

1 S.28

2 An act relating to access to certain legally protected health care services

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 **Sec. 1. 1 V.S.A. § 150 is amended to read:**

5 **§ 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY**

6 \* \* \*

7 **(b)(1) “Legally protected health care activity” means:**

8 \* \* \*

9 **(4) The protections applicable to persons who engage in “legally**  
10 **protected health care activity” shall also apply to a person who has**  
11 **previously undertaken one or more acts or omissions while in another U.S.**  
12 **jurisdiction to aid or encourage, or attempt to aid or encourage, any**  
13 **person in the exercise and enjoyment, or attempted exercise and**  
14 **enjoyment, of rights to reproductive health care services or gender-**  
15 **affirming health care services that would have been protected by this**  
16 **State if they had been undertaken in this State, provided that the acts or**  
17 **omissions were permissible under the laws of the jurisdiction in which the**  
18 **person was located at the time they were undertaken.**

19 \* \* \*

20 Sec. 1. 1 V.S.A. § 317(c) is amended to read:

1 (c) The following public records are exempt from public inspection and  
2 copying:

3 \* \* \*

4 (44) Records held by the Office of Professional Regulation, Board of  
5 Medical Practice, or another public agency that issues one or more licenses,  
6 certificates, or registrations to engage in a State-regulated profession or  
7 occupation if the records contain the telephone number, email address,  
8 physical address, or mailing address, or a combination of these, of an  
9 individual who has applied for or has been granted a license, certificate, or  
10 registration to practice a profession or occupation in this State, except that the  
11 public agency shall disclose any address that the individual has designated as a  
12 public address in the record.

13 Sec. **3**. 3 V.S.A. § 129a is amended to read:

14 § 129a. UNPROFESSIONAL CONDUCT

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

21 (1) Fraudulent or deceptive procurement or use of a license.

(2) Advertising, including advertising about health care services, that is intended or has a tendency to deceive or mislead.

3 \* \* \*

(6) Delegating professional responsibilities, including the delivery of health care services, to a person whom the licensed professional knows, or has reason to know, is not qualified by any combination of training, experience, education, or licensing credentials to perform them, or knowingly providing professional supervision or serving as a preceptor to a person who has not been licensed or registered as required by the laws of that person's profession.

10 \* \* \*

(21) Permitting one's name or license to be used by a person, group, or corporation when not actually in charge of ~~or~~ responsible for, or actively overseeing the professional services provided.

14 \* \* \*

(f)(1) Health care providers. Notwithstanding subsection (e) of this section or any other law to the contrary, no health care provider who is certified, registered, or licensed in Vermont shall be subject to professional disciplinary action by a board or the Director, nor shall a board or the Director take adverse action on an application for certification, registration, or licensure of a qualified health care provider, based solely on:

21 \* \* \*

1 (2) Definitions. As used in this subsection:

2 \* \* \*

3 (B) “Health care services” means services for the diagnosis,  
4 prevention, treatment, cure, or relief of a physical or mental health condition,  
5 including counseling, procedures, products, devices, and medications.

6 \* \* \*

7 Sec. **4**. 9 V.S.A. chapter 63, subchapter 11 is amended to read:

8 Subchapter 11. ~~Pregnancy Services Centers~~ Health Care Services

9 § 2491. FINDINGS; LEGISLATIVE INTENT

10 (a) ~~Findings~~. The General Assembly finds that:

11 (1) ~~Centers that seek to counsel clients against abortion, often referred to~~  
12 ~~as crisis pregnancy centers or limited-services pregnancy centers, have become~~  
13 ~~common across the country, including in Vermont. Accurate information~~  
14 ~~about the services that a limited-services pregnancy center performs, in~~  
15 ~~addition to forthright acknowledgement of its limitations, is essential to enable~~  
16 ~~individuals in this State to make informed decisions about their care. This~~  
17 ~~includes individuals being informed of whether they are receiving services~~  
18 ~~from a licensed and qualified health care provider at a limited-services~~  
19 ~~pregnancy center, as this allows individuals to determine if they need to seek~~  
20 ~~medical care elsewhere in order to continue or terminate a pregnancy.~~

