

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred House Bill No. 655
3 entitled “An act relating to establishing a telehealth licensure and registration
4 system” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 * * * Telehealth Licensure and Registration * * *

8 Sec. 1. 26 V.S.A. chapter 56 is added to read:

9 CHAPTER 56. TELEHEALTH LICENSURE AND REGISTRATION FOR

10 OUT-OF-STATE HEALTH CARE PROFESSIONALS

11 § 3051. SCOPE

12 (a) This chapter shall apply to the following health care professions
13 regulated by the Office of Professional Regulation:

14 (1) alcohol and drug abuse counseling;

15 (2) allied mental health professions, including mental health counseling,

16 marriage and family therapy, and services provided by nonlicensed and
17 noncertified psychotherapists;

18 (3) athletic training;

19 (4) audiology;

20 (5) behavior analysis;

21 (6) chiropractic;

- 1 (7) dentistry;
- 2 (8) dietetics;
- 3 (9) midwifery;
- 4 (10) naturopathy;
- 5 (11) nursing;
- 6 (12) nursing home administration;
- 7 (13) occupational therapy;
- 8 (14) optometry;
- 9 (15) osteopathy;
- 10 (16) pharmacy;
- 11 (17) physical therapy;
- 12 (18) psychoanalysis;
- 13 (19) psychology;
- 14 (20) respiratory care;
- 15 (21) social work;
- 16 (22) speech language pathology; and
- 17 (23) veterinary medicine.

18 (b) This chapter shall apply to the following health care professions
19 regulated by the Board of Medical Practice:

- 20 (1) physicians;
- 21 (2) physician assistants; and

1 (3) podiatrists.

2 § 3052. DEFINITIONS

3 As used in this chapter:

4 (1) “Board” means the Board of Medical Practice.

5 (2) “Health care professional” means an individual who holds a valid
6 license, certificate, or registration to provide health care services in any other
7 U.S. jurisdiction in a health care profession listed section 3051 of this chapter.

8 (3) “Health care services” means services for the diagnosis, prevention,
9 treatment, cure, or relief of a health condition, illness, injury, or disease.

10 (4) “In good standing” means that a health care professional holds an
11 active license, certificate, or registration from another U.S. jurisdiction; the
12 health care professional is not subject to a disciplinary order that conditions,
13 suspends, or otherwise restricts the professional’s practice in any other U.S.
14 jurisdiction; and the health care professional is not affirmatively barred from
15 practice in Vermont for any reason, including reasons of fraud or abuse, patient
16 care, or public safety.

17 (5) “Mandatory disclosure” means the information that the health care
18 professional must disclose to the patient at the initial telehealth visit or
19 consultation, as determined by the relevant regulatory body by rule.

20 (6) “Office” means the Office of Professional Regulation.

21 (7) “Telehealth” means

1 § 3053. TELEHEALTH LICENSURE OR TELEHEALTH REGISTRATION

2 REQUIRED

3 (a) A health care professional who is not otherwise licensed or registered to
4 practice in Vermont but is licensed, certified, or registered in good standing in
5 all other U.S. jurisdictions in which the health care professional is or has been
6 licensed and who wishes to provide health care services to a patient or client
7 located in Vermont using telehealth shall obtain a telehealth license or
8 telehealth registration from the Office or the Board in accordance with this
9 chapter.

10 (b) A telehealth license or telehealth registration issued pursuant to this
11 chapter shall authorize a health care professional to provide services to a
12 patient or client located in Vermont using telehealth only. Telehealth licensure
13 or telehealth registration does not authorize the health care professional to open
14 an office in Vermont or to provide in-person health care services to patients or
15 clients located in Vermont.

16 (c) A health care professional who is not otherwise licensed, who provides
17 health care services in Vermont using telehealth without a telehealth
18 registration or telehealth license, or who provides services beyond the
19 limitations of the telehealth registration or telehealth license, is engaged in
20 unauthorized practice as defined in section 127 of this chapter and 26 V.S.A.
21 § 1314 and is subject to the penalties set forth in those sections.

1 § 3054. SCOPE OF TELEHEALTH LICENSE AND TELEHEALTH

2 REGISTRATION

3 (a) Telehealth license.

4 (1) A health care professional who is not otherwise licensed or
5 registered to practice in Vermont may obtain a telehealth license to provide
6 health care services using telehealth to a total of not more than 20 unique
7 patients or clients located in Vermont during the two-year license term.

