

H.289

An act relating to professions and occupations regulated by the Office of Professional Regulation

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

\* \* \* Office of Professional Regulation \* \* \*

Sec. 1. 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~~ qualified by education and professional experience to perform the duties of the position. The Director of the Office of Professional Regulation shall be a classified position with the Office of the Secretary of State. The following boards or professions are attached to the Office of Professional Regulation:

\* \* \*

(2) ~~Board of Barbers and Cosmetology~~ Cosmetologists

\* \* \*

(6) ~~Board of~~ Funeral Service

\* \* \*

(18) ~~Board of~~ Private Investigative and Security Services

\* \* \*

(50) Well Drillers

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

§ 123. DUTIES OF OFFICE

\* \* \*

(g)(1) The Office shall establish uniform procedures applicable to all of the professions and boards set forth in section 122 of this chapter, providing for:

(A) appropriate recognition of education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of professional licensure; and

(B) expedited issuance of a professional license to a person who is licensed in good standing in another regulatory jurisdiction; and

(i) whose spouse is a member of the U.S. Armed Forces and who has been subject to a military transfer to Vermont; and

(ii) who left employment to accompany his or her spouse to Vermont.

(2) The Director may evaluate specific military credentials to determine equivalency to credentials required for professions attached to the Office. The determinations shall be adopted through written policy that shall be posted on the Office's website.

(3) The Director may evaluate apprenticeship programs recognized or administered by the Vermont Department of Labor, Agency of Education, or U.S. Department of Labor to determine equivalency to credentials required for

professions attached to the Office. The determinations shall be adopted through written policy that shall be posted on the Office's website.

\* \* \*

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration or specialty designation for the following professions:

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

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

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

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

\* \* \*

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

§ 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR

PROFESSIONS; DISCIPLINE PROCESS

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

\* \* \*

(11) Treat as incomplete any license application submitted with a check subsequently returned for insufficient funds or without the personal attestation of the applicant or an authorized officer of an applicant corporation as to the representations therein.

\* \* \*

(g) A board may authorize any of the following:

(1) Its chair or Office legal counsel to grant continuances of scheduled hearings.

(2) Its chair to grant or deny stays pending appeal.

(3) ~~Its chair or legal counsel~~ An administrative law officer to convene and conduct prehearing conferences and to preside at hearings for the purpose of making procedural and evidentiary rulings. The board may overrule a ruling by an administrative law officer under this subdivision.

(4) ~~Its legal counsel to preside at hearings for the purpose of making procedural and evidentiary rulings. The board may overrule a ruling by legal counsel under this subdivision.~~ Office staff to grant applications that present

no substantial discretionary or factual question and to administer the policies of the board between regular meetings.

\* \* \*

(i) A board may consult with the Attorney General or an attorney assigned by the Office of Professional Regulation for the proper conduct of its affairs. The Director may assign Office legal counsel to assist a board in the lawful and orderly conduct of its open meetings and other nondisciplinary business, including making procedural and parliamentary rulings.

\* \* \*

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

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

\* \* \*

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

\* \* \*

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

Sec. 5. 26 V.S.A. chapter 36, subchapter 4 is added to read:

Subchapter 4. Discipline

§ 2053. UNPROFESSIONAL CONDUCT; DISCIPLINE

(a) It shall be unprofessional conduct for a licensee to:

(1) introduce or enforce policies and procedures related to the provision of pharmacy services in a manner that results in deviation from safe practice;

(2) unreasonably prevent or restrict a patient's timely access to patient records or essential pharmacy services;

(3) fail to identify and resolve conditions that interfere with a pharmacist's ability to practice with competency and safety or create an environment that jeopardizes patient care, including by failing to provide mandated rest periods; and

(4) repeatedly, habitually, or knowingly fail to provide resources appropriate for a pharmacist of reasonable diligence to safely complete professional duties and responsibilities, including:

(A) drug utilization review;

(B) immunization;

(C) counseling;

(D) verification of the accuracy of a prescription; and

(E) all other duties and responsibilities of a pharmacist under State and federal laws and regulations.

(b) Drug outlets under common ownership and control constitute a chain. Discipline against any one drug outlet in a chain may be imposed against all drug outlets in a chain, provided the State alleges in a specification of charges and the Board subsequently finds:

(1) unprofessional conduct has occurred at one or more drug outlets;

(2) the unprofessional conduct is attributable to pharmacy or pharmacy business-related policies, procedures, systems, or practices of the chain whether or not those practices manifested in unprofessional conduct at each individual location; and

(3) imposition of disciplinary sanctions or conditions against all drug outlets in the chain is appropriate to protect the public.

\* \* \* Acupuncture \* \* \*

Sec. 6. 26 V.S.A. § 3406 is amended to read:

§ 3406. EXAMINATION

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

- (1) Anatomy and physiology.
- (2) Acupuncture pathology.

- (3) Acupuncture diagnosis.
- (4) Hygiene, sanitation, and sterilization techniques.
- (5) The principles, practices, and techniques of acupuncture.
- (6) Clean needle techniques.

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

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

\* \* \* Tattooists and Body Piercers \* \* \*

Sec. 7. 26 V.S.A. chapter 79 is amended to read:

#### CHAPTER 79. TATTOOISTS AND BODY PIERCERS

##### § 4101. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Practice of permanent cosmetics” means ~~to place~~ microblading and other practices involving placement of a specific type of tattoo that includes permanent eyeliner, permanent lip color, permanent eyebrows, anatomical reproduction, and permanent eye shadow as well as other specific procedures that may be identified by rule by the Director consistent with the Society of Permanent Cosmetic Professionals’ or its successor group’s guidelines.

