as specified by the board in writing on a form furnished
10 ~~by the board. The application shall be~~ Director, accompanied by payment of
11 the required fee.

12 § 3318. EXAMINATION

13 The ~~Board~~ Director shall examine applicants ~~for~~ using an AQB-approved
14 qualifying examination ~~for~~ applicable to the credential sought by the applicant.

15 § 3319. TEMPORARY PRACTICE

16 The ~~board~~ Director shall issue a temporary license to an individual, after
17 filing of an application and fee, who is a certified or licensed real estate
18 appraiser in another jurisdiction if all of the following apply:

- 19 (1) ~~The~~ the property to be appraised is part of a federally related
20 transaction for which a licensed or certified appraiser is required by the Act;
21 (2) ~~The~~ the applicant's business is of a temporary nature; and

1 (3) ~~The~~ the applicant registers with the ~~board~~ Office.

2 § 3319a. APPRAISER TRAINEE REGISTRATION

3 (a)(1)(A) A person who has completed a course of instruction approved by
4 the AQB may work as a certified residential or certified general appraiser
5 trainee provided the person is registered with the ~~Board~~ Office.

6 (B) An appraiser trainee shall work under the direct supervision of an
7 appraiser who holds either a certified residential or a certified general license
8 in good standing and has held the certified residential or certified general
9 license for at least the minimum number of years required by the AQB.

10 (2)(A) An appraiser trainee may perform activities within the scope of
11 practice of the license sought, provided that the supervising appraiser reviews
12 and signs all resulting appraisals.

13 (B) The supervising appraiser shall be professionally responsible for
14 such activities performed by the trainee.

15 (3) As used in this ~~section~~ subsection, “good standing” means that the
16 appraiser supervisor holds a current, unrestricted license.

17 (b) [Repealed.]

18 (c) The ~~Board~~ Director may, ~~in its discretion~~, give credit for training hours,
19 not exceeding 10 percent of the total hourly experience requirement, for hours
20 worked or training given that does not include or is unrelated to a site
21 inspection.

1 (d) Appraiser trainees registered with the Board as of July 1, 2013 and who
2 continue on to satisfy the requirements specified by the AQB may become
3 State licensed appraisers, notwithstanding the elimination of that license
4 category.

5 § 3320. LICENSURE BY RECIPROCITY

6 The ~~Board~~ Director shall waive all licensing requirements for an appraiser
7 applicant holding a valid certification from another state if:

8 (1) the appraiser licensing and certification program of the other state is
9 in compliance with the provisions of the Act; and

10 (2) the appraiser applicant holds the valid certification from a state
11 whose requirements for certification or licensing meet or exceed the licensure
12 standards established by this chapter.

13 * * *

14 § 3321. RENEWALS

15 * * *

16 (c) The ~~Board~~ Director may reactivate the license of an individual whose
17 license has lapsed for more than 30 days upon payment of the renewal fee, the
18 reactivation fee, and the late renewal penalty, provided the individual has
19 satisfied all requirements of AQB for reactivation.

20 (d) The ~~Board~~ Director may require, by rule, as a condition of reactivation,
21 that an applicant undergo review of one or more aspects of the applicant's

1 professional work in the practice of real estate appraising, provided that the
2 manner and performance results of the review be specified by the ~~Board~~
3 Director. Such a review requirement shall:

4 * * *

5 § 3322. USE OF LICENSE NUMBER; CONSUMER FEE DISCLOSURE

6 (a)(1) Each licensee or registrant shall be assigned a license or registration
7 number ~~which~~ that shall be used in a report, a contract, engagement letter, or
8 other instrument used by the licensee or registrant in connection with the
9 licensee's or registrant's activities under this chapter. The license number
10 shall be placed adjacent to or immediately below the title the licensee is
11 entitled to use under this chapter.

12 (2) ~~The~~ Each licensed appraiser shall ensure that the registration number
13 and the appraiser's fee for appraisal services shall appear adjacent to or
14 immediately below the appraisal management company's registered name on
15 documents supplied to clients or customers in this ~~state~~ State.

16 (b) ~~The~~ Each licensed appraiser shall include within the body of the
17 appraisal report the amount of the appraiser's fee for appraisal services.

18 § 3323. UNPROFESSIONAL CONDUCT

19 (a) The following conduct by a licensee and the conduct set forth in
20 3 V.S.A. § 129a constitute unprofessional conduct. When that conduct is by an

1 applicant or a person who later becomes an applicant, it may constitute
2 grounds for denial of a license:

3 * * *

4 (8) Violating any term or condition of a license restricted by the ~~board~~
5 Office.

