

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 An act relating to professions and occupations regulated by the Office of
11 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 (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 director
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 (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 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.