

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House
3 Bill No. 588 entitled “An act relating to professions and occupations regulated
4 by the Office of Professional Regulation” respectfully reports that it has
5 considered the same and recommends that the Senate propose to the House that
6 the bill be amended as follows:

7 First: By striking out Sec. 2, 3 V.S.A. § 129, in its entirety and inserting in
8 lieu thereof a new Sec. 2 to read as follows:

9 Sec. 2. 3 V.S.A. § 129 is amended to read:

10 § 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR

11 PROFESSIONS; DISCIPLINE ~~PROCESS~~ AND RESCISSION

12 PROCESSES

13 * * *

14 (d) A board or the Director shall notify parties, in writing, of their right to
15 appeal final decisions of the board. A board or the Director shall also notify
16 complainants in writing of the result of any disciplinary investigation made
17 with reference to a complaint brought by them to the board or Director. When
18 a disciplinary investigation results in a stipulation filed with the ~~board~~ docket
19 clerk, the board or the Director shall provide the complainant with a copy of
20 the stipulation and notice of the stipulation review scheduled before the board

1 or hearing authority. The complainant shall have the right to be heard at the
2 stipulation review.

3 * * *

4 (j) Hearings involving denials or rescissions of licensure or disciplinary
5 matters concerning persons in professions that have advisor appointees shall be
6 heard by an administrative law officer appointed by the Secretary of State.

7 * * *

8 Second: By striking out Sec. 3, 3 V.S.A. § 129c, in its entirety and inserting
9 in lieu thereof a new Sec. 3 to read as follows:

10 Sec. 3. 3 V.S.A. § 129c is added to read:

11 § 129c. RESCISSIONS

12 (a) The Director may rescind a license or compact privilege issued by the
13 Office of Professional Regulation under the following circumstances:

14 (1) it is discovered that an administrative mistake has occurred resulting
15 in the erroneous issuance of the license;

16 (2) payment is not remitted for any application fee pursuant to section
17 125 of this title; or

18 (3) if, for a compact license or privilege:

19 (A) either:

20 (i) this State or the compact license or privilege holder's home
21 state of licensure ceases participating in the relevant licensing compact; or

1 (ii) the compact license or privilege holder ceases to hold an
2 unencumbered home-state license; and

3 (B) the compact license or privilege holder does not obtain a full
4 Vermont license within 30 days.

5 (b) The rescission process shall be as set forth in this subsection.

6 (1) License active for less than 30 days.

7 (A) If the individual’s license has been active for less than 30 days,
8 the Director shall initially rescind the license for any reason enumerated in
9 subsection (a) of this section.

10 (B) The individual shall be immediately notified of the rescission, the
11 reason for rescission, and procedural rights.

12 (C) The individual shall be provided an opportunity to have the
13 rescission reviewed by either an administrative law officer or the relevant
14 board. In any review, the Director shall have the burden of proving the
15 rescission is merited. Any review shall commence not later than 30 days after
16 the rescission, and a decision in any review shall be rendered within 40 days
17 following the rescission. The decision shall either reverse the Director’s
18 rescission, in which case the license shall be immediately reinstated, or affirm
19 the Director’s rescission and be deemed a final decision of the administrative
20 law officer or board.

1 (D) In the event of an administrative law officer or board affirming
2 the Director’s rescission, the individual shall be provided notice and the ability
3 to appeal the Director’s rescission in accordance with section 130a of this title;
4 however, the individual shall have the burden of proving the rescission is not
5 merited.

6 (2) License active for 30 days or more.

7 (A) If the individual’s license has been active for 30 days or more,
8 and the Director determines there is a reason for rescission as enumerated in
9 subsection (a) of this section, the Director shall provide notice to the individual
10 that, after 30 days from issuing the notice, the Director intends to rescind the
11 individual’s license. The notice shall also include the reason for rescission and
12 the individual’s procedural rights.

13 (B) The individual shall be provided an opportunity to have a hearing
14 to determine the merits of a rescission. The individual shall have 30 days from
15 when the Director’s notice was issued to indicate if the individual elects to
16 have a hearing. In the event the individual either elects not to have a hearing
17 or declines to answer within the allotted 30 days, Director shall rescind the
18 individual’s license and the individual shall be foreclosed from appealing the
19 decision pursuant to subdivision (D) of this subdivision (b)(2). In the event the
20 individual elects to have a hearing, any rescission shall be stayed until a
21 hearing decision is rendered.

1 (C) Any hearing shall be held in accordance with section 129 of this
2 title and the resulting decision shall either affirm or reverse the Director’s
3 rescission of the individual license.