6 (9) Failing to comply with practice standards adopted by the ~~board~~
7 Director.

8 * * *

9 ~~(d) After hearing, and upon a finding of unprofessional conduct, the board~~
10 ~~may take disciplinary action against a licensee, applicant, or registrant.~~
11 ~~Without limitation, disciplinary action may include any of the following:~~

12 ~~(1) suspending or conditioning a license or registration;~~

13 ~~(2) requiring a licensee to submit to care or counseling;~~

14 ~~(3) requiring that a licensee practice only under supervision of a named~~
15 ~~person or a person with specified credentials;~~

16 ~~(4) requiring a licensee to participate in continuing education in order to~~
17 ~~overcome specified practical deficiencies;~~

18 ~~(5) limiting the scope of the licensee's practice. [Repealed.]~~

19 (e) Appeals from ~~decisions of the board~~ disciplinary orders and final
20 license denials shall be governed by the provisions of 3 V.S.A. § 130a.

1 § 3324. RECORD RETENTION

2 (a) A licensee or registrant shall retain all records related to an appraisal,
3 review, or consulting assignment for no ~~less~~ fewer than five years after
4 preparation.

5 (b) A licensee or registrant shall retain records under this section that relate
6 to a matter in litigation for two years after the litigation concludes or in
7 conformance with the “Uniform Standards of Professional Appraisal Practice,”
8 as promulgated by the Appraisal Standards Board of the Appraisal Foundation,
9 whichever period is longer.

10 (c) ~~With~~ Upon reasonable notice, a licensee or registrant shall ~~produce~~
11 provide to the Director for inspection and copying any records governed by
12 this section ~~for inspection and copying by the board or its authorized agent.~~

13 § 3325. REPORTING

14 An appraiser who reports to the ~~board~~ Director appraisal work ~~being~~
15 ~~performed which~~ that does not comply with the provisions of this chapter shall
16 not be considered to have violated the ethics provision of the uniform
17 standards of professional practice.

18 Sec. 22. TRANSITIONAL PROVISION; REAL ESTATE APPRAISER

19 RULES

20 On the effective date of Sec. 21 of this act (amending 26 V.S.A. chapter 69
21 (real estate appraisers)), the rules of the Board of Real Estate Appraisers shall

1 constitute the rules of the Director of the Office of Professional Regulation for
2 the practice of real estate appraisal.

3 * * * Acupuncturists * * *

4 Sec. 23. 26 V.S.A. chapter 75 is amended to read:

5 CHAPTER 75. ACUPUNCTURISTS

6 Subchapter 1. General Provisions

7 § 3401. DEFINITIONS

8 As used in this chapter:

9 (1) “Acupuncture” or the “practice of acupuncture” means the insertion
10 of fine needles through the skin at certain points on the body, with or without
11 the application of electric current or the application of heat to the needles or
12 skin, or both, for the purpose of promoting health and ~~balance as defined by~~
13 ~~traditional and modern Oriental theories. Acupuncture involves the use of~~
14 ~~traditional and modern Oriental diagnostic techniques, acupuncture therapy,~~
15 ~~and adjunctive therapies, including but not limited to: nonprescription~~
16 ~~remedies, exercise, nutritional and herbal therapies, therapeutic massage, and~~
17 ~~lifestyle counselling~~ well-being or to prevent or alleviate pain or unease.

18 * * *

19 (4) ~~“Disciplinary action” includes any action taken by an administrative~~
20 ~~law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensed~~
21 ~~acupuncturist or applicant premised on a finding of unprofessional conduct.~~

1 ~~Disciplinary action includes all appropriate remedies, including denial of or~~
2 ~~renewal of a license, suspension, revocation, limiting, or conditioning of the~~
3 ~~license, issuing reprimands or warnings, and adopting consent orders.~~

4 (5) ~~“Secretary” means the secretary of state.~~

5 § 3401a. SCOPE OF PRACTICE

6 (a) A licensed acupuncturist may, in addition to the practice of acupuncture
7 employing fine needles, in a manner consistent with acupuncture theory,
8 employ electrical, magnetic, thermal, and mechanical skin stimulation
9 techniques; nonlaboratory diagnostic techniques; nutritional, herbal, and
10 manual therapies; exercise and lifestyle counseling; acupressure; and massage.