8 (2) To be eligible to obtain a telehealth license under this chapter, a
9 health care professional shall:

10 (A) complete an application in a format and with such content as
11 prescribed by the Office or the Board;

12 (B) hold an active, unencumbered license, certificate, or registration
13 in good standing in any other U.S. jurisdiction to practice the health care
14 profession that the professional seeks to practice in Vermont using telehealth
15 and provide verification of the license, registration, or certificate to the Office
16 or the Board if required by the profession;

17 (C) if required, submit a copy of a mandatory disclosure that
18 conforms to the requirements established in the rules adopted by the Office or
19 the Board pursuant to section 3061 of this chapter;

20 (D) if required by the rules adopted by the Office or the Board
21 pursuant section 3061 of this chapter, provide documentation of professional

1 liability coverage or financial responsibility that includes coverage or financial
2 responsibility for services provided by telehealth to patients or clients not
3 located in the health care professional’s home state in an amount established
4 by rule;

5 (E) provide any other information and documentation of
6 qualifications required by the Office or the Board by rule; and

7 (F) pay the required telehealth licensure fee, which shall be 75
8 percent of the renewal fee for the profession as set forth in 3 V.S.A. § 125 or
9 the applicable chapter of this title.

10 (3) A health care professional may renew a telehealth license every two
11 years upon application and payment of the required fee. A license that has
12 expired shall be reinstated upon payment of the biennial renewal fee and the
13 late renewal penalty, which shall be 75 percent of the late renewal penalty
14 established in 3 V.S.A. § 127 or in section 1401a of this title, as applicable.

15 (b) Telehealth registration.

16 (1) A health care professional who is not otherwise licensed or
17 registered to practice in Vermont may obtain a telehealth registration to
18 provide health care services using telehealth:

19 (A) for a period of not more than 120 consecutive days from the date
20 the registration was issued; and

1 (B) to a total of not more than 10 unique patients or clients over the
2 120-day period that the registration is in effect.

3 (2) To be eligible to obtain a telehealth registration under this chapter, a
4 health care professional shall:

5 (A) complete an application in a format and with such content as
6 prescribed by the Office or the Board;

7 (B) hold an active, unencumbered license, certificate, or registration
8 in good standing in any other U.S. jurisdiction to practice the health care
9 profession that the professional seeks to practice in Vermont using telehealth
10 and provide verification of the license, registration, or certificate to the Office
11 or the Board;

12 (C) submit a copy of a mandatory disclosure that conforms to the
13 requirements established in the rules adopted by the Office or the Board
14 pursuant section 3061 of this chapter if required by the profession; and

15 (D) pay the required telehealth registration fee, which shall be
16 50 percent of the renewal fee for the profession as set forth in 3 V.S.A. § 125
17 or the applicable chapter of this title.

18 (3) A health care professional may reactivate a telehealth registration
19 once every three years. The telehealth registration shall not be renewed or
20 reactivated upon expiration.

1 (c) Other license or registration. A health care professional seeking to
2 provide health care services to a patient or client located in Vermont using
3 telehealth may register or apply for a full license to practice the profession in
4 this State in accordance with the applicable provisions of Title 26. Nothing in
5 this section shall be construed to prohibit a qualified health care professional
6 from registering or obtaining a full license to practice in Vermont in
7 accordance with relevant laws.

8 § 3055. SCOPE OF PRACTICE; STANDARD OF PRACTICE

9 (a) In order to be eligible for a telehealth license or telehealth registration
10 under this chapter, a health care professional shall hold a license, certificate, or
11 registration in another U.S. jurisdiction that authorizes the provider to engage
12 in the same or a broader scope of practice as health care professionals in the
13 same field are authorized to engage pursuant to a license, certificate, or
14 registration issued in accordance with the relevant provisions of Title 26.

15 (b) While practicing in Vermont using telehealth, a health care professional
16 holding a telehealth license or telehealth registration issued pursuant to this
17 chapter shall:

18 (1) practice within the scope of practice established in Title 26 for that
19 profession; and

20 (2) practice in a manner consistent with the prevailing and acceptable
21 professional standard of practice for a health care professional who is licensed,

1 certified, or registered in Vermont to provide in-person health care services in
2 that health care profession.

3 § 3056. RECORDS

4 A health care professional holding a telehealth license or telehealth
5 registration issued pursuant to this chapter shall document in a patient’s or
6 client’s medical record the health care services delivered using telehealth in
7 accordance with the same standard used for in-person services and shall
8 comply with the requirements of 18 V.S.A. § 9361 (and § 9362 if audio-only
9 included) to the extent applicable to the profession. Records, including video,
10 audio, electronic, or other records generated as a result of delivering health
11 care services using telehealth are subject to all federal and Vermont laws
12 regarding protected health information.

