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S.220

Introduced by Senators White, Ashe, Bray, Clarkson, Pearson, Perchlik and
Pollina

Referred to Committee on Government Operations

Date: January 7, 2020

Subject: Professions and occupations; Office of Professional Regulation;
Department of Public Safety; continuing education; State energy
goals; architects; boiler inspectors; electricians; gas appliance
installers; landscape architects; oil burning equipment installers;
plumbers; pollution abatement facility operators; potable water supply
and wastewater system designers; professional engineers; property
inspectors; real estate appraisers; real estate brokers and salespersons

Statement of purpose of bill as introduced: This bill proposes to require
specified professionals to obtain education on the State's energy goals as a
condition of initial licensure and license renewal.

~~An act relating to educating specified professionals on the State's energy
goals~~

An act relating to professional regulation

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

~~SECTION 1. PURPOSE~~

~~The purpose of this act is to further the State's energy goals through the
education of specified licensed professionals.~~

1 ~~Sec. 2-2 V.S.A. § 128 is added to read:~~

2 § 128. REQUIRED EDUCATION FOR SPECIFIED LICENSEES; STATE
3 ENERGY GOALS

4 (a) The following licensees are required to complete the education module
5 regarding the State's energy goals as described in this section:

6 (1) architects licensed under 26 V.S.A. chapter 3;

7 (2) landscape architects licensed under 26 V.S.A. chapter 46;

8 (3) pollution abatement facility operators licensed under 26 V.S.A.

9 chapter 99;

10 (4) potable water supply and wastewater system designers licensed

11 under 26 V.S.A. chapter 97;

12 (5) professional engineers licensed under 26 V.S.A. chapter 20;

13 (6) property inspectors licensed under 26 V.S.A. chapter 19;

14 (7) real estate appraisers licensed under 26 V.S.A. chapter 69; and

15 (8) real estate brokers and salespersons licensed under 26 V.S.A.

16 chapter 41.

17 (b) The Office shall adopt rules to require each of the licensees described
18 in subsection (a) of this section to complete an education module regarding the
19 State's energy goals and how each licensee's specific profession can further
20 these goals.

1 ~~(1) The education module shall be not more than two hours and shall be~~
2 ~~required as a condition of initial licensure and each license renewal.~~

3 ~~(2) The Office shall adopt these rules in consultation with the Agency of~~
4 ~~Natural Resources and the Department of Public Service for all the licensees~~
5 ~~set forth in subsection (a) of this section and in consultation with the~~
6 ~~Department of Taxes for real estate appraisers and real estate brokers and sales~~
7 ~~persons.~~

8 ~~(c)(1) The education module shall be provided to the required applicants~~
9 ~~for initial licensure and license renewal at no cost.~~

10 ~~(2) The Office may incorporate any cost of providing this education~~
11 ~~module into the Office's licensing fee structure if that incorporation is~~
12 ~~approved by the General Assembly.~~

13 Sec. 3. 20 V.S.A. chapter 173, subchapter 2 is amended to read:

14 Subchapter 2. ~~Fire Safety Division of Fire Safety~~

15 * * *

16 § 2731. RULES; INSPECTIONS; VARIANCES

17 (a) Rules.

18 (1) The Commissioner is authorized to adopt rules regarding the
19 construction of buildings, maintenance and operation of premises, and
20 ~~prevention of fires and removal of fire hazards, and to prescribe standards~~

1 ~~necessary to protect the public, employees, and property against harm arising~~

2 out of or likely to arise out of fire.

3 (2)(A) The Commissioner shall adopt rules to require each of the
4 following certifiants to complete an education module regarding the State's
5 energy goals and how each certificant's specific profession can further those
6 goals:

7 (i) gas appliance installers, inspectors, and servicers certified
8 under subdivision (c)(4)(C) of this section;

9 (ii) oil burning equipment installers, inspectors, and servicers
10 certified under subdivision (c)(4)(D) of this section; and

11 (iii) limited oil burning equipment installers, inspectors, and
12 services certified under subdivision (c)(4)(F) of this section.

13 (B) The education module shall be not more than two hours and shall
14 be required as a condition of initial certification and certification renewal.

15 (C) The Commissioner shall adopt these rules in consultation with
16 the Agency of Natural Resources and the Department of Public Service.

17 (D)(i) The education module shall be provided to the required
18 applicants for initial certification and certification renewal at no cost.

19 (ii) The Commissioner may incorporate any cost of providing this
20 education module into the Division of Fire Safety's certification fee structure
21 if that incorporation is approved by the General Assembly.

1 ~~(C) Gas appliance installation, inspection, and service: \$60.00.~~

2 (D) Oil burning equipment installation, inspection, and service:

3 \$60.00.

4 (E) Fire alarm system inspection and testing: \$90.00.

5 (F) Limited oil burning equipment installation, inspection, and
6 service: \$60.00.

7 (G) Domestic water-based fire protection system installation,
8 maintenance, repair, and testing:

9 (i) Initial certification: \$60.00.

10 (ii) Renewal: \$20.00.

11 (H) Fixed fire extinguishing system design, installation, inspection,
12 servicing, and recharging:

13 (i) Initial certification: \$60.00.

14 (ii) Renewal: \$20.00.

15 (I) Emergency generator installation, maintenance, repair, and
16 testing: \$30.00;

17 (J) Chimney and solid fuel burning appliance cleaning, maintenance,
18 and evaluation: \$30.00.

19 * * *

20 (e) Variances; exemptions. The Except for the rules requiring the

21 ~~education module regarding the State's energy goals described in subdivision~~

1 ~~(a)(2) of this section, the Commissioner may grant variances or exemptions~~
2 from rules adopted under this subchapter where strict compliance would entail
3 practical difficulty, unnecessary hardship, or is otherwise found unwarranted,
4 provided that:

5 (1) any such variance or exemption secures the public safety and health;

6 (2) any petitioner for such a variance or exemption can demonstrate that
7 the methods, means, or practices proposed to be taken in lieu of compliance
8 with the rule or rules provide, in the opinion of the Commissioner, equal
9 protection of the public safety and health as provided by the rule or rules;

10 (3) the rule or rules from which the variance or exemption is sought has
11 not also been adopted as a rule or standard under 21 V.S.A. chapter 3,
12 subchapters 4 and 5; and

13 (4) any such variance or exemption does not violate any of the
14 provisions of 26 V.S.A. chapters 3 and 20 or any rules adopted thereunder.

15 * * *

16 Sec. 4. 20 V.S.A. chapter 173, subchapter 5 is amended to read:

17 Subchapter 5. Boilers and Pressure Vessels
18

1 ~~§ 2882. BOILER INSPECTIONS~~

2 (1) The ~~commissioner~~ Commissioner has authority to obtain specific
3 information from boiler inspectors on forms which ~~that~~ shall first be approved
4 by the ~~commissioner~~ Commissioner.

5 (2) The ~~commissioner~~ Commissioner may authorize qualified inspectors
6 to conduct inspections under such rules as the ~~commissioner~~ Commissioner
7 may prescribe.

8 (A) If a boiler or pressure vessel is insured, the inspection may be
9 conducted by a qualified inspector who is employed, or contractually
10 authorized, by the insurer.

11 (B) If a boiler or pressure vessel is not insured, the inspection may be
12 conducted by any qualified inspector authorized by the ~~commissioner~~
13 Commissioner. In case the inspection is made by such an inspector, ~~no~~ a fee
14 shall not be charged by the ~~division~~ Division, except a process fee of \$30.00
15 for issuance of an operating certificate.

16 (3)(A) The fee for a person requesting a three-year authorization to
17 conduct inspections shall be \$150.00.

18 (B) A licensed boiler inspector shall carry liability insurance in an
19 ~~amount determined by the department~~ Department.

1 ~~§ 2884. QUALIFICATIONS OF INSPECTORS~~

2 (a) Examination. All boiler inspectors shall have passed the examination
3 required by the National Board of Boiler and Pressure Vessel Inspectors, and
4 hold annual certification from ~~such~~ that board.

5 (b) Education. The Commissioner shall adopt rules to require each boiler
6 inspector to complete an education module regarding the State's energy goals
7 and how the boiler inspection profession can further those goals.

8 (1) The education module shall be not more than two hours and shall be
9 required as a condition of initial authorization and authorization renewal.

10 (2) The Commissioner shall adopt these rules in consultation with the
11 Agency of Natural Resources and the Department of Public Service.

12 (3)(A) The education module shall be provided to boiler inspector
13 applicants for initial authorization and authorization renewal at no cost.

14 (B) The Commissioner may incorporate any cost of providing this
15 education module into the Division of Fire Safety's certification fee structure
16 if that incorporation is approved by the General Assembly.