1           ~~(2) Although some limited services pregnancy centers openly~~  
2           ~~acknowledge in their advertising, on their websites, and at their facilities that~~  
3           ~~they neither provide abortions nor refer clients to other providers of abortion~~  
4           ~~services, others provide confusing and misleading information to pregnant~~  
5           ~~individuals contemplating abortion by leading those individuals to believe that~~  
6           ~~their facilities offer abortion services and unbiased counseling. Some limited-~~  
7           ~~services pregnancy centers have promoted patently false or biased medical~~  
8           ~~claims about abortion, pregnancy, contraception, and reproductive health care~~  
9           ~~providers.~~

10           ~~(3) False and misleading advertising by centers that do not offer or refer~~  
11           ~~clients for abortion is of special concern to the State because of the time-~~  
12           ~~sensitive and constitutionally protected nature of the decision to continue or~~  
13           ~~terminate a pregnancy. When a pregnant individual is misled into believing~~  
14           ~~that a center offers services that it does not in fact offer or receives false or~~  
15           ~~misleading information regarding health care options, the individual loses time~~  
16           ~~crucial to the decision whether to terminate a pregnancy and may lose the~~  
17           ~~option to choose a particular method or to terminate a pregnancy at all.~~

18           ~~(4) Telling the truth is how trained health care providers demonstrate~~  
19           ~~respect for patients, foster trust, promote self-determination, and cultivate an~~  
20           ~~environment where best practices in shared decision-making can flourish.~~  
21           ~~Without veracity in information and communication, it is difficult for~~

1 individuals to make informed, voluntary choices that are essential to one's  
2 sense of personal agency and autonomy.

3 ~~(5)~~(2) Advertising strategies and educational information about health  
4 care options that lack transparency, use misleading or ambiguous terminology,  
5 misrepresent or obfuscate services provided, or provide factually inaccurate  
6 information are a form of manipulation that disrespects individuals,  
7 undermines trust, broadens health disparity, and can result in patient harm.

8 ~~(b) Intent.~~

9 ~~(1) It is the intent of the General Assembly to ensure that the public is~~  
10 ~~provided with accurate, factual information about the types of health care~~  
11 ~~services that are available to pregnant individuals in this State. The General~~  
12 ~~Assembly respects the constitutionally protected right of each individual to~~  
13 ~~personal reproductive autonomy, which includes the right to receive clear,~~  
14 ~~honest, and nonmisleading information about the individual's options and to~~  
15 ~~make informed, voluntary choices after considering all relevant information.~~

16 ~~(2) The General Assembly respects the right of limited services~~  
17 ~~pregnancy centers to counsel individuals against abortion, and nothing in this~~  
18 ~~subchapter should be construed to regulate, limit, or curtail such advocacy.~~

19 § 2492. ~~DEFINITIONS~~ DEFINITION

20 As used in this subchapter:

1           ~~(1) “Abortion” means any medical treatment intended to induce the~~  
2           ~~termination of, or to terminate, a clinically diagnosable pregnancy except for~~  
3           ~~the purpose of producing a live birth.~~

4           ~~(2) “Client” means an individual who is inquiring about or seeking~~  
5           ~~services at a pregnancy services center.~~

6           ~~(3) “Emergency contraception” means any drug approved by the U.S.~~  
7           ~~Food and Drug Administration as a contraceptive method for use after sexual~~  
8           ~~intercourse, whether provided over the counter or by prescription.~~

9           ~~(4) “Health information” means any oral or written information in any~~  
10           ~~form or medium that relates to health insurance or the past, present, or future~~  
11           ~~physical or mental health or condition of a client.~~

12           ~~(5) “Limited services pregnancy center” means a pregnancy services~~  
13           ~~center that does not directly provide, or provide referrals to clients for,~~  
14           ~~abortions or emergency contraception.~~

