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**February 6, 2025**

**To: Hon. Matthew Birong, Chair**  
**House Committee on Government Operations and Military Affairs**

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

**Re: Office of Professional Regulation Bill**

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Dear Committee Members:

Thank you for the opportunity to testify about this year's OPR Bill.

Since we recently provided the Committee with an overview of the Office of Professional Regulation, we will start with only a brief summary of the Office before moving into the details of the OPR Bill, which has been introduced through this Committee.

### **The Office of Professional Regulation**

The Office of Professional Regulation (OPR) is an umbrella agency staffed by 40 people and organized under the Secretary of State. OPR oversees about 84,000 licensees in 53 diverse and wide-ranging professions and occupations, from health care professions like nursing, osteopaths, dentists, pharmacists and mental health professions, to tattooists, barbers, and cosmetologists, to real estate-related professions such as real estate brokers, architects, appraisers, home inspectors and the like. OPR is a public protection agency that establishes minimum licensure qualifications and enforces professional conduct standards through its complaint and disciplinary processes. OPR operates at the forefront of the everchanging regulatory landscape, such as responding to emergency health initiatives during Covid, working to remove licensure barriers for military families and internationally trained professionals, and seeking to increase much-needed workforce through progressive policies like compacts and telehealth.

To summarize, this year's OPR Bill focuses on creating a better balance between access to the many services the Agency provides and financial sustainability. OPR proposes assessing fees for services that have previously been offered at no cost and raising fees for services that have been low cost. In addition, OPR proposes deregulating Motor Vehicle Racing and striking sections of the Funeral chapter in Title 26 related to OPR appointment of Escrow Agents. OPR is not recommending fee increases this year for licenses.

### **Title 3 – General Provisions**

3 V.S.A. § 122, which authorizes OPR’s regulation of specified professions, is amended to strike (21) Motor Vehicle Racing, as OPR is recommending deregulation of Motor Vehicle Racing (MVR) because:

- OPR currently regulates racetracks, not people, and Vermont is the only state in the country that requires inspection of every racetrack;
- OPR inherited racetrack regulation from the Motor Vehicle Racing Commission when OPR was created in 1989. The program was not reviewed in the same way as we assess new regulatory programs today, bearing in mind the public interest and potential harm to the public if the program is not regulated;
- OPR has recently conducted a regulatory sunset review of this program and found that the common law tort system and the private insurance market assure the safety of racetracks; and
- OPR has concluded through the sunset review that state regulation of racetracks is costly and unnecessary.

3 V.S.A. § 123, which sets forth the duties of OPR, is amended in the following subparts:

(k)(2) Strike the last sentence that refunds the \$25 Second Chance Determination fee.

OPR makes preapplication determinations for individuals who have criminal histories. These are individuals who, before investing time and money to pursue education and training in a profession, request to have their criminal history reviewed to determine whether a conviction would be a bar to obtaining a specific credential in the future from OPR. OPR requests striking this sentence because:

- Second Chance Determinations are resource-intensive, requiring review by attorneys and licensing supervisors; and
- Though the fee is minimal, it offsets some of the Agency’s financial expenditure in offering this service.

(m) Add a provision that exempts OPR from 3 V.S.A. § 116a(b)(1), which allows termination of state boards five years from the date of creation, or the last date the statutory or session law containing the State board was amended, or on January 1, 2025, whichever is latest. OPR request the exemption because:

- OPR is an umbrella agency with 14 professional boards;
- Amending each profession chapter in Title 26 every five years to maintain the professional boards would require significantly more staff and resources; and
- OPR utilizes sunset requirements in Chapter 57 of Title 26 to periodically assess its regulatory programs. Two examples this year were the Real Estate Regulatory Review and the Motor Vehicle Racing Sunset Report.

3 V.S.A. § 125, relating to fees, is amended as follows:

(a)(1) Increase the license verification fee from \$20 to \$30.

License verifications are requested by licensees who are seeking licensure in other states or who are providing verifications to employers. This information is available on OPR’s website in real time and at no charge.

(b)(4)(V) Peer support providers or peer recovery support specialists application fee was intended to increase from \$50 to \$75 when the original legislation was enacted, but the fee increase did not make it into the fee statute.

(b)(4)(W) Re-establishes an electrology shop fee. Previously there was an electrology shop fee in Title 26. The fee was inadvertently dropped from the fee bill in 2023, so this addition puts the fee back into statute at \$200.

(b)(9)-(11) These are new fees for services OPR currently provides for free.

- (9), (10) The apprenticeship and license specialty application fees unlock a privilege for applicants to engage in a new professional capacity.

(11) When we provided bill language, we had been proposing to add a fee for a Data feed that many facilities and organizations are currently using. We had proposed a 1500 fee. However, after reviewing how this is done in other states for similar services and analyzing the complexity of the organizations using the data we would like to change our approach to this issue. Instead, the Secretary of State seeks authorization to charge for voluntary data services and that fee would be set by policy at the Secretary of State level. We are proposing an amendment to 3 V.S.A. § 118. This is the section of the law that authorizes the Secretary to collect and dispose of revenue.

(b)(12) The disciplinary action surcharge is a new fee for practitioners who have had adjudicated complaint cases where a board or administrative law officer has determined the practitioner engaged in unprofessional conduct. Enforcement action involves investigation and prosecution that is expensive and resource intensive. The substantial cost of our enforcement action is borne by the licensees within the profession, most of whom are operating within professional standards of conduct. The surcharge is intended to offset a portion of the enforcement cost and as a deterrent measure.

(c) Strike this provision, as we do require payment of renewal fees during a licensure lapse if the licensee has been practicing without a current license. We would not want this section to misconstrue OPR's ability to pursue such fees.

3 V.S.A. § 127, Unauthorized Practice, is amended as follows:

(b)(2)(A) The civil penalty for unauthorized practice in administrative action is raised to \$5,000 to be consistent with the penalty allowed when such action is pursued in Superior Court.

3 V.S.A. § 129, Powers of Boards or of Director in Advisor Professions; Discipline Process, is amended as follows:

(a)(3) Adding the last sentence to authorize a Board or the Director to assess a disciplinary action surcharge pursuant to the addition of the surcharge in the fee language of 3 V.S.A. § 125(b)(12).

## **Title 26**

### **Barbers and Cosmetology**

26 V.S.A. § 281, which provides postsecondary school of barbering and cosmetology requirements, is amended to include additional language to (a)(4) regarding training and education around textured hair. These changes are important as basic requirements to ensure that diverse populations have access to competent hair care and treatment services.

### **Funeral Services**

26 V.S.A. § 1272 and § 1275, relating to escrow agents, is amended to be stricken, in part, because:

- The statute includes OPR approval of appointed escrow agents who are not regulated by the Agency;
- Individuals acting as escrow agents have legal fiduciary duties that are outside of OPR's authority and purview;
- OPR has no enforcement mechanism with respect to individuals who are not licensed by the Agency; and
- OPR has not created any process around the appointment of escrow agents in the years these provisions have been in effect.

### **Motor Vehicle Racing**

REPEAL OF Chapter 93; 26 V.S.A. §§ 4801 through 4813, relating to the regulation of Motor Vehicle Racing, are amended to be stricken, per OPR's Sunset Review Assessment of the profession, discussed above.

Again, we thank the Committee for the opportunity to review and discuss these important changes to improve the Agency's financial health and reduce regulation where it is unnecessary. We look forward to working with you this session.