17 * * *

18 Sec. 5. 26 V.S.A. chapter 15, subchapter 3 is amended to read:

19 Subchapter 3. Licensing Electricians

20 ~~§ 901. ELECTRICIANS' LICENSING BOARD~~

1 ~~(a) A board for the licensing of electricians is created, to be known as the~~
2 ~~“Electricians’ Licensing Board.”~~

3 (b) ~~The board~~ Board consists of the Commissioner of Public Safety or a
4 member of that Department designated by the Commissioner and four persons
5 appointed by the Governor with the advice and consent of the Senate.

6 (1) ~~The four appointed members shall serve for terms of three years,~~
7 ~~beginning on July 1 in the year of appointment, and they shall include one~~
8 ~~licensed master electrician, one licensed journeyman electrician, one person~~
9 ~~associated with the public electrical utility industry who is knowledgeable in~~
10 ~~technical as well as operational issues of the electrical utility industry, and one~~
11 ~~person associated with the fire insurance industry.~~

12 (2) ~~Ne~~ Not more than two appointed members’ terms shall expire in the
13 same year.

14 (c) The Governor shall appoint one of the members of the Board to serve
15 as its chair.

16 * * *

17 § 905. APPLICATION; EXAMINATIONS, EDUCATION, AND FEES

18 (a)(1) Each applicant for a license shall submit to the Board, on forms
19 furnished by it, a written application containing such relevant information as
20 ~~the Board may require, accompanied by the required examination fee.~~

1 ~~(2) The examination fee shall be established by the Board but shall be~~
2 no greater than the cost associated with administering the examination.
3 Notwithstanding 32 V.S.A. § 502(a), if the examination is conducted by an
4 outside testing service, the required examination fee may be paid directly to
5 the testing service.

6 * * *

7 (d)(1) Three-year electrical license fees shall be:

8 (A) For a masters license (initial and renewal) \$150.00;

9 (B) For a journeyman's license (initial and renewal) \$115.00;

10 (C) For a type-S journeyman's license (initial and renewal) per field
11 \$115.00~~;~~

12 (2) The fee for a certificate for framing shall be: \$10.00.

13 * * *

14 (g) In addition to other education requirements of this subchapter, the
15 Commissioner shall adopt rules to require each applicant to complete an
16 education module regarding the State's energy goals and how the electrician
17 profession can further those goals.

18 (1) The education module shall be not more than two hours and shall be
19 required as a condition of initial licensure and license renewal.

20 (2) The Commissioner shall adopt these rules in consultation with the
21 Agency of Natural Resources and the Department of Public Service.

1 ~~(3)(A) The education module shall be provided to applicants for initial~~
2 ~~licensure and license renewal at no cost.~~

3 ~~(B) The Commissioner may incorporate any cost of providing this~~
4 ~~education module into the Board's license fee structure if that incorporation is~~
5 ~~approved by the General Assembly.~~

6 * * *

7 Sec. 6. 26 V.S.A. chapter 39 is amended to read:

8 CHAPTER 39. PLUMBERS AND PLUMBING

9 * * *

10 Subchapter 2. Plumber's Examining Board

11 § 2181. PLUMBER'S EXAMINING BOARD; MEMBERSHIP; POWERS

12 (a) ~~A~~ The Plumber's Examining Board, within the Department of Public
13 Safety, ~~hereinafter called "Board,"~~ shall consist of five members, one of whom
14 shall be the Commissioner of Public Safety or designee and one of whom shall
15 represent the Commissioner of Health or designee. The remaining three
16 members shall be appointed by the Governor with the advice and consent of
17 the Senate. One of the appointive members shall be a master plumber, one
18 shall be a journey plumber, and one shall be a public member not associated
19 with the plumbing or heating trades.

20

Subchapter 3. Licenses

* * *

§ 2193. APPLICATIONS AND; EXAMINATIONS; EDUCATION, AND
FEES

(a)(1) Each applicant for license shall present to the executive office of the Board on blanks furnished by the Board, a written application for examination and license containing such information as the Board may require, accompanied by the fee required. Notwithstanding 32 V.S.A. § 502(a), if the examination is conducted by an outside testing service, the required examination fee may be paid directly to the testing service.

(2) Examinations shall be in whole or in part in writing and shall include the theoretical and practical nature of plumbing or specialties, or both, and knowledge of State laws and Department of Health and Environmental Conservation regulations and such other regulations as the Board may determine necessary to satisfactorily determine the qualifications of the applicant. Examinations shall be relevant to the instructional material taught in classes, codes used, and new developments and procedures within the trade.

* * *

(c) License and renewal fees are as follows:

(1) Master plumber license \$ 120.00

(2) Journeyman plumber license \$ 90.00

| | | |
|---|-----------------------------------|---------------------|
| 1 | (3) Specialist license | \$ 50.00 |
| 2 | (4) Master renewal fee | \$ 120.00 |
| 3 | (5) Journeyman renewal fee | \$ 90.00 |
| 4 | (6) Specialist renewal fee | \$ 50.00 |
| 5 | (7) License certificate | \$ 10.00 |

6 (d) Master and journeyman plumbers shall be exempt from paying license
7 or renewal fees as specialists.

8 (e) In addition to other education requirements of this subchapter, the
9 Commissioner shall adopt rules to require each applicant to complete an
10 education module regarding the State's energy goals and how the plumbing
11 profession can further those goals.

12 (1) The education module shall be not more than two hours and shall be
13 required as a condition of initial licensure and license renewal, except that
14 master and journeyman plumbers who complete this education module shall
15 not be required to complete this education module for any additional specialty
16 license.

17 (2) The Commissioner shall adopt these rules in consultation with the
18 Agency of Natural Resources and the Department of Public Service.

19 (3)(A) The education module shall be provided to applicants for initial
20 licensure and license renewal at no cost.

1 ~~(B) The Commissioner may incorporate any cost of providing this~~
2 ~~education module into the Board's license fee structure if that incorporation is~~
3 ~~approved by the General Assembly.~~

4 * * *

5 Sec. 7. ADOPTION OF RULES; APPLICATION OF EDUCATION
6 REQUIREMENTS

7 The Office of Professional Regulation and the Commissioner of Public
8 Safety shall adopt the rules providing the State energy goals education module
9 requirements described in this act so that the education modules are established
10 and the rules are adopted and apply to the required professionals on or before
11 December 31, 2020.

12 Sec. 8. EFFECTIVE DATE

13 ~~This act shall take effect on passage.~~

** * * Office of Professional Regulation * * **

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

** * **

(28) Audiologists and Hearing Aid Dispensers

** * **

(41) Audiologists and Speech-Language Pathologists

** * **

Sec. 2. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

(a) The Office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The services provided by the Office shall include:

** * **

(12) With the assistance of the boards, establishing a schedule of license renewal and termination dates so as to distribute the renewal work in the Office as effectively as possible.

(A) Licenses may be issued and renewed according to that schedule for periods of up to two years with ~~an appropriate pro-rata adjustment of fees.~~

(B) A person whose initial license is issued within 90 days prior to the set renewal date shall not be required to renew the license until the end of the first full biennial licensing period following initial licensure.

** * **

(i)(1) The Director shall actively monitor the actions of boards attached to the Office and shall ensure that all board actions pursued or decided are lawful, consistent with State policy, reasonably calculated to protect the public, and not an undue restraint of trade.

(2) If the Director finds ~~a~~ an exercise of board ~~action~~ authority or discretion does not meet those standards, the Director may, except in the case of disciplinary actions:

(A) provide written notice to the board explaining the perceived inconsistency, which notice shall have the effect of staying that action and implementing any alternative prescribed by the Director;

(B) schedule a public meeting with the board to resolve questions about the action and explore alternatives; and

(C) within 60 days following that meeting, issue a written directive finding that:

(i) the ~~action~~ exercise of board authority or discretion is consistent with State policy, in which case the action shall be reinstated;

(ii) the ~~action~~ exercise of board authority or discretion is inconsistent with State policy in form, but may be modified to achieve consistency, in which case the board may issue a modified action consistent with the Director's recommendation; or

~~(iii) the action exercise of board authority or discretion is inconsistent with State policy in purpose, in which case the board shall terminate efforts to implement the action and shall not spend further funds toward its implementation any alternative prescribed by the Director shall stand as the regulatory policy of the State.~~

~~(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for biennial license renewal for the following professions:~~

~~(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;~~

~~(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;~~

~~(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and~~

~~(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.~~

~~(2)(A) The Office 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 such inquiries to be made by a commercial service.~~

~~(B) Background checks may be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events.~~

~~(3) Applicants subject to background checks shall be notified that a check is required, if fingerprints will be retained on file, and that criminal convictions are not an absolute bar to licensure, and shall be provided such other information as may be required by federal law or regulation Prior to acting on an initial or renewal application, the Office may obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Federal Bureau of Investigation background checks shall be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events. Each applicant shall consent to the release of criminal history records to the Office on forms developed by the Vermont Crime Information Center.~~

~~(k) When, by reason of disqualification, resignation, vacancy, or necessary absence, a board is unable to form a quorum or assign one or more members to assist in the investigation and prosecution of complaints or license~~

applications, or to adjudicate a contested case, the Secretary of State may appoint ad hoc members, either as voting members to establish a quorum at a specific meeting or as nonvoting members to assist Office investigators and prosecutors.

