

1 Introduced by Committee on Government Operations and Military Affairs

2 Date:

3 Subject: Professions and occupations

4 Statement of purpose of bill as introduced: This bill proposes to modify the  
5 misconduct discipline processes. It will add cosmetology to what State  
6 correctional facilities may offer as courses of instruction without a certificate  
7 of approval from the Director. It will modify biennial license renewal  
8 requirements for osteopathic physicians. This bill will update duties and  
9 abilities of pharmacy technicians and add specificity to what pharmacists may  
10 prescribe regarding self-administered hormonal contraceptives and  
11 vaccinations. It will exempt persons dispensing over-the-counter hearing aids  
12 from provisions for audiologists and hearing aid dispensers. This bill will also  
13 correct an incorrect cross-reference regarding the authority to perform notarial  
14 acts in the State of Vermont.

15 An act relating to professions and occupations regulated by the Office of  
16 Professional Regulation

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

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

3 Sec. 1. 3 V.S.A. § 129 is amended to read:

4 § 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR

5 PROFESSIONS; DISCIPLINE PROCESS

6 \* \* \*

7 (e)(1) When a board or the Director, in the case of professions that have  
8 advisor appointees, intends to deny an application for a license based on the  
9 applicant's past or current unprofessional conduct or based on an ongoing  
10 investigation of the applicant, in Vermont or elsewhere, for unprofessional  
11 conduct, the board or Director shall send the applicant written notice of the  
12 decision by certified mail. The notice shall include a statement of the reasons  
13 for the action and shall advise the applicant that the applicant may file a  
14 petition within 30 days ~~of~~ after the date on which the notice is mailed with the  
15 board or the Director for review of ~~its or his or her~~ the board's or Director's  
16 preliminary decision.

17 ~~(2)(A)~~ (A) At the review hearing, the applicant shall bear the burden of  
18 proving that the preliminary denial should be reversed and that the license  
19 should be granted.

20 ~~(3)(B)~~ (B) After the hearing, the board or Director shall affirm or reverse the  
21 preliminary denial, explaining the reasons therefor in writing.



1 least one professional member of the board and at least one public member of  
2 the board. No member of the hearing panel shall have been a board member  
3 who was assigned, in accordance with subdivision (c)(3) of this section, to  
4 assist the Office investigators and prosecutor in relation to the investigation  
5 and prosecution of the matter being heard. The Director shall establish by rule  
6 the process for designating a hearing panel.

7 (2) If there is an insufficient number of board members to serve on a  
8 hearing panel by reason of disqualification, resignation, vacancy, or necessary  
9 absence, the Director may appoint ad hoc members to serve on the hearing  
10 panel for that matter only.

11 (3) If a board is unable to convene in a timely manner to hear a  
12 disciplinary matter or to appoint a hearing panel, the Director may designate a  
13 hearing panel to hear a matter that would otherwise be heard by the full board.  
14 If the Director appoints a hearing panel, the Director shall follow the  
15 requirements of subdivisions (1) and (2) of this subsection.

16 (4) A hearing panel shall be designated solely upon the request and  
17 decision of the board or the Director and in accordance with this subsection  
18 and rules adopted by the Director in accordance with 3 V.S.A. chapter 25.

19 Sec. 2. 3 V.S.A. § 136 is amended to read:

20 § 136. UNIFORM CONTINUING EDUCATION EVALUATION; ~~SUNSET~~

21 REVIEW AND FORUM

1           (a)(1) If continuing education is required by law or rule, the Office shall  
2           apply uniform standards and processes that apply to all professions regulated  
3           by the Office for the assessment and approval or rejection of continuing  
4           education offerings, informed by profession-specific policies developed in  
5           consultation with relevant boards and advisor appointees.

6           ~~(b)~~(1)~~(2)~~(A) Not less than once every five years, each profession attached  
7           to the Office shall review its continuing education or other continuing  
8           competency requirements. The review results shall be in writing and address  
9           the following:

10                   ~~(A)~~(i) the renewal requirements of the profession;

11                   ~~(B)~~(ii) the renewal requirements in other jurisdictions, particularly in  
12           the Northeast region;

13                   ~~(C)~~(iii) the cost of the renewal requirements for the profession's  
14           licensees;

15                   ~~(D)~~(iv) an analysis of the utility and effectiveness of the renewal  
16           requirements with respect to public protection; and

17                   ~~(E)~~(v) recommendations to the Director on whether the continuing  
18           education or other continuing competency requirements should be modified.