15           ~~(6) “Pregnancy services center” means a facility, including a mobile~~  
16           ~~facility, where the primary purpose is to provide services to individuals who~~  
17           ~~are or may be pregnant and that either offers obstetric ultrasounds, obstetric~~  
18           ~~sonograms, or prenatal care to pregnant individuals or has the appearance of a~~  
19           ~~medical facility. A pregnancy services center has the appearance of a medical~~  
20           ~~facility if two or more of the following factors are present:~~

1           ~~(A) The center offers pregnancy testing or pregnancy diagnosis, or~~  
2   ~~both.~~

3           ~~(B) The center has staff or volunteers who wear medical attire or~~  
4   ~~uniforms.~~

5           ~~(C) The center contains one or more examination tables.~~

6           ~~(D) The center contains a private or semiprivate room or area~~  
7   ~~containing medical supplies or medical instruments.~~

8           ~~(E) The center has staff or volunteers who collect health information~~  
9   ~~from clients.~~

10          ~~(F) The center is located on the same premises as a State-licensed~~  
11   ~~medical facility or provider or shares facility space with a State-licensed~~  
12   ~~medical provider.~~

13          ~~(7) “Premises” means land and improvements or appurtenances or any~~  
14   ~~part thereof “health care services” means~~ **services for the diagnosis,**  
15   **prevention, treatment, cure, or relief of a physical, dental, behavioral, or mental**  
16   **health condition or substance use disorder, including counseling, procedures,**  
17   **products, devices, and medications all supplies, care, and services of a**  
18   **medical, dental, behavioral health, mental health, substance use disorder**  
19   **treatment, surgical, psychiatric, therapeutic, diagnostic, preventative,**  
20   **rehabilitative, or supportive nature, including medication.**

21   § 2493. UNFAIR AND DECEPTIVE ACT



1 (a) It is an unfair and deceptive act and practice in commerce and a  
2 violation of section 2453 of this title for any ~~limited-services pregnancy center~~  
3 person to disseminate or cause to be disseminated to the public any advertising  
4 about ~~the~~ health care services or proposed services performed ~~at that center in~~  
5 this State that is untrue or clearly designed to mislead the public about the  
6 nature of the services provided. Advertising includes representations made  
7 directly to consumers; marketing practices; communication in any print  
8 medium, such as newspapers, magazines, mailers, or handouts; and any  
9 broadcast medium, such as television or radio, telephone marketing, or  
10 advertising over the ~~Internet~~ internet such as through websites ~~and~~, web ads  
11 advertisements, and social media. For purposes of this chapter, advertising ~~or~~  
12 ~~the provision of services by a limited-services pregnancy center~~ about health  
13 care services is an act in commerce.

14 (b) ~~Health care providers certified, registered, or licensed under Title 26 of~~  
15 ~~the Vermont Statutes Annotated who are employed by, contracted to provide~~  
16 ~~services for or on behalf of, or volunteer to provide services at a limited-~~  
17 ~~services pregnancy center shall be responsible for conducting and providing~~  
18 ~~health care services, information, and counseling at the center. The failure of a~~  
19 ~~health care professional certified, registered, or licensed under Title 26 of the~~  
20 ~~Vermont Statutes Annotated to conduct or to ensure that health care services,~~  
21 ~~information, and counseling at the limited-services pregnancy services center~~

1 are conducted in accordance with State law and professional standards of  
2 practice may constitute unprofessional conduct under 3 V.S.A. § 129a and 26  
3 V.S.A. § 1354. [Repealed.]

4 (c) The Attorney General has the same authority to make rules, conduct  
5 civil investigations, and bring civil actions with respect to violations of  
6 subsection (a) of this section as provided under subchapter 1 of this chapter.

