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

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

Re: H.588, an act relating to professions and occupations

Dear Committee Members:

Thank you for inviting us to testify on H.588, the annual omnibus bill for the Office of Professional Regulation (“OPR”). OPR is a division of the Secretary of State's Office responsible for supporting the regulatory programs for 53 professions and occupations, from Accountants and Acupuncturists to Dentists and Nurses to Tattooists and Veterinarians. Within those professions and occupations there are over 170 different profession types and over 80,000 licensees.

The OPR bill focuses on three primary goals:

- 1) to ensure that laws and regulations enable licensees or registrants to practice in a manner consistent with their training and education without placing artificial barriers to real-world practice;
- 2) to clarify or modify existing practices within professions or OPR operationally; and,
- 3) to strengthen and deliver on OPR’s public protection mission.

Title 3 of the Vermont Statutes contains general provisions for the operation of OPR. It lists the professions regulated, sets forth the powers and duties of the boards and advisors, enumerates grounds for unprofessional conduct common to all licensed professions, and covers other matters of broad application to every profession. Title 26 of the Vermont Statutes contains laws specific to each profession regulated through OPR. These statutes address the unique aspects of each profession. This year, the bill

modifies both Title 3 and Title 26. You will notice that some changes are minor housekeeping matters and others are more substantive and comprehensive.

Title 3

*****General OPR Provisions*****

Section 1, 3 V.S.A. § 123 Duties of Office

- (a)(3) Adds “rescinding” a credential to the administrative authority, an action that is sometimes necessary in specific instances which are further described in Section 2.
- (a)(14) Allows OPR to adopt rules expanding the alternative to discipline program, which is only available in the nursing profession, to all professions. The program allows OPR to offer, in its discretion, alternative resolutions such as: (1) remedial measures other than discipline, like coursework, to address minor practice issues that did not result in patient/client harm; and (2) substance/alcohol use disorder treatment monitoring for professionals who have had no disciplinary complaints and who self-report seeking help and accountability.

Section 2, 3 V.S.A. §129 Powers of Boards or of Director in Advisor Professions

- (j) Adds rescission hearings to the list of types of hearings that can be heard by an administrative law officer.

Section 3, 3 V.S.A. §129c Rescissions

- Establishes the process by which OPR may administratively rescind a license in limited circumstances, such as: when an administrative mistake resulted in the erroneous issuance of a license; when payment method has been returned (like insufficient funds) or not remitted; or when a national licensure compact is no longer binding and the licensee does not obtain a Vermont license to practice.
- Rescission is an administrative remedy and not an adverse disciplinary action, meaning it is not the result of misconduct by the licensee.
- Process has two tracks:
 - (b)(1) If the credential was issued less than 30 days prior, the Director may rescind the license, must provide notice of the reasons for the rescission to the licensee, must provide the opportunity for the licensee to seek review of the decision to rescind, and provides appeal rights consistent with OPR’s other appeal processes.
 - (b)(2) If the credential was issued 30 or more days prior, the Director must provide advance notice of the intention to rescind and the reasons and give the licensee 30 days to request a hearing before the rescission takes place. If no hearing is requested, the Director may rescind the credential and the individual cannot appeal. If a hearing is requested, it is held in accordance with the established hearing process for other types

of hearings (such as a denial of a license based on unprofessional conduct or unprofessional conduct charges brought after the investigation of a complaint). Once a decision on the rescission is rendered, it may be appealed in accordance with the same appeal process afforded in other types of hearings.

- (d) For rescissions based upon the termination of national compact participation, all impacted licensees must be given notice as soon as practicable after their failure to timely obtain a Vermont license to practice.

Section 4, 3 V.S.A. §128 Disciplinary Action to be Reported to the Office

- This is housekeeping to provide greater clarity to health care facilities regarding the circumstances under which they must make a report to OPR regarding the conduct of a licensee.

Section 5, 3 V.S.A. §129a Unprofessional Conduct

- (a)(1) Makes the **attempted** fraudulent procurement or deceptive use of a license unprofessional conduct. This enhances public protection.
- (g) References the authority of the Office to create, through administrative rules, a program that may be offered for licensees to participate in as alternatives to the disciplinary process to remediate practice issues or for substance use disorder monitoring.

Section 6, 3 V.S.A. §129b Board Member and Advisor Appointments

- Requires board members and advisors to be the age of majority. Service as a board member or advisor involves an oath, ethical obligations, confidentiality, and includes review of disciplinary cases that involve serious infractions, including assault, sexual conduct/crimes, and other themes that may not be suitable for minors.

Section 7, 3 V.S.A. § 137 Uniform Process for Foreign Credential Verification

- Housekeeping to remove a reference to a “preliminary” license denial process that was changed in statute several years ago and no longer exists.

Title 26

*****Profession-Specific Provisions*****

*****Accountants*****

Section 8: 26 V.S.A. § 13 Definitions

- (11) Housekeeping to use the term “mobility,” rather than “substantial equivalency” here, which is the purpose of the designation.