19                   ~~(2)~~(B) The Director shall respond to the profession within 45 days ~~of~~  
20           after its submitted review results. The Director may require a profession to

1 reduce, modify, or otherwise change the renewal requirements, including by  
2 proposing any necessary amendments to statute or rule.

3 (b) When completion of continuing education is required for renewal of a  
4 license regulated under this title, synchronous virtual continuing education  
5 courses shall qualify as live, in-person training and be accepted for renewal of  
6 the professional license.

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

8 Sec. 3. 26 V.S.A. § 281 is amended to read:

9 § 281. POSTSECONDARY SCHOOL OF BARBERING AND

10 COSMETOLOGY; CERTIFICATE OF APPROVAL

11 \* \* \*

12 (b) Regional vocational centers may offer courses of instruction in  
13 barbering or cosmetology without a certificate of approval from the Director,  
14 and State correctional facilities may offer courses of instruction in barbering  
15 and cosmetology without a certificate of approval from the Director; however,  
16 hours for licensing shall only be given for courses that meet the Director's  
17 standards for courses offered in postsecondary schools of barbering or  
18 cosmetology certified by the Director.

19 \* \* \*

20 \* \* \* Dental Hygienist \* \* \*

21 Sec. 4. 26 V.S.A. § 642 is amended to read:

1 § 624. PRACTICE

2 \* \* \*

3 (b) A public-health hygienist, who shall be a dental hygienist with no fewer  
4 than three years of experience, may perform tasks in out-of-office settings,  
5 including residences, schools, nursing home and long-term care facilities,  
6 clinics, hospitals, medical facilities, community health centers licensed or  
7 approved by the Department of Health, Head Start programs, and any other  
8 facilities or programs deemed appropriate by the Department of Health in a  
9 manner consistent with ~~guidelines~~ rules adopted by the Board ~~by rule~~.

10 \* \* \*

11 (d) A public health hygienist, who has completed training approved by the  
12 Vermont Department of Health in the silver modified atraumatic restorative  
13 technique (SMART), may use SMART to treat patients in a manner consistent  
14 with rules adopted by the Board.

15 Sec. 5. IMPLEMENTATION OF 26 V.S.A. Sec. 624(d)

16 Public health hygienists shall not be permitted to use silver modified  
17 atraumatic restorative technique (SMART) to treat patients in accordance with  
18 26 V.S.A. Sec. 624(d) until the Board of Dental Examiners adopts rules  
19 governing the procedure.

20 \* \* \* Osteopathy \* \* \*

21 Sec. 6. 26 V.S.A. § 1836 is amended to read:

1 § 1836. BIENNIAL RENEWAL OF LICENSE; CONTINUING

2 EDUCATION

3 (a)(1) ~~Licenses shall be renewed every two years.~~ A license issued under  
4 this chapter shall be renewed every two years upon application, payment of the  
5 required fee, and proof of completion of required continuing education.  
6 Failure to comply with the provisions of this section shall result in the  
7 suspension of all privileges granted to the licensee, beginning on the expiration  
8 date of the license.

9 (2) A license that has lapsed shall be renewed upon payment of the  
10 biennial renewal fee and the late renewal penalty.

11 (b) ~~Biennially, the Board shall forward a renewal form to each licensee.~~  
12 ~~Upon receipt of the completed form, evidence of compliance with the~~  
13 ~~provisions of subsection (c) of this section, and the renewal fee, the Board shall~~  
14 ~~issue a new license.~~ The Director may adopt rules necessary for the protection  
15 of the public to assure that an applicant whose license has lapsed or who has  
16 not worked for more than three years as an osteopathic physician is  
17 professionally qualified for license renewal. Conditions imposed under this  
18 subsection shall be in addition to the requirements of subsection (a) of this  
19 section.

20 (c) As a condition of renewal, a licensee shall complete a minimum of 30  
21 hours of continuing medical education, ~~approved by the Board by rule,~~ during



1 the preceding two-year period. ~~At least 40 percent of these hours must be~~  
2 ~~osteopathic medical education.~~ The 30 hours of continuing medical education  
3 shall meet the requirements established by the Board by rule.