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

§ 125. FEES

** * **

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

(1) Application for registration, \$75.00, except application for:

(A) Private investigator and security services employees, unarmed registrants, \$60.00.

(B) Private investigator and security service employees, transitory permits, \$60.00.

(C) Private investigator and security service employees, armed registrants, \$120.00.

(2) Application for licensure or certification, \$100.00, except application for:

** * **

(F) Private investigator or security services agency, \$340.00.

(G) Private investigator and security services agency, \$400.00.

(H) Private investigator or security services sole proprietor, \$250.00.

(I) Private investigator or security services unarmed licensee, \$150.00.

(J) Private investigator or security services armed licensee, \$200.00.

(K) Private investigator and security services instructor, \$120.00.

(3) Optician trainee registration, \$50.00.

(4) Biennial renewal, \$240.00, except biennial renewal for:

** * **

(J) Appraisal management company registration, \$600.00.
[Repealed.]

** * **

(M) Private investigator or security services agency, or both, \$300.00.

(N) Private investigator or security services unarmed licensee, \$120.00.

(O) Private investigator or security services armed licensee, \$180.00.

(P) Private investigator or security services unarmed registrant, \$80.00.

(Q) Private investigator or security services armed registrant, \$130.00.

(R) Private investigator or security services sole proprietor, \$250.00.

(S) Private investigator or security services instructor, \$180.00.

* * *

(7) Annual renewal for appraisal management company registration, \$300.00.

* * *

Sec. 4. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR PROFESSIONS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board or the Director, in the case of professions that have advisor appointees, may exercise the following powers:

* * *

(c)(1) Boards and administrative law officers sitting in disciplinary cases shall do so impartially and without ex parte knowledge of the case in controversy.

(2) A State prosecuting attorney assigned by the Office of Professional Regulation shall be responsible for prosecuting disciplinary cases before boards or administrative law officers.

* * *

(d) A board or the Director shall notify parties, in writing, of their right to appeal final decisions of the board. A board or the Director shall also notify complainants in writing of the result of any disciplinary investigation made with reference to a complaint brought by them to the board or Director. When a disciplinary investigation results in a stipulation filed with the board, the board or the Director shall provide the complainant with a copy of the

stipulation and notice of the stipulation review scheduled before the board. The complainant shall have the right to be heard at the stipulation review.

(e)(1) When a board or the Director, in the case of professions that have advisor appointees, intends to deny an application for a license, the board or Director shall send the applicant written notice of the decision by certified mail. The notice shall include a statement of the reasons for the action and shall advise the applicant that the applicant may file a petition within 30 days of the date on which the notice is mailed with the board or the Director for review of its or his or her preliminary decision.

(2) At the hearing, the applicant shall bear the burden of proving that the preliminary denial should be reversed and that the license should be granted.

(3) After the hearing, the board or Director shall affirm or reverse the preliminary denial, explaining the reasons therefor in writing.

(f)(1)(A) ~~A board~~ The Director may appoint a hearing officer, who shall be an attorney admitted to practice in this State, to conduct a hearing that would otherwise be heard by ~~the~~ a board. A hearing officer appointed under this subsection may administer oaths and exercise the powers of the board properly incidental to the conduct of the hearing.

(B) When disciplinary charges are pending concurrently against a single individual or entity, in one profession or multiple, the Director is authorized to order that the matters be consolidated in a single proceeding.

(2) ~~When~~ In board professions, when a hearing is conducted by a hearing officer, the officer shall report findings of fact and conclusions of law to the board. The report shall be made within 60 days of the conclusion of the hearing unless the board grants an extension. The provisions of section 811 of this title regarding proposals for decision shall not apply to the hearing officer report.

(3) The board may take additional evidence and may accept, reject, or modify the findings and conclusions of the hearing officer. Judgment on the findings shall be rendered by the board.

** * **

(h)(1) A board member, hearing officer, or administrative law officer having a personal or pecuniary interest or the appearance of a personal or pecuniary interest in the outcome of any board decision shall not participate in deciding the matter.

(2)(A) A board member, hearing officer, or administrative law officer whose disqualification is sought shall either disqualify himself or herself or,

without ruling on the request for disqualification, refer the request to the Secretary of State, who shall rule on the request.

(B) The ruling of the Secretary of State on a request for disqualification shall be final and shall be subject to review only upon appeal of a final order of a board under section 130a of this title or of an administrative law officer under subsection (j) of this section. ~~When a board is unable to convene a quorum by reason of disqualification, resignation, vacancy, or necessary absence, the Secretary of State shall appoint ad hoc members to serve on the board for that matter only, after consulting with the chair of the board involved. Ad hoc members shall have the same qualifications as required by law for the absent members.~~

** * **

(j) ~~Notwithstanding the provisions of section 130a of this title, hearings~~ Hearings involving denials of licensure or disciplinary matters concerning persons in professions that have advisor appointees shall be heard by an administrative law officer appointed by the Secretary of State.

(k)(1) Whenever completion of certain continuing education requirements is a condition of renewal, the board may require the applicant to develop and complete a specific corrective action plan, to be completed within 90 days.

(4)(2) A board may grant a temporary renewal license pending the completion of the required continuing education.

(l) Unless a disciplinary order expressly provides to the contrary, discipline against any license or credential issued by a regulatory body attached to the Office to an individual or entity shall be applicable as a matter of law to all other licenses issued to that licensee by that regulatory body.

** * **

** * * Accountants * * **

Sec. 5. 26 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ACCOUNTANTS

** * **

Subchapter 2. Board of Public Accountancy

** * **

§ 54. GENERAL POWERS AND DUTIES OF THE BOARD

** * **

(c) ~~The Board annually may submit a proposed budget to the Secretary of State. [Repealed.]~~

* * *

§ 56. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

* * *

*(4) ~~Registration of foreign firm for temporary practice~~ §
~~50.00 [Repealed.]~~*

* * *

Subchapter 3. Licenses

* * *

§ 74. FIRMS; REGISTRATION AND OWNERSHIP

(a) A firm shall be required to obtain registration pursuant to this section if the firm:

* * *

(3) does not have an office in this State but performs services described in subdivision 13(1)(A)(i), (iii), or (iv) of this ~~title~~ chapter for a client with a home office in this State.

(b) A firm that does not have an office in this State may perform those services set forth in subdivision 13(1)(A)(ii), 13(1)(A)(v), or 13(3) of this chapter for a client with a home office in this State, may otherwise practice public accounting as authorized under this chapter, and may use the title "CPA" or "CPA firm" without a registration issued only if the firm:

(1) meets the qualifications set forth in subsections (c) and (d) of this section;

(2) meets the requirements of ~~section 75e~~ subsection 75(c) of this ~~title~~ chapter, as applicable; and

(3) performs services through an individual with practice privileges set forth under section 74c of this ~~title~~ chapter.

* * *

(d) Any CPA or RPA firm as defined in this chapter may include nonlicensee owners, provided that:

(1) The firm designates a licensee of this State or, in the case of a firm that is required to have a registration pursuant to subsection (a) of this section, a licensee who meets the requirements set forth in section 74c of this ~~title chapter~~ who is responsible for the proper registration of the firm, and identifies that individual to the Board.

* * *

(f) Any individual exercising practice privileges pursuant to section 74c of this ~~title chapter~~, and who is responsible for supervising attest services and signs or authorizes someone to sign the accountant's report on behalf of the firm, shall meet the experience and competency requirements set forth in the professional standards for those services.