11 (b) A licensed acupuncturist shall not offer diagnosis of any human
12 pathology except for a functional diagnosis, based upon the physical complaint
13 of a patient or acupuncture theory, for purposes of developing and managing a
14 plan of acupuncture care, or as necessary to document to insurers and other
15 payers the reason a patient sought care.

16 § 3402. PROHIBITIONS; OFFENSES; EXEMPTIONS; EVALUATING
17 NONACUPUNCTURISTS

18 (a) Except as provided in subsections (d) through (g) of this section 3412 of
19 this title, a person shall not practice acupuncture unless he or she is licensed in
20 accordance with the provisions of this chapter.

21 * * *

1 (d) Nothing in subsection (a) of this section shall prevent a student from
2 performing acupuncture under the supervision of a competent licensed
3 acupuncturist instructor:

4 (1) within a school or a college or an acupuncture department of a
5 college or university that is licensed by the Vermont Agency of Education or
6 certified by the Accreditation Commission for Acupuncture and Oriental
7 Medicine;

8 (2) as a student in a Director-approved apprenticeship; or

9 (3) as an intern in any hospital.

10 (e) Nothing in subsection (a) of this section shall prevent a person who is
11 licensed or certified as an acupuncturist in another state or Canadian province
12 from practicing acupuncture for no more than five days in a calendar year as
13 part of a health care professional educational seminar or program in Vermont,
14 if the educational seminar or program is directly supervised by a Vermont-
15 licensed health care professional whose scope of practice includes
16 acupuncture.

17 (f) This chapter shall not be construed to limit or restrict in any way the
18 right of a licensed practitioner of a health care profession regulated under this
19 title from performing services within the scope of his or her professional
20 practice.

1 § 3404. ADVISOR APPOINTEES

2 (a)(1) The ~~secretary of state~~ Secretary of State shall appoint two licensed
3 acupuncturists to serve as advisors in matters relating to acupuncture as set
4 forth in 3 V.S.A. § 129b.

5 (2) Appointees shall have at least three years' experience as an
6 acupuncturist immediately preceding appointment and shall be actively
7 engaged in the practice of acupuncture in Vermont during incumbency.

8 (b) The ~~director~~ Director shall seek the advice of the acupuncturist advisors
9 in carrying out the provisions of this chapter. ~~They shall be entitled to~~
10 ~~compensation and necessary expenses in the amount provided in 32 V.S.A. §~~
11 ~~1010 for attendance at any meeting called by the director for that purpose.~~

12 Subchapter 3. Licenses

13 § 3405. ELIGIBILITY FOR LICENSURE

14 To be eligible for licensure as an acupuncturist, an applicant shall be at least
15 18 years of age and shall furnish satisfactory proof that he or she ~~has~~:

16 (1)(A) ~~completed a program in acupuncture and Oriental medicine and~~
17 ~~has received~~ holds a degree or diploma from an educational institution ~~in~~
18 ~~and~~ ~~accredited~~ or accredited by the Accreditation Commission for Acupuncture and
19 Oriental Medicine or ~~an~~ a substantially equivalent or successor accrediting
20 organization approved by the U.S. Department of Education and the Director.
21 ~~The training received in the program shall be for a period of not less than three~~

1 ~~academic years, and, which~~ shall include at least two academic years and a
2 minimum of ~~800~~ 400 hours of supervised clinical practice; ~~or~~

3 ~~(B) completed a training program no later than December 31, 2010~~
4 ~~with a preceptor approved by the Director where the training program is~~
5 ~~approved by the Director and begun prior to December 31, 2007 and which~~
6 ~~shall include earning a minimum of 40 points earned in any one of the~~
7 ~~following categories or combination of categories:~~

8 ~~(i) self directed study 10 points for study equivalent to one year of~~
9 ~~full-time academic work in acupuncture and Oriental medicine, for a maximum~~
10 ~~of two years or 20 points;~~

11 ~~(ii) apprenticeship 10 points for each 1,000 documented contact~~
12 ~~hours, up to a maximum of 13.5 points per year;~~

13 ~~(iii) completed academic work in an accredited acupuncture~~
14 ~~program as described in subdivision (1) of this section five points for each six-~~
15 ~~month period of completed academic study in the field of acupuncture and~~
16 ~~Oriental medicine, up to a maximum of four periods or 20 points;~~

17 ~~(iv) preceptors shall be licensed and in good standing and meet the~~
18 ~~standards of the National Certification Commission for Acupuncture and~~
19 ~~Oriental Medicine in order to be approved, with no preceptor having more than~~
20 ~~two apprentices at any one time; and~~

1 (2) passed the examination described in section 3406 of this ~~title~~
2 chapter.

