

1 **DRAFT; NOT YET EDITED; FOR COMMITTEE DISCUSSION**

2 TO THE HONORABLE SENATE:

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

8 * * * Office of Professional Regulation * * *

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

10 § 122. OFFICE OF PROFESSIONAL REGULATION

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

15 * * *

16 (28) Audiologists and Hearing Aid Dispensers

17 * * *

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

19 * * *

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.

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

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

* * *

* * * Accountants * * *

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

CHAPTER 1. ACCOUNTANTS

* * *

Subchapter 2. Board of Public Accountancy

* * *

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;

1 §§ 4.23 (faculty, bachelor and associate degree programs) and 4.24 (faculty,
2 practical nursing programs), are repealed.

3 * * * Optometry * * *

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

5 CHAPTER 30. OPTOMETRY

6 Subchapter 1. General Provisions

7 § 1703. DEFINITIONS

8 As used in this chapter:

9 * * *

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

12 * * *

13 (F) For those licensees holding an advanced procedures endorsement
14 from the Director, performing minor surgical procedures as set forth in
15 subchapter 7 of this chapter and as further described by the Board by rule.

16 * * *

17 § 1704. PENALTIES

18 A person who obtains a license by fraud or misrepresentation or who
19 practices or attempts to practice optometry or optometric advanced procedures
20 or ~~hold~~ holds himself or herself out as being able to do so in this State without

1 first having obtained the license or advanced procedures endorsement required
2 by this chapter shall be subject to the penalties provided in 3 V.S.A. § 127.

3 * * *

4 § 1708. POWERS AND DUTIES

5 (a) The Board shall:

6 (1) Adopt rules under the Vermont Administrative Procedure Act
7 necessary for the performance of its duties, ensuring that at least the following
8 are established by statute or rule:

9 * * *

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

13 * * *

14 Subchapter 3. Examinations and Licenses

15 * * *

16 § 1718. FEES

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

19 (1) Application \$225.00

20 (2) Biennial renewal ~~\$425.00~~ \$350.00

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Subchapter 6. Therapeutic Pharmaceutical Agents

§ 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

* * *

Subchapter 7. Advanced Procedures

§ 1729. ADVANCED PROCEDURES ENDORSEMENT

(a) Generally. The Board shall provide an advanced procedures endorsement to an applicant who meets the requirements of this section and Board rules adopted in accordance with this section.

(b) Qualifications for endorsement. To be eligible for endorsement, an optometrist licensed and in good standing under this chapter shall provide to the Board evidence that he or she meet the following qualifications:

(1) Examination. Passage of the injection skills and the laser and surgical procedures examinations administered by the National Board of Examiners in Optometry or other similarly accredited body or substantially similar examinations administered by a school or college of optometry approved by the Board.

(2) Education. Satisfactory completion of education provided by an accredited optometry, osteopathy, or medical school that is at least 32 clock hours in length, that includes the following, and that is approved by the Board:

(A) Classroom instruction in:

(i) laser physics, hazards, and safety;

- 1 (ii) biophysics of laser;
- 2 (iii) laser application in clinical optometry;
- 3 (iv) laser tissue interactions;
- 4 (v) laser indications, contraindications, and potential
- 5 complications;
- 6 (vi) gonioscopy;
- 7 (vii) laser therapy for open angle glaucoma;
- 8 (viii) laser therapy for angle closure glaucoma;
- 9 (ix) posterior capsulotomy;
- 10 (x) common complications: lids, lashes, and lacrimal;
- 11 (xi) medicolegal aspects of anterior segment procedures;
- 12 (xii) peripheral iridotomy;
- 13 (xiii) laser trabeculoplasty
- 14 (xiv) minor surgical procedures;
- 15 (xv) overview of surgical instruments, asepsis, and OSHA;
- 16 (xvi) surgical anatomy of the eyelids;
- 17 (xvii) emergency surgical procedures;
- 18 (xviii) chalazion management;
- 19 (xix) epiluminescence microscopy;
- 20 (xx) local anesthesia: techniques and complications;
- 21 (xxi) anaphylaxis and other office emergencies;

1 (xxii) radiofrequency surgery; and

2 (xxiii) post-operative wound care.

3 (B) Laboratory instruction in:

4 (i) laser instruction on:

5 (I) selective laser trabeculoplasty;

6 (II) peripheral laser iridotomy; and

7 (III) YAP capsulotomy;

8 (ii) injection instruction on:

9 (I) injections into the eyelid;

10 (II) injections of the subconjunctival space;

11 (III) intramuscular injection;

12 (IV) subcutaneous injections;

13 (V) intravenous injections; and

14 (VI) intralesional injections; and

15 (iii) surgical instruction on management of lid lesions.

16 (C) In vivo instruction for each procedure by an ophthalmologist or
17 optometrist who is currently licensed to perform these procedures.

18 (c) Waiver. The Board may waive the requirements of subsection (b) of
19 this section for an applicant who is currently licensed and in good standing in
20 another jurisdiction of the United States that has license requirements for

1 optometric advanced procedures that are substantially equivalent to those of
2 subsection (b).

3 (d) Authorized procedures. An optometrist endorsed under this section
4 may perform the following advanced procedures:

5 (1) the following anterior segment laser procedures:

6 (A) selective laser trabeculoplasty;

7 (B) peripheral laser iridotomy;

8 (C) peripheral laser iridoplasty; and

9 (D) YAG capsulotomy.

10 (2) injections applicable to the diagnostic care or treatment of the eye
11 and its adnexa;

12 (3) the following eyelid surgical procedures:

13 (A) removal of benign eyelid and eye growths; and

14 (B) chalazion excision; and

15 (4) other procedures as defined by the Board, provided they are taught at
16 a recognized school or college of optometry and are not otherwise prohibited
17 by this section.

18 (e) Prohibited procedures. The following procedures are prohibited to be
19 performed by any optometrist, except for the pre- and postoperative care of
20 these procedures:

21 (1) the following procedures:

- 1 (A) retina laser procedures;
- 2 (B) penetrating keratoplasty or corneal transplant;
- 3 (C) the administration of general anesthesia; and
- 4 (D) surgery done with general anesthesia; and
- 5 (2) the following non-laser surgical procedures:
 - 6 (A) surgery related to removal of the eye from a living human being;
 - 7 (B) surgery requiring full thickness incision or excision of the cornea
8 or sclera, excluding anterior chamber paracentesis to reduce intraocular
9 pressure in patients with acute closed-angle glaucoma;
 - 10 (C) surgery requiring incision of the iris and ciliary body, including
11 diathermy or cryotherapy;
 - 12 (D) surgery requiring incision of the vitreous;
 - 13 (E) surgery requiring incision of the retina;
 - 14 (F) surgical extraction of the crystalline lens;
 - 15 (G) surgical intraocular implants;
 - 16 (H) incisional or excisional surgery of the extraocular muscles;
 - 17 (I) surgery of the eyelid for suspect malignancies or for incisional
18 cosmetic or mechanical repair of blepharochalasis, ptosis, and tarsorrhaphy;
 - 19 (J) surgery of the bony orbit, including orbital implants;
 - 20 (K) incisional or excisional surgery of the lacrimal system other than
21 probing or related procedures;

1 § 2022. DEFINITIONS

2 As used in this chapter:

3 * * *

4 (15)(A) “Practice of pharmacy” means:

5 * * *

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

8 * * *

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

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

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

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

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

21 * * *

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

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

7 (2) State protocol.

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

12 (i) opioid antagonists;

13 (ii) epinephrine auto-injectors;

14 (iii) tobacco cessation products;

15 (iv) tuberculin purified protein derivative products;

16 (v) self-administered hormonal contraceptives;

17 (vi) dietary fluoride supplements;

18 (vii) influenza vaccines; and

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

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

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

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

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

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

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

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

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

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

11 (6) Short-term extensions.