* * *

Subchapter 4. Discipline

* * *

§ 78. DISCIPLINARY MATTERS

~~(a) In addition to other powers specifically established by law, the Board may:~~

~~(1) Refuse to accept the return of a license tendered by the subject of a disciplinary investigation;~~

~~(2) Refuse to license a person who is under investigation in another jurisdiction for an offense that would constitute unprofessional conduct in this State; and~~

~~(3) Issue warnings and reprimands, condition, suspend, revoke, or reinstate licenses, and order restitution to aggrieved consumers.~~

~~(b) The Board shall accept complaints from any member of the public, any licensee, any state or federal agency, or the Attorney General. The Board may initiate disciplinary action in any complaint against a licensee and may act without having received a complaint.~~

~~(c) After hearing, the Board may take disciplinary action against a licensee, registrant, or applicant found guilty of unprofessional conduct.~~

~~(d) On petition, the Board may reinstate any license or registration it earlier conditioned, revoked, or suspended.~~

~~(e) Appeals from final Board decisions shall be taken in accordance with 3 V.S.A. § 130a. [Repealed.]~~

** * * Funeral Services * * **

Sec. 6. 26 V.S.A. § 1252 is amended to read:

§ 1252. APPLICATION; QUALIFICATIONS

(a) Funeral director.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination as a funeral director provided that he or she has:

** * **

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection ~~(a)~~, the Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the Director to ensure competence as a funeral director.

(b) Embalmer.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination in embalming provided that he or she has:

** * **

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection, the Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the Director to ensure competence as an embalmer.

** * **

** * * Nursing * * **

Sec. 7. 26 V.S.A. chapter 28 is amended to read:

CHAPTER 28. NURSING

Subchapter 1. General Provisions

** * **

§ 1573. VERMONT STATE BOARD OF NURSING

** * **

(c) Each member of the Board shall be a citizen of the United States and a resident of this State.

* * *

§ 1574. POWERS AND DUTIES

(a) *In addition to the powers granted by 3 V.S.A. § 129, the Board shall:*

* * *

(3) *Adopt rules setting standards for approval of medication nursing assistant and nursing education programs in Vermont, including all clinical facilities. The Board may require reimbursement for actual and necessary costs incurred for site surveys.*

(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.

(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.

(C) Standards for nursing education programs and clinical facilities shall:

(i) rely upon the standards of recognized national accrediting bodies without duplicating the function of those bodies;

(ii) call for the annual reporting of data, including graduation rates and examination pass rates, appropriate to verify that programs are capable of meeting national standards and sustaining responsible operation in the interests of the public; and

(iii) be waivable by the Director of Professional Regulation if the Director finds that a program has exhausted reasonable efforts to comply and that such waiver will not compromise a program's educational integrity.

(4) *[Repealed.]*

~~(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.~~

~~(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.~~

* * *

*Sec. 8. REPEAL OF BOARD OF NURSING FACULTY REQUIREMENTS
IN RULE*

The rules of the Board of Nursing governing the faculty of bachelor and associate degree programs and the faculty of practical nursing programs, set forth in Administrative Rules of the Board of Nursing, CVR 03-030-170, §§ 4.23 (faculty, bachelor and associate degree programs) and 4.24 (faculty, practical nursing programs), are repealed.

** * * Optometry * * **

Sec. 9. 26 V.S.A. chapter 30 is amended to read:

CHAPTER 30. OPTOMETRY

** * **

Subchapter 3. Examinations and Licenses

** * **

§ 1718. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- | | |
|-----------------------------|--|
| <i>(1) Application</i> | <i>\$225.00</i> |
| <i>(2) Biennial renewal</i> | <i>\$425.00 <u>\$350.00</u></i> |

** * **

Subchapter 6. Therapeutic Pharmaceutical Agents

§ 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

** * **

** * * Osteopathy * * **

Sec. 10. 26 V.S.A. § 1794 is amended to read:

§ 1794. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

- | | |
|--------------------------------------|--|
| <i>(1) Application</i> | |
| <i>(A) Licensure</i> | <i>\$500.00</i> |
| <i>(B) Limited temporary license</i> | <i>\$ 50.00</i> |
| <i>(2) Biennial license renewal</i> | <i>\$350.00 <u>\$300.00</u></i> |

** * **

** * * Pharmacy * * **

Sec. 11. 26 V.S.A. chapter 36 is amended to read:

*CHAPTER 36. PHARMACY
Subchapter 1. General Provisions*

** * **

§ 2022. DEFINITIONS

As used in this chapter:

** * **

(15)(A) “Practice of pharmacy” means:

** * **

(vii) ~~optimizing drug therapy through the practice of clinical pharmacy; and~~

** * **

(B) “Practice of clinical pharmacy” or “clinical pharmacy” means:

(i) the health science discipline in which, in conjunction with the patient’s other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient’s health and wellness;

(ii) providing patient care services within the pharmacist’s authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; ~~or~~

(iii) practicing pharmacy pursuant to a collaborative practice agreement; or

(iv) prescribing as provided under section 2023 of this subchapter.

** * **

(21) “Self-administered hormonal contraceptive” means a contraceptive medication or device approved by the U.S. Food and Drug Administration that prevents pregnancy by using hormones to regulate or prevent ovulation and that uses an oral, transdermal, or vaginal route of administration.

** * **

§ 2023. CLINICAL PHARMACY; PRESCRIBING

(a) In accordance applicable with rules adopted by the Board, a pharmacist may engage in the practice of clinical pharmacy, including prescribing as set forth in subsection (b) of this section, provided that a pharmacist shall not:

(1) prescribe a regulated drug as defined in 18 V.S.A. § 4201;

(2) prescribe a biological product as defined in 18 V.S.A. § 4601, other than an insulin medication, an influenza vaccine or vaccine to mitigate a significant public health risk, or, pursuant to a collaborative practice agreement, another vaccine; or

(3) initiate antibiotic therapy, except pursuant to a collaborative practice agreement.

(b) A pharmacist may prescribe in the following contexts:

(1) Collaborative practice agreement. A pharmacist may prescribe, for the patient or patients of a prescribing practitioner licensed pursuant to this title, within the scope of a written collaborative practice agreement with that primary prescriber.

(A) The collaborative practice agreement shall require the pharmacist and collaborating practitioner to contemporaneously notify each other of any change in the patient's pharmacotherapy or known medical status.

(B) Under a collaborative practice agreement, a pharmacist may select or modify antibiotic therapy for a diagnosed condition under the direction of the collaborating practitioner.

(2) State protocol.

~~(A) A pharmacist may prescribe in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:~~

~~(i) opioid antagonists;~~

~~(ii) epinephrine auto-injectors;~~

~~(iii) tobacco cessation products;~~

~~(iv) tuberculin purified protein derivative products;~~

~~(v) self-administered hormonal contraceptives;~~

~~(vi) dietary fluoride supplements;~~

~~(vi) influenza vaccines;~~

~~(vii) in the event of a significant public health risk, an appropriate vaccine to mitigate the effects on public health after finding that existing channels for vaccine administration are insufficient to meet the public health need; and~~

~~(ix) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services.~~

(A) A pharmacist may prescribe, order, or administer in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

(i) opioid antagonists;

(ii) epinephrine auto-injectors;

(iii) tobacco cessation products;

(iv) tuberculin purified protein derivative products;

(v) self-administered hormonal contraceptives;

(vi) dietary fluoride supplements;

(vii) influenza vaccines;

(viii) in the event of a significant public health risk, an appropriate vaccine to mitigate the effects on public health after finding that existing channels for vaccine administration are insufficient to meet the public health need;

(ix) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services; and

(x) tests for SARS-CoV for asymptomatic individuals or related serology for individuals by entities holding a Certificate of Waiver pursuant to the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a).

(B)(i) State protocols shall be valid if signed by the Commissioner of Health and the Director of Professional Regulation, and the Board of Pharmacy shall feature the active protocol conspicuously on its website.

(ii) The Commissioner of Health may invalidate a protocol if the Commissioner finds that the protocol's continued operation would pose an undue risk to the public health, safety, or welfare and signs a declaration to that effect. Upon such a declaration, the Director shall remove the invalidated protocol from the Board website and shall cause electronic notice of the protocol's discontinuation to be transmitted to all Vermont drug outlets.

(3) Accessory devices. A pharmacist may prescribe accessory-type devices, such as spacers, needles, and diabetic testing supplies, where clinically indicated in the judgment of the pharmacist.

(4) Prescriber-authorized substitution. A prescribing practitioner licensed pursuant to this title may authorize a pharmacist to substitute a drug with another drug in the same therapeutic class that would, in the opinion of the pharmacist, have substantially equivalent therapeutic effect even though the substitute drug is not a therapeutic equivalent drug, provided:

(A) the prescriber has clearly indicated that drug product substitution is permissible by indicating “therapeutic substitution allowed” or similar designation;

(B) the drug product substitution is intended to ensure formulary compliance with the patient’s health insurance plan or otherwise to minimize cost to the patient;

(C) the patient’s voluntary, informed consent is obtained in writing;
and

(D) the pharmacist or designee notifies the prescriber which drug was dispensed as a substitute within five days of dispensing.

