

**No. 158. An act relating to professions and occupations regulated by the Office of Professional Regulation.**

(H.870)

It is hereby enacted by the General Assembly of the State of Vermont:

\* \* \* Office of Professional Regulation \* \* \*

Sec. 1. 3 V.S.A. § 127 is amended to read:

§ 127. UNAUTHORIZED PRACTICE

\* \* \*

(b)(1) A person practicing a regulated profession without authority or an employer permitting such practice may, upon the complaint of the Attorney General or a State's Attorney or an attorney assigned by the Office of Professional Regulation, be enjoined therefrom by the Superior Court where the violation occurred or the Washington County Superior Court and may be assessed a civil penalty of not more than \$5,000.00.

\* \* \*

(3)(A) A civil penalty imposed by a board or administrative law officer under this subsection (b) shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this chapter ~~for the purpose of providing education and training for board members and advisor appointees.~~

\* \* \*

Sec. 1a. 3 V.S.A. § 123 be amended to read:

§ 123. DUTIES OF OFFICE

\* \* \*

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

\* \* \*

(I) speech-language pathologists licensed under 26 V.S.A. chapter 87; ~~and~~

(J) individuals registered on the roster of psychotherapists who are nonlicensed and noncertified; and

(K) psychologists licensed under 26 V.S.A. chapter 55.

\* \* \*

Sec. 2. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

\* \* \*

(16)(A) Impeding an investigation or inspection under this chapter or unreasonably failing to reply, cooperate, or produce lawfully requested records in relation to such investigation or inspection.

\* \* \*

\* \* \* Naturopathic Physicians Filing of Birth and Death Certificates \* \* \*

Sec. 2a. 18 V.S.A. § 4999 is amended to read:

§ 4999. DEFINITIONS

As used in this part, ~~unless the context requires otherwise:~~

\* \* \*

(2) “Licensed health care professional<sup>22</sup>,” as used in 18 V.S.A. Ch. 107, means a physician, a physician assistant, a naturopathic physician, or an advanced practice registered nurse.

\* \* \*

Sec 2b. 18 V.S.A. § 5071 is amended to read:

§ 5071. BIRTH CERTIFICATES; WHO TO MAKE; RETURN

(a) On or before the fifth business day of each live birth that occurs in this State, the attending physician or designee, naturopathic physician or designee, or midwife or, if no attending physician or designee, naturopathic physician or designee, or midwife is present, a parent of the child or a legal guardian of a mother under 18 years of age shall file with the State Registrar a report of birth in the form and manner prescribed by the State Registrar. The State Registrar shall register the report in the Statewide Registration System if it has been

completed properly and filed in accordance with this chapter. The portion of the registered birth report that is not confidential under section 5014 of this title is the birth certificate.

\* \* \*

\* \* \* Naturopathic Physicians Technical Advisory Group \* \* \*

Sec 2c. NATUROPATHIC PHYSICIANS TECHNICAL ADVISORY  
GROUP

(a) On or before September 1, 2024, the Commissioner of the Vermont Department of Health or designee shall convene the first meeting of the Naturopathic Physicians Technical Advisory Group. The Technical Advisory Group shall discuss the potential integration of naturopathic physicians into statewide policies regarding Vermont's Patient Choice at End of Life laws (18 V.S.A. chapter 113), do not resuscitate (DNR) orders and advanced directives, and the creation of clinician orders for life-sustaining treatment (COLST). The Technical Advisory Group shall also consider the requirements of integrating naturopathic physicians into statewide policies.

(b) The Commissioner of the Vermont Department of Health or designee shall chair any meeting or meetings described in this section.

(c) The following individuals and entities shall be invited to participate in the meeting or meetings described in this section:

(1) the Association of Accredited Naturopathic Medical Colleges;

(2) the Office of Professional Regulation;

(3) Patient Choices Vermont;

(4) the Vermont Association of Naturopathic Physicians;

(5) the Vermont Ethics Network;

(6) the Vermont Medical Society; and

(7) other entities as needed related to naturopathic medical education.