Section 9: 26 V.S.A. § 71a License by Examination

- (a)(2) Reduces barriers and opens up additional licensing pathways for certified public accountants to increase access to the profession to address workforce shortages. These changes allow licensure for individuals with:
 - (A) a post-bachelor's degree with a focus in accounting plus one year of experience; or
 - (C) bachelor's degree with a focus in accounting and two years of experience to become licensed.
- Individuals must still take and pass the CPA examination.
- The language in (B) is removed because these two additional pathways provide the qualifications required so there is no longer a need for the Board to exercise its discretion to determine what is substantially equivalent to the original requirements.

Section 10: 26 V.S.A. §74c Mobility

- The changes in this section focus on bringing Vermont mobility requirements in line with national efforts to increase mobility for CPAs.
- Allows Vermont to recognize CPA licensure from another state for the new licensure pathways just discussed.
- (g) Maintains the legacy pathway for individuals from other states who had the privilege to practice in Vermont as of 12/31/24 but who would not qualify under current requirements. This language simplifies the legacy pathway requirements and replaces the language being stricken from 74(c)(1) and (2) above.

*****Dentists*****

Section 11, 26 V.S.A. § 603 Limited Academic Dental License

- Creates a new Limited Academic Dentist License. This credential allows dentists from other jurisdictions who are working as full-time dental faculty at an accredited teaching facility and working under the general supervision of a Vermont-licensed dentist to be licensed based on a dental degree that meets requirements.
- (c) Prohibits limited license holders from obtaining specialties that are available to fully licensed dentists in Vermont. Those specialties in sedation and general anesthesia and the qualifications are explained in the administrative rules. Since a new dental program is opening in the fall, this language is being included in statute instead of rules, which would require rulemaking.

Section 12, 26 V.S.A. § 662 Fees

- Identifies that there is no fee for the new license. The practice of these licenses will be taking place in a teaching dental clinic that offers free or reduced fee services. Also, the fiscal impact of no fee would be negligible, as it is anticipated that there would be fewer than 20 licensees.

*****Funeral Services*****

Section 13, 26 V.S.A. § 1211 Definitions

- Housekeeping to provide explicit authority for funeral directors to engage in dispositions by cremation, alkaline hydrolysis, or natural organic reduction, processes that were previously added to permitted funeral services.
- Other revisions are language clean up.

*****Nursing; Advanced Practice Registered Nurses*****

Section 14, 26 V.S.A. § 1614 APRN Renewal

- For Advanced Practice Registered Nurses (APRNs), this revision eliminates the practice hour requirements for renewal. APRNs have national board certifications that require completion of a substantial number of continuing education hours as the means for assuring continued competency. Requiring practice hours on top of those continuing education hours is an unnecessary regulatory burden that has not been demonstrated to improve outcomes or patient safety. Many jurisdictions do not have a practice hour requirement. And the use of continuing education hours in lieu of practice hours for renewal is consistent with current requirements for RNs (Registered Nurses) and LPNs (Licensed Practical Nurses). The Board of Nursing supports this change.

*****Pharmacists*****

Section 14a, 26 V.S.A. § 2023 Clinical Pharmacy; Prescribing and Testing

- Expands pharmacists' prescribing authority in the practice of Clinical Pharmacy to include state protocols approved by the Commissioner of Vermont Department of Health to test and prescribe drugs treatment for COVID-19, influenza and streptococcal pharyngitis (strep).
- This expansion is well within a pharmacist's scope of practice. It supports the Rural Health Transformation Program to increase access to treatment for these limited illnesses that require quick diagnosis and treatment to achieve the best outcomes.

*****Psychologists*****

Section 15, 26 V.S.A. Chapter 55 Temporary Psychologist Licensure Educational Supplementation

- Added to provide OPR with authority to consult with the Board of Psychological Examiners and, through policy, allow for greater flexibility for master's and doctoral degree applicants to supplement post-graduate coursework in order to obtain a license from OPR.
- Currently, the administrative rules impose strict limits on post-graduate supplementation of coursework, creating unnecessary barriers that prevent

otherwise qualified individuals from obtaining a license. The strict requirements may also disparately impact applicants from marginalized communities. OPR will be addressing this issue in a permanent way as part of the mental health licensure reform that will be coming in the next legislative session and in rulemaking after that. This statutory change in H.588 would allow some flexibility in the meantime to loosen restrictions on supplementation through policy so that additional qualified applicants can get licensed.

*****Midwives*****

Section 16, 26 V.S.A. §§ 4185 Director; Duties and 4187 Renewals

- This section eliminates the midwife advisory committee, which has been duplicative of the advisors appointed to provide subject matter expertise to OPR in the profession. This committee has also traditionally been difficult to staff, with the physician member positions being vacant and unable to fill.
- § 4187 removes the requirement for practice data to be submitted with each renewal and instead allows OPR through rulemaking to determine what practice data, if any, should be submitted at renewal.

*****Speech-Language Pathologist Assistants; Sunrise Report*****

Section 17 Office of Professional Regulation; Sunrise Review Report

- Requires OPR to conduct a sunrise review pursuant to Title 26, Chapter 57 to advise whether regulation of speech-language pathologist assistants is necessary for public protection under the statutory parameters and, if so, the recommended credential.