3 § 3406. EXAMINATION

4 (a) The ~~director~~ Director shall examine applicants for licensure and may
5 use a standardized national examination. The examination shall include the
6 following subjects:

7 (1) Anatomy and physiology.

8 (2) Traditional Oriental Acupuncture pathology.

9 (3) Traditional Oriental Acupuncture diagnosis.

10 (4) Hygiene, sanitation, and sterilization techniques.

11 (5) The principles, practices, and techniques of acupuncture ~~and Oriental~~
12 ~~medicine~~.

13 (6) Clean needle techniques.

14 (7) Chinese herbology for those licensed after January 1, 2007 who
15 intend to employ nonprescription remedies and herbal therapies.

16 (b) The ~~director~~ Director may adopt rules necessary to perform his or her
17 duties under this section.

18 § 3407. LICENSURE WITHOUT EXAMINATION

19 (a) The ~~director~~ Director may waive the examination requirement under
20 subdivision ~~3405(3)~~ 3405(2) of this ~~title~~ chapter if the applicant is an
21 acupuncturist regulated under the laws of another state who is in good standing

1 to practice acupuncture in that state and, in the opinion of the ~~director~~ Director,
2 the standards and qualifications required for regulation of acupuncturists in
3 that state are substantially equivalent to those required by this chapter.

4 (b) The ~~director~~ Director may waive the examination requirement under
5 subdivision ~~3405(3)~~ 3405(2) of this ~~title~~ chapter for an applicant who has
6 furnished evidence of having passed the examination administered by the
7 National Certification Commission for the Certification of for Acupuncturists
8 Acupuncture and Oriental Medicine.

9 * * *

10 § 3408. RENEWALS

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

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

19 (c) ~~A license that has expired for three years or less shall be renewed upon~~
20 ~~meeting the renewal requirements and paying a late renewal penalty. A license~~
21 ~~that has expired for more than three years shall not be renewed; the applicant~~

1 shall be required to apply for reinstatement. The director may adopt rules
2 relating to reinstatement to assure that the applicant is professionally qualified.

3 * * *

4 § 3410. UNPROFESSIONAL CONDUCT

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

7 (b) Unprofessional conduct means any of the conduct listed in this section
8 and 3 V.S.A. § 129a, whether committed by a licensed acupuncturist or an
9 applicant:

10 (1) Using dishonest or misleading advertising.

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

14 (3) Sexual harassment of a patient.

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

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

21 * * *

1 § 3412. ~~ACUPUNCTURE DETOXIFICATION; SPECIALIZED~~
2 ~~CERTIFICATION~~

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

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

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

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

1 ~~(B) “Clinical setting” means an outpatient orthopaedic or sports~~
2 ~~medicine clinic that employs one of the following: physician, osteopathic~~
3 ~~physician, chiropractor, or physical therapist. [Repealed.]~~

4 (12) “Underlying pathology” means any disease process, including
5 neuromuscular disease, diabetes, spinal cord injuries, and systemic diseases.

6 § 4151a. PRACTICE CONTEXTS; REFERRAL REQUIRED FOR

7 CLINICAL CARE

8 (a) A person licensed under this chapter may provide athletic training:

9 (1) by formal engagement with a team, school, college, university,
10 league, or other sporting organization, to affiliated athletes participating in
11 organized sports or athletic teams at an interscholastic, intramural,
12 instructional, intercollegiate, amateur, or professional level;

13 (2) upon referral of an athlete or physically active individual to an
14 athletic training clinic;

15 (3) by engagement with an employer or organization for the purpose of
16 educating groups on the care and prevention of athletic and orthopedic injuries
17 or conditioning appropriate to physical demands upon employees or
18 members; or

19 (4) in a bona fide emergency necessitating response care of an injured
20 athlete.

1 applicant meets the requirements set forth in section 4156 or 4157 of this title.

2 [Repealed.]

3 § 4158a. RENEWALS

4 (a) Licenses shall be renewed every two years upon payment of the
5 required fee.

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

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

12 (d) The director may, after notice and opportunity for a hearing, revoke a
13 person's right to renew licensure if the license has lapsed for five or more
14 years. [Repealed.]

15 § 4159. UNPROFESSIONAL CONDUCT

16 (a) A licensed athletic trainer shall not engage in unprofessional conduct.
17 When such conduct is committed by an applicant, it shall be grounds for denial
18 of the application or other disciplinary action.

