

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 220 entitled “An act relating to educating specified professionals on
4 the State’s energy goals” respectfully reports that it has considered the same
5 and recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 * * * Office of Professional Regulation * * *

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

9 § 122. OFFICE OF PROFESSIONAL REGULATION

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

14 * * *

15 (28) Audiologists and Hearing Aid Dispensers

16 * * *

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

18 * * *

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

2 § 123. DUTIES OF OFFICE

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

6 * * *

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

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

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

15 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

12 ~~(2)(A)~~ The Office may inquire directly of the Vermont Crime
13 Information Center, the Federal Bureau of Investigation, the National Crime
14 Information Center, or other holders of official criminal record information,
15 and may arrange for such inquiries to be made by a commercial service.

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

19 ~~(3) Applicants subject to background checks shall be notified that a~~
20 ~~check is required, if fingerprints will be retained on file, and that criminal~~
21 ~~convictions are not an absolute bar to licensure, and shall be provided such~~

1 ~~other information as may be required by federal law or regulation~~ Prior to
2 acting on an initial or renewal application, the Office may obtain with respect
3 to the applicant a Vermont criminal history record, an out-of-state criminal
4 history record, and a criminal history record from the Federal Bureau of
5 Investigation. Federal Bureau of Investigation background checks shall be
6 fingerprint-supported, and fingerprints so obtained may be retained on file and
7 used to notify the Office of future triggering events. Each applicant shall
8 consent to the release of criminal history records to the Office on forms
9 developed by the Vermont Crime Information Center.

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

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

18 § 125. FEES

19 * * *

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

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

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

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

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

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

13 * * *

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

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

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

17 (I) Private investigator or security services unarmed licensee,
18 \$150.00.

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

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

21 (3) Optician trainee registration, \$50.00.

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

2 * * *

3 (M) Private investigator or security services agency, or both,
4 \$300.00.

5 (N) Private investigator or security services unarmed licensee,
6 \$120.00.

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

8 (P) Private investigator or security services unarmed registrant,
9 \$80.00.

10 (Q) Private investigator or security services armed registrant,
11 \$130.00.

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

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

14 * * *

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

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

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

21 * * *

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

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

7 * * *

8 (d) A board or the Director shall notify parties, in writing, of their right to
9 appeal final decisions of the board. A board or the Director shall also notify
10 complainants in writing of the result of any disciplinary investigation made
11 with reference to a complaint brought by them to the board or Director. When
12 a disciplinary investigation results in a stipulation filed with the board, the
13 board or the Director shall provide the complainant with a copy of the
14 stipulation and notice of the stipulation review scheduled before the board.
15 The complainant shall have the right to be heard at the stipulation review.

16 (e)(1) When a board or the Director, in the case of professions that have
17 advisor appointees, intends to deny an application for a license, the board or
18 Director shall send the applicant written notice of the decision by certified
19 mail. The notice shall include a statement of the reasons for the action and
20 shall advise the applicant that the applicant may file a petition within 30 days

1 of the date on which the notice is mailed with the board or the Director for
2 review of its or his or her preliminary decision.

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

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

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

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

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

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

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

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

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

* * *

* * * Accountants * * *

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

CHAPTER 1. ACCOUNTANTS

* * *

Subchapter 2. Board of Public Accountancy

* * *

1 § 54. GENERAL POWERS AND DUTIES OF THE BOARD

2 * * *

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

5 * * *

6 § 56. FEES

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

9 * * *

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

12 * * *

13 Subchapter 3. Licenses

14 * * *

15 § 74. FIRMS; REGISTRATION AND OWNERSHIP

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

18 * * *

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

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

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

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

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

12 * * *

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

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

20 * * *

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

6 * * *

7 Subchapter 4. Discipline

8 * * *

9 § 78. ~~DISCIPLINARY MATTERS~~

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

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

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

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

19 ~~(b) The Board shall accept complaints from any member of the public, any~~
20 ~~licensee, any state or federal agency, or the Attorney General. The Board may~~

1 ~~initiate disciplinary action in any complaint against a licensee and may act~~
2 ~~without having received a complaint.~~

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

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

7 ~~(e) Appeals from final Board decisions shall be taken in accordance with~~
8 ~~3 V.S.A. § 130a. [Repealed.]~~

9 * * * Funeral Services * * *

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

11 § 1252. APPLICATION; QUALIFICATIONS

12 (a) Funeral director.

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

16 * * *

17 (3) Notwithstanding the provisions of subdivision (1)(A) of this
18 subsection ~~(a)~~, the Director may by rule prescribe an alternative pathway to
19 licensure for individuals who have not attended a school of funeral service but
20 who have demonstrated through an approved program of apprenticeship and

1 study the skills deemed necessary by the Director to ensure competence as a
2 funeral director.