4 \* \* \*

5 \* \* \* Pharmacy \* \* \*

6 Sec. 7. 26 V.S.A. § 2022 is amended to read:

7 § 2022. DEFINITIONS

8 As used in this chapter:

9 \* \* \*

10 (14) “Pharmacy technician” means an individual who, only while  
11 assisting and under the supervision of a licensed pharmacist, performs tasks  
12 relative to dispensing ~~only while assisting and under the supervision and~~  
13 ~~control of a licensed pharmacist~~ prescription drugs, administering  
14 immunizations, and performing tests for SARS-CoV. Pharmacy technicians  
15 shall administer immunizations and perform tests for SARS-CoV in  
16 compliance and accordance with section 2042a of this title.

17 \* \* \*

18 (21) “Self-administered hormonal contraceptive” means a contraceptive  
19 medication or device approved by the U.S. Food and Drug Administration that  
20 prevents pregnancy by using hormones to regulate or prevent ovulation and  
21 that uses an oral, transdermal, subcutaneous, or vaginal route of administration.

1 Sec. 8. 26 V.S.A. § 2023 is amended to read:

2 § 2023. CLINICAL PHARMACY; PRESCRIBING

3 \* \* \*

4 (b) A pharmacist may prescribe in the following contexts:

5 \* \* \*

6 (2) State protocol.

7 (A) A pharmacist may prescribe, order, or administer in a manner  
8 consistent with valid State protocols that are approved by the Commissioner of  
9 Health after consultation with the Director of Professional Regulation and the  
10 Board and the ability for public comment:

11 \* \* \*

12 (v) self-administered hormonal contraceptives, including  
13 subcutaneous depot medroxyprogesterone acetate;

14 \* \* \*

15 (vii) ~~influenza vaccines~~ for patients 18 years of age or older,  
16 vaccinations recommended by the Centers for Disease Control and  
17 Prevention’s Advisory Committee on Immunization Practices (ACIP) and  
18 administered consistently with the ACIP-approved immunization schedules, as  
19 may be amended from time to time;

20 \* \* \*

1 Sec. 9. 26 V.S.A. § 2042a is amended to read:

2 § 2042a. PHARMACY TECHNICIANS; QUALIFICATIONS FOR  
3 REGISTRATION

4 (a) No person shall perform the duties of a pharmacy technician unless  
5 registered with the Board. To obtain a registration as a pharmacy technician,  
6 an applicant shall:

7 \* \* \*

8 (b) Pharmacy technicians administering immunizations shall meet the  
9 following requirements:

10 (1) hold a registration as a pharmacy technician in accordance with  
11 subsection (a) of this section;

12 (2) hold a current CPR certification;

13 (3) have successfully completed an Accreditation Council of Pharmacy  
14 Education–accredited training program approved by the Board; and

15 (4) successfully complete two hours of immunization-related continuing  
16 education approved by the Accreditation Council for Pharmacy Education  
17 every two-year licensing period.

18 (c) Pharmacy technicians shall only administer immunizations:

19 (1) to patients 18 years of age or older;

20 (2) pursuant to the schedules and recommendations of the Advisory  
21 Committee on Immunization Practices’ recommendations for the

1 administration of immunizations, as those recommendations may be updated  
2 from time to time; and

3 (3) when a licensed pharmacist who is trained to immunize is present  
4 and able to assist with the immunization, as needed.

5 (d) Pharmacy technicians shall administer only those immunizations that:

6 (1) are recommended by the Centers for Disease Control and  
7 Prevention’s Advisory Committee on Immunization Practices (ACIP); and

8 (2) licensed pharmacists are permitted to administer under the State  
9 clinical pharmacy protocol, as established in subdivision 2023(b)(2) of this  
10 title.

11 (e) Pharmacy technicians performing SARS-CoV tests shall do so only:

12 (1) when a licensed pharmacist who is trained to perform SARS-CoV  
13 tests is present and able to assist with the test, as needed;

14 (2) in accordance with a State protocol adopted under subdivision  
15 2023(b)(2)(A)(x) of this title; and

16 (3) in accordance with rules adopted by the Board.

17 (f) The Board may adopt rules regarding the administration of  
18 immunizations and the performance of SARS-CoV tests by pharmacy  
19 technicians.



- 1      Sec. 12. EFFECTIVE DATE
- 2      This act shall take effect on passage.