



**State of Vermont
Office of the Secretary of State**

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**Sarah Copeland Hanzas, Secretary of State
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February 9, 2023

**To: Hon. Michael McCarthy, Chair
House Committee on Government Operations and Military Affairs**

**From: S. Lauren Hibbert, Deputy Secretary of State
Lauren Layman, General Counsel, Office of Professional Regulation**

Re: Draft OPR Bill 23-0908

Dear Committee,

Thank you for the opportunity to testify about the Office of Professional Regulation and the draft legislation pending in your committee.

The Office of Professional Regulation oversees the regulation of 51 professions and a total of just over 85,000 licensees. We have two different models of regulation in our office – the board model and the advisor model. You will see those two different models reflected in our statutes. Our statutes are found in Title 3, which is our umbrella statute, and the majority of the profession-specific statutes are in Title 26.

Our team consists of 40 employees. We have 9 licensing administrators who assist new applicants and renew our professionals every two years. When we receive a complaint about a professional, our enforcement unit conducts investigations and prosecutions. In that team, we have 9 investigators (5 are certified law enforcement), 4 prosecutors, 2 case managers, and a paralegal. Our administrative disciplinary hearings are heard before an administrative law officer or profession-specific board. We also have 2 inspectors who are out in the field every day inspecting the businesses we license. Our General Counsel's unit is 3 lawyers who help the office and the boards conduct their business.

With 51 professions that are consistently changing – responding to federal law changes, consumer demands, and marketplace conditions – the Office of Professional Regulation frequently brings an “OPR Bill.”

Thank you again for having us here to talk about this year's bill.

Section 1 -Title 3: Pre-denials and Hearing Panels

This section streamlines our denial process for applications. We deny applications for two core reasons: 1) for past or current unprofessional conduct that the applicant engaged in; or 2) because the applicant does not meet the qualifications for licensure. The changes before you clarify that the Office will send a pre-denial notice to an applicant who may be denied on the basis of unprofessional conduct. The Office, represented by our prosecutors, would hold a hearing before a board or an administrative law officer.

If the Office or a Board intends to deny a license on the basis of qualifications, the Office will send a denial decision. There would not be a hearing before a board or administrative law officer. The reason for the change is that the Office and/or board will have multiple back-and-forth communications with an applicant who may not meet the qualifications. It is then structurally odd to have a hearing where the board or an administrative law officer has to “hear the evidence for the first time.”

For both types of pre-denials, there is an appellate review in our office and then it can be appealed to the Supreme Court.

The second major change in Section 1 is the ability of a Board or the Director to designate a hearing panel for a hearing. We sometimes have multiple-day hearings that are not efficient to have before a board that consists of professionals. This hearing panel will consist of at least one professional member and one public member.

Section 2 – Title 3: Synchronous virtual continuing education

This section allows for a licensee to fulfill the requirement of “live, in-person training” with synchronous virtual continuing education. This was a flexibility adopted by a policy during Covid that we would like to see continued.

Section 3 – Barber and Cosmetology

This section allows for cosmetology to be taught in the correctional system. Previously this was limited to barbering.

Section 4 – Osteopathy

This section is doing three things:

- 1) modernization of our statutory language related to the process for application and renewal;
- 2) Creating a pathway, which will be established by rule, for osteopathic physicians who have left practice for more than 3 years to come back into the profession; and,
- 3) Removing the requirement that 40 percent of continuing education be osteopathic specific. That is an outdated concept of osteopathic medicine and now all medical continuing education is the same.

Section 5 – Pharmacy

This section is adding subcutaneous to the definition of “self-administered hormonal contraceptives.”

Section 6 – Pharmacy

This section is modifying several parts of the clinical prescribing sections for pharmacy. The first change adds the subcutaneous depot medroxyprogesterone acetate to the self-administered hormonal contraceptives protocol.

This section is also allowing pharmacists who are appropriately trained to provide vaccinations that are ACIP and CDC recommended.

Section 7 – Pharmacy

This section removes the one-year licensure requirement for pharmacy managers.

Section 8 – Audiology and Hearing Aid Dispensers

This section is ensuring that Vermont law is in compliance with Federal law allowing over-the-counter purchasing of hearing aids.

Section 9 – Effective Dates

This bill will be effective on passage