(d) The Commissioner of the Department of Health shall provide recommendations based on the work of the Technical Advisory Group on or before December 1, 2024, to the House Committees on Health Care and on Government Operations and Military Affairs, and the Senate Committees on Health and Welfare and on Government Operations.

(e) The Technical Advisory Group shall cease to exist on December 31, 2024.

\* \* \* Barbers and Cosmetologists \* \* \*

Sec. 3. 26 V.S.A. § 271 is amended to read:

§ 271. DEFINITIONS

As used in this chapter:

\* \* \*

(4)(A) “Esthetics” means ~~massaging, cleansing, stimulating, manipulating, beautifying, or otherwise working on the scalp, face, or neck by using cosmetic preparations, antiseptics, tonics, lotions, or creams~~ services related to skin-care treatments to enhance or improve the appearance of the skin, including:

(i) cleansing, toning, stimulating, manipulating, beautifying, exfoliating, or performing any similar procedure on the human body using only cosmetic preparations, hands, mechanical or electrical apparatus or appliances, tonics, lotions, creams, or makeup;

(ii) beautifying lashes and brows; and

(iii) removing unwanted hair using manual and mechanical means.

(B) “Esthetics” does not include any of the following:

(i) the sale or application of cosmetics to customers in retail stores or customers’ homes;

(ii) any practice, activity, or treatment that constitutes the practice of medicine, as defined in section 1311 of this title, including injections of any substance and the use of lasers; or

(iii) the application of permanent cosmetics.

\* \* \*

(7) “Shop” means a facility or facilities regularly used to offer or provide ~~barbering or~~ cosmetology, esthetics, or manicuring.

Sec. 4. 26 V.S.A. § 272 is amended to read:

§ 272. PROHIBITIONS; OFFENSES

(a) A person shall not practice or attempt to practice barbering ~~or~~ cosmetology, esthetics, or manicuring or use in connection with the person’s name any letters, words, title, or insignia indicating or implying that the person

is a barber ~~or~~ cosmetologist, esthetician, or manicurist unless the person is licensed in accordance with this chapter.

(b) A person who owns or controls a shop or school of barbering ~~or~~ cosmetology, esthetics, or manicuring shall not permit the practice of barbering ~~or~~ cosmetology, esthetics, or manicuring unless the shop or school is registered in accordance with this chapter.

\* \* \*

Sec. 5. 26 V.S.A. § 276 is amended to read:

§ 276. GENERAL POWERS AND DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) adopt rules that:

(A) prescribe sanitary and safety standards for shops, schools, and other facilities used for the practice of barbering ~~and~~ cosmetology, esthetics, or manicuring;

(B) prescribe safe and sanitary practices for the performance of activities related to the practice of barbering ~~and~~ cosmetology, esthetics, or manicuring;

\* \* \*

(b)(1) The Director may inspect shops and schools and other places used for the practice of barbering ~~and~~ cosmetology, esthetics, or manicuring.

\* \* \*

Sec. 6. 26 V.S.A. § 282 is amended to read:

§ 282. SHOP; LICENSE

\* \* \*

(b) The practices of barbering ~~and~~, cosmetology, esthetics, or manicuring shall be permitted only in shops licensed by the Director, except as provided in sections 273 and 281 of this chapter and the rules of the Director.

Sec. 7. 26 V.S.A. § 283 is amended to read:

§ 283. EXAMINATION

\* \* \*

(b)(1) The examination for a license shall include ~~both practical demonstrations and written or oral tests~~ examinations approved by the Director by rule in the area of practices for which a license is applied and other related studies or subjects as the Director may determine necessary.

\* \* \*

Sec. 8. 26 V.S.A. § 284 is amended to read:

§ 284. ISSUANCE OF LICENSE

\* \* \*

(b) The Director shall issue a license to the person who owns or controls a shop or school of barbering ~~or~~, cosmetology, esthetics, or manicuring who has paid the required fee and is in compliance with the rules of the Director and the provisions of this chapter.