7 **Sec. 5. 12 V.S.A. § 7306 is amended to read:**

8 **§ 7306. NONCOOPERATION**

9 (a) No public agency or employee, appointee, officer or official, or any  
10 other person individual acting on behalf of a public agency may  
11 knowingly provide any information or expend or use time, money,  
12 facilities, property, equipment, personnel, or other resources in  
13 furtherance of any interstate or federal investigation or proceeding  
14 seeking to impose civil or criminal liability upon a person an individual or  
15 entity for:

16 (1) the provision, seeking or receipt of, or inquiring about legally  
17 protected health care activity that is legal in this State; or

18 (2) assisting any person individual or entity providing, seeking,  
19 receiving, or responding to an inquiry about legally protected health care  
20 activity that is legal in this State.

1 (b) This section shall not apply to:

2 (1) any investigation or proceeding where the conduct subject to  
3 potential liability under the investigation or proceeding would be subject  
4 to liability under the laws of this State if committed in this State;

5 (2) any ~~action taken by the Judicial Branch in judicial proceedings~~  
6 order issued by a Vermont State court or a federal court; or

7 (3) a public agency or employee, appointee, officer or official, or any  
8 other individual acting on behalf of a public agency who, in the course of  
9 normal business, is responding to a warrant or extradition demand on the  
10 good faith belief that the warrant or demand is valid in this State.

11 Sec. 6. 18 V.S.A. § 1881 is amended to read:

12 § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION

13 PROHIBITED

14 (a) As used in this section:

15 (1) “Business associate” has the same meaning as in 45 C.F.R. §  
16 160.103.

17 (2) “Covered entity” has the same meaning as in 45 C.F.R. §  
18 160.103.

19 (3) “Legally protected health care activity” has the same meaning as  
20 in 1 V.S.A. § 150.

1           (4) “Protected health information” has the same meaning as in 45  
2           C.F.R. § 160.103.

3           (5) “Telehealth” has the same meaning as in 26 V.S.A. § 3052.

4           (b) A covered entity or business associate shall not disclose protected  
5           health information unless the disclosure is permitted under the Health  
6           Insurance Portability and Accountability Act of 1996 (HIPAA).

7           (c)(1) ~~In~~ Notwithstanding any provision of subsection (b) of this section  
8           to the contrary, in order to protect patients and providers who engage in  
9           legally protected health care activity and except as set forth in in  
10          subdivision (2) of this subsection, a covered entity or business associate  
11          shall not disclose protected health information that is identifiable or  
12          susceptible to reidentification and is related to a legally protected health  
13          care activity:

14          (A) to any government entity other than the State of Vermont or  
15          its political subdivisions or instrumentalities if the covered entity or  
16          business associate has reason to believe that the information will be used:

17          (i) to conduct a criminal, civil, administrative, or professional  
18          disciplinary investigation into any individual for the mere act of seeking,  
19          obtaining, providing, or facilitating a legally protected health care  
20          activity:

1                   (ii) to impose criminal, civil, or administrative liability or  
2                   professional disciplinary action on any individual for the mere act of  
3                   seeking, obtaining, providing, or facilitating a legally protected health care  
4                   activity; or

5                   (iii) to identify any individual for any of the activities  
6                   described in subdivision (i) or (ii) of this subdivision (A); or

7                   (B) for use in a civil or criminal action; a proceeding preliminary  
8                   to a civil or criminal action; or a probate, legislative, or administrative  
9                   proceeding unless.

10                  (2) Notwithstanding any provision of subdivision (1) of this  
11                  subsection to the contrary, a covered entity or business associate may  
12                  disclose protected health information that is identifiable or susceptible to  
13                  reidentification and is related to a legally protected health care activity if  
14                  the disclosure meets one or more of the following conditions:

15                  ~~(1)(A)~~ The disclosure is authorized by the patient or the patient's  
16                  conservator, guardian, or other authorized legal representative.