\* \* \*

§ 4105. ~~APPRENTICESHIP LICENSE~~ REQUIREMENTS FOR  
LICENSURE

\* \* \*

(d) Shops. A shop shall not operate in this State without first registering with the Office of Professional Regulation and paying a fee of \$100.00. Registration shall be in the form required by the Director.

(1) A shop shall not be granted registration unless the shop complies with this chapter and rules adopted under this chapter.

(2) All shops shall designate a person who is licensed under this chapter in the practice of tattooing or body piercing, who shall be responsible for overall cleanliness and sanitation of the shop.

(3) The practice of tattooing or body piercing shall be permitted only in registered shops.

(4) The practice of permanent cosmetics may be performed anywhere the practice of tattooing is permitted, on the premises of a health care professional licensed pursuant to this title, or on premises meeting the sanitation requirements of this chapter as determined by the Director or as set forth by rule.

(5) Notwithstanding the provisions of this subsection, a cosmetology shop licensed under chapter 6 of this title may provide permanent cosmetics

services by a person licensed under this chapter without obtaining a second shop license for the same premises.

\* \* \*

\* \* \* Nursing Home Administrators \* \* \*

Sec. 8. OFFICE OF PROFESSIONAL REGULATION; RULES;

SUPERVISION FOR NURSING HOME ADMINISTRATORS IN  
TRAINING

Notwithstanding the provisions of the Office of Professional Regulation Administrative Rule CVR 04-030-180 (Administrative Rules for Nursing Home Administrators), § 2.3(b)(3), and 3 V.S.A. chapter 25 (Vermont Administrative Procedure Act), the Director of the Office of Professional Regulation may approve on-site supervision, remote supervision by electronic means, or a combination of both, by a preceptor as part of the Administrator-in-training program through June 30, 2023. On and after July 1, 2023, the Director's approval of supervision by a preceptor as part of the Administrator-in-training program shall be conducted in accordance with the provisions of Rule CVR 04-030-180 (Administrative Rules for Nursing Home Administrators) pertaining to supervision by a preceptor.

\* \* \* Well Drillers \* \* \*

Sec. 9. 10 V.S.A. § 1392(c)(1) is amended to read:

(c)(1) The Secretary shall establish a groundwater coordinating committee, with representation from the Division of Drinking Water and Groundwater Protection within the Department, the Division of Geology and Mineral Resources within the Department, the Agency of Agriculture, Food and Markets, and the Departments of Forests, Parks and Recreation and of Health to provide advice in the development of the program and its implementation, on issues concerning groundwater quality and quantity, and on groundwater issues relevant to well-drilling activities ~~and the licensure of well-drillers.~~

Sec. 10. 26 V.S.A. chapter 107 is added to read:

CHAPTER 107. WELL DRILLERS

§ 5601. DEFINITIONS

As used in this chapter:

(1) “Department” means the Department of Environmental Conservation.

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

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

(4) “Qualifying individual” means an individual holding a well-driller license issued in accordance with this chapter who is designated to oversee and

be responsible for the well drilling operations of a business, governmental entity or other entity engaged in performing an activity established under subdivision 5601(6) of this chapter.

(5) “Well” means any hole deeper than 20 feet drilled, driven, or bored into the earth to locate, monitor, extract, or recharge groundwater or any hole deeper than 20 feet drilled, driven, or bored for the primary purpose of transferring heat to or from the earth’s subsurface.

(6) “Well driller” refers to a person engaged in the business of performing activities within one or both of the following classes:

(A) Water well driller. This class shall consist of any person engaged in the business of constructing wells for the purpose of locating, extracting, or recharging groundwater or for the purpose of transferring heat to or from the earth’s subsurface.

(B) Monitoring well driller. This class shall consist of any person engaged in the business of constructing, servicing, or closing wells drilled for the purpose of monitoring groundwater quantity or quality.

#### § 5602. APPLICATION

(a) Any person who intends to engage in the business of performing the activities in the classes established under subdivision 5601(6) of this chapter in the State shall hold a well driller license. The person shall apply for a license with the Office, comply with and provide the information required by rules

adopted by the Director, and pay the application fee set forth in 3 V.S.A.

§ 125.

(b) A business, governmental entity or other entity engaged in the business of performing any of the activities set forth in the well drilling classes established under subsection subdivision 5601(6) of this chapter shall be owned by, employ, or contract with at least one qualifying individual.

(c) Qualifying individuals shall meet the qualifications established in rules adopted in accordance with this chapter. A qualifying individual shall own or be employed by only one business, governmental entity, or other entity but may contract with more than one business, governmental entity, or other entity to provide well-driller services.

§ 5603. PROHIBITIONS; PENALTIES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) practice, or to permit a person to practice, as a well driller without a current license or other authorization to practice as a well driller under Vermont law;

(2) practice, or to permit a person to practice, a class of well driller activities, as those classes are established in subdivision 5601(6) of this chapter, without a current license or other authorization to practice the class of well driller activities under Vermont law; or

(3) represent oneself as being licensed or otherwise authorized by this State to practice as a well driller or use in connection with a name any words, letters, signs, or figures that imply that a person is a well driller or able to practice as a well driller when not licensed or otherwise authorized to do so.

(b) A person who violates this section shall be subject to the penalties in 3 V.S.A. § 127.

#### § 5604. EXEMPTIONS

(a) Employees of a business, governmental entity or other entity that is owned by, employs, or contracts with a licensed qualifying individual are not required to obtain a well-driller license to perform the activities set forth in subdivision 5601(6) of this chapter.

(b) A person is not required to obtain a well-driller license to perform the following activities:

(1) exploratory excavations analyzing foundation conditions related to construction;

(2) constructing wells for the temporary de-watering of construction sites, blasting, soil vapor extraction, air sparging, grounding rod installation or other practices identified by the Commissioner;

(3) pump installation and pump servicing; and

(4) well development, cleaning, and rehabilitation.

§ 5605. DUTIES OF THE DIRECTOR

The Director shall:

- (1) provide general information to applicants for licensure as well  
drillers;
- (2) receive applications for licensure; grant and renew licenses in  
accordance with this chapter; and deny, revoke, suspend, reinstate, or condition  
licenses as directed by an administrative law officer;
- (3) after consultation with the Department, administer or approve  
examinations and training programs;
- (4) explain appeal procedures to well-driller licensees and applicants  
and complaint procedures to the public;
- (5) administer fees collected in accordance with this chapter and  
3 V.S.A. §125;
- (6) refer all disciplinary matters to an administrative law officer  
established under 3 V.S.A. §129(j); and
- (7) with advice of the advisor appointees and in collaboration with the  
Department, adopt or amend rules necessary to implement the provisions of  
this chapter.

§ 5606. ADVISOR APPOINTEES

- (a) The Secretary of State shall appoint three persons to be advisors to the  
Director, two of whom shall be well drillers and one of whom shall be a

representative of the Agency of Natural Resources. Advisors shall be appointed to five-year staggered terms to serve at the Secretary's pleasure as advisors in matters related to the administration of this chapter. Two of the initial appointments shall be for a term of fewer than five years.

(b) A well driller advisor appointee shall have not fewer than three years' experience as a well driller immediately preceding appointment, shall be licensed as a well driller in Vermont during incumbency, and shall be actively engaged in the practice as a well driller during incumbency.

(c) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

#### § 5607. ELIGIBILITY FOR LICENSURE

(a) Eligibility. To be eligible for licensure as a well driller, an applicant shall:

(1) not be in violation of any provisions of this chapter or rules adopted in accordance with the provisions of this chapter; and

(2) demonstrate the education, training, experience, and examination performance as the Director may, by rule, require to hold a license as a well driller.

(b) Classes. The Director shall specify on a license the class or classes of well-driller activities, as those classes are defined in subdivision 5601(6) of

this chapter, a licensee is authorized to practice. A licensee may be authorized to perform more than one class of activities under a single license.

(c) The Director, after consultation with advisor appointees and the Department, shall, by rule, establish appropriate application, testing, and renewal procedures for each class of activity under a license.

#### § 5608. RECORDS AND REPORTS

(a) Each licensee shall keep accurate records and file a report with the Department and the owner of each water well constructed by the licensee that includes the name of the owner; the well and property location; well depth; character of rocks, earth formations, and fluids encountered; and other reasonable and appropriate information the Department may require. Required information shall be set forth in rules established by the Director in collaboration with the Department.

(b) The reports required to be filed under subsection (a) of this section shall be on forms provided by the Department and submitted in accordance with rules adopted under this chapter, which shall include the following requirements:

(1) Each licensee classified as a water well driller shall submit a well completion report within 90 days after completing the construction of a water well.

(2) Each licensee classified as a monitoring well driller shall submit a monitoring well completion or closure report or Department-approved equivalent within 90 days after completing the construction or closure of a monitoring well. Reporting on the construction of a monitoring well shall be limited to information obtained at the time of construction and need not include the work products of others. The filing of a monitoring well completion or closure report shall be delayed for one or more six-month periods from the date of construction upon the filing of a request form provided by the Department that is signed by both the licensee and well owner.

(c) No report shall be required to be filed with the Department if the well is hand driven or is dug by use of a hand auger or other manual means.

(d) A licensee drilling or developing a new water well for use as a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), shall provide to the owner of the property to be served by the groundwater source informational materials developed by the Department of Health regarding:

(1) the potential health effects of the consumption of contaminated groundwater; and

(2) recommended tests to detect specific contaminants, such as arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate, or nitrite, fluoride, and manganese.

§ 5609. LICENSE RENEWAL

A license shall be renewed every two years upon application, payment of the required fee in accordance with 3 V.S.A. § 125, and proof of compliance with such continuing education or periodic reexamination requirements established in the rules adopted in accordance with this chapter. The fee shall be paid biennially upon renewal.

§ 5610. UNPROFESSIONAL CONDUCT

Unprofessional conduct means misusing a title in professional activity and any of the conduct listed in 3 V.S.A. § 129a.

Sec. 11. REPEALS

- (a) 10 V.S.A. § 1395 (application) is repealed.
- (b) 10 V.S.A. § 1395a (licenses; rules) is repealed.
- (c) 10 V.S.A. § 1396 (records and reports) is repealed.
- (d) 10 V.S.A. § 1399 (penalties) is repealed.
- (e) 10 V.S.A. § 1400 (appeals) is repealed.
- (f) 10 V.S.A. § 1402 (denial and revocation of license) is repealed.

Sec. 12. TRANSFER OF RULEMAKING AUTHORITY; TRANSFER OF  
RULES

(a) The statutory authority to adopt rules by the Department of Environmental Conservation pertaining to the licensure of well drillers is

transferred from the Department of Environmental Conservation to the Office of Professional Regulation at the Secretary of State's office.

(b) All rules pertaining to the licensure of well drillers adopted by the Department of Environmental Conservation under 3 V.S.A. chapter 25 prior to July 1, 2021 shall remain in effect until amended or repealed by the Office of Professional Regulation pursuant to 3 V.S.A. chapter 25.

(c) The Office of Professional Regulation shall provide notice of the transfer to the Secretary of State and the Legislative Committee on Administrative Rules in accordance with 3 V.S.A. § 848(d)(2).

\* \* \* Agency of Education \* \* \*

Sec. 13. 16 V.S.A. § 1707 is amended to read:

§ 1707. APPEAL FROM PANEL ORDER

(a) ~~Appeal to State Board of Education.~~

(1) A party aggrieved by a final decision of a hearing panel may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the administrative officer of the hearing panel who shall refer the case to the ~~State Board of Education~~ Director of the Office of Professional Regulation.

The parties may agree to waive this review by written stipulation filed with the ~~State Board of Education~~ administrative officer of the hearing panel. The ~~State Board of Education~~ Director of the Office of Professional Regulation shall assign the case to an appellate officer, who shall conduct its a review on the

basis of the record created before the hearing panel, and it shall allow the presentation of evidence regarding alleged irregularities in hearing procedure not shown in the record.

(2) The ~~State Board of Education~~ appellate officer shall not substitute ~~its~~ the appellate officer's judgment for that of the hearing panel as to the weight of the evidence on questions of fact. ~~It~~ The appellate officer may affirm the decision or may reverse and remand the matter with recommendations if substantial rights of the appellant have been prejudiced because the hearing panel's finding, inferences, conclusions, or decisions are:

- (A) in violation of constitutional or statutory provisions;
- (B) in excess of the statutory authority of the hearing panel;
- (C) made upon unlawful procedure;
- (D) affected by other error of law;
- (E) clearly erroneous in view of the evidence on the record as a whole;
- (F) arbitrary or capricious; or
- (G) characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(b) Following appeal or waiver of appeal to the ~~State Board of Education~~, a party may appeal to the ~~Superior Court in Washington County~~, which shall ~~review the matter de novo~~ Supreme Court, which shall review the matter on

the basis of the records created before the hearing panel and the appellate officer.

Sec. 14. PROFESSIONAL REGULATION; INTERAGENCY REVIEW OF  
AGENCY OF EDUCATION DISCIPLINARY PROCESS

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

(b) The General Assembly directs that the Agency of Education and the Office of Professional Regulation cooperatively assess the costs and benefits of transferring responsibility for educator discipline to the Office of Professional Regulation, making investigative and disciplinary processes applicable to educators consistent with those applicable to professions licensed under 3 V.S.A. § 122. The agencies' assessment shall consider whether the transfer of enforcement and adjudication to the Office of Professional Regulation would enhance the efficiency and transparency of the regulatory process and increase public protection.

(c) On or before December 15, 2021, the Office of the Professional Regulation and the Agency of Education shall report to the House and Senate Committees on Government Operations and on Education with their findings and any recommendations for legislative action.

\* \* \* Mixed Martial Arts \* \* \*

Sec. 15. 26 V.S.A. chapter 107 is added to read:

CHAPTER 107. BOXING AND MIXED MARTIAL ARTS

Subchapter 1. Boxing

\* \* \*

Subchapter 2. Mixed Martial Arts

§ 6025. DEFINITIONS

As used in this subchapter:

(1) “Contestant” means an individual who competes in a mixed martial arts match, including an exhibition. “Contestant” includes both amateur and professional mixed martial arts competitors.

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

(3) “Event” or “mixed martial arts event” means a mixed martial arts match or two or more mixed martial arts matches held at the same location on the same or consecutive dates.

(4) “Exhibition” means an engagement in which the contestants show or display their skills without necessarily striving to win.

(5) “Match” or “mixed martial arts match” means any occurrence in which a mixed martial arts contestant competes against another mixed martial

arts contestant using mixed martial arts. “Match” or “mixed martial arts match” includes amateur matches and exhibitions.

(6) “Mixed martial arts” means unarmed combat involving the use, subject to any applicable limits set forth in this subchapter and in any rules adopted in accordance with this subchapter, of a combination of techniques, including grappling, kicking, and striking, from different disciplines of martial arts. Mixed martial arts includes kickboxing, pankration, Muay Thai, and extreme martial arts. Mixed martial arts does not include boxing.

(7) “Office” means the Vermont Office of Professional Regulation.

(8) “Participant” means individuals who participate, directly or indirectly, in mixed martial arts matches, including managers, referees, match makers, seconds, corners, and judges. “Participant” does not include spectators and audience members.

(9) “Promoter” means any person, club, corporation, or association and, in the case of a corporate promoter, includes any officer, director, employee, or stockholder thereof, who produces, arranges, or stages any mixed martial arts match.

#### § 6026. JURISDICTION OF OFFICE

(a) The Office shall have and exercise sole discretion, management, control, and supervision over all mixed martial arts events taking place within the State. No mixed martial arts event shall take place within the State except

in accordance with the provisions of this subchapter and the rules adopted by the Office.

(b) Every license issued under this subchapter shall be subject to the rules adopted pursuant to this subchapter.

§ 6027. DIRECTOR; POWERS; DUTIES

(a) In addition to the powers and duties of the Director, as established in this subchapter and in 3 V.S.A. chapter 5, subchapter 3, the Director shall have the following powers and duties:

(1) provide information to applicants for obtaining a license;

(2) receive applications for licenses; grant licenses to applicants qualified under this subchapter and in accordance with rules adopted pursuant to this subchapter; renew licenses; and deny, revoke, suspend, reinstate, or condition licenses as directed by an Administrative Law Officer;

(3) administer the inspection of facilities where a mixed martial arts event is to be held and the records associated with the event;

(4) administer fees collected under this subchapter;

(5) collect taxes and bonds in accordance with this subchapter and any rules adopted pursuant this subchapter;

(6) explain appeal procedures to licensees and applicants and complaint procedures to the public; and

(7) refer all disciplinary matters to an Administrative Law Officer.

(b) The Director, in consultation with the advisors appointed in accordance with this subchapter, shall adopt rules necessary to perform the Director's duties under this subchapter and shall establish safety standards for the protection of contestants, participants, promoters, and the public. The rules adopted by the Director in accordance with this subchapter shall, at a minimum, include the following:

(1) rules for the conduct and holding of amateur and professional mixed martial arts events;

(2) requirements and qualifications to be eligible for licenses for anyone involved, indirectly or directly, in a mixed martial arts event, including promoters, contestants, and participants, and to be eligible for event licenses;

(3) requirements for the collection, retention, and remission of bonds provided by promoters as a condition of licensure or of an event permit;

(4) requirements for promoter reports to the Office, including reports following a mixed martial arts event and for promoter payment of the event tax;

(5) requirements for medical examinations of participants and contestants to be performed prior to licensure and renewal;

(6) requirements for medical examinations of contestants and participants before, during, and after mixed martial arts matches or events;

(7) exemptions for certain mixed martial arts events;

(8) requirements for the inspection of facilities where a mixed martial arts event is to be held and of associated records; and

(9) all other requirements necessary for the safe conduct of mixed martial arts matches and events.

§ 6028. ADVISORS

(a) The Secretary of State shall appoint two individuals to serve as advisors in matters related to mixed martial arts regulation. Both advisors shall be an individual with at least three years' experience in mixed martial arts as a promoter, participant, or contestant. The advisor appointees shall be appointed for staggered five-year terms and shall serve at the pleasure of the Secretary.

(b) The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this subchapter. The advisors shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for this purpose.

§ 6029. AMATEUR EVENTS; EXEMPTION FOR SCHOOLS;

EXEMPTIONS

(a) All amateur mixed martial arts events shall be regulated by the Office in accordance with this subchapter and rules adopted under this subchapter except for amateur mixed martial events conducted by a school, college, or university.

(b) The Director may, by rules adopted in accordance with this subchapter, exempt from the application of these rules mixed martial arts events in which there is minimal or no contact between contestants, for which there is no remuneration for participation, and for which no tickets are sold or admission fees charged.

§ 6030. CONTESTANTS; LICENSING; EXAMINATION

(a) Contestant license.

(1) No individual shall participate as a contestant in a mixed martial arts event, which includes a sole match, in the State without first having obtained a license from the Office.

(2) Every contestant licensed in accordance with this subchapter shall be subject to the rules adopted by the Director.

(3) A fee may be assessed for a contestant license in accordance with section 6033 of this subchapter.

(4) An individual who wants to be licensed under this subsection shall apply for a contestant license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(5) Licenses shall be renewed every year on a date set by the Director in rules adopted in accordance with this subchapter. Licenses shall be subject to

the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

(b) Medical examination; report.

(1) Each contestant shall be examined by a physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33, at the time and in accordance with rules adopted by the Director in accordance with this subchapter.

(2) No contestant shall be granted a license or permitted to renew a license without first submitting a report from a physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33 and who performed an examination in accordance with rules adopted under this subchapter, certifying the contestant is in appropriate physical condition to engage in a mixed martial arts event. Reports from an examining physician shall be submitted directly to the Office by the examining physician and shall contain such information as required by the Director in rules adopted in accordance with this subchapter. The examining physician shall provide an assessment in the report of the contestant's physical condition to engage in a mixed martial arts match.

(3) No contestant shall participate in a mixed martial arts match unless:

(A) the contestant has been examined not more than twelve hours before the match by a physician licensed under 26 V.S.A. chapter 23 or

26 V.S.A. chapter 33 and who performed the medical examination in accordance with rules adopted under this subchapter; and

(B) the physician who performed the examination certifies in writing to the referee of the match that the contestant is in appropriate physical condition to engage in a mixed martial arts match.

(4) Fees for the pre-match examination shall be paid by the promoter of the match. In addition to providing the certification to the referee on the day of the event, the contestant shall submit the certification of the examining physician to the Office within 48 hours following the mixed martial arts match for which the physician provided the examination.

§ 6031. PROMOTERS

(a) Promoter license.

(1) No person shall hold or conduct a mixed martial arts event, which includes a sole match, in the State without first having obtained a license from the Office.

(2) A person who wants to be licensed under this subsection shall apply for a promoter license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(3) Licenses shall be renewed every two years on a date set by the Director in rules adopted in accordance with this subchapter. Licenses shall be

subject to the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

(4) In addition to the bond required under this subchapter, a fee may be assessed for a promoter license in accordance with section 6033 of this subchapter.

(5) Before any promoter license is granted or renewed, the applicant shall execute and file with the Office a bond to the State in the amount of \$10,000.00, to be conditioned upon the faithful performance by the applicant of the provisions of this subchapter and the payment of the taxes imposed under this subchapter. The bond shall be in a form with sureties satisfactory to the Office. No promoter license shall be renewed unless this bond has been renewed and filed with the Board.

(b) Event license.

(1) No mixed martial arts event, including a sole match, shall be held by any promoter licensed under this subchapter unless the promoter has obtained from the Office an event license to hold the event at least two weeks prior to the first day of the event. The application to the Office for an event license shall be in such form, with such information, and at such place as the Office may, by rules adopted in accordance with this subchapter, prescribe.

(2) A fee may be assessed for this match or event license in accordance with section 6033 of this subchapter. The Office may charge a separate event license fee for each day of an event.

(3) No event license shall be granted to any promoter who is not licensed in the State; whose license is suspended, disciplined, or revoked in any state or jurisdiction; or who is delinquent in paying a tax that has been assessed pursuant to section 6039 of this subchapter.

(4) No event license shall be granted until the Office performs an inspection of the facilities where the mixed martial arts event is to be held and of records associated with the event.

(5) No event license shall be renewed. A separate event license shall be obtained for each event, including for a sole match.

#### § 6032. PARTICIPANTS

(a) No individual shall participate, either directly or indirectly, as a participant in a mixed martial arts event, including a sole match, in the State without first having obtained a license from the Office.

(b) A fee may be assessed for a participant license in accordance with section 6033 of this subchapter.

(c) Every participant licensed in accordance with this subchapter shall be subject to the rules adopted by the Director.

(1) An individual who wants to be licensed under this section shall apply for a participant license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(2) Licenses shall be renewed every two years on a date set by the Director in rules adopted in accordance with this subchapter. Licensees shall be subject to the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

§ 6033. FEES

Applicants and persons regulated by this subchapter shall be subject to the following fees:

(1) Application:

(A) Promoter license                      \$500.00

(B) Event license                         \$250.00

(C) Contestant license                   \$25.00

(D) Participant license                  \$25.00

(2) Biennial renewal for managers, seconds, referees, and judges

\$25.00

(3) Biennial renewal for promoters   \$500.00

(4) Annual renewal for contestants   \$25.00

(5) Late fees set pursuant to 3 V.S.A. § 127(d)(1).

§ 6034. RENEWAL

(a) General provisions. A licensee shall apply to renew the license prior to the expiration of the current license. The Director shall send a reminder to licensees prior to the expiration of their licenses. The Office may charge, in addition to the license fee, a late fee to licensees who do not apply to renew a license until after the license is expired.

(b) Renewal deadlines.

(1) Licenses for participants and promoters shall be renewed every two years upon payment of the required fees and in accordance with rules adopted under this subchapter.

(2) Licenses for contestants shall be renewed every year upon payment of the required fees and in accordance with rules adopted under this subchapter.

§ 6035. MEDICAL INSURANCE

(a) Promoters licensed in accordance with this subchapter shall carry medical insurance covering all contestants who participate in an event, including a sole match, conducted by the promoter.

(b) The cost of the medical insurance, including deductibles and premiums, shall be borne by the promoter.

(c) The promoter shall obtain medical insurance coverage in an amount to be determined by the Director in rules adopted in accordance with this

subchapter that shall cover the expenses for the treatment of any injuries the contestant may suffer as a result of a mixed martial arts event.

(d) The medical insurance coverage shall extend for at least six months following the date of the mixed martial arts event.

(e) No mixed martial arts event shall be approved in the State unless the promoter is in full compliance with the requirements of this section concerning medical insurance coverage.

§ 6036. MEDICAL EXAM

The Director shall adopt rules for medical examination of contestants and participants, as needed, including examinations before, during, and after a match or event and as a condition of licensure under this subchapter.

§ 6037. REFEREES

(a) No mixed martial arts event, including a sole match, shall take place in Vermont without a referee present and overseeing the event in accordance with rules adopted under this subchapter.

(b) The sole arbiter in the ring in a mixed martial arts match shall be the referee, licensed as a participant in Vermont, who shall govern the match in accordance with the rules adopted by the Director under this subchapter. The referee shall have full power to stop the match whenever the referee deems it advisable because of the physical condition of a contestant, when one of the contestants is clearly outclassed by an opponent, or for other reasonable cause.

§ 6038. MEDICAL ASSISTANCE AT EVENTS

(a) Physician. Every promoter shall have in attendance at every mixed martial arts match at least one physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33. The physician shall perform medical examinations of the contestants not more than twelve hours before the beginning of the match and shall certify in writing to the referee whether or not the contestant is in appropriate physical condition to engage in a mixed martial arts match.

(b) Ambulance. Every promoter shall have at every mixed martial arts match an ambulance containing the standard medical equipment necessary to treat cerebral injuries. If the ambulance leaves an event, no other mixed martial arts match may commence or resume until the ambulance returns. The promoter shall stop or delay a match until an ambulance is present.

(c) Upon the recommendation of the physician present during a mixed martial arts event, a contestant shall be required to undergo an ophthalmological and neurological examination after each match in accordance with rules adopted under this subchapter.

(1) The cost of such an examination shall be borne by the promoter of the event.

(2) The physician shall provide a certified writing of the examination findings to the referee and the contestant.

(3) Within 48 hours after receiving the examination, the contestant shall submit the physician's certified writing to the Office.

(4) If the physician, after an examination in accordance with this section and rules adopted under this subchapter, certifies that the contestant is not in a physical condition to engage in a mixed martial arts match, the contestant shall not be permitted to engage in another match until a subsequent examination is conducted in accordance with rules adopted under this subchapter and a physician certifies that the contestant is in an appropriate physical condition to engage in a mixed martial arts match. The physician providing the subsequent examination does not need to be the same physician who provided the examination at the mixed martial arts match.

§ 6039. TAX; POST-EVENT REPORT BY PROMOTER

(a) Every promoter shall, not later than seven days after the conclusion of a mixed martial arts event, submit a post-event report to the Office in accordance with rules adopted pursuant to this subchapter. The report shall include the exact number of tickets to the event sold, the amount of gross and net receipts from the event, and any other facts as the Director may by rule require. The promoter shall report on tickets sold to an entire event not to an individual match within an event.

(b) Every promoter shall, not later than seven days after the conclusion of a mixed martial arts event, pay to the Office by certified check a tax of five

percent of the receipts from tickets, admission fees, and sponsorships after all costs from the event and any other State and federal taxes thereon have been paid. The promoter shall pay the tax on the receipts from the entire event. This tax shall be deposited in the Professional Regulation Fee Fund and used to carry out the provisions of this subchapter.

(c) If the report required under this section and the accompanying tax are not paid within the seven days required, the Office may examine, or cause to be examined, the books and records of the promoter and any corporation on behalf of which the promoter held the event.

#### § 6040. UNPROFESSIONAL CONDUCT

(a) All persons. All persons licensed under this subchapter are subject to 3 V.S.A. chapter 5, subchapter 3, including the unprofessional conduct items established under 3 V.S.A. § 129a.

(b) Contestants. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a contestant to do any of the following:

(1) engage in a mixed martial arts match after a physician, licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33, certifies, following an annual examination or an examination before, during, or within seven days after a match and carried out in accordance with this subchapter and rules adopted in accordance with this subchapter, that the contestant is not in a physical condition to engage in a mixed martial arts match;

(2) engage in a mixed martial arts match when suspended or prohibited from competing in a mixed martial arts match by any entity that regulates mixed martial arts;

(3) engage in a mixed martial arts match when the contestant's license to engage in mixed martial arts, as a contestant, promoter, or participant, is suspended in any other state or jurisdiction;

(4) engage in a mixed martial arts match less than 30 days after competing as a contestant in another mixed martial arts match;

(5) engage in a mixed martial arts match less than 60 days after having been knocked out in a mixed martial arts match or less than 30 days after having been technically knocked out in a mixed martial arts match; or

(6) any other activity as established by the Director in rules adopted in accordance with this subchapter.

(c) Promoters. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a promoter to do any of the following:

(1) fail to submit a required report or information to the Office within the time period and with the information, taxes, and fees required under this subchapter and in accordance with rules adopted pursuant to this subchapter;

(2) directly or indirectly have any financial interest in an individual competing in a mixed martial arts match arranged by the promoter;

(3) engage a contestant who is suspended or prohibited from competing in mixed martial arts matches by any state or jurisdiction to compete in a match held by the promoter;

(4) conduct a mixed martial arts match with no ambulance present;

(5) conduct a mixed martial arts match with no physician present;

(6) conduct a mixed martial arts match without a referee present; or

(7) any other activity as established by the Director in rules adopted in accordance with this subchapter.

(d) Participants. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a participant to do any of the following:

(1) for a referee, to unreasonably fail to comply with the rules adopted by the Director in accordance with this subchapter for the conduct of a mixed martial arts match;

(2) for a referee, match-maker, or judge, to directly or indirectly have any financial interest in an individual competing in a mixed martial arts match at which the referee, match-maker, or judge is acting as a judge, match-maker, or referee; or

(3) any other activity as established by the Director in rules adopted in accordance with this subchapter.

§ 6041. INSPECTIONS

The Director or designee may inspect facilities, including the ring, where a mixed martial arts match is to be held, before or during any match or event, and the records required for each licensee and the event or match in accordance with this subchapter and rules adopted pursuant to this subchapter. The Director or designee may suspend an event license immediately for failure to comply with this subchapter or with any rules adopted in accordance with this subchapter.

§ 6042. AGE

No individual under 18 years of age shall engage in a mixed martial arts event, including a sole match, in which money, a prize or purse, or other form of monetary compensation is offered or given to any contestant.

§ 6043. INJUNCTION

The Director may, in addition to other remedies available under law, bring an action in a court of this State to enjoin a person from continuing any violation of this subchapter or doing any acts in furtherance thereof and for any other relief that the court deems appropriate.

Sec. 15a. 31 V.S.A. § 1101 is redesignated and amended to read:

§ ~~1101~~ 6001. DEFINITIONS

As used in this ~~chapter~~ subchapter:

- (1) “Boxer” means an individual who participates in a boxing match.

(2) “Boxing match” or “match” means a contest or training exhibition for a prize or purse where an admission fee is charged and where individuals score points by striking the head and upper torso of an opponent with padded fists. An amateur match is a match held under the supervision of a school, college, or university; under the supervision of United States Amateur Boxing, Inc. or its successor as the nationally designated governing body for amateur boxing; or, for any other amateur match, under the supervision of a nationally designated governing body. All other matches shall be considered professional matches. ~~Kickboxing, martial arts, and mixed martial arts, as defined in this section, shall be considered “matches” for the purposes of this chapter.~~

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

(4) “Disciplinary action” includes any action by the administrative law officer appointed under 3 V.S.A. § 129, premised upon a finding of wrongdoing. It includes all sanctions of any kind, including denying, suspending, or revoking a registration and issuing warnings.

(5) “Health care provider” means a health care practitioner licensed in Vermont who is permitted under ~~his or her~~ the practitioner’s statutory or regulatory scope of practice to conduct the types of examinations set forth in ~~this chapter~~ subchapter.

~~(6)~~ “Kickboxing” means unarmed combat involving the use of striking techniques delivered with the upper and lower body and in which the competitors remain standing while striking.

~~(7)~~ “Martial arts” means any form of unarmed combative sport or unarmed combative entertainment that allows contact striking, except boxing or wrestling.

~~(8)~~ “Mixed martial arts” means unarmed combat involving the use of a combination of techniques from different disciplines of the martial arts, including grappling, submission holds, and strikes with the upper and lower body.

~~(9)~~(6) “Manager” means a person who receives compensation for service as an agent or representative of a professional boxer.

~~(10)~~(7) “National Boxer Registry” means an entity certified by the Association of Boxing Commissions for the purpose of maintaining records for the identification of professional boxers and for tracking their records and suspensions.

~~(11)~~(8) “Participant” means managers, seconds, referees, and judges in a professional boxing match.

~~(12)~~(9) “Promoter” means a person that organizes, holds, advertises, or otherwise conducts a professional boxing match.

\* \* \* Boxing \* \* \*

Sec. 16. REDESIGNATIONS; BOXING

(a) 31 V.S.A. chapter 21 is redesignated as 26 V.S.A. chapter 107, subchapter 1.

(b) 31 V.S.A. §§ 1101–1113 are redesignated as 26 V.S.A. §§ 6001–6013, respectively.

Sec. 17. CONFORMING CHANGES

When preparing the Vermont States Annotated for publication, the Office of Legislative Counsel shall revise any cross-references to 31 V.S.A. chapter 21 and its sections as redesignated and codified in Sec. 16 of this act.

\* \* \* Endorsement Process \* \* \*

Sec. 18. 3 V.S.A. § 136a is amended to read:

§ 136a. UNIFORM PROCESS FOR ENDORSEMENT FROM OTHER  
STATES

(a) ~~Except~~ Notwithstanding any statute or rule to the contrary and except as provided in subsection (b) of this section, all professions attached to the Office shall have an endorsement process that requires not more than three years of practice in good standing in another jurisdiction within the United States, regardless of whether that jurisdiction has licensing requirements substantially similar to those of this State.

(b) Any profession determining that three years of demonstrated practice in another jurisdiction is not adequately protective of the public shall provide its rationale to the Director, who may propose any necessary statutory or rule amendments in order to implement more restrictive requirements for endorsement.

(c) The Director may issue to an endorsement applicant a waiver of the profession's practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

\* \* \* Home Health Nursing \* \* \*

Sec. 19. 2020 Acts and Resolves No. 91, as amended by 2020 Acts and Resolves No. 140, Sec. 13, and 2021 Acts and Resolves No. 6, Sec. 1, is further amended to read:

\* \* \* Supporting Health Care and Human Service

Provider Sustainability \* \* \*

Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND

HUMAN SERVICE PROVIDER SUSTAINABILITY

\* \* \*

\* \* \* Regulation of Professions \* \* \*

\* \* \*

Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE  
PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, through March 31, 2022, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth; as a volunteer member of the Medical Reserve Corps; or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who plans to provide health care services in Vermont as a volunteer member of the Medical Reserve Corps or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:

(1) the Board of Medical Practice for medical doctors, physician assistants, and podiatrists; or

(2) the Office of Professional Regulation for all other health care professions.

(c) A health care professional who delivers health care services in Vermont pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable based on the health care professional's profession, in accordance with Sec. 19 of this act.

(d)(1) This section shall remain in effect through March 31, 2022, provided the health care professional remains licensed, certified, or registered in good standing.

(2) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, 2022 expiration date of this section to:

(A) health care professionals providing health care services in Vermont under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

Sec. 18. INACTIVE LICENSEES; BOARD OF MEDICAL PRACTICE;

OFFICE OF PROFESSIONAL REGULATION

(a)(1) Through March 31, 2022, a former health care professional, including a mental health professional, whose Vermont license, certificate, or registration became inactive not more than three years earlier and was in good standing at the time it became inactive may provide health care services, including mental health services, to a patient located in Vermont using telehealth; as a volunteer member of the Medical Reserve Corps; or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or Office of Professional Regulation, as applicable, the individual's name, contact information, and the location or locations at which the individual will be practicing.

(2) A former health care professional who returns to the Vermont health care workforce pursuant to this subsection shall be subject to the regulatory

jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable.

(3) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, 2022 expiration date of this section to:

(A) health care professionals providing health care services under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

(b) Through March 31, 2022, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, whose Vermont license, certificate, or registration became inactive more than three but less than 10 years earlier and was in good standing at the time it became inactive to return to the health care workforce on a temporary basis to provide health care services, including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the scope of practice of returning health care professionals as the Board or Office deems appropriate.

\* \* \*

Sec. 20. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

\* \* \*

(10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession. If an individual has a conviction of concern, the board or hearing officer shall consider the following in determining whether to deny or discipline a license, certification, or registration to the individual based on the following factors:

(A) the nature and seriousness of the conviction;

(B) the amount of time since the commission of the crime;

(C) the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession; and

(D) evidence of rehabilitation or treatment.

\* \* \*

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

Sec. 21. EFFECTIVE DATES

This act shall take effect on passage except that Secs. 2–7 and Secs. 13–17 shall take effect on July 1, 2021.