1	H.870
2 3	An act relating to professions and occupations regulated by the Office of 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. 2. 3 V.S.A. § 129a is amended to read:
2	§ 129a. UNPROFESSIONAL CONDUCT
3	(a) In addition to any other provision of law, the following conduct by a
4	licensee constitutes unprofessional conduct. When that conduct is by an
5	applicant or person who later becomes an applicant, it may constitute grounds
6	for denial of a license or other disciplinary action. Any one of the following
7	items or any combination of items, whether the conduct at issue was
8	committed within or outside the State, shall constitute unprofessional conduct:
9	* * *
10	(16)(A) Impeding an investigation or inspection under this chapter or
11	unreasonably failing to reply, cooperate, or produce lawfully requested records
12	in relation to such investigation or inspection.
13	* * *
14	* * * Barbers and Cosmetologists * * *
15	Sec. 3. 26 V.S.A. § 271 is amended to read:
16	§ 271. DEFINITIONS
17	As used in this chapter:
18	* * *
19	(4)(A) "Esthetics" means massaging, cleansing, stimulating, manipulating,
20	beautifying, or otherwise working on the scalp, face, or neck by using cosmetic

1	preparations, antiseptics, tonics, lotions, or creams services related to skin-care
2	treatments to enhance or improve the appearance of the skin, including:
3	(i) cleansing, toning, stimulating, manipulating, beautifying,
4	exfoliating, or performing any similar procedure on the human body using only
5	cosmetic preparations, hands, mechanical or electrical apparatus or appliances,
6	tonics, lotions, creams, or makeup;
7	(ii) beautifying lashes and brows; and
8	(iii) removing unwanted hair using manual and mechanical means.
9	(B) "Esthetics" does not include <u>any of the following:</u>
10	(i) the sale or application of cosmetics to customers in retail stores or
11	customers' homes <u>:</u>
12	(ii) any practice, activity, or treatment that constitutes the practice of
13	medicine, as defined in section 1311 of this title, including injections of any
14	substance and the use of lasers; or
15	(iii) the application of permanent cosmetics.
16	* * *
17	(7) "Shop" means a facility or facilities regularly used to offer or provide
18	barbering or , cosmetology, esthetics, or manicuring.

1	Sec. 4. 26 V.S.A. § 272 is amended to read:
2	§ 272. PROHIBITIONS; OFFENSES
3	(a) A person shall not practice or attempt to practice barbering or,
4	cosmetology, esthetics, or manicuring or use in connection with the person's
5	name any letters, words, title, or insignia indicating or implying that the person
6	is a barber or, cosmetologist, esthetician, or manicurist unless the person is
7	licensed in accordance with this chapter.
8	(b) A person who owns or controls a shop or school of barbering or,
9	cosmetology, esthetics, or manicuring shall not permit the practice of barbering
10	or, cosmetology, esthetics, or manicuring unless the shop or school is
11	registered in accordance with this chapter.
12	* * *
13	Sec. 5. 26 V.S.A. § 276 is amended to read:
14	§ 276. GENERAL POWERS AND DUTIES OF THE DIRECTOR
15	(a) The Director shall:
16	(1) adopt rules that:
17	(A) prescribe sanitary and safety standards for shops, schools, and
18	other facilities used for the practice of barbering and, cosmetology, esthetics,
19	or manicuring;

1	(B) prescribe safe and sanitary practices for the performance of
2	activities related to the practice of barbering and, cosmetology, esthetics, or
3	manicuring;
4	* * *
5	(b)(1) The Director may inspect shops and schools and other places used
6	for the practice of barbering and, cosmetology, esthetics, or manicuring.
7	* * *
8	Sec. 6. 26 V.S.A. § 282 is amended to read:
9	§ 282. SHOP; LICENSE
10	* * *
11	(b) The practices of barbering and, cosmetology, esthetics, or manicuring
12	shall be permitted only in shops licensed by the Director, except as provided in
13	sections 273 and 281 of this chapter and the rules of the Director.
14	Sec. 7. 26 V.S.A. § 283 is amended to read:
15	§ 283. EXAMINATION
16	* * *
17	(b)(1) The examination for a license shall include $\frac{both practical}{both}$
18	demonstrations and written or oral tests examinations approved by the Director
19	by rule in the area of practices for which a license is applied and other related
20	studies or subjects as the Director may determine necessary.
21	* * *