(5) Over-the-counter availability. A pharmacist may prescribe over-the-counter drugs where appropriate to reduce costs to the patient, such as by drawing from a health savings account or flexible spending account.

(6) Short-term extensions.

(A) A pharmacist may extend a previous prescription in the absence of a collaborative practice agreement or a State protocol so long as the pharmacist provides only sufficient quantity to the patient until the patient is able to consult with another practitioner, not to exceed a five-day supply or the smallest available unit, and takes all reasonable measures to notify the patient’s primary care provider of record or the appropriate original prescriber, if the original prescriber is different from the primary care provider of record.

(B) A short-term extension shall be provided on a one-time basis.

(c) Board rules shall:

(1) specify the required elements of a collaborative practice agreement;

(2) prohibit conflicts of interest and inappropriate commercial incentives related to prescribing, such as reimbursement based on brands or numbers of prescriptions filled, renewing prescriptions without request by a patient, steering patients to particular brands or selections of products based

on any commercial relationships, or acceptance of gifts offered or provided by manufactures in violation of 18 V.S.A. § 4631a;

(3) define appropriate bounds of short-term extension prescribing; and

(4) establish minimum standards for patient privacy in clinical consultation.

* * *

Subchapter 5. Registration of Facilities ~~Drug Outlets~~

§ 2061. REGISTRATION AND LICENSURE

* * *

(g) Any nonpharmacist owner of a retail or institutional drug outlet may be denied the right to own another pharmacy for a period to be determined by the Board, if he or she is found to be in violation of any of the grounds listed under section 2051 of this title 3 V.S.A. § 129a.

* * *

§ 2063. NOTIFICATIONS

(a) All licensed drug outlets shall report to the Board of Pharmacy within 48 hours the occurrence of any of the following changes:

* * *

(3) any and all other matters and occurrences as the Board may properly require by ~~rules and regulations~~ rule.

* * *

~~Subchapter 6. Wholesale Distributors and Manufacturers~~

* * *

Sec. 12. PROTOCOL IMPLEMENTATION; TARGET DATES;
RULEMAKING

(a) On or before January 1, 2021, the Commissioner of Health shall:

(1) approve State protocols respecting opioid antagonists, self-administered hormonal contraceptives, and influenza vaccines in accordance with the procedure for establishing valid protocols set forth in 26 V.S.A. § 2023(b)(2) in Sec. 11 of this act; or

(2) provide affirmative notice to the Senate Committees on Government Operations and on Health and Welfare and the House Committees on Government Operations and on Health Care that the Commissioner was unable to approve those protocols by that date.

(b) On or before January 1, 2021, the Board of Pharmacy shall adopt rules consistent with the provisions of 26 V.S.A. § 2023(c) as set forth in Sec. 11 of this act. If the Board is unable to adopt rules by that date, the Board shall adopt an emergency rule until such time as it completes the rulemaking process.

Sec. 12a. SUNSET OF PHARMACIST AUTHORITY TO ORDER OR ADMINISTER SARS-COV TESTS

In Sec. 11, 26 V.S.A. § 2023(b)(2)(A)(x) (clinical pharmacy prescribing; State protocol; SARS-CoV testing) shall be repealed on July 1, 2021.

**** Physical Therapists ****

Sec. 13. 26 V.S.A. § 2103 is amended to read:

§ 2103. EXAMINATION

(e) An applicant for licensure who does not pass the examination on the first attempt may retake the examination one additional time without reapplication for licensure within six months of the first ~~or~~ examination. Before the Director may approve an applicant for subsequent testing beyond two attempts, an applicant shall reapply for licensure and shall submit evidence satisfactory to the Director of having successfully completed additional clinical training or course work, or both, as determined by the Director.

**** Veterinary Medicine ****

Sec. 14. 26 V.S.A. § 2414 is amended to read:

§ 2414. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

| | |
|-----------------------------|--|
| <i>(1) Application</i> | <i>\$ 100.00</i> |
| <i>(2) Biennial renewal</i> | <i>\$200.00 <u>\$175.00</u></i> |

**** Landscape Architects ****

Sec. 15. 26 V.S.A. § 2613 is amended to read:

§ 2613. EXEMPTIONS

(a) This chapter shall not affect or prevent:

(7) the design of irrigation systems; ~~and~~ or

(8) officers or employees of the federal government from working in connection with their employment.

** * **

** * * Review of Regulatory Laws * * **

Sec. 16. 26 V.S.A. chapter 57 is amended to read:

CHAPTER 57. REVIEW OF REGULATORY LAWS

** * **

§ 3105. CRITERIA AND STANDARDS

(a) A profession or occupation shall be regulated by the State only when:

(1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;

(2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(3) the public cannot be effectively protected by other means.

** * **

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation and upon the request of the House or Senate Committee on Government Operations, the Office shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the ~~appropriate House or~~ and Senate Committee Committees on Government Operations.

(e) After the review of a proposal to regulate a profession or to amend the scope of a regulated profession, the Office may decline to conduct an analysis and evaluation ~~of the proposed regulation~~ if it finds that:

(1) the proposed regulatory scheme appears to regulate fewer than 250 individuals; ~~and~~

(2) the Office previously conducted an analysis and evaluation of the proposed regulation of the same profession or occupation, and no new information has been submitted that would cause the Office to alter or modify the recommendations made in its earlier report on that proposed regulation; or

(3) a proposal presented by petition would, in the opinion of the Director, call for the unwarranted expenditure of State resources.

* * *

§ 3107. INFORMATION REQUIRED OF APPLICANTS

Prior to review under this chapter and prior to consideration by the General Assembly of any bill that proposes to regulate a profession or occupation, the profession or occupation being reviewed or seeking regulation shall explain each of the following factors, in writing, to the extent requested by the House or Senate Committee on Government Operations:

* * *

§ 3108. PRELIMINARY ASSESSMENT OF SCOPE OF PRACTICE

(a) Office preliminary assessment.

(1) Prior to review under this chapter and consideration by the General Assembly of any bill to materially amend the scope of practice permitted for a regulated profession or occupation, and upon the request of the House or Senate Committee on Government Operations or, in the case of a health care profession, the House Committee on Health Care or the Senate Committee on Health and Welfare or upon the direct petition from a regulated profession or occupation, the Office shall make, in writing, a preliminary assessment of whether the proposed scope of practice amendment is consistent with the principles and standards set forth in this chapter.

(2) The Office shall report its preliminary assessment to the House and Senate Committees on Government Operations and, where a report pertains to a health care profession, to the House Committee on Health Care and the Senate Committee on Health and Welfare.

(b) Required supporting information. A profession proposing by petition a material amendment of a scope of practice shall explain each of the following factors, in writing, to the extent requested by the Office or the House or Senate Committee on Government Operations, not later than July 1 of the year preceding the next regular session of the General Assembly:

(1) A description of the practices and activities that the profession or occupation would be permitted to engage in if the scope of practice is amended.

(2) Public health, safety, or welfare benefits, including economic benefits that the requestor believes will be achieved if the request is implemented and, if applicable, a description of any harm to public health if the request is implemented.

(3) The impact the amendment of the scope of practice will have on the public's access to occupational services.

(4) A description of the current laws and regulations, both federal and State, pertaining to the profession, including a description of the current education, training, and examination requirements and any relevant certification requirements applicable to the profession for which the amended scope of practice is being sought.

(5) The extent to which the public can be confident that a practitioner is competent to perform the activities and practices permitted under the amended scope of practice, including a description of the nature and duration of the education and training for performing these activities and practices, if any. The description of the education and training shall include the following information:

(A) whether the educational requirement includes a substantial amount of supervised practical experience;

(B) a description of the courses and professional educational programs, including relevant syllabi and curricula, training professionals to perform the activities and practices being proposed under the expanded scope of practice;

(C) whether educational programs exist in this State;

(D) whether there will be an experience requirement;

(E) whether the experience must be acquired under a registered, certified, or licensed practitioner;

(F) whether there are alternative routes of entry or methods of satisfying the eligibility requirements and qualifications; and

(G) whether all applicants will be required to pass an examination and, if an examination is required, by whom it will be developed and how the costs of development will be met.

(6) A description of how the request relates to the profession's ability to practice to the full extent of the profession's education and training.

(7) For health care professionals, a description of the impact an amendment to the scope of practice will have within the health care system, including:

(A) the anticipated economic impact such an expansion will have for the system, for patients, and for other health care providers; and

(B) identification of any health care professions that can reasonably be anticipated to be directly impacted by the request, the nature of the impact, and efforts made by the requestor to discuss the request with such health care professionals.

(8) A summary of the known scope of practice changes either requested or enacted in the State concerning the profession in the five-year period preceding the date of the current request.

