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**March 19, 2025**

**To: Hon. Emilie Kornheiser, Chair**  
**House Committee on Ways and Means**

**From: S. Lauren Hibbert, Deputy Secretary of State**  
**Mike Warren, Interim Director, Office of Professional Regulation**

**Re: H. 472: Office of Professional Regulation Bill**

Dear Committee Members:

Thank you for the opportunity to testify about this year's OPR Bill and fees. As I said on the record there are two goals for the fees proposed:

- 1) To fix previous legislative mistakes where fees were unintentionally dropped from the statutes
- 2) To charge fees for voluntary services that OPR has previously not charged for or charged a low fee.

I have highlighted the sections of the bill that have a fee added/adjusted or where the policy decisions will have a fiscal impact on OPR.

### **Title 3 – General Provisions**

**Sec. 1: 3 V.S.A. § 122:** This section amends 3 V.S.A. § 118 to allow the Secretary of State to charge for data feeds provided to third parties. The fees would be established by policy.

**Sec. 2: 3 V.S.A. § 125:**

- (a)(1): Increases the license verification fee from \$20 to \$30. License verifications are requested by licensees seeking licensure in other states or who are providing verifications to employers. This information is also available on OPR's website in real-time and at no charge.
- (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.

- (b)(9): This section would charge \$50 for an apprenticeship application. This is a low cost pathway to licensure in many of our professions. The applicant chooses this pathway instead of going through a formal education. The apprenticeship pathway to licensure requires additional work by OPR before approval of the license.
  - (b)(10): This creates a specialty license fee that would be assessed at application and renewal. A specialty unlocks a privilege for applicants to engage in a new professional capacity and requires additional, and sometimes complicated, review of qualifications by OPR.
  - (b)(11): This section establishes a disciplinary action surcharge of \$250. 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 which 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.

**Sec 3: 3 V.S.A. § 125(b)(4)(V)** This section adjusts the renewal fee for Peer support providers or peer recovery support specialists. The renewal 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.

**Sec 4: 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 requests striking the refund 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 requests the exemption because:
  - Amending each profession chapter in Title 26 every five years to maintain the professional boards (14!) would require significantly more staff and resources; and
  - OPR utilizes sunset requirements in Chapter 57 of Title 26 to periodically assess its regulatory programs.

**Sec. 5: 3 V.S.A. § 127(b)(2)(A)**, raises the administrative penalty for unauthorized practice to \$5,000 to be consistent with the penalty allowed when such action is pursued in Superior Court.

**Sec. 6: 3 V.S.A. § 129(a)(3)**, authorizes a Board or the Director to assess a disciplinary action surcharge consistent with the surcharge in the fee language of 3 V.S.A. § 125(b)(12).

## Title 26

**Sec. 7: 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.

**Sec. 8: Licensed Nursing Assistance: 26 V.S.A. § 1645**, streamlines the process for demonstrating competency for renewal when an LNA has been out of practice for less than 5 years. This language clarifies that the person would need to retake the competency exam but not the whole LNA educational program unless they failed the exam.

**Sec. 9: Motor Vehicle Racing, 3 V.S.A § 12** this amendment removes Motor Vehicle Racing from the list of regulated professions. OPR seeks this amendment per OPR's Sunset Review Assessment of the profession, filed in January 2025, recommending that the profession be deregulated. This is a loss of revenue for OPR.

**Sec. 10: Funeral Services, 26 V.S.A. § 1272**, 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.

**Sec. 11, Repeals, 26 V.S.A. § 1275** (Escrow agents in Funeral for the reasons above) and **26 V.S.A. chapter 93** (motor vehicle racing for the reasons above.)

## **Sec. 12, Appropriation and Creation of a Position, 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 – 17 professional silos into one umbrella board;**
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.

To achieve this work OPR needs 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.
- Next session the OPR bill will include a substantial restructuring of most of our mental health professions into one board.
- This is a significant policy lift and requires stakeholder engagement. An Executive Officer is essential to this work.
- The Office needs this position on an ongoing basis. This field, like Pharmacy and Nursing, has significant diversity and complexity that demands an administrator whose subject matter expertise can:
  - *Coordinate state policy:* This is essential for other state agencies, the designated agencies, compact organizations, and national and state groups and associations.
  - *Perform applicant qualification evaluations:* These applications are complicated and currently must be reviewed at a Board meeting which occurs once a month. To help with their review 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. and
  - *Mitigate operational bottlenecks:* This position will manage responsibilities that would otherwise fall on OPR's general counsel, the deputy director, and/or the boards.

*Sec. 13, Massage Therapy Establishments:* OPR will submit proposed language on the regulation of massage therapy establishments by November 15, 2025.

*Sec. 14, Effective Dates.*

