

1 H.438

2 Introduced by Representative Lippert of Hinesburg

3 Referred to Committee on

4 Date:

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

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

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

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

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

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

15 CHAPTER 23. MEDICINE

16 Subchapter 1. General Provisions

17 § 1311. DEFINITIONS

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

19 (1) "Practice of medicine" means:

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

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

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

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

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

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

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

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

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

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

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

15 (5) "Health maintenance organization₁"; as used in this section, ~~shall~~
16 ~~have~~ has the same meaning as ~~defined~~ in 18 V.S.A. § 9402(9).

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

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

19 * * *

20 § 1313. EXEMPTIONS

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

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

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

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

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

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

1 ~~to the Board. The report shall be made within 10 days of the date such~~
2 ~~disciplinary action was taken, and, in the case of disciplinary action taken~~
3 ~~against a licensee based on the provision of mental health services, a copy of~~
4 ~~the report shall also be sent to the Commissioner of Mental Health and the~~
5 ~~Commissioner of Disabilities, Aging, and Independent Living. This section~~
6 ~~shall not apply to cases of resignation or separation from service for reasons~~
7 ~~unrelated to disciplinary action.~~

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

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

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

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

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

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

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

1 report to the Board if the investigation results in a finding of a reportable
2 disciplinary action. Relinquishments of privileges that are entirely voluntary
3 by the licensee, and revocations, nonrenewals, or other limitations on
4 privileges by a required reporter that are not related to acts or omissions of the
5 licensee, are not reportable disciplinary actions.

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

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

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

1 chapter, or from an employer wellness program or similar program, as a result
2 of a completed, contested disciplinary process.

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

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

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

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

1 violates this section shall be subject to a civil penalty of not more than
2 \$10,000.00.

3 * * *

4 Subchapter 2. Board of Medical Practice

5 § 1351. BOARD OF MEDICAL PRACTICE

6 (a) A ~~State~~ Board of Medical Practice is created. The Board shall be
7 composed of 17 members, nine of whom shall be licensed physicians, one of
8 whom shall be a physician assistant licensed pursuant to chapter 31 of this title,
9 one of whom shall be a podiatrist licensed pursuant to chapter 7 of this title,
10 and six of whom shall be persons not associated with the medical field. The
11 Governor, with the advice and consent of the Senate, shall appoint the
12 members of the Board. Appointments shall be for a term of five years, except
13 that a vacancy occurring during a term shall be filled by an appointment by the
14 Governor for the unexpired term. No member shall be appointed to more than
15 two consecutive full terms, but a member appointed for less than a full term,
16 ~~(originally or to fill a vacancy),~~ may serve two full terms in addition to such
17 part of a full term, and a former member shall again be eligible for
18 appointment after a lapse of one or more years. Any member of the Board
19 may be removed by the Governor at any time. The Board shall elect from its
20 members a chair, vice chair, and secretary who shall serve for one year and
21 until their successors are appointed and qualified. The Board shall meet upon

1 the call of the Chair or the Commissioner of Health, or at such other times and
2 places as the Board may determine. Except as otherwise provided in ~~section~~
3 ~~1360~~ sections 1371, 1372, and 1373 of this title, nine members of the Board
4 shall constitute a quorum for the transaction of business. The affirmative vote
5 of the majority of the members present and voting shall be required to carry
6 any motion or resolution, to adopt any rule, to pass any measure, or to
7 authorize any decision or order of the Board.

8 * * *

9 § 1353. POWERS AND DUTIES OF THE BOARD

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

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

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

19 (3) Issue subpoenas and administer oaths in connection with any
20 investigations, hearings, or disciplinary proceedings held under this chapter.
21 Any individual or entity served with a subpoena issued by the Board shall

1 comply notwithstanding the patient's privilege established in 12 V.S.A.

2 § 1612.

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

5 * * *

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

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

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

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

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

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

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

4 * * *

5 § 1355. COMPLAINTS; HEARING COMMITTEE

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

13 ~~(b) The chair may designate a hearing committee constituting less than a~~
14 ~~quorum of the board, to conduct hearings which would otherwise be heard by~~
15 ~~the board. A hearing committee shall consist of at least one physician member~~
16 ~~of the board and one public member of the board. No member of the hearing~~
17 ~~committee shall have been a member of the investigative committee which~~
18 ~~reviewed the matter at the investigative stage. When the board is unable to~~
19 ~~assign one or more members to investigate a complaint or serve on a hearing~~
20 ~~committee by reason of disqualification, resignation, vacancy, or necessary~~
21 ~~absence, the commissioner may, at the request of the board, appoint ad hoc~~

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

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

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

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

1 ~~reputation of the victim's sexual conduct shall be admitted. At the request of~~
2 ~~the victim, the hearing committee may close portions of hearings to the public~~
3 ~~if the board deems it appropriate in order to protect the identity of the victim~~
4 ~~and the confidentiality of his or her medical records. [Repealed.]~~

5 ~~§ 1356. SPECIFICATION OF CHARGES~~

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

11 ~~§ 1357. TIME AND NOTICE OF HEARING~~

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

1 ~~against him or her and to examine such documentary evidence as may be~~
2 ~~produced against him or her. [Repealed.]~~

3 § 1358. ~~SUBPOENAS; CONTEMPT~~

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

7 § 1359. ~~REPORT OF HEARING~~

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

12 § 1360. ~~HEARING BEFORE BOARD~~

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

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

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

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

17 ~~[Repealed.]~~

18 ~~§ 1361. DECISION AND ORDER~~

19 ~~(a) If a majority of the members of the board vote in favor of finding the~~
20 ~~person complained against guilty of unprofessional conduct as specified in the~~
21 ~~charges, or any of them, the board shall prepare written findings of fact,~~

1 ~~conclusions and order, a copy of which shall be served upon the person~~
2 ~~complained against.~~

3 ~~(b) In such order, the board may reprimand the person complained against,~~
4 ~~as it deems appropriate; condition, limit, suspend, or revoke the license,~~
5 ~~certificate, or practice of the person complained against; or take such other~~
6 ~~action relating to discipline or practice as the board determines is proper,~~
7 ~~including imposing an administrative penalty not to exceed \$1,000.00 for each~~
8 ~~act that constitutes an unprofessional conduct violation. Any money received~~
9 ~~from the imposition of an administrative penalty imposed under this subsection~~
10 ~~shall be deposited into the board of medical practice regulatory fee fund for the~~
11 ~~purpose of providing education and training for board members and licensees.~~
12 ~~The commissioner shall detail in the annual report receipts and expenses from~~
13 ~~money received under this subsection.~~

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

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

19 * * *

1 § 1365. NOTICE OF CONVICTION OF CRIME; INTERIM SUSPENSION
2 OF LICENSE

3 (a) The ~~board~~ Board shall treat a ~~certified copy of the judgment~~ notice of
4 conviction of a crime for which a licensee may be disciplined under section
5 1354 of this title as an unprofessional conduct complaint. ~~The record~~ A
6 certified copy of the judgment of conviction shall be conclusive evidence of
7 the fact that the conviction occurred. ~~If a person licensed under this chapter is~~
8 ~~convicted of a crime by a court in this state, the clerk of the court shall within~~
9 ~~10 days of such conviction transmit a certified copy of the judgment of~~
10 ~~conviction to the board.~~

11 * * *

12 § 1366. OUT-OF-STATE DISCIPLINE; INTERIM SUSPENSION OF
13 LICENSE

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

20 (b) The ~~board~~ Board shall treat a ~~certified copy~~ as an unprofessional
21 conduct complaint any notice of a statement of a licensing entity in another

1 jurisdiction ~~which~~ that verifies that a person licensed to practice medicine or
2 surgery in that jurisdiction failed to renew, surrendered, or otherwise
3 terminated his or her license during, or prior to initiation of, proceedings to
4 revoke or suspend his or her license ~~as an unprofessional conduct complaint.~~

5 ~~The~~ A certified copy of the statement shall be conclusive evidence of the fact
6 that such termination occurred.

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

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

14 § 1367. APPEALS FROM BOARD ORDERS

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

18 * * *

19 § 1370. COMPLAINTS; INVESTIGATIVE COMMITTEE

20 (a)(1) Any individual, organization, or public officer may submit a written
21 complaint to the Board alleging that any individual practicing medicine in the

1 State committed unprofessional conduct or that an individual practiced without
2 being licensed in violation of section 1314 of this chapter. The complaint shall
3 specify the grounds on which the allegations of unprofessional conduct are
4 based.

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

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

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

19 (3) If the investigative committee determines that an evidentiary hearing
20 is warranted, the Executive Director shall prepare a specification of the charge
21 or charges of unprofessional conduct made against the individual licensed by

1 the Board, a copy of which shall be served upon subject of the charge or
2 charges, together with the notice of hearing set forth in subsection 1371(b) of
3 this chapter.

4 § 1371. HEARING PANEL

5 (a) Composition of hearing panel.

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

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

17 (b) Time and notice of hearing.

18 (1) The Executive Director or a hearing officer shall set a time for the
19 evidentiary hearing as soon as convenient following the determination by the
20 investigative committee that an evidentiary hearing is warranted, but no earlier

1 than 30 days after service of the charge upon the individual complained
2 against.

3 (2) The Executive Director shall issue a notice of the evidentiary hearing
4 on the charges, which notice shall specify the time and place of the hearing and
5 shall notify the individual complained against that he or she may file with the
6 Executive Director a written response within 20 days of the date of service.
7 The notice shall also notify the individual complained against that a record of
8 the proceeding will be kept and that he or she will have the opportunity to
9 appear personally and to have counsel present, with the right to produce
10 witnesses and evidence on his or her own behalf, to cross-examine witnesses
11 testifying against him or her, and to examine such documentary evidence as
12 may be produced against him or her.

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

17 § 1372. HEARING BEFORE THE BOARD

18 (a) If the Board deems it necessary, following receipt of the report of the
19 hearing panel pursuant to section 1371 of this chapter and after further notice
20 to the individual complained against, the Board may take additional evidence

1 at a hearing before the Board, which shall be conducted according to the same
2 process as provided for the hearing panel.

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

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

9 § 1373. DECISION AND ORDER

10 (a) Regardless of whether the Board makes its determination on the
11 findings of the hearing panel pursuant to section 1371 of this chapter alone, on
12 the findings of the hearing panel as supplemented by a hearing before the
13 Board pursuant to section 1372 of this chapter, or on its own findings, the
14 Board shall render its decision on the merits of the charge or charges on the
15 basis of the evidence in the record before it.

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

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

1 (i) reprimand the individual complained against;

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

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

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

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

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

1 § 1374. SUBPOENAS; CONTEMPT

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

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

6 § 1375. CONFIDENTIALITY; INADMISSIBILITY OF CERTAIN

7 EVIDENCE

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

13 (b) In any proceeding under section 1371 or 1372 of this chapter that
14 addresses an applicant's or licensee's alleged sexual misconduct, evidence of
15 the sexual history of a victim of the alleged sexual misconduct shall neither be
16 subject to discovery nor be admitted into evidence. Neither opinion evidence
17 nor evidence of the reputation of a victim's sexual conduct shall be admitted.
18 At the request of a victim, a hearing panel or the Board may close portions of
19 hearings to the public if the panel or Board deems it appropriate in order to
20 protect the identity of a victim and the confidentiality of his or her medical
21 records.

1 § 1376. NONDISCIPLINARY FINANCIAL PENALTY

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

9 (b) A matter closed by payment of a nondisciplinary financial penalty shall
10 not be considered to be a disciplinary action, and the matter shall remain
11 confidential in the manner of dismissed charges in accordance with section
12 1318 of this chapter.

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

16 Subchapter 3. Licenses

17 § 1391. QUALIFICATIONS FOR MEDICAL LICENSURE

18 ~~(a) Upon payment of an examination fee, a person who has attained the age~~
19 ~~of majority, and is of good moral character, who is a graduate of a legally~~
20 ~~chartered college or university authorized to confer degrees in medicine and~~
21 ~~surgery, which is recognized by the board, shall be entitled to examination.~~

1 ~~Evidence of good moral character and competence in being able to~~
2 ~~communicate in reading, writing, and speaking the English language, shall be~~
3 ~~presented from the chief of service and two other active physician staff~~
4 ~~members at the hospital where the person was last affiliated. In the discretion~~
5 ~~of the board, evidence from different sources may be presented~~

6 Basic requirements.

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

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

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

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

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

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

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

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

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

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

15 Postgraduate training requirements.

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

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

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

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

20 ~~(d) In its discretion, the board may refuse applicants who are graduates of~~
21 ~~foreign universities or medical schools unless their credentials have first been~~

1 ~~passed upon and approved by the educational council for foreign medical~~
2 ~~graduates~~

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

7 ~~(e) An applicant for limited temporary license, who shall furnish the board~~
8 ~~with satisfactory proof that he or she has attained the age of majority, is of~~
9 ~~good moral character, is a graduate of a legally chartered medical school of~~
10 ~~this country or of a foreign country that is recognized by the board and which~~
11 ~~has power to grant degrees in medicine, that all other eligibility requirements~~
12 ~~for house officer status have been met, and that he or she has been appointed~~
13 ~~an intern, resident, fellow, or medical officer in a licensed hospital or in a~~
14 ~~clinic which is affiliated with a licensed hospital, or in any hospital or~~
15 ~~institution maintained by the state, or in any clinic or outpatient clinic affiliated~~
16 ~~with or maintained by the state, may upon the payment of the required fee, be~~
17 ~~granted a limited temporary license by the board as a hospital medical officer~~
18 ~~for a period of up to 54 weeks and such license may be renewed or reissued,~~
19 ~~upon payment of the fee, for the period of the applicant's postgraduate~~
20 ~~training, internship, or fellowship program. Such limited temporary license~~
21 ~~shall entitle the said applicant to practice medicine only in the hospital or other~~

1 ~~institution designated on his or her certificate of limited temporary license and~~
2 ~~in clinics or outpatient clinics operated by or affiliated with such designated~~
3 ~~hospital or institution and only if such applicant is under the direct supervision~~
4 ~~and control of a licensed physician. Such licensed physician shall be legally~~
5 ~~responsible and liable for all negligent or wrongful acts or omissions of the~~
6 ~~limited temporary licensee and shall file with the board the name and address~~
7 ~~both of himself or herself and the limited temporary licensee and the name of~~
8 ~~such hospital or other institution. Such limited temporary license shall be~~
9 ~~revoked upon the death or legal incompetency of the licensed physician or,~~
10 ~~upon ten days written notice, by withdrawal of his or her filing by such~~
11 ~~licensed physician. The limited temporary licensee shall at all times exercise~~
12 ~~the same standard of care and skill as a licensed physician, practicing in the~~
13 ~~same specialty, in the state of Vermont. Termination of appointment as intern,~~
14 ~~resident, fellow, or medical officer of such designated hospital or institution~~
15 ~~shall operate as a revocation of such limited temporary license. An application~~
16 ~~for limited temporary license shall not be subject to subsection 1391(d) of this~~
17 ~~title.~~

18 Current medical practice. An applicant for licensure shall have actively
19 engaged in the practice of medicine, as defined by section 1311 of this chapter,
20 within three years prior to the date on which the application for licensure
21 becomes complete. In its discretion, the Board may license an applicant who

1 does not meet this practice requirement but who agrees to such conditions as
2 the Board may reasonably require to verify or confirm the applicant's readiness
3 to reenter the practice of medicine.

4 (f) License by faculty appointment.

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

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

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

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

4 § 1392. LIMITED TEMPORARY LICENSE FOR POSTGRADUATE
5 TRAINING

6 (a) Qualifications for limited training license.

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

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

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

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

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

20 (D) is of sound moral character and professional competence as
21 evidenced by the applicant's entire personal history, as established by

1 information about the applicant's academic, licensing examination,
2 employment, professional credentialing, professional certification, professional
3 regulation, civil litigation, and criminal records submitted by the applicant or
4 otherwise obtained by the Board in the application process; and

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

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

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

11 (b) Terms of limited training license.

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

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

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

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

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

12 § 1393. EXAMINATIONS

13 ~~The examinations shall be wholly or partly in writing, in the English~~
14 ~~language, and shall be of a practical character, sufficiently strict to test the~~
15 ~~qualifications of the applicant. In its discretion the board may use multiple~~
16 ~~choice style examinations provided by the National Board of Medical~~
17 ~~Examiners or by the Federation of State Medical Boards, or as determined by~~
18 ~~rule. The examination shall embrace the general subjects of anatomy,~~
19 ~~physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine,~~
20 ~~surgery, obstetrics, gynecology, materia medica, therapeutics, and legal~~
21 ~~medicine. The subjects covered by the National Board of Medical Examiners~~

1 ~~examination shall be considered to have met the requirements of this section.~~
2 ~~If the applicant passes the examination approved by the board and meets the~~
3 ~~other standards for licensure, he or she will qualify for licensure. [Repealed.]~~

4 § 1394. REEXAMINATIONS

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

8 ~~[Repealed.]~~

9 § 1395. LICENSE WITHOUT EXAMINATION

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

17 ~~(b) Without examination, the Board may issue a license to a reputable~~
18 ~~physician who is a resident of a foreign country and who shall furnish the~~
19 ~~Board with satisfactory proof that he or she has been appointed to the faculty~~
20 ~~of a medical college accredited by the Liaison Committee on Medical~~
21 ~~Education (LCME) and located within the State of Vermont. An applicant for~~

1 ~~a license under this subsection shall furnish the Board with satisfactory proof~~
2 ~~that he or she has attained the age of majority, is of good moral character, is~~
3 ~~licensed to practice medicine in his or her country of residence, and that he or~~
4 ~~she has been appointed to the faculty of an LCME accredited medical college~~
5 ~~located within the State of Vermont. The information submitted to the Board~~
6 ~~concerning the applicant's faculty appointment shall include detailed~~
7 ~~information concerning the nature and term of the appointment and the method~~
8 ~~by which the performance of the applicant will be monitored and evaluated. A~~
9 ~~license issued under this subsection shall be for a period no longer than the~~
10 ~~term of the applicant's faculty appointment and may, in the discretion of the~~
11 ~~Board, be for a shorter period. A license issued under this subsection shall~~
12 ~~expire automatically upon termination for any reason of the licensee's faculty~~
13 ~~appointment. [Repealed.]~~

14 § 1396. ~~REQUIREMENTS FOR ADMISSION TO PRACTICE~~

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

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

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

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

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

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

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

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

19 ~~(b) In cases it deems appropriate, the board may waive the requirements of~~
20 ~~subdivisions (a)(1) and (2) of this section for an applicant who is a graduate of~~
21 ~~a medical college that is neither approved by the board nor by an accrediting~~

1 ~~body satisfactory to the board. As a condition of granting a waiver, the board~~
2 ~~may require that the applicant complete up to three years of postgraduate~~
3 ~~training satisfactory to the board. A waiver granted under this section shall be~~
4 ~~in writing and shall include a statement of the board's reasons for granting the~~
5 ~~waiver. [Repealed.]~~

6 * * *

7 § 1398. REFUSAL OR REVOCATION OF LICENSES

8 (a) ~~The board~~ Board may refuse to issue ~~the licenses provided for in section~~
9 ~~1391 of this title to persons~~ a license or certificate to an applicant who applies
10 to be licensed or certified under this chapter and who, by false or fraudulent
11 representations, ~~have~~ has obtained or sought to obtain practice in ~~their~~ the
12 profession, or by false or fraudulent representations ~~of their profession in~~
13 practice, have has obtained or sought to obtain money or any other thing of
14 value, or who assume ~~names~~ a name other than ~~their~~ the applicant's own for
15 the purpose of misleading others, or for any other immoral, unprofessional, or
16 dishonorable conduct. ~~However, a~~

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

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

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

5 (3) agrees to the action.

6 (c) In the event of a revocation, the holder of any license or certificate so
7 revoked shall forthwith promptly relinquish the same license or certificate to
8 the secretary of the board Board.

9 * * *

10 * * * Licensure of Podiatrists * * *

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

12 § 371. ELIGIBILITY

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

14 * * *

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

18 * * *

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

20 (b) A license ~~which~~ that has lapsed for up to 364 days may be reinstated on
21 payment of a renewal fee and a late renewal penalty. A license that has lapsed

1 for one year or longer may be reinstated upon payment of the reinstatement fee
2 and completion of the reinstatement application as set forth by the Board by
3 rule. The applicant shall not be required to pay renewal fees during periods
4 when the license was lapsed. However, if such license remains lapsed for a
5 period of three years or longer, the ~~board~~ Board may, after notice and an
6 opportunity for hearing, require reexamination ~~as a condition or other~~
7 conditions of renewal.

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

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

18 * * * Addition of Board of Medical Practice to Description of Professional

19 Licensing Boards Entitled to Inspect Prescription Records * * *

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

21 § 4211. RECORDS CONFIDENTIAL

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

12 * * * Effective Dates * * *

13 Sec. 6. EFFECTIVE DATES

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

18 (b) Secs. 2 (26 V.S.A. § 371), 3 (26 V.S.A. § 373(b)), 5 (18 V.S.A.
19 § 4211), and this section shall take effect on July 1, 2019.

1 (c) Sec. 4 (26 V.S.A. § 373(b)) shall take effect 60 days after the Board's
2 adoption of a maintenance of licensure rule for podiatrists in accordance with
3 2011 Acts and Resolves No. 61, Sec. 10.