



State of Vermont
Office of the Secretary of State
128 State Street
Montpelier, VT 05633-1101
(802) 828-2363

Sarah Copeland Hanzas, Secretary of State
S. Lauren Hibbert, Deputy Secretary

Office of Professional Regulation
Michael Warren, Interim Director
Tara Grenier, Deputy Director

February 20, 2025

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

From: S. Lauren Hibbert, Deputy Secretary of State

Re: 25-0244 An act relating to professions and occupations regulated by the Office of Professional Regulation

Dear Committee,

Thank you for allowing me to testify today on the OPR bill. The Office supports the majority of the bill as drafted. We are asking for three amendments to the bill.

First Amendment: Doulas

OPR is amenable to the regulation of Doulas being included in the OPR bill. This is currently within H.79 (An act relating to certification of community-based perinatal doulas). That bill is currently referred to House Committee on Health Care. The Office recently published a sunrise report for this profession determining that certification is the appropriate level of licensure for this profession. We reviewed the bill language, and we don't have any substantial changes to the bill. Additionally, we believe this issue is not very controversial and will not slow down the OPR bill.

Second Amendment: Mental Health Executive Officer

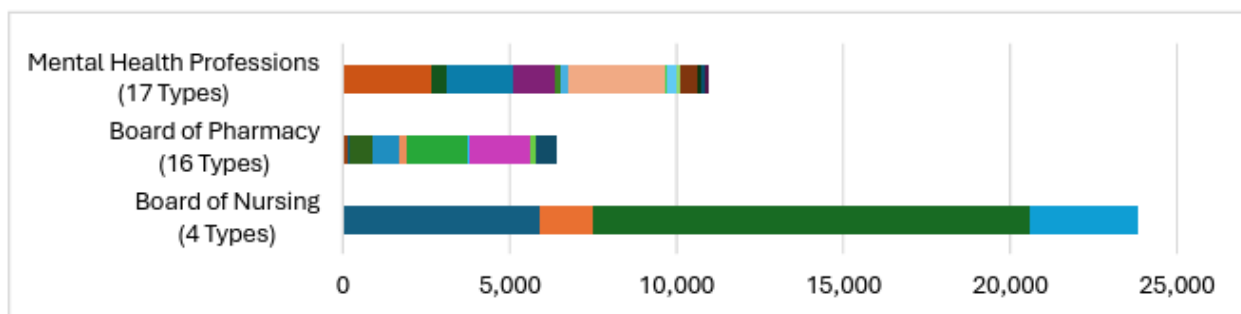
We have recently completed the Mental Health Study required by Act 117 (2022) and Act 77 (2023). At a high level we found that:

- 1) OPR's regulatory structure of the mental health professions would benefit from a vertical consolidation/reorganization;

- 2) It's possible to streamline entry-level qualifications without lowering professional competency requirements;
- 3) Additional regulations for supervisors can support both the quality of, and provider interest in, clinical supervision services; and lastly
- 4) OPR finds that there are barriers to licensure into the mental health professions for individuals from marginalized groups.

One of the core recommendations to achieve this work is that OPR needs authority adding an Executive Officer position for the OPR-regulated mental health professions. OPR is requesting a General Fund allocation of 170K to hire for this position. It is not anticipated that the Office will request this money in future budget cycles. We are asking for it now because this recommendation was submitted after we had prepared our FY2026 budget and OPR is running at a deficit. This position is necessary for OPR to complete the work recommended in the Mental Health Study. Next session the OPR bill will include a substantial restructuring of most of our mental health professions into one board. An Executive Officer, similar to the position that we have for the Boards of Nursing and Pharmacy, is essential to this work because it will involve a heavy policy lift and stakeholder engagement.

Additionally, on an ongoing basis, the Office needs this position. This field, like Pharmacy and Nursing, has significant diversity and complexity that demands an administrator whose subject matter expertise can coordinate state policy, perform applicant qualification evaluations, and mitigate operational bottlenecks by managing responsibilities that would otherwise fall on OPR's general counsel, the deputy director, and/or the boards.



