

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 \* \* \*

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

20 § 123. DUTIES OF OFFICE

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

4 \* \* \*

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

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

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

13 \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16           ~~(3) Applicants subject to background checks shall be notified that a~~  
17 ~~check is required, if fingerprints will be retained on file, and that criminal~~  
18 ~~convictions are not an absolute bar to licensure, and shall be provided such~~  
19 ~~other information as may be required by federal law or regulation~~ Prior to  
20 acting on an initial or renewal application, the Office may obtain with respect  
21 to the applicant a Vermont criminal history record, an out-of-state criminal

1 history record, and a criminal history record from the Federal Bureau of  
2 Investigation. Federal Bureau of Investigation background checks shall be  
3 fingerprint-supported, and fingerprints so obtained may be retained on file and  
4 used to notify the Office of future triggering events. Each applicant shall  
5 consent to the release of criminal history records to the Office on forms  
6 developed by the Vermont Crime Information Center.

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

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

15 § 125. FEES

16 \* \* \*

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

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











1 persons in professions that have advisor appointees shall be heard by an  
2 administrative law officer appointed by the Secretary of State.

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

6 ~~(4)~~(2) A board may grant a temporary renewal license pending the  
7 completion of the required continuing education.

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

12 \* \* \*

13 \* \* \* Accountants \* \* \*

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

15 CHAPTER 1. ACCOUNTANTS

16 \* \* \*

17 Subchapter 2. Board of Public Accountancy

18 \* \* \*

19 § 54. GENERAL POWERS AND DUTIES OF THE BOARD

20 \* \* \*

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

3 \* \* \*

4 § 56. FEES

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

7 \* \* \*

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

10 \* \* \*

11 Subchapter 3. Licenses

12 \* \* \*

13 § 74. FIRMS; REGISTRATION AND OWNERSHIP

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

16 \* \* \*

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

20 (b) A firm that does not have an office in this State may perform those  
21 services set forth in subdivision 13(1)(A)(ii), 13(1)(A)(v), or 13(3) of this

1 chapter for a client with a home office in this State, may otherwise practice  
2 public accounting as authorized under this chapter, and may use the title  
3 “CPA” or “CPA firm” without a registration issued only if the firm:

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

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

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

10 \* \* \*

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

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

18 \* \* \*

19 (f) Any individual exercising practice privileges pursuant to section 74c of  
20 this ~~title~~ chapter, and who is responsible for supervising attest services and  
21 signs or authorizes someone to sign the accountant’s report on behalf of the

1 firm, shall meet the experience and competency requirements set forth in the  
2 professional standards for those services.

3 \* \* \*

4 Subchapter 4. Discipline

5 \* \* \*

6 § 78. ~~DISCIPLINARY MATTERS~~

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

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

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

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

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

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



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

\* \* \*

\* \* \* Nursing \* \* \*

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

CHAPTER 28. NURSING

Subchapter 1. General Provisions

\* \* \*

§ 1573. VERMONT STATE BOARD OF NURSING

\* \* \*

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

\* \* \*

§ 1574. POWERS AND DUTIES

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

\* \* \*

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

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

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

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

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

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

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

1 (4) [Repealed.]

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

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

8 \* \* \*

9 Sec. 8. REPEAL OF BOARD OF NURSING FACULTY REQUIREMENTS

10 IN RULE

11 The rules of the Board of Nursing governing the faculty of bachelor and  
12 associate degree programs and the faculty of practical nursing programs, set  
13 forth in Administrative Rules of the Board of Nursing, CVR 03-030-170,  
14 §§ 4.23 (faculty, bachelor and associate degree programs) and 4.24 (faculty,  
15 practical nursing programs), are repealed.

16 \* \* \* Optometry \* \* \*

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

18 CHAPTER 30. OPTOMETRY

19 Subchapter 1. General Provisions

20 § 1703. DEFINITIONS

21 As used in this chapter:

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

\* \* \*

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

\* \* \*

§ 1704. PENALTIES

A person who obtains a license by fraud or misrepresentation or who practices or attempts to practice optometry or optometric advanced procedures or ~~hold~~ holds himself or herself out as being able to do so in this State without first having obtained the license or advanced procedures endorsement required by this chapter shall be subject to the penalties provided in 3 V.S.A. § 127.

\* \* \*

§ 1708. POWERS AND DUTIES

(a) The Board shall:

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

\* \* \*

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

4 \* \* \*

5 Subchapter 3. Examinations and Licenses

6 \* \* \*

7 § 1718. FEES

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

10 (1) Application	\$225.00
11 (2) Biennial renewal	<del>\$425.00</del> <u>\$350.00</u>

12 \* \* \*

13 Subchapter 6. Therapeutic Pharmaceutical Agents

14 § 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

15 \* \* \*

16 Subchapter 7. Advanced Procedures

17 § 1729. ADVANCED PROCEDURES ENDORSEMENT

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

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

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

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

12           **(A) Classroom instruction in:**

13           **(i) laser physics, hazards, and safety;**

14           **(ii) biophysics of laser;**

15           **(iii) laser application in clinical optometry;**

16           **(iv) laser tissue interactions;**

17           **(v) laser indications, contraindications, and potential**

18           **complications;**

19           **(vi) gonioscopy;**

20           **(vii) laser therapy for open angle glaucoma;**

21           **(viii) laser therapy for angle closure glaucoma;**

- 1                    (ix) posterior capsulotomy;
- 2                    (x) common complications: lids, lashes, and lacrimal;
- 3                    (xi) medicolegal aspects of anterior segment procedures;
- 4                    (xii) peripheral iridotomy;
- 5                    (xiii) laser trabeculoplasty
- 6                    (xiv) minor surgical procedures;
- 7                    (xv) overview of surgical instruments, asepsis, and OSHA;
- 8                    (xvi) surgical anatomy of the eyelids;
- 9                    (xvii) emergency surgical procedures;
- 10                   (xviii) chalazion management;
- 11                   (xix) epiluminescence microscopy;
- 12                   (xx) local anesthesia: techniques and complications;
- 13                   (xxi) anaphylaxis and other office emergencies;
- 14                   (xxii) radiofrequency surgery; and
- 15                   (xxiii) post-operative wound care.
- 16                   (B) Laboratory instruction in:
- 17                   (i) laser instruction on:
- 18                        (I) selective laser trabeculoplasty;
- 19                        (II) peripheral laser iridotomy; and
- 20                        (III) YAP capsulotomy;

- 1                   (ii) injection instruction on:
  - 2                   (I) injections into the eyelid;
  - 3                   (II) injections of the subconjunctival space;
  - 4                   (III) intramuscular injection;
  - 5                   (IV) subcutaneous injections;
  - 6                   (V) intravenous injections; and
  - 7                   (VI) intralesional injections; and
- 8                   (iii) surgical instruction on management of lid lesions.

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

11                  (c) Waiver. The Board may waive the requirements of subsection (b) of  
12                  this section for an applicant who is currently licensed and in good standing in  
13                  another jurisdiction of the United States that has license requirements for  
14                  optometric advanced procedures that are substantially equivalent to those of  
15                  subsection (b).

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

- 18                  (1) the following anterior segment laser procedures:
  - 19                  (A) selective laser trabeculoplasty;
  - 20                  (B) peripheral laser iridotomy;
  - 21                  (C) peripheral laser iridoplasty; and

1           (D) YAG capsulotomy;

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

4           (3) the following eyelid surgical procedures:

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

6           (B) chalazion excision; and

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

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

13           (1) the following procedures:

14           (A) retina laser procedures;

15           (B) penetrating keratoplasty or corneal transplant;

16           (C) the administration of general anesthesia; and

17           (D) surgery done with general anesthesia; and

18           (2) the following non-laser surgical procedures:

19           (A) surgery related to removal of the eye from a living human being;

1           (B) surgery requiring full thickness incision or excision of the cornea  
2           or sclera, excluding anterior chamber paracentesis to reduce intraocular  
3           pressure in patients with acute closed-angle glaucoma;

4           (C) surgery requiring incision of the iris and ciliary body, including  
5           diathermy or cryotherapy;

6           (D) surgery requiring incision of the vitreous;

7           (E) surgery requiring incision of the retina;

8           (F) surgical extraction of the crystalline lens;

9           (G) surgical intraocular implants;

10          (H) incisional or excisional surgery of the extraocular muscles;

11          (I) surgery of the eyelid for suspect malignancies or for incisional  
12          cosmetic or mechanical repair of blepharochalasis, ptosis, and tarsorrhaphy;

13          (J) surgery of the bony orbit, including orbital implants;

14          (K) incisional or excisional surgery of the lacrimal system other than  
15          probing or related procedures;

16          (L) surgery requiring full thickness conjunctivoplasty with graft or  
17          flap; and

18          (M) pterygium surgery.

19          (f) Rules. The Board may adopt any rules that are necessary to administer  
20          the provisions of this subchapter.

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\* \* \* Osteopathy \* \* \*

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

§ 1794. FEES

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

(1) Application

(A) Licensure \$500.00

(B) Limited temporary license \$ 50.00

(2) Biennial license renewal ~~\$350.00~~ \$300.00

\* \* \*

\* \* \* Pharmacy \* \* \*

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

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

\* \* \*

§ 2022. DEFINITIONS

As used in this chapter:

\* \* \*

(15)(A) “Practice of pharmacy” means:

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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 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 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.

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.]

17 \* \* \*







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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 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 and do  
5           not 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  
14 massage therapist, bodyworker, or touch professional  
15 to disclose to each new client before the  
16 first treatment the following information:

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

18 (B) actions that constitute unprofessional conduct;

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

(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.

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

1  
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) boiler inspectors authorized under 20 V.S.A. chapter 173,  
8           subchapter 5;

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

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

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

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

19           (B) any continuing education relating to climate change or the State’s  
20           energy goals or both that is not currently required but that the regulatory entity

1 recommends be required, including the number of hours recommended for that  
2 continuing education and a specific description of it; and

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

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

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

13 \* \* \* Effective Dates \* \* \*

14 Sec. 34. EFFECTIVE DATES

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

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

1 (Committee vote: \_\_\_\_\_)

2

\_\_\_\_\_

3

Senator \_\_\_\_\_

4

FOR THE COMMITTEE