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MEMORANDUM

To: Senate Committee on Health and Welfare
Senate Committee on Judiciary
House Committee on Health Care
House Committee on Human Services
House Committee on Judiciary

From: Joint Legislative Justice Oversight Committee

Date: October 26, 2023

Subject: Act 28 Competency Examinations Recommendations

Pursuant to 2023, Act No. 28, Section 8, the Joint Legislative Justice Oversight Committee (the "Committee") reviewed whether doctoral-level mental health providers, psychiatric nurse practitioners, or any other professionals should be allowed to perform competency examinations under 13 V.S.A. § 4814 in the same way that psychiatrists and doctoral-level psychologists trained in forensic psychology are currently permitted. After its review, the Committee makes the following recommendations to your committees of jurisdiction:

- Lift the July 1, 2024, repeal of 13 V.S.A. § 4814(d) so that doctoral-level psychologists trained in forensic psychology and licensed under 26 V.S.A. chapter 55 can continue to perform competency evaluations.
- Amend 13 V.S.A. § 4816(e) to ensure that competency examination reports by doctoral-level psychologists trained in forensic psychology are considered admissible evidence and conclusive on the issue. This would ensure that courts treat such reports the same as reports authored by psychiatrists.
- Review whether doctoral-level psychologists trained in forensic psychology need any additional certifications to perform competency examinations.
- Examine any pitfalls in scheduling court-ordered competency examinations, including whether a lack of available professionals contributes to court schedule backlogs and other case delays.
- Explore whether an oversight mechanism should be created to audit or otherwise assess all competency examinations that are performed.