OPR's mental health boards spend a significant portion of their time reviewing applicants' education, the education review process represents a significant bottleneck in application approvals. To mitigate this issue, the Board of Allied Mental Health currently employs a 3rd party contractor to perform education evaluations. An executive officer with subject matter expertise could serve this role for all mental health professions, removing the need for a

3rd party contractor. This would allow boards to focus on the primary responsibilities of setting standards and enforcing professional conduct.

Additionally, an EO would assist OPR's General Counsel's office to maintain rules and regulations current with emerging practices.

Despite this new role, OPR's mental health licensing boards would continue to set qualification standards for applicants. The Executive Officer would be responsible for implementing these standards, designing remedial coursework pathways to licensure for applicants whose education does not yet meet Vermont's requirements, and being the primary contact for the Office related to mental health professions. This would include responding to inquiries from licensees, working with partners in other states/at national organizations, and recommending policy changes to OPR and Vermont's mental health boards.

Third Amendment: Authority for the Secretary of State to Collect Fees for Optional Services:

In the current draft bill, Sec. 3 amends 3 V.S.A. § 125 to include a fee for a data feed annual fee of \$1,500.00. Since drafting this bill, the Secretary of State wants to change our approach to this issue. Instead, we would like to modify the 3 V.S.A. § 118. The modification below would allow the Secretary of State to collect fees for optional services and to set those fees by policy. This would allow for greater flexibility and customization based on the entity asking for the data feed or customizations to the data feed. We propose the following amendment:

§ 118. Collection and disposition of revenue

(a) There is hereby created a Secretary of State Services Fund. The Fund shall be used to provide appropriations for the operations of the Office of the Secretary of State, with the exception of those operations provided for in chapter 5, subchapter 3 of this title. The Fund shall be administered as a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5. At the end of each fiscal year, the unobligated balance in this Fund shall be transferred to the General Fund.

(b) All revenues collected by the Secretary of State shall be deposited into the Secretary of State Services Fund except for the following revenues:

(1) any revenues collected by the Office of Professional Regulation set forth in chapter 5, subchapter 3 of this title; and

(2) any revenues collected pursuant to subsection 117(k) of this title.

(c) The Secretary of State shall have the authority to collect and deposit into the Secretary of State Services Fund revenues generated from optional services offered in the normal course of business, including for one-time or periodic sales of data by subscription or other contractual basis.

Fourth Amendment: LNA Re-Licensure Requirements

When an individual has not maintained their license and therefore their competency to practice, OPR requires additional training or coursework before re-issuing the license to ensure that the individual is competent. The Nursing Board has reviewed and approved the below language that would streamline and simplify the requirements for a Licensed Nursing Assistant who has been out of practice for less than 5 years.

26 V.S.A. 1645

(c) A licensee seeking to renew an expired or lapsed license after fewer than five years of absence from practice shall repeat and pass the competency examinations approved by the Department of Disabilities, Aging, and Independent Living before licensure renewal.

1. A licensee who does not pass the competency examinations shall repeat a nursing assistant education program and competency examination.

OPR Response to NASW-VT Proposed Amendments:

Amendment One: Title Protection

OPR does not have a strong objection to NASW-VT proposed Amendment One. In general, licensing is not intended to protect titles, it is intended to protect the public. Title protection is only incidental to licensure policy because the public must know if the professional is qualified.

Here the “social worker” is not the profession’s title. Licensed independent social worker and licensed master’s social worker are professional titles. Those titles are protected in 26 V.S.A. §3202(a).

Adding a subsection (b) and amending what was previously subsection (c) make it prohibited to call yourself a social worker, employ someone as a social worker, or post a job with the words social worker unless you have or the job requires a bachelor’s, master’s, or doctoral degree from an accredited social work school. This amendment would apply to all in the world not just to state agencies as previously written.