17                  ~~(2) The disclosure is specifically required by federal law, Vermont~~  
18                  ~~law, or rules adopted by the Vermont Supreme Court.~~

19                  ~~(3)(B)~~ The disclosure is ordered by a court of competent jurisdiction  
20                  pursuant to federal law, Vermont law, or rules adopted by the Vermont  
21                  Supreme Court. ~~At~~ A State court order compelling disclosure under this

1 subdivision (B) shall include the court's determination that ~~good cause~~  
2 ~~exists to require disclosure of the information related to the information~~  
3 ~~will not be used to impose criminal, civil, or administrative liability or~~  
4 ~~professional disciplinary action on any individual based solely on the fact~~  
5 ~~that the person sought, obtained, provided, or facilitated a legally~~  
6 ~~protected health care activity.~~

7 ~~(4)(C)~~ The disclosure is to be made to a ~~person~~ business associate  
8 designated by the covered entity or the covered entity's business associate  
9 and will be used solely in the defense of the covered entity or the covered  
10 entity's business associate against a claim that has been made, or there is a  
11 reasonable belief will be made, against the covered entity or the covered  
12 entity's business associate in a civil or criminal action; a proceeding  
13 preliminary to a civil or criminal action; or a probate, legislative, or  
14 administrative proceeding.

15 ~~(5)(D)~~ The disclosure is to Vermont's Board of Medical Practice or  
16 Office of Professional Regulation, as applicable, in connection with a bona  
17 fide investigation in Vermont of a licensed, certified, or registered health  
18 care provider or a bona fide investigation of whether an individual who is  
19 not licensed, certified, or registered to practice a health care profession in  
20 Vermont engaged in unauthorized practice in this State, whether in  
21 person or through telehealth.

1           ~~(6)(E)~~ The disclosure is to the Vermont Department of Health or the  
2           Vermont Department of Disabilities, Aging, and Independent Living, or  
3           both, in connection with a bona fide investigation of a licensed health care  
4           facility in Vermont.

5           (F) Subject to the limitations set forth in 12 V.S.A. § 7306, the  
6           disclosure is required in the ordinary course of business of Vermont's  
7           Medicaid program.

8           (d) A covered entity or business associate shall not be subject to any  
9           civil, criminal, or administrative liability or professional disciplinary  
10          action for refusing to disclose protected health information that is  
11          identifiable or susceptible to reidentification and is related to a legally  
12          protected health care activity, in accordance with subsection (c) of this  
13          section.

14       Sec. 7. 18 V.S.A. § 4999 is amended to read:

15       § 4999. DEFINITIONS

16           As used in this part:

17                               \* \* \*

18           (2) "Licensed health care professional," as used in 18 V.S.A. chapter  
19       107, means a physician, a physician assistant, a naturopathic physician, or an  
20       advanced practice registered nurse. As used in chapter 107 of this part only,  
21       the term also includes a naturopathic physician.

\* \* \*

Sec. **8**. 18 V.S.A. § 5200 is amended to read:

§ 5200. DEFINITIONS

As used in this chapter:

\* \* \*

(4) “Licensed health care professional” means a physician, a physician assistant, a naturopathic physician, or an advanced practice registered nurse.

(5) “Natural organic reduction” has the same meaning as in section 5302 of this title.

Sec. **9**. 18 V.S.A. § 5222 is amended to read:

§ 5222. REPORTS

(a)(1) The following fetal deaths shall be reported by the hospital, ~~physician~~ licensed health care professional, or funeral director directly to the Commissioner within seven days after delivery on forms prescribed by the Department:

(1)(A) All fetal deaths of 20 or more weeks of gestation or, if gestational age is unknown, of 400 or more grams, 15 or more ounces, fetal weight shall be reported.

(2)(B) All therapeutic or induced abortions, as legally authorized to be performed, of any length gestation or weight shall be reported.



1           ~~(3)~~(2) Spontaneous abortions and ectopic pregnancies of less than 20  
2 weeks gestation are not required to be reported.

3           (b) The ~~physician~~ licensed health care professional who treats a woman  
4 patient as a result of a miscarriage or abortion shall report the fetal death if it  
5 is not known to be previously reported under subsection (a) of this section. If  
6 there is evidence of violence or other unusual or suspicious circumstances, the  
7 medical examiner shall be immediately notified, and ~~he or she~~ the medical  
8 examiner shall complete at least the medical items on the report. If a funeral  
9 director is to be involved, the ~~physician~~ licensed health care professional may  
10 delegate to the funeral director the responsibility for completing items other  
11 than those of a medical nature. Similarly, the ~~physician~~ licensed health care  
12 professional may delegate the responsibility for completion of nonmedical  
13 items to appropriate personnel having access to records containing the  
14 information.

15           (c) If a fetal death occurs on a moving conveyance, the place of occurrence  
16 shall be given as the town or city where removal from the vehicle took place.

17           (d) ~~Fetal death reports~~ Reports made pursuant to this section are for  
18 statistical purposes only and are not public records. They shall be kept  
19 confidential; shall not be disclosed or discoverable in any civil, criminal,  
20 administrative, or other proceeding; and shall be destroyed after five two years.

1 Sec. 10. 26 V.S.A. § 1354 is amended to read:

2 § 1354. UNPROFESSIONAL CONDUCT

3 (a) Prohibited conduct. The Board shall find that any one of the following,  
4 or any combination of the following, whether the conduct at issue was  
5 committed within or outside the State, constitutes unprofessional conduct:

6 \* \* \*

7 (2) all advertising ~~of~~ about health care services or a medical business  
8 that is intended or has a tendency to mislead or deceive the public or impose  
9 upon credulous or ignorant persons and so be harmful or injurious to public  
10 morals or safety;

11 \* \* \*

12 (21) permitting one's name or license to be used by a person, group, or  
13 corporation when not actually in charge of, ~~or~~ responsible for, or actively  
14 overseeing the treatment given or other health care services provided;

15 \* \* \*

16 (29) delegation of professional responsibilities, including delivery of  
17 any health care services, to a person whom the licensed professional knows, or  
18 has reason to know, is not qualified by any combination of training,  
19 experience, education, or licensing credentials to perform them;

20 \* \* \*

1           (33)(A) providing, prescribing, dispensing, or furnishing medical  
2           services or prescription medication or prescription-only devices to a person in  
3           response to any communication transmitted or received by computer or other  
4           electronic means, when the licensee fails to take the following actions to  
5           establish and maintain a proper physician-patient relationship:

6                   (i) a reasonable effort to verify that the person requesting  
7           medication is in fact the patient, and is in fact who the person claims to be;

8                   (ii) establishment of documented diagnosis through the use of  
9           accepted medical practices; and

10                  (iii) maintenance of a current medical record;

11           (B) for the purposes of this subdivision (33), an electronic, ~~on-line~~  
12           online, or telephonic evaluation by questionnaire is inadequate for the initial  
13           evaluation of the patient, except as otherwise provided in subdivision (C)(iv)  
14           of this subdivision (33);

15           (C) the following would not be in violation of this subdivision (33) if  
16           transmitted or received by computer or other electronic means:

17                   (i) initial admission orders for newly hospitalized patients;

18                   (ii) prescribing for a patient of another physician for whom the  
19           prescriber has taken the call;

1 (iii) prescribing for a patient examined by a licensed advanced  
2 practice registered nurse, physician assistant, or other advanced practitioner  
3 authorized by law and supported by the physician;

4 (iv) in furtherance of 18 V.S.A. chapter 223, prescribing  
5 medication for an individual to terminate the individual's pregnancy based on  
6 an adaptive questionnaire **developed by or in consultation with health care**  
7 **providers with clinically appropriate expertise** that allows the licensee to  
8 obtain additional medical history and ask follow-up questions as needed;

9 (v) continuing medication on a short-term basis for a new patient,  
10 prior to the patient's first appointment; or

11 ~~(v)~~(vi) emergency situations where life or health of the patient is  
12 in imminent danger;

13 \* \* \*

14 (b) Failure to practice competently. The Board may also find that failure to  
15 practice competently by reason of any cause on a single occasion or on  
16 multiple occasions constitutes unprofessional conduct. Failure to practice  
17 competently includes, as determined by the Board:

18 (1) performance of unsafe or unacceptable patient care; or

19 (2) failure to conform to the essential standards of acceptable and  
20 prevailing practice.