*****Massage Therapists, Bodyworkers, and Touch Professionals*****

Section 18, 26 V.S.A. §§5401 Definitions, 5403 Unauthorized Practice; 5411 Duties of the Director

- This section creates a new registration credential for Establishments where the practice of massage therapy and bodywork regularly occurs. It is an effort to provide another tool to combat human trafficking, which is occurring in cities and towns throughout every single state, including Vermont.
- § 5401 simplifies the definition of an Establishment so it can be more easily understood.
- § 5403 makes an individual who owns or operates an unregistered establishment subject to criminal and/or civil penalties for unauthorized practice.
- § 5404 exempts from registration of an Establishment:
 - any location that is not an Establishment as defined;
 - locations where individuals exempt from registration, such as physicians, nurses, athletic trainers, chiropractors and other professions, may engage in massage or bodywork as part of their customary duties in that

- profession; and
 - a single massage therapist.
- § 5423 Establishments; Designee and Inspection
Requires establishments to engage in lawful operation and allows for the prosecution of an establishment for unprofessional conduct or unauthorized practice. This provision also permits OPR to require establishments to identify their management and ownership, disclose where they have operated previously, and show proof of business registration with the Secretary of State's Business Services Division. OPR can deny a registration for a location where unprofessional conduct has previously occurred.
- § 5425 Fees
Reduces the establishment fee for an establishment where only two registered massage therapists, bodyworkers, or touch professionals are working.
- § 5427 Unprofessional Conduct
Identifies unprofessional conduct specific to this profession, including sexual conduct and practicing at an unregistered establishment.

Section 18a, 3 V.S.A. § 125 Fees

- Creates reduced application and renewal fees for establishments with only 2 practitioners.
 - Application fee reduced from \$100 to \$50
 - Renewal fee reduced from \$275 to \$75

Sec. 19, 13 V.S.A. § 2638 Immunity from Liability

- Confers immunity from criminal prosecution for unauthorized practice of massage or bodywork on an individual who timely and in good faith makes a report to law enforcement that they are a victim of human trafficking.

Sec. 20, Effective dates

- Effective upon passage: Title 3 changes to the OPR general statutes, funeral services, APRNs, psychologists, midwives, and speech-language pathologist assistants report, as well as fees (Sections 1-10; Secs 13-17, and Sec.18a).
- Effective on 9/1/26: Limited Academic Dentist license provisions (Sections 11, 12).
- Effective on 12/1/26: Massage Establishment registration regulations (Sections 18, 19).

Additional Revisions OPR Supports

Sec. 3. General Powers: Recissions

- Minor language change to clarify that a credential may be rescinded in any of the 3 circumstances described;

- Amended language relating to allow one more scenario related to compact license holders in which rescission may be permitted.
- Also includes a change from giving OPR 20 days to initiate and complete review of rescission to 30 days because Boards meet once a month.

Sec. 5. General Powers: Unprofessional conduct

- Minor language revision to reflect that participation in an alternative program is at the discretion of the Director, not a right that all Respondents will have. This change is essential to OPR’s public protection mission because some disciplinary cases are too serious for an alternative program resolution and must be fully and publicly prosecuted.

Sec. 8. Accountants: Definitions

- Eliminate language regarding “good character” requirement for accountant licensing. OPR already has jurisdiction to deny licenses based on an applicant’s past unprofessional conduct. Other than unprofessional conduct statutes, the “good character” requirement is subjective.

Sec. 9. Accountants: License by Examination

- Minor language changes in the qualifications portion, 26 V.S.A. § 71a, which makes issuing a license to individuals who qualify mandatory (“shall”), which is inconsistent with OPR’s authority to deny licenses based on an applicant’s prior conduct.

Sec. 11. Dentists: Limited Academic Dentist License

- This change makes explicit the requirement that a limited academic dentist be supervised by a Vermont-licensed dentist. This is necessary for OPR to have regulatory jurisdiction over the professional responsible for ensuring the quality of the limited academic dentist’s work.

Sec. 14b. Pharmacists: Definitions

- Additional language to harmonize pharmacist technicians’ scope of practice with Sec. 14a, which expands pharmacists’ “test to treat” authority. A modification will allow that expansion to reach as many patients as possible by allowing appropriately trained pharmacy technicians to assist with testing under the supervision of a pharmacist and pursuant to the protocol of the Commissioner of Health. This change does not expand pharmacy technicians’ immunization scope or create any pharmacy technician authority to order tests. This change was inspired by concerns expressed in the House Committee on Government Operations and Military Affairs.

Sec. 18a. Fees

- Technical housekeeping change revision to reorganize four subsections to clarify that the fees in those subsections apply to both Board and Advisor professions. This amendment does not create any new fees or increase any fees.

Sec. 19a. Medicine: Powers and Duties of the Board

- New language added at the request of the Board of Medical Practice so that the Board can obtain FBI authority to do the background checks that are required by the Interstate Medical Licensure Compact. The FBI requires one statutory provision where all licenses the Board may issue are listed, which will be the primary change. Also new language will make the statute consistent with OPR and OPR has gotten the FBI approval necessary for background checks.