There are two considerations OPR brings to this committee:

- 1) OPR will not have the capacity to enforce these new provisions unless additional resources are given to the office. With over 800 complaints and 150 prosecutions a year, the enforcement unit is at full capacity and needs to dedicate its time to more serious violations of the law – such as sexual misconduct and drug diversion.
- 2) The Committee should consider hearing from employers in the public and private marketplace on the impact on them of this change. This is outside of the

jurisdiction and knowledge of OPR; but if as NASW-VT states, this is prevalent there could be a compelling reason this term is being used for positions.

Amendment Two: Psychotherapy

The second NASW-VT amendment proposes to redact sections of 26 V.S.A. § 3201(7)(c). OPR opposes this amendment.

(7) “Psychotherapy” means the provision of treatment, diagnosis, evaluation, or counseling services to individuals or groups, for a consideration, for the purpose of alleviating mental disorders.

(A) “Psychotherapy” involves the application of therapeutic techniques to understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behavior that interferes with effective emotional, social, or mental functioning.

(B) “Psychotherapy” follows a systematic procedure of psychotherapeutic intervention that takes place on a regular basis over a period of time, or, in the case of evaluation and brief psychotherapies, in a single or limited number of interventions.

(C) If a person is employed by or under contract with the Agency of Human Services, this definition does not apply to persons with less than a master’s degree; to persons providing life skills training or instruction, such as learning to make friends, to handle social situations, to do laundry, and to develop community awareness; or to interactions of employees or contracted individuals with clients *whose job description or contract specifications do not specifically mention “psychotherapy” as a job responsibility or duty.* (Emphasis was added on the section that requested to be redacted.)

The legislative history of this language is that it was requested to ensure that people employed by AHS were not unintentionally engaging in unauthorized practice while fulfilling their duties. It is unauthorized practice to provide psychotherapy without having appropriate licensure or being on the Roster of Non-Licensed, Non-Certified psychotherapists.

In her testimony, Ms. Stanley stated that it was a requirement for supervised practice that the job description for the trainee must include psychotherapy. That is not true. OPR does not require “psychotherapy” to appear in trainees’ job descriptions for their supervised practice hours to be counted.

It is true that of the 3,000 required hours of supervised practice, 2,000 must include psychotherapy. This requirement is established in the Administrative Rules for Social Work, Rule 4.1(b):

4.1 Supervised Practice Toward Licensure as an L.I.C.S.W. Supervised practice toward licensure as an L.I.C.S.W. means:

..

(b) Provision of psychotherapy must comprise 2,000 direct service hours of the required 3,000 hours of supervised practice.

Currently, a supervisor has to sign off that the trainee has completed the requisite 2,000 direct service hours including psychotherapy. If a job does not provide those hours, it would not be suitable for use while an individual is obtaining supervised practice. Of course, a role that does not include psychotherapy could provide the remaining 1,000 hours of supervised practice.

Importantly, under the current law, there are two types of licensed Social Workers: the Licensed Independent Clinical Social Worker (LICSW) and the Master's in Social Work (MSW). To be qualified to obtain a license an individual must have graduated from an approved social work school and take the national exam. The core difference between these two qualifications is that a LICSW is qualified to provide psychotherapy and a MSW is not.

(3) "Licensed independent clinical social worker" means a person licensed under this chapter to practice clinical social work.

(4) "Licensed master's social worker" is a person licensed under this chapter to practice master's social work. *Psychotherapy is not within the scope of practice of a "licensed master's social worker."* The practice of a licensed master's social worker engaged in supervised practice toward licensure as a licensed independent clinical social worker may include the practices reserved for licensed independent clinical social workers.

(5) "Master's social work" means the application of social work theory, knowledge, methods, and ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities.

(A) Master's social work practice includes the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities.

(B) Under supervision as provided in this chapter, the practice of master's social work may include the practices reserved for clinical social workers.

26 V.S.A. § 3201 (emphasis added)

While OPR conducted its Mental Health Study, clinical hours, including the length of time and the amount of time dedicated to psychotherapy, was a large topic of discussion. We anticipate revisiting those requirements systematically – looking at all the mental health professions we regulate, considering national standards, and hearing from more stakeholders. OPR may recommend a large shift in our approach to pre-licensure supervision in the next session.