19 (b) Unprofessional conduct means the following conduct and conduct set
20 forth in 3 V.S.A. § 129a:

1 ~~Conditions imposed under this subsection shall be in addition to the other~~
2 ~~requirements of this section. [Repealed.]~~

3 * * *

4 § 4927. APPLICATIONS

5 ~~Applications for licensure and license renewal shall be on forms provided~~
6 ~~by the~~ The Director shall promulgate applications for licensure and license
7 renewal. Each application shall contain a statement under oath showing the
8 applicant's education, experience, and other pertinent information and shall be
9 accompanied by the required fee.

10 * * *

11 * * * Notaries Public * * *

12 Sec. 26. 24 V.S.A. § 1160 is amended to read:

13 § 1160. ACKNOWLEDGEMENTS; OATH

14 (a) A town clerk, commissioned as a notary public pursuant to 26 V.S.A.
15 chapter 103, may take acknowledgements of deeds and other instruments
16 throughout his or her county.

17 (b) In his or her county, he or she may administer oaths in all cases where
18 an oath is required, without being commissioned as a notary public pursuant to
19 26 V.S.A. chapter 103.

20 (c)(1) Each town clerk may designate from among the members of his or
21 her staff at least one notary public to be available to perform notarial acts for

1 the public in the town clerk's office during normal business hours free of
2 charge.

3 (2) Each individual designated by the town clerk under this subsection
4 shall be commissioned as a notary public pursuant to 26 V.S.A. chapter 103
5 and shall be exempt from the notary public application fee under that chapter.

6 Sec. 27. 26 V.S.A. § 5304 is amended to read:

7 § 5304. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (8) "Notarial officer" means ~~a notary public or other~~ an individual
11 authorized to perform a notarial act under authority and within the jurisdiction
12 of another state, under authority and within the jurisdiction of a federally
13 recognized Indian tribe, under authority of federal law, under authority and
14 within the jurisdiction of a foreign state or constituent unit of the foreign state,
15 or under authority of a multinational or international governmental
16 organization.

17 * * *

18 Sec. 28. 26 V.S.A. § 5305 is amended to read:

19 § 5305. EXEMPTIONS

20 (a) ~~Generally~~ Judiciary- and law enforcement-related employees.

21 (1) Employee exemptions.

1 (A) Judiciary-related.

2 (i) The persons set forth in subdivision (2)(A) of this subsection,
3 when acting within the scope of their official duties, are exempt from all of the
4 requirements of this chapter, including the requirement to pay the fee set forth
5 in section 5324 of this chapter, except for the requirements:

6 (A) requirement to apply for a commission as set forth in section
7 5341(a), (b)(1)–(3), (c), (d), and (e) of this chapter; and

8 (B) unless exempted under subsection (c) of this section, to pay the
9 fee set forth in section 5324 of this chapter.

10 (ii) A commission issued to a person under this subdivision (A)
11 shall not be considered a license.

12 (B) Law enforcement-related.

13 (i) The persons set forth in subdivision (2)(B) of this subsection,
14 when acting within the scope of their official duties, shall be commissioned as
15 notaries public authorized to perform a notarial act as a matter of law and are
16 exempt from all of the requirements of this chapter, including the requirement
17 to pay the fee set forth in section 5324 of this chapter.

18 (ii) A notarial act that identifies the notary public as a person who
19 is exempt under this subdivision (B) shall establish as a matter of law that the
20 person is commissioned as a notary public for the purpose of acting within the
21 scope of official duties under this subsection.

1 (2) Employees, defined.

2 (A) Judiciary-related. Persons employed by the Judiciary, including
3 judges, Superior Court clerks, court operations managers, Probate registers,
4 case managers, docket clerks, assistant judges, county clerks, and after-hours
5 relief from abuse contract employees.

6 (B) Law enforcement-related. Persons employed as law enforcement
7 officers certified under 20 V.S.A. chapter 151; who are noncertified
8 constables; or who are employed by a Vermont law enforcement agency, the
9 Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of
10 Liquor Control, or for Children and Families, the Office of the Defender
11 General, the Office of the Attorney General, or a State’s Attorney or Sheriff.