13 § 3057. EFFECT OF DISCIPLINARY ACTION ON OUT-OF-STATE
14 LICENSE, CERTIFICATE, OR REGISTRATION

15 (a) A health care professional shall not obtain a telehealth license or
16 telehealth registration under this chapter if the health care professional’s
17 license, certificate, or registration to provide health care services has been
18 revoked or is subject to a pending disciplinary investigation or action in any
19 other U.S. jurisdiction.

20 (b) A health care professional holding a telehealth license or telehealth
21 registration under this chapter shall notify the Office or the Board, as

1 applicable, within five business days following a disciplinary action that places
2 a warning, reprimand, condition, restriction, suspension, or any other
3 disciplinary action on the professional’s license, certificate, or registration in
4 any other U.S. jurisdiction or of any other disciplinary action taken or pending
5 against the health care professional in any other U.S. jurisdiction.

6 § 3058. JURISDICTION; APPLICATION OF VERMONT LAWS

7 A health care professional holding a telehealth license or telehealth
8 registration in accordance with this chapter is subject to the laws and
9 jurisdiction of the State of Vermont, including 18 V.S.A. § 9361 (and § 9362 if
10 audio-only included) and laws regarding prescribing, health information
11 sharing, informed consent, supervision and collaboration requirements, and
12 unprofessional conduct.

13 § 3059. EXEMPTIONS FROM REGISTRATION AND LICENSURE

14 REQUIREMENTS

15 A health care professional is not required to obtain a telehealth registration
16 or licensure solely to provide consultation services to another health care
17 professional regarding care for a patient or client located in Vermont, provided
18 the consulting health care professional holds a license or registration to
19 practice the profession in one or more U.S. jurisdictions.

20 Exempt limited follow-up care from services received out of state?

21 [more language from BMP; status?]

1 § 3060. VENUE

2 Venue for a civil action initiated by the Office, the Board, or a patient or
3 client who has received telehealth services in Vermont from an out-of-state
4 health care professional holding a telehealth license or telehealth registration
5 shall be in the patient’s or client’s county of residence or Washington County.

6 § 3061. RULEMAKING

7 The Office or the Board may adopt rules in accordance with 3 V.S.A.
8 chapter 25 to carry out the purposes of this chapter, including, in consultation
9 with the appropriate boards and advisor appointees for professions regulated
10 by the Office, rules regarding any profession-specific requirements related to
11 telehealth licenses and telehealth registrations.

12 * * * Provisional Licensure for Professions Regulated by Office of
13 Professional Regulation * * *

14 Sec. 2. 3 V.S.A. § 130 is added to read:

15 § 130. PROVISIONAL LICENSURE

16 (a) The Director may issue a 90-day provisional license to an individual
17 who has completed an application for full licensure and:

18 (1) whose eligibility for licensure is contingent upon acceptable
19 verification of licensure from another jurisdiction;

20 (2) whose eligibility for licensure is contingent upon completion of a
21 background check; or

1 (3) who is an active-duty member of the U.S. Armed Forces assigned to
2 duty in Vermont or the spouse of such a member.

3 (b) A provisional license shall be based on a voluntary agreement between
4 the applicant and the Office to expedite the applicant’s entry into the
5 workforce, in which the applicant agrees to forgo the procedural rights
6 associated with traditional licensure in exchange for a provisional license
7 pending final determination of the license application.

8 (c) A provisional license shall only be issued to an applicant who can attest
9 to material facts consistent with the requirements of full licensure, including
10 the applicant’s standing in other U.S. jurisdictions, criminal history, and
11 disciplinary history. An individual to whom a provisional license is issued
12 shall expressly agree that the Office may summarily withdraw the provisional
13 license upon discovery of any inconsistency or inaccuracy in the application
14 materials.

15 (d) An individual aggrieved by a denial or summary withdrawal of a
16 provisional license issued under this section shall have as an exclusive remedy
17 the right to have the individual’s application for conventional licensure
18 determined according to the usual process.

19 (e) The Director may extend a provisional license beyond the initial 90-day
20 period if the reason for issuing the license, as set forth in subdivisions (a)(1)–
21 (3) of this section, has not been resolved.

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* * * Effective Dates * * *

Sec. 3. EFFECTIVE DATES

(a) Secs. 1 (26 V.S.A. chapter 56) shall take effect on July 1, 2023, except that the Office and the Board shall commence the rulemaking process prior to that date in order to have rules in place on July 1, 2023.

(b) Sec. 2 (3 V.S.A. § 130) and this section shall take effect on passage.

(Committee vote: _____)

Representative _____
FOR THE COMMITTEE