\* \* \*



\* \* \* Nursing \* \* \*

Sec. 9. 26 V.S.A. chapter 28 is amended to read:

CHAPTER 28. NURSING

Subchapter 1. General Provisions

\* \* \*

§ 1574. POWERS AND DUTIES

(a) In addition to the powers granted by 3 V.S.A. § 129, the Board shall:

\* \* \*

(7) Adopt rules setting ~~active practice~~ continued competency and ongoing practice requirements for licensure and renewal.

\* \* \*

Subchapter 2. Advanced Practice Registered Nurses

\* \* \*

Subchapter 3. Registered Nurses and Practical Nurses

§ 1621. REGISTERED NURSE LICENSURE BY EXAMINATION

\* \* \*

~~Subchapter 4. Nursing Assistants~~

§ 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT

\* \* \*

§ 1624. REGISTERED NURSE LICENSE RENEWAL

To renew a license, a registered nurse shall meet ~~active practice~~ continued competency requirements set by the Board by rule.

\* \* \*

§ 1628. PRACTICAL NURSE LICENSE RENEWAL

To renew a license, a practical nurse shall meet ~~active practice~~ continued competency requirements set by the Board by rule.

\* \* \*

Subchapter 4. Nursing Assistants

§ 1641. DEFINITIONS

\* \* \*

§ 1645. RENEWAL

(a) To renew a license, a nursing assistant shall meet ~~active practice~~ ongoing practice requirements set by the Board by rule.

(b) The Board shall credit as ~~active practice~~ ongoing practice those activities, regardless of title or obligation to hold a license, that reasonably tend to reinforce the training and skills of a licensee.

\* \* \*

Subchapter 5. Nurse Licensure Compact

\* \* \*

\* \* \* Osteopathy \* \* \*

Sec. 10. 26 V.S.A. § 1753 is amended to read:

§ 1753. EXEMPTIONS

(a) The provisions of subdivision 1752(a)(1) of this title, relating to practice, shall not apply to the following persons acting within the scope of their respective practices:

\* \* \*

(4) A student who:

(A) is enrolled in an accredited educational program that leads to the issuance of a degree that would satisfy the educational requirement for a profession licensed under this chapter;

(B) is engaged in an organized clinical training program;

(C) engages in acts constituting the practice of medicine while under the supervision of a Vermont-licensed or Vermont-certified health care professional who is qualified to supervise any acts by the student that constitute the practice of medicine; and

(D) is not a postgraduate trainee who is otherwise required to obtain a training license.

\* \* \*

\* \* \* Radiology \* \* \*

Sec. 11. 26 V.S.A. § 2801 is amended to read:

§ 2801. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Licensed practitioner” means a person licensed under this title to practice medicine, osteopathy, advanced practice registered nursing, dentistry, podiatry, naturopathic medicine, or chiropractic, and includes holders of limited temporary licenses to practice medicine.

\* \* \*

Sec. 12. 26 V.S.A. § 2803 is amended to read:

§ 2803. EXEMPTIONS

The prohibitions in section 2802 of this chapter shall not apply to dentists licensed under chapter 12 of this title and actions within their scope of practice nor to:

(1) Licensed practitioners acting within the scope of practice for their licensed field, including holders of limited temporary licenses to practice medicine as authorized by the Board of Medical Practice, provided that their practice acts and rules adopted thereunder have been expressly found by the Director, in consultation with advisors appointed under this chapter, to match or surpass the training in radiation safety and proper radiation practices required by this chapter and rules adopted under this chapter.