1	Sec. 8. 26 V.S.A. § 284 is amended to read:
2	§ 284. ISSUANCE OF LICENSE
3	* * *
4	(b) The Director shall issue a license to the person who owns or controls a
5	shop or school of barbering or, cosmetology, esthetics, or manicuring who has
6	paid the required fee and is in compliance with the rules of the Director and the
7	provisions of this chapter.
8	* * *
9	* * * Nursing * * *
10	Sec. 9. 26 V.S.A. chapter 28 is amended to read:
11	CHAPTER 28. NURSING
12	Subchapter 1. General Provisions
13	* * *
14	§ 1574. POWERS AND DUTIES
15	(a) In addition to the powers granted by 3 V.S.A. § 129, the Board shall:
16	* * *
17	(7) Adopt rules setting active practice continued competency and
18	ongoing practice requirements for licensure and renewal.
19	* * *
20	Subchapter 2. Advanced Practice Registered Nurses
21	* * *

1	Subchapter 3. Registered Nurses and Practical Nurses
2	§ 1621. REGISTERED NURSE LICENSURE BY EXAMINATION
3	* * *
4	Subchapter 4. Nursing Assistants
5	§ 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT
6	* * *
7	§ 1624. REGISTERED NURSE LICENSE RENEWAL
8	To renew a license, a registered nurse shall meet active practice continued
9	competency requirements set by the Board by rule.
10	* * *
11	§ 1628. PRACTICAL NURSE LICENSE RENEWAL
12	To renew a license, a practical nurse shall meet active practice continued
13	competency requirements set by the Board by rule.
14	* * *
15	Subchapter 4. Nursing Assistants
16	§ 1641. DEFINITIONS
17	* * *
18	§ 1645. RENEWAL
19	(a) To renew a license, a nursing assistant shall meet active practice
20	ongoing practice requirements set by the Board by rule.

1	(b) The Board shall credit as active practice ongoing practice those
2	activities, regardless of title or obligation to hold a license, that reasonably tend
3	to reinforce the training and skills of a licensee.
4	* * *
5	Subchapter 5. Nurse Licensure Compact
6	* * *
7	* * * Osteopathy * * *
8	Sec. 10. 26 V.S.A. § 1753 is amended to read:
9	§ 1753. EXEMPTIONS
10	(a) The provisions of subdivision $1752(a)(1)$ of this title, relating to
11	practice, shall not apply to the following persons acting within the scope of
12	their respective practices:
13	* * *
14	(4) A student who:
15	(A) is enrolled in an accredited educational program that leads to the
16	issuance of a degree that would satisfy the educational requirement for a
17	profession licensed under this chapter;
18	(B) is engaged in an organized clinical training program;
19	(C) engages in acts constituting the practice of medicine while under
20	the supervision of a Vermont-licensed or Vermont-certified health care

1	professional who is qualified to supervise any acts by the student that
2	constitute the practice of medicine; and
3	(D) is not a postgraduate trainee who is otherwise required to obtain a
4	training license.
5	* * *
6	* * * Radiology * * *
7	Sec. 11. 26 V.S.A. § 2801 is amended to read:
8	§ 2801. DEFINITIONS
9	As used in this chapter:
10	* * *
11	(6) "Licensed practitioner" means a person licensed under this title to
12	practice medicine, osteopathy, advanced practice registered nursing, dentistry,
13	podiatry, naturopathic medicine, or chiropractic, and includes holders of
14	limited temporary licenses to practice medicine.
15	* * *
16	Sec. 12. 26 V.S.A. § 2803 is amended to read:
17	§ 2803. EXEMPTIONS
18	The prohibitions in section 2802 of this chapter shall not apply to dentists
19	licensed under chapter 12 of this title and actions within their scope of practice
20	nor to:

1	(1) Licensed practitioners acting within the scope of practice for their
2	licensed field, including holders of limited temporary licenses to practice
3	medicine as authorized by the Board of Medical Practice, provided that their
4	practice acts and rules adopted thereunder have been expressly found by the
5	Director, in consultation with advisors appointed under this chapter, to match
6	or surpass the training in radiation safety and proper radiation practices
7	required by this chapter and rules adopted under this chapter.
8	* * *
9	* * * Tattooists and Body Piercers * * *
10	Sec. 13. 26 V.S.A. § 4101 is amended to read:
11	§ 4101. DEFINITIONS
12	As used in this chapter:
13	* * *
14	(3) "Disciplinary action" includes any action taken by an administrative
15	law officer against a licensed tattooist or applicant premised on a finding of
16	unprofessional conduct. Disciplinary action includes all appropriate remedies,
17	including denial of an application for or renewal of a license, suspension or
18	revocation of a license, limiting or conditioning of a license, issuing
19	reprimands or warnings, and adopting consent orders. [Repealed.]
20	* * *

1	(8) "Special panel" means a panel established pursuant to 3 V.S.A.
2	§ 129(j). [Repealed.]
3	(9) "Shop" means a facility regularly used to offer or perform the
4	practice of tattooing or, body piercing, or permanent cosmetics.
5	Sec. 14. 26 V.S.A. § 4103 is amended to read:
6	§ 4103. DIRECTOR; FUNCTION; COMMISSIONER OF HEALTH;
7	RULES
8	* * *
9	(c) The Director may adopt rules necessary to perform his or her the
10	Director's duties pursuant to this chapter. These rules may include:
11	(1) provisions governing tattooist, body piercer, and permanent
12	cosmetologist apprenticeships; and
13	(2) requirements for the supervision and temporary licensure of tattoo
14	artists, body piercers, and permanent cosmetologists, and shops as may be
15	necessary to allow this State to be a venue for appropriately regulated special
16	events such as conventions, festivals, or professional conferences.
17	* * *
18	Sec. 15. 26 V.S.A. § 4104 is amended to read:
19	§ 4104. ADVISOR APPOINTEES
20	(a)(1) The Secretary of State shall appoint: <u>one licensed operator practicing</u>
21	tattooing, one licensed operator practicing body piercing, and one licensed
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1	operator practicing permanent cosmetics to serve as advisors in matters
2	relating to tattooing, body piercing, and permanent cosmetics.
3	(A) a professional in the field of public health and medicine from a
4	list of persons provided by the Commissioner of Health; and
5	(B) two licensed operators who
6	(2) Advisors shall have been practicing tattooing and, body piercing, or
7	permanent cosmetics for at least the three years immediately preceding
8	appointment and who shall actively be engaged in the practice of tattooing and,
9	body piercing. and permanent cosmetics in Vermont during incumbency.
10	(2) The appointees shall be appointed to serve as advisors in matters
11	relating to tattooing, permanent cosmetics, and body piercing.
12	(3) The appointees shall be appointed as set forth in 3 V.S.A. 129b.
13	* * *
14	Sec. 16. 26 V.S.A. § 4105 is amended to read:
15	§ 4105. LICENSE REQUIREMENTS
16	* * *
17	(b) Tattooists and body piercers.
18	(1)(A) As a prerequisite to licensure, a tattooist or body piercer
19	applicant shall provide proof of an apprenticeship of at least 1,000 hours of
20	experience obtained within two calendar years working under the direct
21	supervision of a body piercer or tattooist licensed and in good standing with
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1	this State or the state in which he or she the body piercer or tattooist is
2	regulated, and who has been in practice a minimum of three years.
3	(B) Proof may be in the form of a sworn affidavit from the
4	supervising tattooist or body piercer, including information as the Director may
5	reasonably require on forms provided by the Director. The Director may adopt
6	rules to require additional information from applicants to prove completion of
7	an apprenticeship.
8	* * *
9	(3) Apprentices shall contact register with the Office for the appropriate
10	forms prior to beginning the apprenticeship in accordance with rules adopted
11	by the Director.
12	* * *
13	(c) Permanent cosmetologists.
14	(1)(A) As a prerequisite to licensure for the practice of permanent
15	cosmetics, an applicant shall provide proof of a course of approved study
16	lasting at least 60 hours.
17	(B)(i) In addition, the applicant shall obtain at least 40 hours of
18	practical experience, within two calendar years preceding the application,
19	working under the direct supervision of a tattooist or permanent cosmetologist
20	licensed and in good standing with this State or the state in which he or she the

