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**April 9, 2025**

**To: Hon. Brian Collamore, Chair**  
**Senate Committee on Government Operations**

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

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

Dear Committee Members:

Thank you for the opportunity to testify about H.472, this year's OPR Bill.

In our testimony today, we will provide an overview of proposed changes to OPR statutes, changes which largely streamline or reduce regulation where it is unnecessary. With respect to fee revisions, the bill reflects two goals:

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

### **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 receive revenue when it provides data feeds to third parties, 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. This structure of revenue will be established by the office 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, which previously existed in Title 26, but was inadvertently dropped from the fee bill in 2019. This addition puts the fee back into statute in Title 3 at \$200. Restoring this fee allows OPR to charge this shop fee, which we have not done for the past few years.
- (b)(9)-(11): These provisions include 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 in reviewing and considering application materials 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. This new disciplinary action surcharge will be assessed against 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 in Vermont 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:** Amends the duties of OPR in the following subparts:

- (k)(2): Strikes the last sentence that refunds the \$25 Second Chance Determination fee. The Second Chance Determination process allows applicants, before they invest time in money in obtaining education and experience toward licensure in a particular profession, to provide OPR with their criminal history to find out if they will be eligible for a license. Currently, an applicant pays the \$25 fee and if they are determined to be eligible and then apply for a license, they are refunded the \$25 fee. OPR would like to keep the fee and 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): Adds 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 boards!) would require significantly more staff and resources; and
  - OPR utilizes sunset requirements in Chapter 57 of Title 26 to periodically assess the continuation of particular regulatory programs. Motor Vehicle Racing is a good example of this sunset review process that we will discuss in a few minutes.

**Sec. 5:** 3 V.S.A. § 127(b)(2)(A): Raises the administrative penalty for unauthorized practice from \$2,500 to a maximum of \$5,000 to be consistent with the penalty allowed when such action is pursued in Superior Court. Because individuals engaging in unauthorized practice of a profession do not have a required license, they are not subject to unprofessional conduct statutes which carry different sanctions. This maximum \$5,000 penalty is the sole administrative sanction available against an individual practicing a regulated profession without authority.

**Sec. 6:** 3 V.S.A. § 129(a)(3): Authorizes a Board or the Director to assess a disciplinary action surcharge consistent with the \$250 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: Amends the requirements of postsecondary schools of barbering and cosmetology to include in (a)(4) training and education around the care, styling, treatment, and cultural significance of 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 Assistants*, 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. This will help the people in the profession, as well as health care facilities in terms of workforce.

**Sec. 9:** *Motor Vehicle Racing*, 3 V.S.A § 12: 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. OPR concluded in that Sunset Review that regulation is not necessary to protect the public because the insurance industry provides some oversight which addresses any risk of harm to the public. This deregulation does result in the loss of revenue for OPR.

**Sec. 10: Funeral Services, 26 V.S.A. § 1272(2)**, relating to escrow agents: 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 over 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**

OPR has recently completed the Mental Health Study required by Act 117 (2022) and Act 77 (2023). At a high level, we found that it is possible to streamline entry-level qualifications without lowering professional competency requirements. Doing so will improve access to qualified mental health providers in Vermont.

To achieve this work, OPR will be streamlining 17 individually siloed professions into one large mental health umbrella board, which will require significant statutory changes, rulemaking, and substantial stakeholder outreach. OPR needs an Executive Officer position for the OPR-regulated mental health professions to assist in these and other efforts.

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

**Sec. 14: Effective Dates.** Makes these changes effective on July 1, 2025, except for section 3, fees for peer support providers, which will take effect July 1, 2027.