\* \* \*

\* \* \* Tattooists and Body Piercers \* \* \*

Sec. 13. 26 V.S.A. § 4101 is amended to read:

§ 4101. DEFINITIONS

As used in this chapter:

\* \* \*

(3) ~~“Disciplinary action” includes any action taken by an administrative law officer against a licensed tattooist or applicant premised on a finding of unprofessional conduct. Disciplinary action includes all appropriate remedies, including denial of an application for or renewal of a license, suspension or revocation of a license, limiting or conditioning of a license, issuing reprimands or warnings, and adopting consent orders. [Repealed.]~~

\* \* \*

(8) ~~“Special panel” means a panel established pursuant to 3 V.S.A. § 129(j). [Repealed.]~~

(9) “Shop” means a facility regularly used to offer or perform the practice of tattooing ~~or~~, body piercing, or permanent cosmetics.

Sec. 14. 26 V.S.A. § 4103 is amended to read:

§ 4103. DIRECTOR; FUNCTION; COMMISSIONER OF HEALTH;

#### RULES

\* \* \*

(c) The Director may adopt rules necessary to perform ~~his or her~~ the Director’s duties pursuant to this chapter. These rules may include:

(1) provisions governing tattooist, body piercer, and permanent cosmetologist apprenticeships; and

(2) requirements for the supervision and temporary licensure of tattoo artists, body piercers, and permanent cosmetologists, and shops as may be

necessary to allow this State to be a venue for appropriately regulated special events such as conventions, festivals, or professional conferences.

\* \* \*

Sec. 15. 26 V.S.A. § 4104 is amended to read:

§ 4104. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint: one licensed operator practicing tattooing, one licensed operator practicing body piercing, and one licensed operator practicing permanent cosmetics to serve as advisors in matters relating to tattooing, body piercing, and permanent cosmetics.

~~(A) a professional in the field of public health and medicine from a list of persons provided by the Commissioner of Health; and~~

~~(B) two licensed operators who~~

(2) Advisors shall have been practicing tattooing and, body piercing, or permanent cosmetics for at least the three years immediately preceding appointment and who shall actively be engaged in the practice of tattooing and, body piercing, and permanent cosmetics in Vermont during incumbency.

~~(2) The appointees shall be appointed to serve as advisors in matters relating to tattooing, permanent cosmetics, and body piercing.~~

(3) The appointees shall be appointed as set forth in 3 V.S.A. § 129b.

\* \* \*

Sec. 16. 26 V.S.A. § 4105 is amended to read:

§ 4105. LICENSE REQUIREMENTS

\* \* \*

(b) Tattooists and body piercers.

(1)(A) As a prerequisite to licensure, a tattooist or body piercer applicant shall provide proof of an apprenticeship of at least 1,000 hours of experience obtained within two calendar years working under the direct supervision of a body piercer or tattooist licensed and in good standing with this State or the state in which ~~he or she~~ the body piercer or tattooist is regulated, and who has been in practice a minimum of three years.

(B) ~~Proof may be in the form of a sworn affidavit from the supervising tattooist or body piercer, including information as the Director may reasonably require on forms provided by the Director.~~ The Director may adopt rules to require additional information from applicants to prove completion of an apprenticeship.

\* \* \*

(3) Apprentices shall ~~contact~~ register with the Office ~~for the appropriate forms~~ prior to beginning the apprenticeship in accordance with rules adopted by the Director.

\* \* \*

(c) Permanent cosmetologists.

(1)(A) As a prerequisite to licensure for the practice of permanent cosmetics, an applicant shall provide proof of a course of approved study lasting at least 60 hours.

(B)(i) In addition, the applicant shall obtain at least 40 hours of practical experience, within two calendar years preceding the application, working under the direct supervision of a tattooist or permanent cosmetologist licensed and in good standing with this State or the state in which ~~he or she~~ the tattooist or permanent cosmetologist is regulated, and who has been in practice a minimum of three years.

(ii) ~~Proof may be in the form of a sworn affidavit from the supervising permanent cosmetologist or tattooist, including information as the Director may reasonably require on forms provided by the Director. The Director may adopt rules to require additional information from applicants to prove completion of an apprenticeship.~~

\* \* \*

(3) Prior to training and obtaining practical experience, applicants shall ~~contact~~ register with the Office and submit the appropriate forms in accordance with rules adopted by the Director.