1	tattooist or permanent cosmetologist is regulated, and who has been in practice
2	a minimum of three years.
3	(ii) Proof may be in the form of a sworn affidavit from the
4	supervising permanent cosmetologist or tattooist, including information as the
5	Director may reasonably require on forms provided by the Director. The
6	Director may adopt rules to require additional information from applicants to
7	prove completion of an apprenticeship.
8	* * *
9	(3) Prior to training and obtaining practical experience, applicants shall
10	contact register with the Office and submit the appropriate forms in accordance
11	with rules adopted by the Director.
12	* * *
13	(d) Shops. A shop shall not operate in this State without first registering
14	with the Office of Professional Regulation and paying a fee of \$100.00.
15	Registration shall be in the form required by the Director.
16	* * *
17	(2) All shops shall designate a person who is licensed under this chapter
18	in the practice of tattooing or body piercing at least one of the professions
19	being practiced in the shop, be it tattooing, body piercing, or permanent
20	cosmetics, who shall be responsible for overall cleanliness and sanitation of the
21	shop.

1	(3) The practice of tattooing or body piercing shall be permitted only in
2	registered tattooing and body piercing shops.
3	(4) The practice of permanent cosmetics may be performed shall be
4	permitted only in:
5	(A) a licensed permanent cosmetic shop;
6	(B) a cosmetology shop licensed under chapter 6 of this title;
7	(C) anywhere the practice of tattooing is permitted;
8	(\underline{D}) on the premises of a health care professional licensed pursuant to
9	this title , or; and
10	(\underline{E}) on premises meeting the sanitation requirements of this chapter as
11	determined by the Director or as set forth by rule.
12	(5) Notwithstanding the provisions of this subsection, <u>a tattoo shop</u>
13	licensed under this chapter or a cosmetology shop licensed under chapter 6 of
14	this title may provide permanent cosmetics services by a person licensed under
15	this chapter without obtaining a second an additional shop license for the same
16	premises, provided that the Director may require by rule permanent
17	cosmetologists to report all locations of their practice to the Director as a
18	condition of licensure or license renewal.
19	(6) All registered shops shall report to the Director within 48 hours after
20	a change of location. The Director may require shops to undergo a new
21	inspection prior to beginning the practice of tattooing, body piercing, or
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1	permanent cosmetics at the new location. The Director may permit a relocated
2	shop to continue operation under its existing registration.
3	* * *
4	Sec. 17. 26 V.S.A. § 4108 is amended to read:
5	§ 4108. UNPROFESSIONAL CONDUCT
6	* * *
7	(b) Unprofessional conduct means the following conduct and conduct set
8	forth in 3 V.S.A. § 129a:
9	(1) Using dishonest or misleading advertising.
10	(2) Addiction to narcotics, habitual drunkenness, or rendering
11	professional services to a client if the operator is intoxicated or under the
12	influence of drugs.
13	(3)(2) Sexual harassment of a client.
14	(4)(3) Tattooing or body piercing a minor in violation of the provisions
15	of section 4102 of this title.
16	(c) After hearing and upon a finding of unprofessional conduct, an
17	administrative law officer may take disciplinary action against a licensed or
18	registered operator or applicant.

1	* * * Electrologists * * *
2	Sec. 18. 26 V.S.A. § 4402 is amended to read:
3	§ 4402. DEFINITIONS
4	As used in this chapter:
5	* * *
6	(3) "Electrology" means the removal of hair by electrical current using
7	needle/probe electrode-type epilation, which would include electrolysis (direct
8	current/DC), thermolysis (alternating current/AC), or a combination of both
9	(superimposed or sequential blend). "Electrology" includes, solely for the
10	purpose of hair removal, the use of lasers approved by the U.S. Food and Drug
11	Administration for electrology by electrologists possessing a special license
12	endorsement set forth in subsection 4404(d) of this chapter. "Electrology"
13	does not include any practice, activity, or treatment that constitutes the practice
14	of medicine, as defined in section 1311 of this title, including injections of any
15	substance or the practices of permanent cosmetics as defined in section 4101 of
16	this title.
17	* * *
18	* * * Effective Date * * *
19	Sec. 19. EFFECTIVE DATE
20	This act shall take effect on passage.