4 (D) In the event of a hearing decision finding that the Director’s
5 rescission of the individual’s license is merited, the individual shall be
6 provided notice and the ability to appeal the Director’s rescission in
7 accordance with section 130a of this title; however, the individual shall have
8 the burden of proving the rescission is not merited.

9 (c) A rescission of a license shall not be recorded as an adverse action
10 taken against the individual or any other misconduct or unprofessional conduct
11 for purposes of the individual’s other currently held licenses or future licensure
12 applications.

13 (d) Upon becoming aware of the State either withdrawing from any
14 licensure compact described in Title 26 or when a licensure compact described
15 in Title 26 becomes no longer binding on the State, the Office of Professional
16 Regulation shall notify as soon as practicable all affected licensees practicing
17 in the State. An individual’s license may not be rescinded if the Office fails to
18 provide the notice.

19 Third: By striking out Sec. 5, 3 V.S.A. § 129a, in its entirety and inserting
20 in lieu thereof a new Sec. 5 to read as follows:

1 Sec. 5. 3 V.S.A. § 129a is amended to read:

2 § 129a. UNPROFESSIONAL CONDUCT

3 (a) In addition to any other provision of law, the following conduct by a
4 licensee constitutes unprofessional conduct. When that conduct is by an
5 applicant or person who later becomes an applicant, it may constitute grounds
6 for denial of a license or other disciplinary action. Any one of the following
7 items or any combination of items, whether the conduct at issue was
8 committed within or outside the State, shall constitute unprofessional conduct:

9 (1) Fraudulent or deceptive procurement or use of a license or attempted
10 fraudulent or deceptive procurement or use of a license by making or causing
11 to be made a false, fraudulent, or forged statement or representation.

12 * * *

13 (g) Notwithstanding the provisions of this section or any other law to the
14 contrary, the Director may adopt rules permitting a licensee to enter, at the
15 Director's discretion, into a program serving as an alternative to the
16 disciplinary process for regulated professionals with substance use disorders or
17 other professional practice issues as designated by the boards or Director.

18 Fourth: By striking out Sec. 8, 26 V.S.A. § 13, in its entirety and inserting
19 in lieu thereof a new Sec. 8 to read as follows:

20 Sec. 8. 26 V.S.A. § 13 is amended to read:

21 § 13. DEFINITIONS

1 As used in this chapter:

2 * * *

3 (7) ~~“Good character” means fiscal integrity, and a lack of any history of~~
4 ~~acts involving dishonesty, false statements, or fraud. [Repealed.]~~

5 * * *

6 (11) “Principal place of business” means the office location designated
7 by the licensee for the purposes of ~~substantial equivalency~~ mobility and
8 reciprocity.

9 * * *

10 Fifth: By striking out Sec. 9, 26 V.S.A. § 71a, in its entirety and inserting
11 in lieu thereof a new Sec. 9 to read as follows:

12 Sec. 9. 26 V.S.A. § 71a is amended to read:

13 § 71a. LICENSE BY EXAMINATION

14 (a) ~~A license~~ To qualify for licensure as a “certified public accountant”
15 ~~shall be granted by the Board to any person~~ certified public accountant, an
16 applicant must:

17 (1) ~~who is of good character;~~

18 (2) ~~who completes~~ complete any one of the following requirements for
19 education and experience:

20 (A) a postbaccalaureate degree from a college or university

21 recognized by the Board with a concentration in accounting or an equivalent

1 and one year of experience in public accounting, meeting the requirements
2 prescribed by Board rule;

3 (B) 150 or more semester hours of college credit at a college or
4 university recognized by the Board, including a baccalaureate degree and a
5 minimum of 42 semester hours of accounting, auditing, and related subjects as
6 the Board determines to be appropriate, and one year of experience in public
7 accounting, meeting the requirements prescribed by Board rule ~~or other~~
8 ~~experience or employment that the Board in its discretion considers~~
9 ~~substantially equivalent; and or~~

10 (C) a baccalaureate degree from a college or university recognized by
11 the Board with a concentration in accounting or an equivalent and two years of
12 experience in public accounting, meeting the requirements prescribed by Board
13 rule; and

14 ~~(3)(2) who has passed pass~~ the examination required under subsection
15 (b) of this section.

16 (b) The Board shall administer an examination using a nationally
17 recognized uniform certified public accountants' examination and advisory
18 grading service.

19 (c) An applicant who has not yet completed a baccalaureate degree may sit
20 for the exam upon the completion of 120 semester hours at an institution
21 recognized by the Board, including a minimum of 30 semester hours of

1 accounting, auditing, and related subjects as the Board determines to be
2 appropriate.