1 (c) Burden of proof. The burden of proof in a disciplinary action shall be  
2 on the State to show by a preponderance of the evidence that the person has  
3 engaged in unprofessional conduct.

4 (d)(1) Health care providers. Notwithstanding any other law to the  
5 contrary, no health care provider who is certified, registered, or licensed in  
6 Vermont shall be subject to professional disciplinary action by the Board, nor  
7 shall the Board take adverse action on an application for certification,  
8 registration, or licensure of a qualified health care provider, based solely on:

9 (A)(1) the health care provider providing or assisting in the provision of  
10 legally protected health care activity; or

11 (B)(2) a criminal, civil, or disciplinary action in another state against the  
12 health care provider that is based solely on the provider providing or assisting  
13 in the provision of legally protected health care activity.

14 (2)(c) Definitions. As used in this ~~subsection~~ section:

15 (A)(1) "Health care provider" means a person who provides professional  
16 health care services to an individual during that individual's medical care,  
17 treatment, or confinement.

18 (B)(2) "Health care services" means services for the diagnosis,  
19 prevention, treatment, cure, or relief of a physical or mental health condition,  
20 including counseling, procedures, products, devices, and medications.

1           ~~(C)~~(3) “Legally protected health care activity” has the same meaning as  
2           in 1 V.S.A. § 150.

3           Sec. 11. 26 V.S.A. § 1615 is amended to read:

4           § 1615. ADVANCED PRACTICE REGISTERED NURSES;

5                     REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

6           (a) In addition to the provisions of 3 V.S.A. § 129a and section 1582 of this  
7           chapter, the Board may deny an application for licensure, renewal, or  
8           reinstatement or may revoke, suspend, or otherwise discipline an advanced  
9           practice registered nurse upon due notice and opportunity for hearing if the  
10          person engages in the following conduct:

11                                     \* \* \*

12          (6) ~~Providing~~ Except as otherwise provided in subsection (b) of this  
13          section, providing, prescribing, dispensing, or furnishing medical services or  
14          prescription medication or prescription-only devices to a person in response to  
15          any communication transmitted or received by computer or other electronic  
16          means when the licensee fails to take the following actions to establish and  
17          maintain a proper provider-patient relationship:

18                     (A) a reasonable effort to verify that the person requesting  
19                     medication is in fact the patient and is in fact who the person claims to be;

20                     (B) establishment of documented diagnosis through the use of  
21                     accepted medical practices; and

1 (C) maintenance of a current medical record.

2 \* \* \*

3 (b)(1) For the purposes of subdivision (a)(6) of this section, an electronic,  
4 online, or telephonic evaluation by questionnaire is inadequate for the initial  
5 evaluation of the patient, except as otherwise provided in subdivision (2)(D) of  
6 this subsection.

7 (2) The following would not be in violation of subdivision (a)(6) of this  
8 section:

9 (A) initial admission orders for newly hospitalized patients;

10 (B) prescribing for a patient of another provider for whom the  
11 prescriber has taken call;

12 (C) prescribing for a patient examined by a licensed APRN,  
13 physician assistant, or other practitioner authorized by law and supported by  
14 the APRN;

15 (D) in furtherance of 18 V.S.A. chapter 223, prescribing medication  
16 for an individual to terminate the individual's pregnancy based on an adaptive  
17 questionnaire **developed by or in consultation with health care providers**  
18 **with clinically appropriate expertise** that allows the licensee to obtain  
19 additional medical history and ask follow-up questions as needed;

20 (E) continuing medication on a short-term basis for a new patient  
21 prior to the patient's first appointment; or

1           ~~(E)~~(F) emergency situations where the life or health of the patient is  
2 in imminent danger.

