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May 20, 2025

**To: Hon. Ann Cummings, Chair
Senate Committee on Finance**

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

Re: H.472 Amended – Including S.119, An Act Relating to Licensure of Early Childhood Educators

Dear Committee Members:

Thank you for the opportunity to testify about H.472, this year's OPR bill which includes S.119 relating to the licensure of Early Childhood Educators.

As you know, OPR is responsible for the regulation of 53 professions in Vermont. OPR is a special fund agency which means it is designed to subsist on only the fees it collects. The OPR fund has been operating at a deficit, currently projected at 1.5M. This is largely because of licensure compacts (which means VT loses license fees, while compacts increase regulatory costs, primarily in enforcement.) As a result of the projected deficit, OPR was asked to conduct a money study last session. We submitted an interim report and are in the process of gathering more data. The fees in this bill do not adequately cover the deficit at OPR but are a small step, approximately \$200,000 per year, in the right direction.

Today we will review parts of the OPR bill that have fees, appropriations or other financial impacts. The goals of the bill from a financial perspective are:

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

We will also provide a very brief overview of S.119 relating to licensure of early childhood educators, which was added to the OPR bill by the Senate Committee on Government Operations.

Title 3 – General OPR Provisions

Sec. 1: 3 V.S.A. § 118. This section adds a provision to allow the Secretary of State to charge for data feeds provided to third parties. This is a voluntary service by which the office provides licensing or business data that is personalized to the needs of each requesting end-user, most often Vermont businesses or health care facilities. 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 official 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 2019, so this addition puts the fee back into statute at \$200. Electrology shops have not been charged a fee for two renewal cycles (four years) since the fee was dropped.
- (b)(9)-(11): These are new charges 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 OPR 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 would be assessed against practitioners who have engaged in unprofessional conduct. The surcharge would be assessed at the conclusion of 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 OPR 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 for under two years.

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. When the original legislation for this profession was enacted, the renewal fee was intended to increase from \$50 to \$75; however, 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 of this fee 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 mandates 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 ceiling for an administrative penalty for unauthorized practice to be up to \$5,000, which is the same maximum penalty allowed when such action is pursued in Superior Court.

Sec. 6: 3 V.S.A. § 129(a)(3) authorizes the assessment of the \$250 disciplinary action surcharge consistent with the surcharge in the language of 3 V.S.A. § 125(b)(12).

Title 26

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 primarily because:

- regulation is not necessary to protect the public because the insurance industry provides some oversight which addresses any risk of harm to the public; and
- Vermont was one of only a handful of states to regulate Motor Vehicle Racing.

This is a loss of revenue for OPR of approximately \$14,000 in odd years.

Sec. 12, *Appropriation and Creation of a Position, Mental Health Executive Officer.*

OPR recently completed the Mental Health Study required by Act 117 (2022) and Act 77 (2023). At a high level, OPR 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:

- The Mental Health Licensure Study recommendations were 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. The mental health 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 only 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 potentially speeding up the application review process; 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. 14, Early Childhood Educators: 3 V.S.A. § 122 (54). This provision adds Early Childhood Educators to OPR professions, implementing S.119, which creates a tiered licensure system for Early Childhood Educator I, II and III, as well as a legacy license for Family Child Care Providers.

Prior to supporting this legislation, OPR conducted a Sunrise Review of this profession, engaged in significant research, met with stakeholders, members of the profession, state agencies, professional organizations, advocacy groups, and conducted public hearings. OPR submitted its Sunrise [Report](#) to this body in January.

