1	Introduced by Committee on Government Operations
2	Date:
3	Subject: Professions and occupations; Secretary of State; Office of
4	Professional Regulation; application process; unprofessional conduct;
5	discipline; funeral service; pharmacy; acupuncture; tattooists;
6	microblading; nursing home administrators
7	Statement of purpose of bill as introduced: This bill proposes to make
8	miscellaneous amendments to statutes governing professions and occupations
9	regulated by the Office of Professional Regulation.
10 11	An act relating to professions and occupations regulated by the Office of Professional Regulation
12	It is hereby enacted by the General Assembly of the State of Vermont:
13	* * * Office of Professional Regulation * * *
14	Sec. 1. 3 V.S.A. § 122 is amended to read:
15	§ 122. OFFICE OF PROFESSIONAL REGULATION
16	The Office of Professional Regulation is created within the Office of the
17	Secretary of State. The Office shall have a director who shall be appointed by
18	the Secretary of State and shall be an exempt employee. The following boards
19	or professions are attached to the Office of Professional Regulation:
20	* * *

1	(2) Board of Barbers and Cosmetology Cosmetologists
2	* * *
3	(6) Board of Funeral Service
4	* * *
5	(18) Board of Private Investigative and Security Services
6	* * *
7	Sec. 2. 3 V.S.A. § 123 is amended to read:
8	§ 123. DUTIES OF OFFICE
9	* * *
10	(g)(1) The Office shall establish uniform procedures applicable to all of the
11	professions and boards set forth in section 122 of this chapter, providing for:
12	(A) appropriate recognition of education, training, or service
13	completed by a member of the U.S. Armed Forces toward the requirements of
14	professional licensure; and
15	(B) expedited issuance of a professional license to a person who is
16	licensed in good standing in another regulatory jurisdiction; and
17	(i) whose spouse is a member of the U.S. Armed Forces and who
18	has been subject to a military transfer to Vermont; and
19	(ii) who left employment to accompany his or her spouse to
20	Vermont.

1	(2) The Director may evaluate specific military credentials to determine
2	equivalency to credentials required for professions attached to the Office. The
3	determinations shall be adopted through written policy that shall be posted on
4	the Office's website.
5	(3) The Director may evaluate apprenticeship programs recognized or
6	administered by the Vermont Department of Labor, Agency of Education, or
7	U.S. Department of Labor to determine equivalency to credentials required for
8	professions attached to the Office. The determinations shall be adopted
9	through written policy that shall be posted on the Office's website.
10	* * *
11	(j)(1) The Office may inquire into the criminal background histories of
12	applicants for initial licensure and for license renewal of any Office-issued
13	credential, including a license, certification, registration or specialty
14	designation for the following professions:
15	(A) licensed nursing assistants, licensed practical nurses, registered
16	nurses, and advanced practice registered nurses licensed under 26 V.S.A.
17	chapter 28;
18	(B) private investigators, security guards, and other persons licensed
19	under 26 V.S.A. chapter 59;
20	(C) real estate appraisers and other persons or business entities
21	licensed under 26 V.S.A. chapter 69; and

1	(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.
2	* * *
3	Sec. 3. 3 V.S.A. § 129 is amended to read:
4	§ 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR
5	PROFESSIONS; DISCIPLINE PROCESS
6	(a) In addition to any other provisions of law, a board or the Director, in the
7	case of professions that have advisor appointees, may exercise the following
8	powers:
9	* * *
10	(11) Treat as incomplete any license application submitted with a check
11	subsequently returned for insufficient funds or without the personal attestation
12	of the applicant or an authorized officer of an applicant corporation as to the
13	representations therein.
14	* * *
15	(g) A board may authorize any of the following:
16	(1) Its chair or Office legal counsel to grant continuances of scheduled
17	hearings.
18	(2) Its chair to grant or deny stays pending appeal.
19	(3) Its chair or legal counsel An administrative law officer to convene
20	and conduct prehearing conferences and to preside at hearings for the purpose

1	of making procedural and evidentiary rulings. The board may overrule a ruling
2	by an administrative law officer under this subdivision.
3	(4) Its legal counsel to preside at hearings for the purpose of making
4	procedural and evidentiary rulings. The board may overrule a ruling by legal
5	counsel under this subdivision. Office staff to grant applications that present
6	no substantial discretionary or factual question and to administer the policies of
7	the board between regular meetings.
8	* * *
9	(i) A board may consult with the Attorney General or an attorney assigned
10	by the Office of Professional Regulation for the proper conduct of its affairs.
11	The Director may assign Office legal counsel to assist a board in the lawful
12	and orderly conduct of its open meetings and other nondisciplinary business,
13	including making procedural and parliamentary rulings.
14	* * *
15	Sec. 4. 3 V.S.A. § 129a is amended to read:
16	§ 129a. UNPROFESSIONAL CONDUCT
17	(a) In addition to any other provision of law, the following conduct by a
18	licensee constitutes unprofessional conduct. When that conduct is by an
19	applicant or person who later becomes an applicant, it may constitute grounds
20	for denial of a license or other disciplinary action. Any one of the following

1	items or any combination of items, whether the conduct at issue was
2	committed within or outside the State, shall constitute unprofessional conduct:
3	* * *
4	(27) Engaging in conduct of a character likely to deceive, defraud, or
5	harm the public.
6	* * *
7	* * * Funeral Service * * *
8	Sec. 5. 26 V.S.A. § 1252 is amended to read:
9	§ 1252. APPLICATION; QUALIFICATIONS
10	* * *
11	(g) Limited services establishment.
12	(1) The Director may adopt rules for the issuance of limited service
13	establishment licenses in accordance with this chapter. Limited service
14	establishment licensees are authorized to perform only disposition services
15	without arranging, directing, or performing embalming and without on-site
16	public viewings, gatherings, memorials, funerals, or related ceremonies.
17	Disposition services under this subsection include direct cremation, direct
18	alkaline hydrolysis, immediate burial, or direct green burial. A funeral directo
19	affiliated with a limited service establishment may consult families and
20	survivors on the care of the dead; provide transport; and arrange, organize, and
21	administer off-site ceremonies.

1	(2) Limited services shall be overseen by a funeral director licensed
2	under this chapter who is employed by the limited service establishment.
3	(3) Each limited service arrangement shall include a mandatory written
4	disclosure providing notice to the purchaser that limited services do not include
5	embalming, public viewings, gatherings, memorials, funerals, or related
6	ceremonies at the site of the establishment.
7	(4) A funeral director associated with a funeral establishment licensed
8	under subsection (c) of this section may provide limited services so long as the
9	mandatory disclosure described under subdivision (3) of this subsection is
10	provided to the purchaser.
11	* * * Pharmacy * * *
	•
12	Sec. 6. 26 V.S.A. chapter 36, subchapter 4 is added to read:
12 13	Sec. 6. 26 V.S.A. chapter 36, subchapter 4 is added to read: <u>Subchapter 4. Discipline</u>
13	Subchapter 4. Discipline
13 14	Subchapter 4. Discipline § 2053. UNPROFESSIONAL CONDUCT; DISCIPLINE
13 14 15	Subchapter 4. Discipline § 2053. UNPROFESSIONAL CONDUCT; DISCIPLINE (a) It shall be unprofessional conduct for a licensee to:
13 14 15 16	Subchapter 4. Discipline § 2053. UNPROFESSIONAL CONDUCT; DISCIPLINE (a) It shall be unprofessional conduct for a licensee to: (1) introduce or enforce external factors, such as productivity or
13 14 15 16 17	 <u>Subchapter 4. Discipline</u> § 2053. UNPROFESSIONAL CONDUCT; DISCIPLINE (a) It shall be unprofessional conduct for a licensee to: (1) introduce or enforce external factors, such as productivity or production quotas, in a manner that encourages deviation from safe practice;

1	(3) fail to employ sufficient personnel to prevent fatigue, distraction, or
2	other conditions that interfere with a pharmacist's ability to practice with
3	competency and safety or create an environment that jeopardizes patient care,
4	including by failing to provide mandated rest periods; and
5	(4) repeatedly, habitually, or knowingly fail, in light of predictable
6	patient demand, to provide staff resources appropriate for a pharmacist of
7	reasonable diligence to safely complete professional duties and responsibilities,
8	including:
9	(A) drug utilization review;
10	(B) immunization;
11	(C) counseling:
12	(D) verification of the accuracy of a prescription; and
13	(E) all other duties and responsibilities of a pharmacist under State
14	and federal laws and regulations.
15	(b) Multiple drug outlets under common ownership and control constitute a
16	chain. Discipline against any one drug outlet in the chain may be imposed
17	against all drug outlets in the chain, provided the State alleges in a
18	specification of charges and the Board subsequently finds:
19	(1) unprofessional conduct has occurred at one or more drug outlets;
20	(2) the unprofessional conduct is attributable to policies, procedures,
21	patterns, habits, systems, or business practices of the chain, whether or not

1	those practices manifested in unprofessional conduct at each individual
2	location; and
3	(3) imposition of disciplinary sanctions or conditions against all drug
4	outlets in the chain is appropriate to protect the public.
5	* * * Acupuncture * * *
6	Sec. 7. 26 V.S.A. § 3406 is amended to read:
7	§ 3406. EXAMINATION
8	(a) The Director shall examine applicants for licensure and may use a
9	standardized national examination. The examination shall include the
10	following subjects:
11	(1) Anatomy and physiology.
12	(2) Acupuncture pathology.
13	(3) Acupuncture diagnosis.
14	(4) Hygiene, sanitation, and sterilization techniques.
15	(5) The principles, practices, and techniques of acupuncture.
16	(6) Clean needle techniques.
17	(7) Chinese herbology for those licensed after January 1, 2007 who
18	intend to employ nonprescription remedies and herbal therapies.
19	(b) The Director may adopt rules necessary to perform his or her duties
20	under this section.

1	* * * Tattooists and Body Piercers * * *
2	Sec. 8. 26 V.S.A. chapter 79 is amended to read:
3	CHAPTER 79. TATTOOISTS AND BODY PIERCERS
4	§ 4101. DEFINITIONS
5	As used in this chapter:
6	* * *
7	(6) "Practice of permanent cosmetics" means to place microblading and
8	other practices involving placement of a specific type of tattoo that includes
9	permanent eyeliner, permanent lip color, permanent eyebrows, anatomical
10	reproduction, and permanent eye shadow as well as other specific procedures
11	that may be identified by rule by the Director consistent with the Society of
12	Permanent Cosmetic Professionals' or its successor group's guidelines.
13	* * *
14	§ 4105. APPRENTICESHIP <u>LICENSE</u> REQUIREMENTS FOR
15	LICENSURE
16	* * *
17	(d) Shops. A shop shall not operate in this State without first registering
18	with the Office of Professional Regulation and paying a fee of \$100.00.
19	Registration shall be in the form required by the Director.
20	(1) A shop shall not be granted registration unless the shop complies
21	with this chapter and rules adopted under this chapter.

1	(2) All shops shall designate a person who is licensed under this chapter
2	in the practice of tattooing or body piercing, who shall be responsible for
3	overall cleanliness and sanitation of the shop.
4	(3) The practice of tattooing or body piercing shall be permitted only in
5	registered shops.
6	(4) The practice of permanent cosmetics may be performed anywhere
7	the practice of tattooing is permitted, on the premises of a health care
8	professional licensed pursuant to this title, or on premises meeting the
9	sanitation requirements of this chapter as determined by the Director or as set
10	forth by rule.
11	(5) Notwithstanding the provisions of this subsection, a cosmetology
12	shop licensed under chapter 6 of this title may provide permanent cosmetics
13	services by a person licensed under this chapter without obtaining a second
14	shop license for the same premises.
15	* * *
16	* * * Nursing Home Administrators * * *
17	Sec. 9. OFFICE OF PROFESSIONAL REGULATION; RULES;
18	SUPERVISION FOR NURSING HOME ADMINISTRATORS IN
19	TRAINING
20	Notwithstanding the provisions of the Office of Professional Regulation
21	Administrative Rule CVR 04-030-180 (Administrative Rules for Nursing

1	Home Administrators), § 2.3(b)(3), and 3 V.S.A. chapter 25 (Vermont
2	Administrative Procedure Act), the Director of the Office of Professional
3	Regulation may approve on-site supervision, remote supervision by electronic
4	means, or a combination of both, by a preceptor as part of the Administrator-
5	in-training program through June 30, 2023. On and after July 1, 2023, the
6	Director's approval of supervision by a preceptor as part of the Administrator
7	in-training program shall be conducted in accordance with the provisions of
8	Rule CVR 04-030-180 (Administrative Rules for Nursing Home
9	Administrators) pertaining to supervision by a preceptor.
10	* * * Effective Date * * *
11	Sec. 10. EFFECTIVE DATE
12	This act shall take effect on July 1, 2021.