

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) applied behavior analysis;

19 (4) athletic training;

20 (5) audiology;

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 in section 3051 of this
8 chapter.

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

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

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

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

1 (7) “Store and forward” means an asynchronous transmission of medical
2 information, such as one or more video clips, audio clips, still images, x-rays,
3 magnetic resonance imaging scans, electrocardiograms,
4 electroencephalograms, or laboratory results, sent over a secure connection that
5 complies with the requirements of the Health Insurance Portability and
6 Accountability Act of 1996, Pub. L. No. 104-191 to be reviewed at a later date
7 by a health care provider at a distant site who is trained in the relevant
8 specialty. In store and forward, the health care provider at the distant site
9 reviews the medical information without the patient present in real time and
10 communicates a care plan or treatment recommendation back to the patient or
11 referring provider, or both.

12 (8) “Telehealth” means health care services delivered by telemedicine,
13 store and forward, or audio-only telephone.

14 (9) “Telemedicine” means the delivery of health care services such as
15 diagnosis, consultation, or treatment through the use of live interactive audio
16 and video over a secure connection that complies with the requirements of the
17 Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-
18 191.

1 § 3053. TELEHEALTH LICENSURE OR TELEHEALTH REGISTRATION

2 REQUIRED

3 (a) A health care professional who is not otherwise licensed, certified, or
4 registered to practice in Vermont but is licensed, certified, or registered in
5 good standing in all other U.S. jurisdictions in which the health care
6 professional is or has been licensed, certified, or registered and who wishes to
7 provide health care services to a patient or client located in Vermont using
8 telehealth shall obtain a telehealth license or telehealth registration from the
9 Office or the Board in accordance with this 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, certified, or
17 registered to practice in Vermont and provides health care services in Vermont
18 using telehealth without a telehealth registration or telehealth license, or
19 provides services beyond the limitations of the telehealth registration or
20 telehealth license, is engaged in unauthorized practice as defined in 3 V.S.A.

1 § 127 and section 1314 of this title and is subject to the penalties set forth in
2 those sections.

3 § 3054. SCOPE OF TELEHEALTH LICENSE AND TELEHEALTH
4 REGISTRATION

5 (a) Telehealth license.

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

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

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

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

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

1 (D) if required by the rules adopted by the Office or the Board
2 pursuant section 3061 of this chapter, provide documentation of professional
3 liability coverage or financial responsibility that includes coverage or financial
4 responsibility for services provided by telehealth to patients or clients not
5 located in the health care professional’s home state in an amount established
6 by rule;

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

9 (F) pay the required telehealth licensure fee, which shall be
10 75 percent of the renewal fee for the profession as set forth in 3 V.S.A. § 125
11 or in the applicable chapter of this title.

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

17 (b) Telehealth registration.

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

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

3 (B) to a total of not more than 10 unique patients or clients over the
4 120-day period that the registration is in effect.

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

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

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

14 (C) if required by the rules adopted by the Office or the Board
15 pursuant to section 3061 of this chapter, submit a copy of a mandatory
16 disclosure that conforms to the requirements established by rule; and

17 (D) pay the required telehealth registration fee, which shall be
18 50 percent of the renewal fee for the profession as set forth in 3 V.S.A. § 125
19 or in the applicable chapter of this title.

1 (3) A health care professional may only reactivate a telehealth
2 registration once every three years. A telehealth registration shall not be
3 renewed or reactivated upon expiration.

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

11 § 3055. SCOPE OF PRACTICE; STANDARD OF PRACTICE

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

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

1 (1) practice within the scope of practice established in this title for that
2 profession; and

3 (2) practice in a manner consistent with the prevailing and acceptable
4 professional standard of practice for a health care professional who is licensed,
5 certified, or registered in Vermont to provide in-person health care services in
6 that health care profession.

7 § 3056. RECORDS

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

17 § 3057. EFFECT OF DISCIPLINARY ACTION ON OUT-OF-STATE

18 LICENSE, CERTIFICATE, OR REGISTRATION

19 (a) A health care professional shall not obtain a telehealth license or
20 telehealth registration under this chapter if the health care professional's
21 license, certificate, or registration to provide health care services has been

1 revoked or is subject to a pending disciplinary investigation or action in any
2 other U.S. jurisdiction.

3 (b) A health care professional holding a telehealth license or telehealth
4 registration under this chapter shall notify the Office or the Board, as
5 applicable, within five business days following a disciplinary action that places
6 a warning, reprimand, condition, restriction, suspension, or any other
7 disciplinary action on the professional’s license, certificate, or registration in
8 any other U.S. jurisdiction or of any other disciplinary action taken or pending
9 against the health care professional in any other U.S. jurisdiction.

10 § 3058. JURISDICTION; APPLICATION OF VERMONT LAWS

11 A health care professional holding a telehealth license or telehealth
12 registration in accordance with this chapter is subject to the laws and
13 jurisdiction of the State of Vermont, including 18 V.S.A. §§ 9361 and 9362
14 and laws regarding prescribing, health information sharing, informed consent,
15 supervision and collaboration requirements, and unprofessional conduct.

16 § 3059. EXEMPTIONS FROM REGISTRATION AND LICENSURE

17 REQUIREMENTS

18 A health care professional is not required to obtain a telehealth registration
19 or licensure solely to provide consultation services to another health care
20 professional regarding care for a patient or client located in Vermont, provided
21 the consulting health care professional holds a license, certificate, or

1 registration to practice the profession in one or more U.S. jurisdictions and the
2 consultation is based on a review of records without in-person or remote
3 contact between the consulting health care professional and the patient or
4 client.

5 § 3060. VENUE

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

11 § 3061. RULEMAKING

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

1 * * * Provisional Licensure for Professions Regulated by

2 Office of Professional Regulation * * *

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

4 § 130. PROVISIONAL LICENSURE

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

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

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

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

13 (b) A provisional license shall be based on a voluntary agreement between
14 the applicant and the Office to expedite the applicant's entry into the
15 workforce, in which the applicant agrees to forgo the procedural rights
16 associated with traditional licensure in exchange for a provisional license
17 pending final determination of the license application.

18 (c) A provisional license shall only be issued to an applicant who can attest
19 to material facts consistent with the requirements of full licensure, including
20 the applicant's standing in other U.S. jurisdictions, criminal history, and
21 disciplinary history. An individual to whom a provisional license is issued

1 shall expressly agree that the Office may summarily withdraw the provisional
2 license upon discovery of any inconsistency or inaccuracy in the application
3 materials.

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

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

11 * * * Effective Dates * * *

12 Sec. 3. EFFECTIVE DATES

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

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

17 and that after passage the title of the bill be amended to read: “An act
18 relating to telehealth licensure and registration and to provisional licensure for
19 professions regulated by the Office of Professional Regulation”

1

2

3 (Committee vote: _____)

4

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Representative _____

6

FOR THE COMMITTEE