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

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

20 (c) Board rules shall:

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

1 in the United States shall provide for the safe collection of drugs, which shall

2 include:

3 (1) offering drug collection by one or more of the following methods:

4 (A) on-site collection, dropbox, or receptacle meeting federal

5 standards;

6 (B) mail-back collection by prepaid envelopes as authorized by

7 federal law and regulation; or

8 (C) other federal Drug Enforcement Agency approved methods of

9 collection; and

10 (2) signage prominently displayed advertising such drug collection to

11 consumers.

12 * * *

13 § 2063. NOTIFICATIONS

14 (a) All licensed drug outlets shall report to the Board of Pharmacy within
15 48 hours the occurrence of any of the following changes:

16 * * *

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

19 * * *

20 ~~Subchapter 6. Wholesale Distributors and Manufacturers~~

21 * * *

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 (1) Why regulation is necessary, including:

4 * * *

5 (2) The extent to which practitioners are autonomous, as indicated by:

6 * * *

7 (3) The efforts that have been made to address the concerns that give
8 rise to the need for regulation, including:

9 * * *

10 (4) Why the alternatives to licensure specified in this subdivision would
11 not be adequate to protect the public interest:

12 * * *

13 (5) The benefit to the public if regulation is granted, including:

14 * * *

15 (6) The form and powers of the regulatory entity, including:

16 * * *

17 (7) The extent to which regulation might harm the public, including:

18 * * *

19 (8) How the standards of the profession or occupation will be
20 maintained, including:

21 * * *

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

4 (10) The effect that registration, certification, or licensure will have on
5 the costs of the services to the public.

6 * * *

7 § 3108. PRELIMINARY ASSESSMENT OF SCOPE OF PRACTICE

8 (a) Office preliminary assessment.

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

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

20 (b) Required supporting information. A profession proposing by petition a
21 material amendment of a scope of practice shall explain each of the following

1 factors, in writing, to the extent requested by the Office or the House or Senate
2 Committee on Government Operations, not later than July 1 of the year
3 preceding the next regular session of the General Assembly:

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

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

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

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

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

1 The description of the education and training shall include the following
2 information:

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

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

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

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

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

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

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

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

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

1 including:

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

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

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

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

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

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

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

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

11 (2) There is not substantial dispute concerning the scope of practice
12 request; or

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

17 (d) Impacted persons.

18 (1) Any person acting on behalf of a profession that may be directly
19 impacted by a scope of practice request submitted pursuant to this section may
20 submit to the Office a written statement identifying the nature of the impact not
21 later than October 1 of the year preceding the next regular session of the

1 General Assembly. That person shall indicate the nature of the impact by
2 taking into consideration the criteria set forth in subsection (b) of this section
3 and shall provide a copy of the written impact statement to the requestor.

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

8 * * * Private Investigative and Security Services * * *

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

10 CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

11 Subchapter 1. General Provisions

12 § 3151. DEFINITIONS

13 As used in this chapter:

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

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

17 * * *

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

19 Administration

20 § 3161. ~~STATE BOARD~~ REGULATION OF PRIVATE INVESTIGATIVE
21 AND SECURITY SERVICES; DIRECTOR; ADVISOR

1 APPOINTEES

2 ~~The State Board of Private Investigative and Security Services is created.~~
3 ~~The Board shall consist of five members appointed by the Governor: one shall~~
4 ~~be a provider of private investigative services; one shall be a provider of~~
5 ~~private security services; two shall be members of the public with no financial~~
6 ~~interest in either service other than as a consumer or potential consumer. The~~
7 ~~remaining member shall be a provider of private investigative services or a~~
8 ~~provider of private security services, or a provider of both types of services.~~
9 ~~Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§~~
10 ~~129b and 2004.~~

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

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

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

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

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* * * Dietitians * * *

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

§ 3387. APPLICATION

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

* * * Naturopathic Physicians * * *

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

§ 4126. ADVISOR APPOINTEES

* * *

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

[Repealed.]

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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.]~~

* * * 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) Touch professionals

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

2 CHAPTER 105. TOUCH PROFESSIONALS

3 Subchapter 1. General Provisions

4 § 5401. DEFINITIONS

5 As used in this chapter:

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

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

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

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

17 (B) A “place of business” includes any office, clinic, facility, salon,
18 spa, or other location not otherwise exempted under section 5404 of this
19 chapter where a person or persons engage in the practice of massage or the
20 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 articles of street clothing or otherwise have a reasonable expectation of
12 privacy.

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

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

18 (5) “Touch professional” means a person who holds a registration from
19 the Office to practice massage or practice bodywork or both.

1 § 5402. PROHIBITIONS

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

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

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

16 § 5403. UNAUTHORIZED PRACTICE

17 (a) The provisions of 3 V.S.A. § 127 (unauthorized practice) shall apply to
18 any individual who or establishment that engages in the practice of massage or
19 the practice of bodywork without a registration from the Office.

20 (b) Any person violating this section shall be subject to the penalties
21 provided in 3 V.S.A. § 127.

1 § 5404. EXEMPTIONS

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

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

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

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

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

17 (c) The provisions of this chapter requiring establishments to be registered
18 shall not apply to health care facilities and ambulatory surgery centers, as those
19 terms are defined in 18 V.S.A. § 9432, or to the businesses and offices of the
20 licensees listed in subsection (b) of this section, regardless of whether such
21 facilities or businesses employ, contract with, or rent to touch professionals.

1 (5) explain appeal procedures to applicants, registered touch
2 professionals, **and establishments**; and

3 (6) explain complaint procedures to the public.

4 (b) Rules.

5 (1) The Director shall adopt rules requiring touch professionals to
6 disclose to each new client before the first treatment the following information:

7 (A) the professional qualifications and experience of the touch
8 professional;

9 (B) actions that constitute unprofessional conduct;

10 (C) the method for filing a complaint against a touch professional **and**
11 **an establishment**; and

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

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

14 (A) **an establishment's registration**;

15 (B) the registrations of employed or contracted touch professionals at
16 an establishment; and

17 (C) information regarding unprofessional conduct and filing
18 complaints with the Office.

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

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

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

5 § 5412. ADVISOR APPOINTEES

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

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

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

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

1 Subchapter 3. Registrations

2 § 5421. APPLICATION

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

6 § 5422. TOUCH PROFESSIONAL; REGISTRATION BY

7 ENDORSEMENT

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

11 § 5423. ESTABLISHMENTS; REGISTRATION, DESIGNEE, AND

12 INSPECTION

13 (a) An establishment shall designate a touch professional to be responsible
14 for ensuring the establishment complies with the requirements of this chapter
15 and the rules adopted by the Director.

16 (b) A person authorized by the Director may enter, for the purpose of
17 inspection, all establishments registered under this chapter or that appear to be
18 offering massage or bodywork in exchange for consideration. A fee shall not
19 be charged for an initial inspection under this subsection. The Director may
20 charge a fee of \$X.XX for any inspection that is necessary as a result of an
21 initial inspection.

1 § 5424. REGISTRATION RENEWAL

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

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

7 § 5426. FEES

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

10 § 5427. DISPLAY OF REGISTRATION

11 (a) A touch professional shall conspicuously display his or her registration
12 in any location where the touch professional is engaged in the practice of
13 massage or the practice of bodywork.

14 (b) The registration of an establishment shall be conspicuously displayed in
15 the establishment in a location that can be easily viewed by consumers.

16 § 5428. UNPROFESSIONAL CONDUCT

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

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

20 (2) Engaging in a sexual act with a client;

1 (3) Conviction of a crime committed while engaged in the practice of
2 massage or the practice of bodywork;

3 (4) Performing massage or bodywork that the touch professional knows
4 or has reason to know has not been authorized by a client or the client’s legal
5 representative; and

6 (5) Engaging in conduct of a character likely to deceive, defraud, or
7 harm the public.

8 Sec. 30. TRANSITIONAL PROVISION; ADVISOR APPOINTEES

9 Notwithstanding the provisions of 26 V.S.A. § 5412 in Sec. 29 of this act
10 that require a touch professional advisor appointee to be registered under 26
11 V.S.A. chapter 105, the Secretary of State may initially appoint advisor
12 appointees who are not registered under this chapter because the law has yet to
13 take effect, provided those advisor appointees otherwise meet the requirements
14 of 26 V.S.A. § 5412.

15 Sec. 31. CREATION OF POSITIONS WITHIN THE OFFICE OF

16 PROFESSIONAL REGULATION; LICENSING.

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

20 (b) Any funding necessary to support the positions created in subsection (a)
21 of this section and the implementation of 26 V.S.A. chapter 105 set forth in

1 Sec. 29 of this act shall be derived from the Office’s Professional Regulatory
2 Fee Fund and not from the General Fund.

3 Sec. 32. OFFICE OF PROFESSIONAL REGULATION; REGULATORY
4 REVIEW

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

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

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

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

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

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

- 1 (C) pollution abatement facility operators licensed under 26 V.S.A.
2 chapter 99;
- 3 (D) potable water supply and wastewater system designers licensed
4 under 26 V.S.A. chapter 97;
- 5 (E) professional engineers licensed under 26 V.S.A. chapter 20;
- 6 (F) property inspectors licensed under 26 V.S.A. chapter 19;
- 7 (G) real estate appraisers licensed under 26 V.S.A. chapter 69;
- 8 (H) real estate brokers and salespersons licensed under 26 V.S.A.
9 chapter 41;
- 10 (I) gas appliance installers, inspectors, and servicers certified under
11 20 V.S.A. § 2731(c)(4)(C);
- 12 (J) oil burning equipment installers, inspectors, and servicers certified
13 under 20 V.S.A. § 2731(c)(4)(D); and
- 14 (K) limited oil burning equipment installers, inspectors, and services
15 certified under 20 V.S.A. § 2731(c)(4)(F);
- 16 (L) boiler inspectors authorized under 20 V.S.A. chapter 173,
17 subchapter 5;
- 18 (M) each type of electrician licensed under 26 V.S.A. chapter 15; and
- 19 (N) each type of plumber licensed under 26 V.S.A. chapter 39.

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

4 (A) any current continuing education relating to climate change or
5 the State’s energy goals or both that a professional is required to obtain in
6 order to renew his or her authorization to practice the profession, including the
7 number of hours of that required continuing education and a specific
8 description of it;

9 (B) any continuing education relating to climate change or the State’s
10 energy goals or both that is not currently required but that the regulatory entity
11 recommends be required, including the number of hours recommended for that
12 continuing education and a specific description of it; and

13 (C) a description of how the regulatory entity perceives the
14 profession’s role in mitigating the effects of climate change and in furthering
15 the State’s energy goals, and how any current and recommended continuing
16 education addresses those issues.

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

18 (b) On or before January 15, 2021, the Director of the Office of
19 Professional Regulation shall compile the information submitted to the
20 Director under subsection (a) of this section and report it, along with any

1 further recommendations, to the Senate and House Committees on
2 Government Operations.

3 * * * Effective Dates * * *

4 Sec. 34. EFFECTIVE DATES

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

7 and that after passage the title of the bill be amended to read: “An act relating
8 to professional regulation”

9 (Committee vote: _____)

10

11

Senator _____

12

FOR THE COMMITTEE