3       Sec. 9. 26 V.S.A. § 1658 is amended to read:

4       ~~§ 1658. UNPROFESSIONAL CONDUCT~~

5           ~~(a) The following conduct and the conduct described in section 1354 of this~~  
6 ~~title by a certified anesthesiologist assistant constitutes unprofessional conduct.~~  
7 ~~When that conduct is by an applicant or person who later becomes an~~  
8 ~~applicant, it may constitute grounds for denial of certification:~~

9                               \* \* \*

10           ~~(17) delegating professional responsibilities to a person whom the~~  
11 ~~certified professional knows, or has reason to know, is not qualified by any~~  
12 ~~combination of training, experience, education, or licensing credentials to~~  
13 ~~perform;~~

14                               \* \* \*

15       Sec. 12. 26 V.S.A. § 1736 is amended to read:

16       § 1736. UNPROFESSIONAL CONDUCT

17           (a) The following conduct and the conduct described in section 1354 of this  
18 title by a licensed physician assistant shall constitute unprofessional conduct;  
19 when that conduct is by an applicant or person who later becomes an applicant,  
20 it may constitute grounds for denial of licensure:

21                               \* \* \*





1           **(1) “Gender-affirming health care services” and “reproductive health**  
2           **care services” have the same meanings as in 1 V.S.A. § 150.**

3           **(2) “Noncontrolled medication” means a medication that is not a**  
4           **controlled substance as defined in 21 U.S.C. § 802.**

5           **(b)(1) Upon the request of a prescribing practitioner and to the extent not**  
6           **expressly prohibited required under federal law, a pharmacist or other**  
7           **licensed member of the pharmacy staff shall not list redact or otherwise**  
8           **remove the practitioner’s name or initials from a fulfilled prescription for**  
9           **a noncontrolled medication for gender-affirming health care services or**  
10           **reproductive health care services but shall instead list the name of the facility**  
11           **at which the practitioner is employed or is a contract employee, and from any**  
12           **accompanying printed materials.**

13           **(2) A pharmacist may, or, upon the pharmacist’s request, another**  
14           **licensed member of the pharmacy staff shall, redact or otherwise remove**  
15           **the pharmacist’s name or initials from a fulfilled prescription for a**  
16           **noncontrolled medication for gender-affirming health care services or**  
17           **reproductive health care services, and from any accompanying printed**  
18           **materials.**

19           **(3) If a prescribing practitioner dispenses medication directly to**  
20           **patients for gender-affirming health care services or reproductive health**  
21           **care services, or both, the practitioner may redact or otherwise remove**

1 the practitioner's own name or initials from a fulfilled prescription for a  
2 noncontrolled medication for gender-affirming health care services or  
3 reproductive health care services, and from any accompanying printed  
4 materials.

5 (c) Nothing in this chapter or the rules governing the pharmacy profession  
6 shall be construed to require a pharmacist or other licensed member of a  
7 pharmacy's staff to list the prescribing practitioner's or pharmacist's name  
8 or initials on a fulfilled prescription for a noncontrolled medication for  
9 gender-affirming health care services or reproductive health care services.

10 (d) A pharmacist or other licensed member of a pharmacy's staff shall  
11 be immune from civil and administrative liability for failing to redact or  
12 remove the name of a prescriber or pharmacist when requested to do so  
13 pursuant to subdivision (b)(1) or (2) of this section; provided, however,  
14 that this immunity shall not apply to gross negligence, recklessness, or  
15 intentional misconduct by a pharmacist or other licensed member of the  
16 pharmacy staff.

17 Sec. 12. 26 V.S.A. § 2858 is amended to read:

18 § 2858. UNPROFESSIONAL CONDUCT

19 (a) The following conduct and the conduct described in section 1354 of this  
20 title by a certified radiologist assistant constitutes unprofessional conduct.

1 ~~When that conduct is by an applicant or person who later becomes an~~  
2 ~~applicant, it may constitute grounds for denial of certification:~~

3 ~~\*\*\*~~

4 ~~(17) delegating professional responsibilities to a person whom the~~  
5 ~~certified professional knows or has reason to know is not qualified by any~~  
6 ~~combination of training, experience, education, or licensing credentials to~~  
7 ~~perform;~~

8 ~~\*\*\*~~

9 Sec. 14. EFFECTIVE DATE

10 This act shall take effect on passage.