3 (b) Embalmer.

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

6 * * *

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

13 * * *

14 * * * Nursing * * *

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

16 CHAPTER 28. NURSING

17 Subchapter 1. General Provisions

18 * * *

19 § 1573. VERMONT STATE BOARD OF NURSING

20 * * *

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

3 * * *

4 § 1574. POWERS AND DUTIES

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

6 * * *

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

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

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

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

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

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§ 2023. CLINICAL PHARMACY; PRESCRIBING

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

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

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

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

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

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

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

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

1 (2) State protocol.

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

6 (i) opioid antagonists;

7 (ii) epinephrine auto-injectors;

8 (iii) tobacco cessation products;

9 (iv) tuberculin purified protein derivative products;

10 (v) self-administered hormonal contraceptives;

11 (vi) dietary fluoride supplements;

12 (vii) influenza vaccines; and

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

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

18 (ii) The Commissioner of Health may invalidate a protocol if the
19 Commissioner finds that the protocol's continued operation would pose an
20 undue risk to the public health, safety, or welfare and signs a declaration to that
21 effect. Upon such a declaration, the Director shall remove the invalidated

1 protocol from the Board website and shall cause electronic notice of the
2 protocol’s discontinuation to be transmitted to all Vermont drug outlets.

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

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

11 (A) the prescriber has clearly indicated that drug product substitution
12 is permissible by indicating “therapeutic substitution allowed” or similar
13 designation;

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

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

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

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

4 (6) Short-term extensions.

5 (A) A pharmacist may extend a previous prescription in the absence
6 of a collaborative practice agreement or a State protocol so long as the
7 pharmacist provides only sufficient quantity to the patient until the patient is
8 able to consult with another practitioner, not to exceed a five-day supply or the
9 smallest available unit, and takes all reasonable measures to notify the patient’s
10 primary care provider of record or the appropriate original prescriber, if the
11 original prescriber is different from the primary care provider of record.

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

13 (c) Board rules shall:

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

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

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

1 Sec. 12. PROTOCOL IMPLEMENTATION; TARGET DATES;

2 RULEMAKING

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

4 (1) approve State protocols respecting opioid antagonists, self-
5 administered hormonal contraceptives, and influenza vaccines in accordance
6 with the procedure for establishing valid protocols set forth in 26 V.S.A.
7 § 2023(b)(2) in Sec. 11 of this act; or

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

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

17 * * * Physical Therapists * * *

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

19 § 2103. EXAMINATION

20 * * *

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

8 * * *

9 * * * Veterinary Medicine * * *

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

11 § 2414. FEES

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

14 (1) Application \$ 100.00

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

16 * * * Landscape Architects * * *

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

18 § 2613. EXEMPTIONS

19 (a) This chapter shall not affect or prevent:

20 * * *

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

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

3 * * *

4 * * * Review of Regulatory Laws * * *

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

6 CHAPTER 57. REVIEW OF REGULATORY LAWS

7 * * *

8 § 3105. CRITERIA AND STANDARDS

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

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

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

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

17 * * *

18 (d) Prior to review under this chapter and consideration by the General
19 Assembly of any bill to regulate a profession or occupation and upon the
20 request of the House or Senate Committee on Government Operations, the
21 Office shall make, in writing, a preliminary assessment of whether any

1 particular request for regulation meets the criteria set forth in subsection (a) of
2 this section. The Office shall report its preliminary assessment to the
3 ~~appropriate House or~~ and Senate Committee Committees on Government
4 Operations.

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

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

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

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

16 * * *

17 § 3107. INFORMATION REQUIRED OF APPLICANTS

18 Prior to review under this chapter and prior to consideration by the General
19 Assembly of any bill that proposes to regulate a profession or occupation, the
20 profession or occupation being reviewed or seeking regulation shall explain

1 each of the following factors, in writing, to the extent requested by the House
2 or Senate Committee on Government Operations:

3 * * *

4 § 3108. PRELIMINARY ASSESSMENT OF SCOPE OF PRACTICE

5 (a) Office preliminary assessment.

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

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

17 (b) Required supporting information. A profession proposing by petition a
18 material amendment of a scope of practice shall explain each of the following
19 factors, in writing, to the extent requested by the Office or the House or Senate
20 Committee on Government Operations, not later than July 1 of the year
21 preceding the next regular session of the General Assembly:

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

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

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

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

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

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

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

7 (C) whether educational programs exist in this State;

8 (D) whether there will be an experience requirement;

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

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

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

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

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

21 (A) the anticipated economic impact such an expansion will have for

1 the system, for patients, and for other health care providers; and

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

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

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

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

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

20 (c) Exemption. In lieu of submitting a scope of practice request as
21 described in subsection (b) of this section, a person proposing an amendment

1 to a scope of practice may submit a request for an exemption. The request for
2 exemption shall be submitted to the Office not later than July 1 of the year
3 preceding the next regular session of the General Assembly and shall include a
4 plain language description of the request. The Office may grant the exemption
5 if:

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

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

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

15 (d) Impacted persons.

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

1 and shall provide a copy of the written impact statement to the requestor.

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

6 * * * Private Investigative and Security Services * * *

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

8 CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

9 Subchapter 1. General Provisions

10 § 3151. DEFINITIONS

11 As used in this chapter:

12 (1)(A) “Director” means the Director of the Office.

13 ~~(B) “Board” means the State Board of Private Investigative and~~
14 ~~Security Services~~ “Office” means the Office of Professional Regulation.

15 * * *

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

17 Administration

18 § 3161. ~~STATE BOARD~~ REGULATION OF PRIVATE INVESTIGATIVE

19 AND SECURITY SERVICES; DIRECTOR; ADVISOR

20 APPOINTEES

1 ~~The State Board of Private Investigative and Security Services is created.~~
2 ~~The Board shall consist of five members appointed by the Governor: one shall~~
3 ~~be a provider of private investigative services; one shall be a provider of~~
4 ~~private security services; two shall be members of the public with no financial~~
5 ~~interest in either service other than as a consumer or potential consumer. The~~
6 ~~remaining member shall be a provider of private investigative services or a~~
7 ~~provider of private security services, or a provider of both types of services.~~
8 ~~Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§~~
9 ~~129b and 2004.~~

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

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

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

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

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

1 § 3172. LICENSES

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

5 * * *

6 § 3173. PRIVATE INVESTIGATOR LICENSES

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

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

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

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

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

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

20 (c) The ~~Board~~ Director shall require that a person ~~licensed~~ seeking
21 licensure to practice independently as a private investigator has had

1 appropriate experience in investigative work, for a period of not less than two
2 years, as determined by the ~~Board~~ Director. Such experience may include
3 having been regularly employed as a private ~~detective~~ investigator licensed in
4 another state or as an investigator for a private ~~detective~~ investigative agency
5 licensed in this or another state or having been a sworn member of a federal,
6 state, or municipal law enforcement agency.

7 * * *

8 § 3174. SECURITY GUARD LICENSES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 § 3175b. GUARD DOG TRAINING INSTRUCTOR LICENSE

20 (a) An applicant for a license to provide guard dog services shall
21 demonstrate to the ~~Board~~ Director competence in the handling of guard dogs in

1 a guard dog training program approved by the ~~Board~~ Director and taught by an
2 instructor currently licensed under this section.

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

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

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

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

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

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

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

17 § 3175c. FIREARMS TRAINING AND CERTIFICATION

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

20 (1) ~~An applicant for a private investigator or security guard license to~~
21 ~~provide armed services shall~~ demonstrate to the ~~Board~~ Director competence in

1 the safe use of firearms by successfully completing a firearms training program
2 approved by the ~~Board~~ Director;

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

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

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

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

9 § 3176. EMPLOYEES OF AGENCIES

10 * * *

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

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

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

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

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

12 § 3176a. TRANSITORY PRACTICE

13 The Director ~~of the Office of Professional Regulation~~, under rules adopted
14 by the ~~Board~~ Director, may grant a transitory permit to practice as a private
15 investigator to a person who is not a resident of Vermont and has no
16 established place of business in this State, if that person is legally qualified by
17 license to practice as a private investigator in any state or country that regulates
18 such practice. Practice under a transitory permit shall not exceed 30 days in
19 any calendar year.

20 * * *

1 § 3178a. ~~FEES~~

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

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

5 ~~(A) Investigative agency \$ 340.00~~

6 ~~(B) Security agency \$ 340.00~~

7 ~~(C) Investigative/security agency \$ 400.00~~

8 ~~(D) Sole proprietor \$ 250.00~~

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

10 ~~(A) Unarmed licensee \$ 150.00~~

11 ~~(B) Armed licensee \$ 200.00~~

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

13 ~~(A) Unarmed registrants \$ 60.00~~

14 ~~(B) Armed registrants \$ 120.00~~

15 ~~(C) Transitory permits \$ 60.00~~

16 ~~(4) Biennial renewal:~~

17 ~~(A) Investigative agency \$ 300.00~~

18 ~~(B) Security agency \$ 300.00~~

19 ~~(C) Investigative/security agency \$ 300.00~~

20 ~~(D) Unarmed licensee \$ 120.00~~

21 ~~(E) Armed licensee \$ 180.00~~

1 applicable, those requirements of AQB for reactivation and payment of an
2 additional late renewal penalty.

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

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

14 * * *

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

17 * * *

1 * * * Midwives * * *

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

3 CHAPTER 85. MIDWIVES

4 § 4181. DEFINITIONS

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

7 * * *

8 ~~(6) “VMA” means the Vermont Midwives Alliance.~~

9 * * *

10 § 4185. DIRECTOR; DUTIES

11 * * *

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

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* * * Electrologists * * *

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

§ 4404. DIRECTOR; DUTIES

* * *

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

* * *

* * * Respiratory Care * * *

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

§ 4712. EXEMPTIONS FROM LICENSURE

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

(1) A person matriculated in an education program approved by the ~~board~~ Director who is pursuing a degree in respiratory care or respiratory therapy from satisfying supervised clinical education requirements related to

1 the person’s respiratory care education while under direct supervision of a
2 respiratory care practitioner or physician.

3 * * *

4 * * * Motor Vehicle Racing * * *

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

6 § 4801. DEFINITIONS

7 As used in this chapter:

8 * * *

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

12 * * *

13 * * * Pollution Abatement Facility Operators * * *

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

15 § 5121. ELIGIBILITY FOR LICENSURE

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

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* * * Notaries Public * * *

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

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

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

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

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

§ 122. OFFICE OF PROFESSIONAL REGULATION

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

* * *

(49) Massage Therapists, Bodyworkers, and Touch Professionals

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

2 CHAPTER 105. MASSAGE THERAPISTS, BODYWORKERS, AND

3 TOUCH PROFESSIONALS

4 Subchapter 1. General Provisions

5 § 5401. DEFINITIONS

6 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 § 5402. PROHIBITIONS

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

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

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

14 § 5403. UNAUTHORIZED PRACTICE

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

18 § 5404. EXEMPTIONS

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

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

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

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

6 (b) The provisions of this chapter requiring individuals to be registered
7 shall not apply to individuals who engage in or offer the practice of massage or
8 the practice of bodywork in the course of their customary duties as physicians,
9 podiatrists, physician assistants, nurses, osteopaths, acupuncturists, athletic
10 trainers, barbers, cosmetologists, estheticians, electrologists, chiropractors,
11 midwives, naturopathic physicians, occupational therapists, physical therapists,
12 or respiratory care practitioners.

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

1 Subchapter 2. Administration

2 § 5411. DUTIES OF THE DIRECTOR

3 (a) Generally. The Director shall:

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

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

8 (3) administer fees as established by law;

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

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

11 (6) explain complaint procedures to the public.

12 (b) Rules.

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

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

17 (B) actions that constitute unprofessional conduct;

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

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

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

2 (A) the registrations of employed or contracted massage therapists,

3 bodyworkers, or touch professionals at an establishment; and

4 (B) information regarding unprofessional conduct and filing

5 complaints with the Office.

6 (3) The rules described in this subsection (b) shall include provisions

7 relating to the manner in which the information disclosed shall be distributed

8 or displayed, and a requirement that a massage therapist, bodyworker, or touch

9 professional and his or her client sign an acknowledgement that the

10 information was disclosed.

11 (4) The Director may adopt other rules as necessary to perform his or

12 her duties under this chapter.

13 § 5412. ADVISOR APPOINTEES

14 (a) The Secretary of State shall appoint three advisors of suitable

15 qualifications, as described in this section, to advise the Director on matters

16 relating to the practice of massage and the practice of bodywork.

17 (b) The Secretary shall appoint the advisors to serve, at the Secretary's

18 pleasure, for five-year staggered terms. To stagger the advisors' terms, the

19 Secretary may initially appoint two of the advisors for less than a five-year

20 term.

1 § 5423. ESTABLISHMENTS; DESIGNEE AND INSPECTION

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

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

10 § 5424. REGISTRATION RENEWAL

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

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

16 § 5426. FEES

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

1 § 5427. DISPLAY OF REGISTRATION

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

5 § 5428. UNPROFESSIONAL CONDUCT

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

8 (1) engaging in activities in violation of 13 V.S.A. § 2605 (voyeurism);

9 (2) engaging in a sexual act with a client;

10 (3) conviction of a crime committed while engaged in the practice of
11 massage or the practice of bodywork;

12 (4) performing massage or bodywork that the massage therapist,
13 bodyworker, or touch professional knows or has reason to know has not been
14 authorized by a client or the client’s legal representative; and

15 (5) engaging in conduct of a character likely to deceive, defraud, or
16 harm the public.

17 Sec. 30. TRANSITIONAL PROVISION; ADVISOR APPOINTEES

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

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

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

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

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

12 Sec. 32. OFFICE OF PROFESSIONAL REGULATION; REGULATORY
13 REVIEW

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

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

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

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

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

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

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

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

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

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

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

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

1 (I) gas appliance installers, inspectors, and servicers certified under
2 20 V.S.A. § 2731(c)(4)(C);

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

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

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

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

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

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

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

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

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