At the conclusion of its work, OPR determined that early childhood educators in child care homes and child care centers regulated by the CDD should be individually regulated through licensure to:

- Ensure quality care and education through increased educational and experiential requirements for early educators who bear primary responsibility for the care and education of young children from ages 0 to 8 in Family Child Care Homes and Center-Based Child Care facilities;
- Reduce harms of low-quality early childcare, including children unprepared to enter public school, suboptimal physical and mental health impacts, and poor developmental outcomes in the short and long term;
- Establish streamlined preparation pathways for individuals entering the profession so they have the necessary minimum qualifications to provide quality early care and education for Vermont's youngest and most vulnerable population;
- Establish clearly articulated, uniform standards of practice and ethics in private settings that align with the standards in public schools and require individual accountability for meeting those standards;
- Close significant enforcement gaps in the current system where individual accountability for unprofessional conduct is not addressed through a publicly accessible process with disciplinary action is readily accessible online;

- Provide families, as consumers of the services, an easily accessible platform to know the qualifications of early educators who bear primary responsibility for care and education of their young children in non-public settings.

Broadly, this new regulatory program, which would begin two years after passage, requires early childhood educators who work in Family Child Care Homes and Center-Based Child Care facilities regulated by the Child Development Division of DCF to be individually licensed through the Office of Professional Regulation. The bill increases qualification requirements for practitioners, allows an 8-year transitional licensure pathway, and provides a legacy pathway for current family child care home providers who do not want to transition to an ECE license. This legacy pathway has been offered as a compromise measure so that Vermont does not lose capacity.

Recommended Licensure Structure and Fees

H.472 proposes the following licensure structure:

- Early Childhood Educator I (ECE I) – Assistant Teacher, Supervised by ECE II or III
Approved credential or certificate program with 120 hours of training and field experience;
- Early Childhood Educator II (ECE II) – Lead Teacher, Supervises ECE I, Guided by ECE III
Associate’s degree in early childhood education or related field and experience or Associate’s degree in unrelated field plus 21 college credits in early education plus experience;
- Early Childhood Educator III (ECE III) – Lead Teacher, Supervises ECE I, Guides ECE II
Bachelor’s degree in early childhood education or related field and experience or Bachelor’s degree in unrelated field plus 21 college credits in early education plus experience;
- Family Child Care Provider - Legacy pathway only for current practitioners working in Family Child Care Homes actively licensed or registered with the CDD and in good standing. No additional qualification required. This added transitional measure was created to ensure the new regulatory program does not result in the loss of workforce.

Licensure Fees (on a two-year cycle):

- ECE I: Initial Application, \$125; Biennial Renewal, \$225
- ECE II: Initial Application, \$175; Biennial Renewal, \$250
- ECE III: Initial Application, \$225; Biennial Renewal, \$275
- Family Child Care Provider: Initial Application, \$175; Biennial Renewal, \$250

When standing up a new regulatory program, OPR does not yet have the data to precisely determine the fees required to support the program. 3 V.S.A. §124 requires the cost of regulating a profession attached to OPR to be borne by the profession. For the startup of the Early Childhood Educator credentials, initial licensure fees are similar to fees for other professions (\$60-\$110 per year). The number of people in the profession will also be a factor in estimating fees. Current estimates are 6,000-7,000 licensees, which will rank ECE among our large professions. This profession will also have a large board, with 9 members. From our conversations with the Child Development Division, we know there will also be enforcement activity, which is costly. To ensure fees are not a barrier to licensure, you will see in the bill there is an appropriation from the Child Care Financial Assistance Program to cover the first four years of fees (initial licensure and then the first renewal) for all licensees. Once we begin issuing license, OPR will need a couple of years regulating the profession, including a renewal year, to be able to further assess with greater

precision the program needs and budget required to sustain the profession. OPR continuously addresses Board budgets and reviews fees as standard practice in all our professions, recommending to this body adjustments down or up through the OPR bill, as necessary. Finally, OPR is in the process of conducting a study of the agency's funding structure. We submitted an initial funding study report to the legislature in January 2025. OPR is continuing to gather data through positive reporting and assessing our funding allocations and sources. A final report will be submitted in January 2027.

Scope of the New Program Does Not Regulate:

- Active AOE-licensed Educators with an Early Childhood Education endorsement, an Early Childhood Special Education Endorsement, or an Elementary Education Endorsement;
- Universal Pre-K Teachers, who must have AOE licenses;
- After School Program Staff; or
- Individuals whose child care homes or programs are exempt from CDD regulation, such as child care homes for two families or less or care provided in connection with religious services, church sponsored activities, or hospital establishments for recreational or therapeutic purposes.

Additional Benefits of Licensing Early Childhood Educators in Non-Public Settings

- Return on investment of \$4-\$13 for every dollar spent on early education
- Increase school readiness for children, higher graduation rates, higher educational/professional achievement, better physical and mental health
- Potential future license portability to other states – this is a national, workforce-led movement
- Increased pay and benefits for the workforce resulting in greater workforce stability and attracting professionals who want a career
- Improved workforce health, reduced burnout, healthier professional environments
- Increased access to early childhood education
- Transparency for consumers and program providers to see individual qualifications and disciplinary history through a publicly accessible system, providing greater confidence to families

Transitional Measures

The most significant concern expressed in this process has been workforce retention, particularly of family child care homes. To mitigate retention concerns, OPR supports transitional measures that are vitally important to the legislation, namely:

- Family Child Care Provider credential for current practitioners who do not want to make the transition to ECE licensure;
- Implementation Phases:
 - Transitional licensure period for current workforce who do not meet increased qualification- Six years plus an additional two years for licensees who apply for a waiver documenting extenuating circumstances and demonstrating progress toward meeting qualifications;
 - Incorporation of Community College of Vermont Career Ladder into assessment of qualification for the full (not transitional) ECE licenses for a specified initial time of the OPR licensure program;
- Associate's Degree Educational Programs must recognize and count experience toward educational requirements, i.e. multiple/flexible pathways to enter the profession.

Implementation: Timing and Resources

On passage, OPR will proceed with a phased implementation to onboard this new profession. At that time, OPR needs the authority to hire two new positions, conduct rulemaking and engage with stakeholders, establish a Board, and work closely with the Child Development Division and the Northern Lights at CCV program to build a framework for OPR to share or take over the current tracking of individual qualifications. To begin regulating, OPR would need to hire three additional positions. It is important to emphasize this is an extensive effort that necessitates outreach to many stakeholders, sister agencies, higher education institutions, workforce, and the public from the time of legislative enactment, through rulemaking, and beyond.

Sec. 18, Appropriations to implement Chapter 111: OPR will need a total of five new positions for this program. Because licenses will not be offered until July 1, 2027, the two positions have been requested for FY26 are to lay the groundwork necessary for implementation. Three additional positions for FY27 will be needed just prior to licenses being issued. Because licensing fee revenue will not be generated until right around the start of FY28, only the initial funding for the positions is requested from the General Fund.

- (a)(1) Authorizes two new FTE positions at OPR for FY26, an Executive Officer and an exempt staff attorney. These positions are required upon passage of this legislation, as OPR will immediately begin efforts to develop administrative rules to fill in the details needed for implementation of this program. Because this is a complex and new subject matter area for OPR and is anticipated to be a large regulatory program with potentially 6,000 or more licensees, policy development will require extensive coordination and collaboration with current providers, stakeholders, sister agencies, higher education entities, professional organizations, national organizations and other interested parties.
- (a)(2) For FY26, the appropriation from the General Fund for these two positions is \$262,000.
- (b)(1) For FY27, the appropriation of \$628,867 is included for three new FTE positions including a licensing staff, an enforcement staff, and an administrative staff, as well as one more fiscal year of funding for the staff attorney and Executive Officer positions.
- (c) As a final transitional measure, there is also a \$1.4m distribution from the Child Care Financial Assistance Program to fund initial licensure fees and one renewal (i.e. four years of licensure) to ensure that the licensing fees are not a barrier for the workforce as the new program is launched.