12 (3) Official duties, defined. As used in subdivision (1) of this
13 subsection, “acting within the scope of official duties” means that a person is
14 notarizing a document that:

15 (A) he or she believes is related to the execution of his or her duties
16 and responsibilities of employment or is the type of document that other
17 employees notarize in the course of employment;

18 (B) is useful or of assistance to any person or entity identified in
19 subdivision (2) of this subsection (a);

20 (C) is required, requested, created, used, submitted, or relied upon by
21 any person or entity identified in subdivision (2) of this subsection (a);

1 (D) is necessary in order to assist in the representation, care, or
2 protection of a person or the State;

3 (E) is necessary in order to protect the public or property;

4 (F) is necessary to represent or assist crime victims in receiving
5 restitution or other services;

6 (G) relates to a Vermont or federal court rule or statute governing any
7 criminal, postconviction, mental health, family, juvenile, civil, probate,
8 Judicial Bureau, Environmental Division, or Supreme Court matter; or

9 (H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33
10 of the Vermont Statutes Annotated.

11 (b) Attorneys.

12 (1) Attorneys licensed and in good standing in this State are exempt
13 from:

14 (A) the examination requirement set forth in subsection 5341(b) of
15 this chapter; and

16 (B) the continuing education requirement set forth in section 5343 of
17 this chapter.

18 (2) If a complaint of a violation of this chapter is filed in regard to a
19 Vermont licensed attorney, the Office shall refer the complaint to the
20 Professional Responsibility Board and shall request a report back from the
21 Board regarding the final disposition of the complaint.

1 (c) Fees Town clerks, assistants, and justices of the peace. The following
2 persons are exempt from the fee set forth in section 5324 of this chapter:

3 (1)(A) a judge, clerk, or other court staff, as designated by the Court
4 Administrator; A town clerk and his or her assistants may perform notarial acts
5 as notaries public throughout the town clerk's county, provided that they shall
6 comply with all of the requirements of this chapter, except as provided in
7 subdivision (2) of this subsection.

8 (B) Subject to the provisions of subdivision (A) of this subdivision
9 (1), performing notarial acts as a notary public shall be considered within the
10 scope of the official duties of a town clerk and his or her assistants.

11 (2) State's Attorneys and their deputies and Assistant Attorneys
12 General, public defenders, and their staff;

13 (3) justices Justices of the peace and town clerks and their assistants;
14 and

15 (4) State Police officers, municipal police officers, fish and game
16 wardens, sheriffs and deputy sheriffs, motor vehicle inspectors, employees of
17 the Department of Corrections, and employees of the Department for Children
18 and Families are exempt from the fee set forth in section 5324 of this chapter.

19 (d) Unauthorized practice. Nothing in this section is intended to prohibit
20 prosecution of a person under 3 V.S.A. § 127 (unauthorized practice).

1 Sec. 29. 26 V.S.A. § 5361 is amended to read:

2 § 5361. NOTARIAL ACTS IN THIS STATE; AUTHORITY TO PERFORM

3 (a) A notarial act, as defined in subdivision 5304(7)(A) of this chapter, may
4 only be performed in this State by a notary public commissioned under this
5 chapter.

6 (b) The signature and title of an individual performing a notarial act in this
7 State are prima facie evidence that the signature is genuine and that the
8 individual holds the designated title.

9 * * * Massage Services * * *

10 Sec. 30. OFFICE OF PROFESSIONAL REGULATION; ADDENDUM TO
11 PRELIMINARY SUNRISE ASSESSMENT ON MASSAGE
12 THERAPY

13 (a) On or before January 15, 2020, the Office of Professional Regulation
14 shall prepare and submit to the Senate and House Committees on Government
15 Operations an Addendum to its 2015-2016 Preliminary Sunrise Assessment on
16 Massage Therapy, dated January 5, 2016. The Addendum shall apply the
17 criteria set forth in 26 V.S.A. chapter 57 (review of regulatory laws) to assess
18 whether new regulation of businesses or individuals offering massage services
19 will serve the interests of public safety pertaining to sexual misconduct and
20 human trafficking. Development of the Addendum shall not require the Office

1 to repeat its 2010 and 2016 analyses of proposals by applicants for sunrise
2 review.

3 (b) In preparing the Addendum, the Office shall consult with the Vermont
4 Center for Crime Victim Services, the Vermont Network Against Domestic
5 and Sexual Violence, the Vermont Department of Public Safety, the Vermont
6 Police Association, the Vermont Association of Chiefs of Police, the Vermont
7 Human Trafficking Task Force, representatives of massage therapists, and such
8 other advocacy organizations, researchers, State and federal agencies, and law
9 enforcement authorities as the Office may deem appropriate.

10 * * * Effective Date * * *

11 Sec. 31. EFFECTIVE DATE

12 This act shall take effect on July, 1, 2019.