(9) A summary of regional and national trends, legislation, laws, and regulations concerning licensure of the profession making the request, and a summary of relevant scope of practice provisions enacted in other states.

(10) How the standards of the profession or occupation will be maintained, including whether effective quality assurance standards pertaining to the activities and practices permitted under the proposed expanded scope of practice exist in the profession or occupation, such as legal requirements associated with specific programs that define or enforce standards.

(11) A profile of the practitioners in this State, including a list of associations, organizations, and other groups representing the practitioners and including an estimate of the number of practitioners in each group.

(c) Exemption. In lieu of submitting a scope of practice request as described in subsection (b) of this section, a person proposing an amendment to a scope of practice may submit a request for an exemption. The request for exemption shall be submitted to the Office not later than July 1 of the year preceding the next regular session of the General Assembly and shall include a plain language description of the request. The Office may grant the exemption if:

(1) there exist exigent circumstances that necessitate an immediate response to the request, and the delay imposed by analysis would threaten the public health, safety, or welfare;

(2) there is not substantial dispute concerning the scope of practice request; or

(3) the requested amendment is not material, meaning the amendment would not alter the balance of risks and harms to the public health, safety, or welfare; the regulatory burdens on any other group; or the enforcement authority or character of the regulatory program.

(d) Impacted persons.

(1) Any person acting on behalf of a profession that may be directly impacted by a scope of practice request submitted pursuant to this section may submit to the Office a written statement identifying the nature of the impact not later than October 1 of the year preceding the next regular session of the General Assembly. That person shall indicate the nature of the impact by taking into consideration the criteria set forth in subsection (b) of this section and shall provide a copy of the written impact statement to the requestor.

(2) Not later than October 15 of that year, the requestor shall submit a written response to the Office and the person that provided the written impact statement. The requestor's written response shall include a description of areas of agreement and disagreement between the respective professions.

** * * Private Investigative and Security Services * * **

Sec. 17. 26 V.S.A. chapter 59 is amended to read:

CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

Subchapter 1. General Provisions

§ 3151. DEFINITIONS

As used in this chapter:

(1)(A) "Director" means the Director of the Office.

(B) "Board" means the State Board of Private Investigative and Security Services "Office" means the Office of Professional Regulation.

** * **

*Subchapter 2. ~~State Board of Private Investigative and Security Services~~
Administration*

*§ 3161. ~~STATE BOARD REGULATION OF PRIVATE INVESTIGATIVE
AND SECURITY SERVICES; DIRECTOR; ADVISOR
APPOINTEES~~*

~~The State Board of Private Investigative and Security Services is created. The Board shall consist of five members appointed by the Governor: one shall be a provider of private investigative services; one shall be a provider of private security services; two shall be members of the public with no financial interest in either service other than as a consumer or potential consumer. The remaining member shall be a provider of private investigative services or a provider of private security services, or a provider of both types of services. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.~~

(a)(1) The Director shall administer the provisions of this chapter.

(2) The Director shall consult the advisor appointees prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter.

(b)(1) The Secretary of State shall appoint five persons of suitable qualifications in accordance with this section to advise the Director in matters concerning private investigative and security services.

(A) Two advisors shall be members of the public with no financial interest, either personally or through a spouse, in private investigative services or security services.

(B) One advisor shall be a provider of private investigative services.

(C) One advisor shall be a provider of private security services.

(D) The remaining member shall be a provider of private investigative services or a provider of private security services, or a provider of both types of services.

(2) The Secretary of State shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms.

§ 3162. BOARD RULEMAKING AUTHORITY DIRECTOR; POWERS AND DUTIES

The Board may Director shall adopt rules necessary for the performance of its duties effective administration of this chapter, including rules prescribing minimum standards and qualifications for:

* * *

Subchapter 3. Licensing

§ 3171. LICENSING

* * *

(c) Individual registrations may be transferred upon approval by the Board Director.

§ 3172. LICENSES

The Board Director shall issue agency licenses for private investigative services, private security guard services, or combination guard agency licenses to applicants that submit all of the following:

* * *

§ 3173. PRIVATE INVESTIGATOR LICENSES

~~(a) A person shall not engage in the business of private investigation or provide private investigator services in this State without first obtaining a license. The Board Director shall issue a license to a private investigator after obtaining and approving all of the following:~~

~~(1) an application filed in proper form evidence that the applicant has attained the age of majority;~~

~~(2) the application fee evidence that the applicant has successfully passed any examination required by rule; and~~

~~(3) evidence that the applicant has attained the age of majority; and~~

~~(4) evidence that the applicant has successfully passed any examination required by rule the application fee.~~

~~(b) The Board Director may make inquiries if he or she deems necessary into the character, integrity, and reputation of the applicant.~~

~~(c) The Board Director shall require that a person licensed seeking licensure to practice independently as a private investigator has had appropriate experience in investigative work, for a period of not less than two years, as determined by the Board Director. Such experience may include having been regularly employed as a private detective investigator licensed in another state or as an investigator for a private detective investigative agency licensed in this or another state or having been a sworn member of a federal, state, or municipal law enforcement agency.~~

* * *

§ 3174. SECURITY GUARD LICENSES

~~(a) A person shall not engage in the business of a security guard or provide guard services in this State without first obtaining a license. The Board Director shall issue a license to a security guard after obtaining and approving all of the following:~~

~~(1) an application filed in proper form evidence that the applicant has attained the age of majority;~~

~~(2) the application fee evidence that the applicant has successfully passed any examination required by rule; and~~

~~(3) evidence that the applicant has attained the age of majority;~~

~~(4) evidence that the applicant has successfully passed any examination required by rule the application fee.~~

(b) ~~The Board~~ Director may make inquiries ~~if he or she~~ deems necessary into the character, integrity, and reputation of the applicant.

(c) ~~The Board~~ Director shall require that a person ~~licensed~~ seeking licensure to practice independently as a security guard has had experience satisfactory to the ~~Board~~ Director in security work for a period of not less than two years. Such experience may include having been licensed as a security guard in another state or regularly employed as a security guard for a security agency licensed in this or another state or having been a sworn member of a federal, state, or municipal law enforcement agency.

* * *

§ 3175. EXAMINATIONS

The ~~Board~~ Director shall prepare, or have prepared, and administer, separate examinations for private investigators and private security services. Each examination shall be designed to test the competency of the applicant with respect to the lawful and safe provision of each respective service to the public.

§ 3175a. FIREARMS INSTRUCTOR LICENSURE; PROGRAM OF INSTRUCTION

(a) ~~The Board~~ Director shall license firearms training course instructors of private investigators and security guards licensed under this chapter and shall adopt rules governing the licensure of instructors and the approval of firearms and guard dog training programs.

(b) ~~The Board~~ Director shall not issue a license as a firearms training program instructor without first obtaining and approving all of the following:

(1) ~~the application filed in the proper form~~ evidence that the applicant has attained the age of majority;

(2) ~~the application fee established in subdivision 3178a(a)(5)(A) of this title~~ a copy of the applicant's training program;

(3) ~~evidence that the applicant has obtained the age of majority~~ proof of certification as an instructor from an instructor's course approved by the Director;

(4) ~~a copy of the applicant's training program~~ federal background check; and

(5) ~~proof of certification as an instructor from an instructor's course approved by the Board;~~

(6) ~~a federal background check~~ the application fee.

~~(c) Instructors licensed under this section are subject to the same renewal requirements as others licensed under this chapter, and prior to renewal are required to show proof of current instructor licensure and pay the renewal fee established in subdivision 3178a(a)(5)(B) of this title. [Repealed.]~~

§ 3175b. GUARD DOG TRAINING INSTRUCTOR LICENSE

~~(a) An applicant for a license to provide guard dog services shall demonstrate to the Board Director competence in the handling of guard dogs in a guard dog training program approved by the Board Director and taught by an instructor currently licensed under this section.~~

~~(b) The Board Director shall not issue a license as a guard dog training program instructor without first obtaining and approving all of the following:~~

~~(1) the application filed in the proper form evidence that the applicant has attained the age of majority;~~

~~(2) the application fee set forth in section 3178 of this title a copy of the applicant's training program;~~

~~(3) evidence that the applicant has obtained the age of majority proof of certification as an instructor from an instructor's course approved by the Director;~~

~~(4) a copy of the applicant's training program federal background check; and~~

~~(5) proof of certification as an instructor from an instructor's course approved by the Board;~~

~~(6) a federal background check the application fee.~~

§ 3175c. FIREARMS TRAINING AND CERTIFICATION

~~(a) A licensee seeking a firearms certification shall meet the following requirements:~~

~~(1) An applicant for a private investigator or security guard license to provide armed services shall demonstrate to the Board Director competence in the safe use of firearms by successfully completing a firearms training program approved by the Board. Director;~~

~~(2) An applicant shall pay the required fee;~~

~~(3) An applicant shall obtain provide the Director with evidence that the applicant has attained the age of majority; and~~

~~(4) An applicant shall receive a satisfactory federal background check.~~

(b) ~~No~~ A licensee may shall not possess a firearm while performing professional services unless certified and in good standing under this section.

§ 3176. EMPLOYEES OF AGENCIES

** * **

(b) An agency shall register all agency investigative and security employees with the ~~Board~~ Office. Employees shall carry identification ~~in a form satisfactory to the Board~~ indicating the licensee by whom the person is employed.

(c) An employee of a licensee shall not function as an armed private investigator, armed guard, armed courier, or handler of guard dogs unless the employee ~~demonstrates to the Board competency in a manner deemed appropriate by the Board~~ holds an active specialty designation authorizing the use of firearms or guard dogs, as applicable.

(d) The ~~Board~~ Director may make inquiries it deems necessary into the character, integrity, and reputation of the employee.

(e) As a prerequisite to registration, all investigative and security employees shall take and successfully complete a training program approved by the ~~Board~~ Director.

(f) A licensed agency or other entity conducting a training program approved by the ~~Board~~ Director pursuant to this section shall maintain training records for not less than five years. The retained records shall include, at a minimum, records of the courses taught, subjects covered, and persons who have received instruction. Training records shall be made available to the ~~Office of Professional Regulation~~ upon request. A licensed agency shall maintain its training records at its regular place of business within the State of Vermont.

§ 3176a. TRANSITORY PRACTICE

The ~~Director of the Office of Professional Regulation~~, under rules adopted by the ~~Board~~ Director, may grant a transitory permit to practice as a private investigator to a person who is not a resident of Vermont and has no established place of business in this State, if that person is legally qualified by license to practice as a private investigator in any state or country that regulates such practice. Practice under a transitory permit shall not exceed 30 days in any calendar year.

** * **

~~§ 3178a. FEES~~

~~(a) Applicants and persons regulated under this chapter shall pay the following fees:~~

~~(1) Application for agency license:~~

| | |
|--|----------------------|
| (A) Investigative agency | \$ 340.00 |
| (B) Security agency | \$ 340.00 |
| (C) Investigative/security agency | \$ 400.00 |
| (D) Sole proprietor | \$ 250.00 |

~~(2) Application for individual license:~~

| | |
|---------------------------------|----------------------|
| (A) Unarmed licensee | \$ 150.00 |
| (B) Armed licensee | \$ 200.00 |

~~(3) Application for employee registration:~~

| | |
|------------------------------------|----------------------|
| (A) Unarmed registrants | \$ 60.00 |
| (B) Armed registrants | \$ 120.00 |
| (C) Transitory permits | \$ 60.00 |

~~(4) Biennial renewal:~~

| | |
|---|----------------------|
| (A) Investigative agency | \$ 300.00 |
| (B) Security agency | \$ 300.00 |
| (C) Investigative/security agency | \$ 300.00 |
| (D) Unarmed licensee | \$ 120.00 |
| (E) Armed licensee | \$ 180.00 |
| (F) Unarmed registrants (agency employees) | \$ 80.00 |
| (G) Armed registrants (agency employees) | \$ 130.00 |
| (H) Sole proprietor | \$ 250.00 |

~~(5) Instructor licensure:~~

| | |
|--|----------------------|
| (A) Application for licensure | \$ 120.00 |
| (B) Biennial renewal | \$ 180.00 |

~~(b) A sole proprietor of an investigative agency or security agency shall only pay the sole proprietor fees pursuant to this section, provided the agency has no other registered investigative or security employees. [Repealed.]~~

* * *

Subchapter 4. Unprofessional Conduct and Discipline

§ 3181. UNPROFESSIONAL CONDUCT

(a) *It shall be unprofessional conduct for a licensee, registrant, or applicant to engage in conduct prohibited by this section, or by 3 V.S.A. § 129a.*

(b) *Unprofessional conduct means any of the following:*

* * *

(13) *failing to provide information requested by the ~~Board~~ Director;*

* * *

(15) *failing to notify the ~~Board~~ Director of a change in ownership, partners, officers, or qualifying agent;*

* * *

* * * *Real Estate Appraisers* * * *

Sec. 18. 26 V.S.A. chapter 69 is amended to read:

CHAPTER 69. REAL ESTATE APPRAISERS

* * *

Subchapter 3. Licenses, Certifications, and Registrations

§ 3316. LICENSING AND REGISTRATION FEES

In addition to the fees otherwise authorized by law, the Director may charge the fees for professions Applicants and persons regulated by the Director as under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

* * *

§ 3321. RENEWALS

(a) *A Except for a license issued to an appraisal management company, a licensed issued under this chapter shall be renewed biennially upon payment of the required fee and upon satisfactory completion of the minimum continuing education requirements established by AQB during the immediately preceding two-year period. An appraisal management company shall renew its license annually in compliance with State and federal regulations.*

(b) *If an individual or an appraisal management company fails to renew in a timely manner, he or she, or it may renew the license within 30 days of the renewal date by satisfying all requirements set forth in law, including, as applicable, those requirements of AQB for reactivation and payment of an additional late renewal penalty.*

(c) The Director may reactivate the license of an individual or an appraisal management company whose license has lapsed for more than 30 days upon payment of the renewal fee, the reactivation fee, and the late renewal penalty, provided the individual ~~has satisfied all~~ or appraisal management company has satisfied all the requirements set forth in law, including, as applicable, those requirements of AQB for reactivation.

(d) The Director may require, by rule, as a condition of reactivation, that an applicant, other than an appraisal management company, undergo review of one or more aspects of the applicant's professional work in the practice of real estate appraising, provided that the manner and performance results of the review be specified by the Director. Such a review requirement shall:

** * **

(e) ~~An appraisal management company shall renew its registration biennially. [Repealed.]~~

** * **

** * * Dieticians * * **

Sec. 19. 26 V.S.A. § 3387 is amended to read:

§ 3387. APPLICATION

A person who desires to be certified as a dietitian shall apply to the Director in writing, on a form furnished by the Director, accompanied by payment of ~~a the required fee required pursuant to section 3388 of this title and~~ evidence that the applicant meets the requirements set forth in section 3385 of this ~~title~~ chapter.

** * * Naturopathic Physicians * * **

Sec. 20. 26 V.S.A. § 4126 is amended to read:

§ 4126. ADVISOR APPOINTEES

** * **

(d) ~~Notwithstanding 3 V.S.A. § 129(j), when an advisor appointee is unable to serve as an administrative law officer by reason of disqualification or necessary absence, the Secretary of State may appoint a suitable person to serve as the administrative law officer in lieu of the advisor appointee. [Repealed.]~~

** * * Midwives * * **

Sec. 21. 26 V.S.A. chapter 85 is amended to read:

CHAPTER 85. MIDWIVES

§ 4181. DEFINITIONS

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise:

** * **

(6) ~~“VMA” means the Vermont Midwives Alliance.~~

** * **

§ 4185. DIRECTOR; DUTIES

** * **

(b)(1) The Director shall adopt general rules necessary to perform his or her duties under this chapter, maintain and make available a list of approved programs for continuing education, and, by January 1, 2001, in consultation with the Commissioner of Health, the Vermont Medical Society, and the Vermont chapter of the American College of Nurse-Midwives, adopt specific rules defining the scope and practice standards, including risk-assessment criteria, based at a minimum, on the practice standards of the ~~Vermont Midwives Alliance (VMA)~~ and the Midwives Alliance of North America (MANA), and defining a protocol and formulary for drug use by licensed midwives, including anti-hemorrhagic drugs and oxygen.

(2)(A) Once initially established by rule, the formulary for medication use by licensed midwives, including anti-hemorrhagic agents and oxygen, shall be updated by the Director as necessary, subject to the approval of the Commissioner of Health and notwithstanding the provisions of 3 V.S.A. chapter 25.

(B) The Director shall update the protocol and formulary, in consultation with the Commissioner of Health or ~~his or her~~ designee, the Vermont Midwives Association, the Vermont Medical Society, and the Vermont chapter of the American College of Nurse-Midwives to ensure licensed midwives have available those medications deemed necessary to maintain best practice standards and deemed necessary for licensed midwives to provide prenatal and postpartum care consistent with accepted and prevailing standards of care for mothers and their babies.

