

BILL OVERVIEW

“An Act Relating to Professions and Occupations Regulated by the Office of Professional Regulation”

As Amended by the Senate Government Operations Committee - Draft 3.1

(Updates from the ‘as passed by the House’ version are in red.)

Purpose: This bill proposes to:

- explicitly enable the Office of Professional Regulation (“OPR”) to rescind licenses in instances of administrative error, non-payment, loss of compact license or privilege does;
- enables OPR to enforce against *attempted* fraudulent or deceptive procurement or use of a license;
- require professional regulation board members to be adults;
- correct terminology in for license denials of foreign applicants;
- to create additional combinations of education and experience as prerequisites for accountant licensure;
- create a limited academic dentist license;
- remove the requirement for advanced practice registered nurse license renewal to include documentation of completion of the APRN practice requirement;
- enables pharmacists to prescribe, order, or administer tests for COVID-19, influenza, and streptococcal pharyngitis and subsequent drug treatment;
- enable OPR to create temporary policies to supplement psychologist licensure educational requirements notwithstanding any contrary rules;
- eliminate the advisory committee on midwifery that reports to OPR and the Commissioner of Health and change the license renewal requirement for midwives to submit individual practice data to a discretionary decision to be made by the Director;
- modify the definition of “practice of funeral service” to include disposition of human remains by cremation, alkaline hydrolysis, or natural organic reduction
- require OPR to report on the possible professional regulation of speech-language pathology *assistants*;
- require the registration of massage “establishments” and expand on operational requirements and related unprofessional conduct; and
- enable the Board of Medical Practice to conduct criminal background checks for certain professions in a manner similar OPR.

PART ONE: General Powers (Secs. 1-7) All sections in Part One are in Title 3, which affect the Office's general regulation of all its regulated professions.

Sec. 1 amends [3 V.S.A. § 123 \(Duties of Office\)](#) to:

- amend subdivision (a)(3) to enable the Office to now *rescind* licenses, in addition to the Office's existing ability to revoke and suspend licenses; and
- add a new subdivision (a)(14) enabling the Office to adopt "rules to establish a program to serve as an alternative to the disciplinary process for regulated professionals with substance use disorders or other professional practice issues as designated by the boards or Director." See also Sec. 2, 3 V.S.A. 128(g).

Sec. 2 amends [3 V.S.A. § 129](#) (to be retitled "Powers of Board or Director in Advisor Professions; Disciplines and Rescission Processes") to clarify that certain hearing provisions will apply to rescissions.

Sec. 3 creates a new section, 3 V.S.A. § 129c (Rescissions), enabling OPR to rescind a license if: a) a license was issued because of administrative mistake; b) **application** fees were not paid; or c) **a compact license or privilege holder loses that credential and does not obtain a full Vermont license within 30 days**. Rescission processes will take two forms:

- 1) If the license is active for *less than 30 days*:
 - i) The OPR Director initially rescinds the license and immediately notifies the individual.
 - ii) The individual is provided an opportunity for review of the decision by a board or administrative law officer. The review decision must be made within **40 days** of the rescission and either affirms or reverses the Director.
 - iii) An affirmed rescission decisions may be appealed in accordance with [3 V.S.A. § 130a](#).
- 2) If the license is active for *30 days or more*:
 - i) The OPR Director provides to the individual that the Director intends to rescind the individual's license in 30 days.
 - ii) The individual shall be provided an opportunity to have a hearing 30 days from the issued notice. Any rescission shall be stayed until a hearing decision is rendered.
 - iii) An affirmed rescission decisions may be appealed in accordance with [3 V.S.A. § 130a](#).

A rescission will not be 'held against' an individual holding another license or when applying for a license. If a licensure compact becomes no longer binding on the State, then OPR must inform affected professionals.

Sec. 4 amends [3 V.S.A. § 128 \(Disciplinary action to be reported to the Office\)](#) to rephrases subdivision (a)(3) for clarity by removing a double-negative, changing "this section shall not apply to cases...that are unrelated to..." to "this section shall apply to cases...that are related to..." § 128 requires health care institutions to report disciplinary action that limits a "licensee's privilege to practice or leads to suspension or expulsion."

Sec. 5 amends [3 V.S.A. § 129a \(Unprofessional conduct\)](#) to:

- amend subdivision (a)(1) to add the definition of what constitutes “unprofessional conduct” so that not only will “fraudulent or deceptive procurement or use of a license” be misconduct, but also *attempting* to do so will be misconduct, too; and
- add a new subsection (g) enabling the OPR Director to adopt rules permitting a licensee to enter, **at the Director’s discretion**, into a program serving as an alternative to the disciplinary process for regulated professionals with substance use disorders or other professional practice issues as designated by the boards or Director. See also Sec. 1, 3 V.S.A. § 123.

Sec. 6 amends [3 V.S.A. § 129b \(Board member and advisor appointments\)](#) so that all board members must be adults. (The “age of majority” in Vermont is 18.)

Sec. 7 amends [3 V.S.A. § 137 \(Uniform process for foreign credential verification\)](#) subdivision (d) regarding license denials for foreign applicants, which incorporates by cross-reference the standard license denial procedures found in [3 V.S.A. § 129 \(Powers of boards or of Director in advisor professions; discipline process\)](#). In 2023, § 129(e)(2) was amended to eliminate the “preliminary denial” process for license applications denied on the basis of qualifications. This amendment corrects the outdated terminology by removing the word “preliminary” before “license denials.”

PART TWO: ACCOUNTANTS (Secs. 8-10). Secs 8-10 modify the regulation of accountants 1) **by removing the requirement that applicants for CPA licensure by examination be “of good character,”** and 2) by creating additional combinations of education and experience as prerequisites to obtaining a license by examination.

Sec. 8 amends [26 V.S.A. § 13 \(Definitions\)](#), modifying the definition of “principal place of business” replacing the term “substantial equivalency” with “mobility.” **It also removes the definition of “good character.”**

Sec. 9 amends [26 V.S.A. § 71a \(License by Examination\)](#) to **remove the requirement that applicants for CPA licensure by examination be “of good character.”** It also creates additional combinations of education and experience as prerequisites to obtaining a license by examination.

Sec. 10 amends [26 V.S.A. § 74c](#) (to be renamed “Mobility”) so that an out-of-state accountant does not need to obtain a State license if they *both* 1) are licensed in any state *and* 2) passed the uniform CPA examination and have a permitted combination of education and experience (mirroring those in Sec. 9 for in-state accountants).

PART THREE: DENTISTS (Secs. 11-12)

Sec. 11 creates a new section 26 V.S.A. § 603 (Limited academic dentist license) which will create a “limited academic dentist license.” Subsection (a) creates the new form of license for teaching at an accredited dental program under the general supervision of a fully **Vermont-licensed** dentist. Subsection (b), “eligibility,” makes this new license available to full-time dental instructors who hold a sufficient dental degree and complete necessary courses. Subsection (d) requires that, upon termination of employment, the licensee must report to OPR. (Note: [3 V.S.A. § 128](#) independently requires health care institutions to report disciplinary action that limits a “licensee’s privilege to practice or leads to suspension or expulsion.”)

Sec. 12 amends [26 V.S.A. § 662 \(Fees\)](#) [under 26 V.S.A. Chapter 12: Dentists, Dental Therapists, Dental Hygienists, and Dental Assistants] to make explicit that the limited academic dentist license fee is zero (\$0.00).

PART FOUR: FUNERAL SERVICES (Secs. 13)

Sec. 13 amends [26 V.S.A. § 1211 \(Definitions\)](#) to change the definition of the “practice of funeral services” to include “providing for the disposition of dead human bodies by cremation, alkaline hydrolysis, or natural organic reduction.”

PART FIVE: ADVANCED PRACTICE REGISTERED NURSES (Sec. 14)

Sec. 14 amends [26 V.S.A. § 1614 \(APRN renewal\)](#) to remove the requirement for advanced practice registered nurse license renewal to include documentation of completion of the APRN practice requirement.

PART SIX: PHARMACISTS (Secs. 14a-14c) These sections will enable pharmacists **and pharmacy technicians** to test for influenza, streptococcal pharyngitis, **and human immunodeficiency virus** in addition to COVID and for pharmacists to prescribe treatments for these diseases.

Sec. 14a amends [26 V.S.A. § 2023](#) (retitled as clinical pharmacy; prescribing and testing) to enable a pharmacist, in accordance with Board of Pharmacy rules, to engage in the practice of clinical pharmacy, including prescribing initiate antibiotic therapy pursuant to a collaborative practice agreement or state protocol. It also enables a pharmacist to prescribe, order, or administer, in a manner consistent with valid State protocols, tests and subsequent drug treatment for COVID-19, influenza, streptococcal pharyngitis, **and human immunodeficiency virus, including those for pre-exposure and post-exposure prophylaxis.** (Note: State protocols are approved by the

Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment).

Sec. 14b amends [26 V.S.A. § 2022 \(Definitions\)](#), subdivision (14) to modify the definition of “pharmacy technician” so that it will include those who perform tests for influenza and streptococcal pharyngitis and other authorized tests for in compliance and accordance with section [26 V.S.A. § 2042a \(Pharmacy technicians; qualifications for registration\)](#).

Sec. 14c amends [26 V.S.A. § 2042a \(Pharmacy technicians; qualifications for registration\)](#), subdivisions (e) and (f) so that pharmacy technicians may perform “authorized tests”—rather than only COVID-19 tests—in accordance with State protocols and standing orders of the Commissioner of Health.

PART SEVEN: PSYCHOLOGISTS (Sec. 15)

Sec. 15 creates a session law that will enable OPR to make temporary policies for a three-year period regarding supplementation of educational requirements for psychologist licensure. These policies will control, notwithstanding any contrary rule. This section will require OPR to adopt updated rules regarding supplementation by the end of that period.

PART EIGHT: MIDWIVES (Sec. 16)

Sec. 16 amends [26 V.S.A. Chapter 85 \(Midwives\)](#), specifically:

- [26 V.S.A. § 4185 \(Director; duties\)](#) to dissolve the midwife advisory committee to the Director and to the Commissioner of Health; and
- [26 V.S.A. § 4187 \(Renewals\)](#) to remove the requirement that licensed midwives submit individual practice data.

PART NINE: SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS (Sec. 17)

Sec. 17 is session law requiring OPR to perform a “sunrise review” concerning the suggested level of credentialing for speech-language pathologist assistants practicing in the State.

PART TEN: MASSAGE THERAPISTS, BODYWORKERS, AND TOUCH

PROFESSIONALS (Secs. 18-19) These sections, together, namely require the registration of massage “establishments” (an existing but modified term that replaces “place of business”) and expand on operational requirements and related unprofessional conduct.

Sec. 18 amends 26 V.S.A. Chapter 105 (Massage Therapists, Bodyworkers, and Touch Professionals)

- In 26 V.S.A. § 5401 (Definitions) subdivision (2), the definition of “establishment” is amended, changing the meaning from a “place of business” to a “location where the practice . . . is regularly engaged in,” and then also removes the definition of “place of business.”
- 26 V.S.A. § 5403 (Unauthorized practice) is amended adds to who may be found to be conducting unauthorized practice, “individuals who own or operate unregistered establishment.”
- 26 V.S.A. § 5404 (Exemptions) is amended so that a massage therapist, bodyworker, or touch professional is allowed to practice in a location that is *not* a registered establishments if the licensee and the client agree in advance that the location is acceptable. Also, a new subsection (d) is added to clarify that establishment registration is not required by a solo licensee or persons otherwise exempt from registration.
- 26 V.S.A. § 5411 (Duties of the Director) is amended to add a new subdivision (5) enabling the “Director to adopt rules limiting the applicability of this chapter as applied to establishments operated within private homes.”
- 26 V.S.A. § 5423 (Establishments; designee and inspection) is amended to require establishments to register with OPR, ensure that establishment is being operated lawfully regardless of whether or not the owner is on-site or has personal knowledge of the operation, provide the Director the ability to demand certain ownership information and make inspections prior to registration, and enable OPR to deny registration based on location of prior unprofessional conduct.
- 26 V.S.A. § 5425 (Fees) is amended to enable an establishment, where the practice of massage or the practice of bodywork is provided by *only two* massage therapists, to pay reduced fee of \$50 for registration and \$75 for biennial renewal (see Sec. 18a, 3 V.S.A. § 125(b)). (Note: Solo practitioners do not have to register as establishments, per § 5404(d),

and establishments with more than two massage therapists will pay the default fee of \$100 for their establishment registration.)

- [26 V.S.A. § 5426 \(Display of registration\)](#) is amended to require the display of both the establishment's registration and any practicing licensees.
- [26 V.S.A. § 5427 \(Unprofessional conduct\)](#) is amended to add to what constitutes "unprofessional conduct" engaging with a client in sexual conduct as defined in [13 V.S.A. § 2821](#) [under 13 V.S.A. chapter 64, Sexual Exploitation of Children].

Sec. 18a amends [3 V.S.A. § 125](#) to clarify the registration fee is \$90 for massage therapists, and adds a reduced registration fee for the practice of massage or the practice of bodywork is provided by *only two* massage therapists, being \$50 for establishments and \$75 for biennial renewal for establishments. (Note: Again, solo practitioners do not have to register as establishments, per § 5404(d), and establishments with more than two massage therapists will pay the default fee of \$100 for their establishment registration.) **It also moves fees—but does not create new fees—from subdivision (b) to subdivision (a) with the effect of clarifying that these fees apply to all "board professions" and "advisor professions" rather than only advisor professions. (A "board profession" is when a board—usually comprised of professional peers and members of the public—generally regulates the profession. An "advisor profession" is when appointed advisors generally assist the Director of OPR in regulating the profession.)**

Sec. 19 amends [13 V.S.A. § 2638 \(Immunity from liability\)](#) adding a safe harbor for victims of prostitution and human trafficking to report those crimes without themselves being prosecuted for "unauthorized practice of massage or bodywork" under 26 V.S.A. § 5403.

PART ELEVEN: BOARD OF MEDICAL PRACTICE (Sec. 19a)

Sec. 19a amends 26 V.S.A. § 1353 (Powers and duties of the Board [of Medical Practice]) so that the Board can conduct criminal background checks for certain professions. This section has been amended to be more similar to the criminal background checks provisions for OPR in 3 V.S.A. 123(j).

PART TWELVE: EFFECTIVE DATES (Sec. 20)

Sec. 20. Effective Dates.

- Secs. 1–10 (general powers, accountants), Secs. 13–17 (funeral services, advanced practice registered nurses, pharmacists, psychologists, midwives, speech-language pathologist assistants report), Sec. 18a (3 V.S.A. § 125), **and Sec. 19a (Board of Medical Practice)** shall take effect on passage.
- Secs. 11 and 12 (dentists) shall take effect on September 1, 2026.
- Sec. 18 (massage therapists, bodyworkers, and touch professionals) and Sec. 19 (13 V.S.A. § 2638) shall take effect on December 1, 2026.