\* \* \*

(d) Shops. A shop shall not operate in this State without first registering with the Office of Professional Regulation and paying a fee of \$100.00. Registration shall be in the form required by the Director.



\* \* \*

(2) All shops shall designate a person who is licensed under this chapter ~~in the practice of tattooing or body piercing~~ at least one of the professions being practiced in the shop, be it tattooing, body piercing, or permanent cosmetics, who shall be responsible for overall cleanliness and sanitation of the shop.

(3) The practice of tattooing or body piercing shall be permitted only in registered tattooing and body piercing shops.

(4) The practice of permanent cosmetics ~~may be performed~~ shall be permitted only in:

(A) a licensed permanent cosmetic shop;

(B) a cosmetology shop licensed under chapter 6 of this title;

(C) anywhere the practice of tattooing is permitted;

(D) on the premises of a health care professional licensed pursuant to this title, or; and

(E) on premises meeting the sanitation requirements of this chapter as determined by the Director or as set forth by rule.

(5) Notwithstanding the provisions of this subsection, a tattoo shop licensed under this chapter or a cosmetology shop licensed under chapter 6 of this title may provide permanent cosmetics services by a person licensed under this chapter without obtaining ~~a second~~ an additional shop license for the same premises, provided that the Director may require by rule permanent

cosmetologists to report all locations of their practice to the Director as a condition of licensure or license renewal.

(6) All registered shops shall report to the Director within 48 hours after a change of location. The Director may require shops to undergo a new inspection prior to beginning the practice of tattooing, body piercing, or permanent cosmetics at the new location. The Director may permit a relocated shop to continue operation under its existing registration.

\* \* \*

Sec. 17. 26 V.S.A. § 4108 is amended to read:

§ 4108. UNPROFESSIONAL CONDUCT

\* \* \*

(b) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a:

(1) Using dishonest or misleading advertising.

~~(2) Addiction to narcotics, habitual drunkenness, or rendering professional services to a client if the operator is intoxicated or under the influence of drugs.~~

~~(3)~~(2) Sexual harassment of a client.

~~(4)~~(3) Tattooing or body piercing a minor in violation of the provisions of section 4102 of this title.

~~(e) After hearing and upon a finding of unprofessional conduct, an administrative law officer may take disciplinary action against a licensed or registered operator or applicant.~~

\* \* \* Electrologists \* \* \*

Sec. 18. 26 V.S.A. § 4402 is amended to read:

§ 4402. DEFINITIONS

As used in this chapter:

\* \* \*

(3) “Electrology” means the removal of hair by electrical current using needle/probe electrode-type epilation, which would include electrolysis (direct current/DC), thermolysis (alternating current/AC), or a combination of both (superimposed or sequential blend). “Electrology” includes, solely for the purpose of hair removal, the use of lasers approved by the U.S. Food and Drug Administration for electrology by electrologists possessing a special license endorsement set forth in subsection 4404(d) of this chapter. “Electrology” does not include any practice, activity, or treatment that constitutes the practice of medicine, as defined in section 1311 of this title, including injections of any substance or the practices of permanent cosmetics as defined in section 4101 of this title.

\* \* \*

\* \* \* Office of Professional Regulation Funding Structure Study \* \* \*

Sec. 18a. OFFICE OF PROFESSIONAL REGULATION; FUNDING  
STRUCTURE STUDY

The Office of Professional Regulation, in consultation with the Joint Fiscal Office, shall conduct a study reviewing the funding structure of the Office of Professional Regulation. The Office of Professional Regulation shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations by January 1, 2025 with an assessment of the benefits and challenges of the current funding model for the Office of Professional Regulation, as established in 3 V.S.A. § 124, and with any recommendations for alternative models for funding the Office of Professional Regulation.

\* \* \* Effective Date \* \* \*

Sec. 19. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: June 6, 2024