

1 H.870

2 An act relating to professions and occupations regulated by the Office of
3 Professional Regulation

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

5 * * * Office of Professional Regulation * * *

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

7 § 127. UNAUTHORIZED PRACTICE

8 * * *

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

15 * * *

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

20 * * *

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

2 § 123. DUTIES OF OFFICE

3 * * *

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

8 * * *

9 (I) speech-language pathologists licensed under 26 V.S.A. chapter
10 87; ~~and~~

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

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

14 * * *

15 Sec. 2. 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 (16)(A) Impeding an investigation or inspection under this chapter or
5 unreasonably failing to reply, cooperate, or produce lawfully requested records
6 in relation to such investigation or inspection.

7 * * *

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

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

10 § 4999. DEFINITIONS

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

12 * * *

13 (2) “Licensed health care professional²²,” as used in 18 V.S.A. Ch. 107,
14 means a physician, a physician assistant, a naturopathic physician, or an
15 advanced practice registered nurse.

16 * * *

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

18 § 5071. BIRTH CERTIFICATES; WHO TO MAKE; RETURN

19 (a) On or before the fifth business day of each live birth that occurs in this
20 State, the attending physician or designee, naturopathic physician or designee,
21 or midwife or, if no attending physician or designee, naturopathic physician or

1 designee, or midwife is present, a parent of the child or a legal guardian of a
2 mother under 18 years of age shall file with the State Registrar a report of birth
3 in the form and manner prescribed by the State Registrar. The State Registrar
4 shall register the report in the Statewide Registration System if it has been
5 completed properly and filed in accordance with this chapter. The portion of
6 the registered birth report that is not confidential under section 5014 of this
7 title is the birth certificate.

8 * * *

9 * * * Naturopathic Physicians Technical Advisory Group * * *

10 Sec 2c. NATUROPATHIC PHYSICIANS TECHNICAL ADVISORY
11 GROUP

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

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

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

5 (1) the Association of Accredited Naturopathic Medical Colleges;

6 (2) the Office of Professional Regulation;

7 (3) Patient Choices Vermont;

8 (4) the Vermont Association of Naturopathic Physicians;

9 (5) the Vermont Ethics Network;

10 (6) the Vermont Medical Society; and

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

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

17 (e) The Technical Advisory Group shall cease to exist on December 31,
18 2024.

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

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

7 * * *

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

10 * * *

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

12 § 282. SHOP; LICENSE

13 * * *

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

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

18 § 283. EXAMINATION

19 * * *

20 (b)(1) The examination for a license shall include ~~both practical~~
21 ~~demonstrations and written or oral tests~~ examinations approved by the Director

1 by rule in the area of practices for which a license is applied and other related
2 studies or subjects as the Director may determine necessary.

3 * * *

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

5 § 284. ISSUANCE OF LICENSE

6 * * *

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

11 * * *

12 * * * Nursing * * *

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

14 CHAPTER 28. NURSING

15 Subchapter 1. General Provisions

16 * * *

17 § 1574. POWERS AND DUTIES

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

19 * * *

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

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Subchapter 2. Advanced Practice Registered Nurses

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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

* * *

1 § 1645. RENEWAL

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

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

7 * * *

8 Subchapter 5. Nurse Licensure Compact

9 * * *

10 * * * Osteopathy * * *

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

12 § 1753. EXEMPTIONS

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

16 * * *

17 (4) A student who:

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

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

1 ~~revocation of a license, limiting or conditioning of a license, issuing~~
2 ~~reprimands or warnings, and adopting consent orders.~~ [Repealed.]

3 * * *

4 (8) ~~“Special panel” means a panel established pursuant to 3 V.S.A.~~
5 ~~§ 129(j).~~ [Repealed.]

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

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

9 § 4103. DIRECTOR; FUNCTION; COMMISSIONER OF HEALTH;

10 RULES

11 * * *

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

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

16 (2) requirements for the supervision and temporary licensure of tattoo
17 artists, body piercers, and permanent cosmetologists, and shops as may be
18 necessary to allow this State to be a venue for appropriately regulated special
19 events such as conventions, festivals, or professional conferences.

20 * * *

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

2 § 4104. ADVISOR APPOINTEES

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

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

9 ~~(B) two licensed operators who~~

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

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

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

17 * * *

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

19 § 4105. LICENSE REQUIREMENTS

20 * * *

21 (b) Tattooists and body piercers.

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

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

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

10 (A) a licensed permanent cosmetic shop;

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

12 (C) anywhere the practice of tattooing is permitted;

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

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

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

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

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

8 * * *

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

10 § 4108. UNPROFESSIONAL CONDUCT

11 * * *

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

14 (1) Using dishonest or misleading advertising.

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

18 ~~(3)~~(2) Sexual harassment of a client.

19 ~~(4)~~(3) Tattooing or body piercing a minor in violation of the provisions
20 of section 4102 of this title.

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

2 Sec. 18a. OFFICE OF PROFESSIONAL REGULATION; FUNDING

3 STRUCTURE STUDY

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

13 * * * Effective Date * * *

14 Sec. 19. EFFECTIVE DATE

15 This act shall take effect on passage.