3 Sixth: In Sec. 11, 26 V.S.A. § 603, in subdivision (a)(2), by inserting the
4 words “in Vermont” at the end of the sentence.

5 Seventh: By adding a new section to be Sec. 14b to read as follows:

6 Sec. 14b. 26 V.S.A. § 2022 is amended to read:

7 § 2022. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (14) “Pharmacy technician” means an individual who, only while assisting
11 and under the supervision of a licensed pharmacist, performs tasks relative to
12 dispensing prescription drugs, administering immunizations, and performing
13 tests for COVID-19, influenza, and streptococcal pharyngitis. Pharmacy
14 technicians shall administer immunizations and perform tests for COVID-19 in
15 compliance and accordance with section 2042a of this title.

16 Eighth: By striking out Sec. 18a, 3 V.S.A. § 125, in its entirety and
17 inserting in lieu thereof a new Sec. 18a to read as follows:

18 Sec. 18a. 3 V.S.A. § 125 is amended to read:

19 § 125. FEES

20 (a) In addition to the fees otherwise authorized by law, a board or advisor
21 profession may charge the following fees:

- 1 (1) Verification of license, \$30.00.
- 2 (2) An examination fee established by the Secretary, which shall be not
3 greater than the costs associated with examinations.
- 4 (3) Reinstatement fees for expired licenses pursuant to section 127
5 (unauthorized practice) of this title.
- 6 (4) Continuing, qualifying, or prelicensing education course approval:
 - 7 (A) Provider, \$100.00.
 - 8 (B) Individual, \$25.00.
- 9 (5) A preapplication criminal background determination, \$25.00.
- 10 (6) Limited temporary license or work permit, \$60.00.
- 11 (7) Apprenticeship application, \$50.00.
- 12 (8) Specialty or endorsement to existing license application, \$100.00.
- 13 (9) Disciplinary action surcharge, \$250.00.

14 (b) Unless otherwise provided by law, the following fees shall apply to all
15 professions regulated by the Director in consultation with advisor appointees
16 under Title 26:

- 17 (1) Application for registration, \$100.00, except application for:

18 * * *

- 19 (D) Massage therapist, bodyworker, or touch professional, \$90.00.
- 20 (E) Massage establishment qualifying for a reduced fee under
21 26 V.S.A. § 5425(b), \$50.00.

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Ninth: By adding a new section to be Sec. 19a to read as follows:

Sec. 19a. 26 V.S.A. § 1353 is amended to read:

§ 1353. POWERS AND DUTIES OF THE BOARD

The Board shall have the following powers and duties to:

* * *

(8)(A) Inquire into the criminal history backgrounds of applicants for licensure and for biennial license renewal for all professionals licensed or certified by the Board. In obtaining these background checks, the Board may inquire directly of the Vermont Crime Information Center, the Federal Bureau of Investigation, the National Crime Information Center, or other holders of official criminal record information, and may arrange for these inquiries to be made by a commercial service any Board-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(i) Medical doctors licensed under 26 V.S.A. chapter 23;

(ii) Podiatrists licensed under 26 V.S.A. chapter 7;

(iii) Anesthesiologist assistants licensed under 26 V.S.A. chapter

29;

(iv) Physician assistants licensed under 26 V.S.A. chapter 31; and

(v) Radiologist assistants licensed under 26 V.S.A. chapter 52.

1 (B) Prior to acting on an initial or renewal application, the Board may
2 obtain with respect to the applicant a Vermont criminal history record, an out-
3 of-state criminal history record, and a criminal history record from the Federal
4 Bureau of Investigation. Federal Bureau of Investigation background checks
5 shall be fingerprint-supported, and fingerprints so obtained may be retained on
6 file and used to notify the Board of future triggering events. Each applicant
7 shall consent to the release of criminal history records to the Board on forms
8 developed by the Vermont Crime Information Center.

9 (C) An applicant or licensee shall bear any cost of obtaining a
10 required criminal history background check. Applicants subject to background
11 checks shall be notified that a check is required, if fingerprints will be retained
12 on file, and that criminal convictions are not an absolute bar to licensure, and
13 shall be provided such other information as may be required by federal law or
14 regulation.

15 ~~(D) The Board shall comply with all laws regulating the release of~~
16 ~~criminal history records and the protection of individual privacy.~~

17 ~~(E) No person shall confirm the existence or nonexistence of criminal~~
18 ~~history record information to any person who would not be eligible to receive~~
19 ~~the information pursuant to this chapter. As used in this subdivision, “criminal~~
20 ~~history record” has the same meaning as in 20 V.S.A. § 2056a.~~

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE