



State of Vermont
Office of the Secretary of State

Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.vermont.gov

James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary
S. Lauren Hibbert, Director

MEMORANDUM

To: House Government Operations

From: S. Lauren Hibbert, Director
Office of Professional Regulation
802-477-2123 (c)

Date: May 20, 2021

Re: 2021 Professional Regulation Bill Summary – H.289
As Voted out of the Senate with amendments

Dear Committee,

Thank you for the opportunity to discuss the amendments made in the Senate. Below is a high-level summary of the changes to the bill.

Thank you,
Lauren

Title 3 *****General OPR Provisions*****

Section 1, 3 V.S.A. §122:

- Removes references to the “Boards of” Barber and Cosmetology, Funeral, and PI and Security. These professions were converted from Board professions to advisor professions in recent legislative sessions and this portion is considered a housekeeping amendment.
- This section adds “Well Driller” to the list of OPR regulated professions which will be addressed in more detail later. The SGO amendment converts the Director of OPR from an exempt position to a classified position.

The Senate Government Operations recommends adding new sections 15-21 to H.289.



*****Boxing and Mixed Martial Arts*****

Section 15; 26 V.S.A. §§6025- 6043

- This section adds a new chapter 107 to Title 26. The Boxing chapter from Title 33 is moved into this new Title 26 as subchapter 1 and Mixed Martial Arts is created as subchapter 2.
- In 2011 Mixed Martial Arts was added to the definitions of boxing. This has given OPR jurisdiction over this sport – however, the appropriate structure for the sport was not built at that time and OPR does not think it has sufficient rulemaking authority without a specific subchapter on MMA. This leads to confusion and when confronted with this issue in the Summer of 2020 with an unlicensed match occurring during COVID OPR recognized the constraints of the current statutory structure. These amendments will solve OPR’s previous under-regulation.
- The following is a basic outline for the Mixed Martial Arts subchapter:
 - § 6025 adds definitions
 - § 6026 establishes OPR’s jurisdiction over mixed martial arts matches and mixed martial arts licensing
 - § 6027 establishes the authority and duties of the Director of OPR; these are standard professional regulation provisions and permit the Director to adopt rules necessary to perform the duties outlined in the subchapter.
 - § 6028 requires the Secretary of State to appoint two individuals to serve as advisors to OPR in matters related to mixed martial arts regulation.
 - § 6029 requires that all amateur mixed martial arts events be regulated by OPR but makes an exception for amateur mixed martial events conducted by a school, college, or university, and permits OPR to adopt rules to exempt exhibition events where there is minimal contact among participants and for which there is no remuneration for participation, and for which no tickets are sold or admission fees charged.
 - § 6030 outlines license requirements for contestants and requires medical examinations of contestants to determine if the contestant is in appropriate physical condition to engage in a mixed martial arts event.
 - § 6031 outlines license requirements for promoters including:
 - Before any promoter license is granted or renewed, the promoter shall execute and file with OPR a bond to the State in the amount of \$10,000.00, to be conditioned upon the faithful performance by the promoter of the provisions of the subchapter and the payment of the taxes imposed under the subchapter.
 - No mixed martial arts event, including a sole match, may be held by any licensed promoter unless the promoter has obtained an event license to hold the event from OPR at least two weeks prior to the first day of the event.
 - § 6032 outlines license requirements for participants
 - § 6033 establishes license application and renewal fees for contestants, promoters, participants, and events. The fees are consistent with boxing and similar to other

states.

- Application:
 - (A) Promoter license \$500.00
 - (B) Event license \$250.00
 - (C) Contestant license \$25.00
 - (D) Participant license \$25.00
 - Biennial renewal for managers, seconds, referees, and judges \$25.00
 - Biennial renewal for promoters \$500.00
 - Annual renewal for contestants \$25.00
- § 6034. Outlines general renewal requirements
 - § 6035. Medical Insurance: Promoters shall carry medical insurance covering all contestants who participate in an event, including a sole match, conducted by the promoter. The Promoter carries the cost of the insurance. The level of coverage will be determined by administrative rules but must cover the expenses for the treatment of any injuries by contestants. The coverage must extend for 6 months after the event.
 - § 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.
 - § 6037. Referees: A referee must be present at any mixed martial arts event, including a sole match. The Referee is the sole arbiter in the ring and must be licensed as a participant in Vermont. The referee shall have full power to stop the match whenever the referee deems it advisable.
 - § 6038. Medical Assistance at Events: Every promoter shall have one physician, who is licensed under 26 V.S.A. 14 chapter 23 or 26 V.S.A. chapter 33, at every match. 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. Every promoter shall have at every mixed martial arts match an ambulance containing the standard medical equipment necessary to treat cerebral injuries. Upon the recommendation of the physician present during an event, a contestant shall be required to undergo an ophthalmological and neurological examination after each match. The promoter will pay for the examination.
 - § 6039. Tax; Post-event reporting by promoter: Within seven days after the conclusion of an event, the promoter shall submit a post-event report to the Office that includes the exact number of tickets to the event sold, the amount of gross and net receipts from the event, and any other facts required by rule. Within seven days a promoter shall pay to the Office 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. This tax shall be deposited in the Professional Regulation Fee Fund and used to carry out the provisions of this subchapter.
 - § 6040. Unprofessional Conduct: All persons licensed under this subchapter are subject to 33 V.S.A. chapter 5, subchapter 3, including the unprofessional

conduct items 4 established under 3 V.S.A. § 129a.

For contestants it is also unprofessional conduct to do any of the following:

- (1) engage in a mixed martial arts match after a physician, certifies 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.

For Promoters it is also unprofessional conduct to do any of the following:

- (1) fail to submit in a timely manner a required report or information to the Office within the time period
- (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;
- (7) any other activity as established in rules adopted

For Participants 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
 - (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 rule
- § 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, including a review of the records for each licensee and the event or match. 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, any form of compensation is offered or given to a contestant.
- § 6043. Injunction: The Director may 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

- This is the definitions in the boxing section of Title 31. The chapter is being moved to Title 26, chapter 107.
- The amendment strikes definitions for Kickboxing, Martial Arts, and Mixed Martial Arts.

Sec. 16. REDESIGNATIONS; BOXING 1

(a) 31 V.S.A. chapter 21 is redesignated as 26 V.S.A. chapter 107, 13 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 19 and its sections as redesignated and codified in Sec. 16 of this act.

*** * * Endorsement Process * * ***

Sec. 18.

- This is a clarification amendment that the uniform process for endorsement can be made notwithstanding any other statute or rule to the contrary.

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

Sec. 19.

- Amends the COVID state of emergency bills (Act 90 (2020); Act 140 (2020); and Act 6(2021)
 - to allow out of state health care professionals to practice within the state without licensure 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 2 defined in 18 V.S.A. § 9432, or federally qualified health center
 - to allow inactive health care licenses to practice within Vermont without licensure 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 2 defined in 18 V.S.A. § 9432, or federally qualified health center

*** * *OPR Unprofessional Conduct in Title 3 *****

Sec. 20. 3 V.S.A. § 129a

- This amendment clarifies and codifies the existing application review and disciplinary process at OPR when an individual discloses a criminal conviction or is convicted of a

crime while licensed. SGO added this amendment after hearing testimony from CSG related to the barriers criminal convictions can have on occupational licensure. Currently, OPR has the authority to deny an application or discipline a license when someone has a 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. 3 V.S.A. § 129a(10). This amendment adds that if:

- 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