** * **

*Sec. 22. MIDWIVES, DEPARTMENT OF HEALTH; REPEAL OF DATA
SUBMISSION AND DATA ACCESS REQUIREMENTS*

2011 Acts and Resolves No. 35, Secs. 7 (requiring midwives and APRN certified nurse midwives to submit data on home births) and 8(a) (requiring the Department of Health to access midwife data) are repealed.

** * * Electrologists * * **

Sec. 23. 26 V.S.A. § 4404 is amended to read:

§ 4404. DIRECTOR; DUTIES

** * **

(b) The Director may inspect electrology offices used for the practice of electrology. ~~No~~ A fee shall not be charged for initial inspections under this subsection; ~~however, if the Director determines that it is necessary to inspect the same premises under the same ownership more than once in any two-year period, a reinspection fee may be charged, as provided in section 4410 of this title. The Director may waive all or a part of the reinspection fee in accordance with criteria established by rule.~~

** * **

** * * Respiratory Care * * **

Sec. 24. 26 V.S.A. § 4712 is amended to read:

§ 4712. EXEMPTIONS FROM LICENSURE

(a) ~~No~~ A person shall not practice respiratory care or represent himself or herself to be a respiratory care practitioner unless he or she is licensed under this chapter, except that this chapter shall not prohibit:

(1) A person matriculated in an education program approved by the ~~board~~ Director who is pursuing a degree in respiratory care or respiratory therapy from satisfying supervised clinical education requirements related to the person's respiratory care education while under direct supervision of a respiratory care practitioner or physician.

** * **

** * * Motor Vehicle Racing * * **

Sec. 25. 26 V.S.A. § 4801 is amended to read:

§ 4801. DEFINITIONS

As used in this chapter:

** * **

(8) "Regulation," unless otherwise specified, means a regulation or rule or amendment, revision, or repeal of a regulation or rule adopted by the ~~commission~~ Director.

* * *

* * * *Pollution Abatement Facility Operators* * * *

Sec. 26. 26 V.S.A. § 5121 is amended to read:

§ 5121. *ELIGIBILITY FOR LICENSURE*

(a) To be eligible for licensure as a pollution abatement facility operator, an applicant shall be at least 18 years of age; be able to read and write the English language; ~~hold a high school diploma, General Equivalency Diploma (GED), or equivalent;~~ and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

* * *

* * * *Notaries Public* * * *

Sec. 27. 24 V.S.A. § 183 is amended to read:

§ 183. *CERTIFICATE OF APPOINTMENT OF NOTARY PUBLIC*

~~Immediately after the appointment of a notary public, the county clerk shall send to the Secretary of State a certificate of such appointment, on blanks furnished by the Secretary, containing the name, signature, and legal residence of the appointee, and the term of office of each notary public. The Secretary shall cause such certificates to be bound in suitable volumes and to be indexed. Upon request, the Secretary may certify the appointment, qualification, and signature of a notary public on tender of his or her legal fees. [Repealed.]~~

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

Sec. 28. 3 V.S.A. § 122 is amended to read:

§ 122. *OFFICE OF PROFESSIONAL REGULATION*

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(49) *Massage Therapists, Bodyworkers, and Touch Professionals*

Sec. 29. 26 V.S.A. chapter 105 is added to read:

CHAPTER 105. MASSAGE THERAPISTS, BODYWORKERS, AND TOUCH PROFESSIONALS

Subchapter 1. General Provisions

§ 5401. DEFINITIONS

As used in this chapter:

(1) “Director” means the Director of the Office of Professional Regulation.

(2)(A) “Establishment” means any place of business that:

(i) offers the practice of massage or the practice of bodywork or where the practice of massage or the practice of bodywork is conducted on the premises of the business; or

(ii) represents itself to the public by any title or description of services incorporating the words “touch professional,” “bodywork,” “massage,” “massage therapy,” “massage therapist,” “massage practitioner,” “massagist,” “masseur,” “masseuse,” “energy work,” or other words identified by the Director in rules.

(B) A “place of business” includes any office, clinic, facility, salon, spa, or other location not otherwise exempted under section 5404 of this chapter where a person or persons engage in the practice of massage or the practice of bodywork.

(3) “Practice of massage” and “practice of bodywork” mean offering or engaging in massage or bodywork in exchange for consideration.

(4)(A) “Massage” and “Bodywork” mean systems of structured touch that are:

(i)(I) applied to the superficial, soft or deep tissue, muscle, or connective tissue of another person by manual means, including friction, gliding, rocking, tapping, kneading, and nonspecific stretching; or

(II) designed to affect the energy fields of the body for the purpose of promoting and maintaining health and well-being; and

(ii) provided to clients in a manner in which the clients remove street clothing and have a reasonable expectation of privacy.

(B) Massage and bodywork may include the use of therapies such as heliotherapy or hydrotherapy; the use of moist, hot, and cold external applications; and the use of oils or other lubricants.

(C) Neither massage nor bodywork include the diagnosis of illness, disease, impairment, or disability.

(5) "Massage therapist, bodyworker, or touch professional" means a person who holds a registration from the Office to practice massage or practice bodywork or both.

§ 5402. PROHIBITIONS

(a) An individual shall not engage in or offer the practice of massage or the practice of bodywork unless the individual is registered with the Office.

(b) It shall be a violation of this chapter for any individual to engage in the practice of massage or the practice of bodywork, or to offer to engage in the practice of massage or the practice of bodywork, if the individual's registration has been suspended or revoked.

(c) An individual shall not use in connection with the individual's name any letters, words, titles, or insignia indicating or implying that the individual is offering or engaging in the practice of massage or the practice of bodywork, including the terms "massage therapist," "bodyworker," or "touch professional," unless the individual holds a registration in accordance with this chapter.

§ 5403. UNAUTHORIZED PRACTICE

Any individual who engages in the practice of massage or the practice of bodywork without a registration from the Office shall be subject to the penalties provided in 3 V.S.A. § 127 (unauthorized practice).

§ 5404. EXEMPTIONS

(a) The following shall not require a registration under this chapter:

(1) the practice of massage or the practice of bodywork by a student as part of a professional massage or bodywork education program;

(2) the practice of massage or the practice of bodywork by an apprentice as part of a massage or bodywork apprenticeship; or

(3) the practice of massage or the practice of bodywork provided to clients in a manner in which the clients do not remove street clothing or do not have a reasonable expectation of privacy.

(b) The provisions of this chapter requiring individuals to be registered shall not apply to individuals who engage in or offer the practice of massage or the practice of bodywork in the course of their customary duties as physicians, podiatrists, physician assistants, nurses, osteopaths, acupuncturists, athletic trainers, barbers, cosmetologists, estheticians,

electrologists, chiropractors, midwives, naturopathic physicians, occupational therapists, physical therapists, or respiratory care practitioners.

(c) Nothing in this chapter shall prohibit a massage therapist, bodyworker, or touch professional from engaging in or offering the practice of massage or the practice of bodywork at a location that is not an establishment, so long as prior to engaging in that practice at that location, the registrant and his or her client agree that the location is acceptable.

Subchapter 2. Administration

§ 5411. DUTIES OF THE DIRECTOR

(a) Generally. The Director shall:

(1) provide general information to applicants for registration as a massage therapist, bodyworker, or touch professional;

(2) receive applications for registration and provide registrations to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) explain appeal procedures to applicants and registrants; and

(6) explain complaint procedures to the public.

(b) Rules.

(1) The Director shall adopt rules requiring a massage therapist, bodyworker, or touch professional to disclose to each new client before the first treatment the following information:

(A) the professional qualifications and experience of the registrant;

(B) actions that constitute unprofessional conduct;

(C) the method for filing a complaint against a registrant; and

(D) the method for making a consumer inquiry with the Office.

(2) The Director shall adopt rules regarding the display of:

(A) the registrations of employed or contracted massage therapists, bodyworkers, or touch professionals at an establishment; and

(B) information regarding unprofessional conduct and filing complaints with the Office.

(3) The rules described in this subsection (b) shall include provisions relating to the manner in which the information disclosed shall be distributed

or displayed, and a requirement that a massage therapist, bodyworker, or touch professional and his or her client sign an acknowledgement that the information was disclosed.

(4) The Director may adopt other rules as necessary to perform his or her duties under this chapter.

§ 5412. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three advisors of suitable qualifications, as described in this section, to advise the Director on matters relating to the practice of massage and the practice of bodywork.

(b) The Secretary shall appoint the advisors to serve, at the Secretary's pleasure, for five-year staggered terms. To stagger the advisors' terms, the Secretary may initially appoint two of the advisors for less than a five-year term.

(c) Two of the three advisors shall be massage therapists, bodyworkers, or touch professionals registered under this chapter who have been actively engaged in the practice of massage or the practice of bodywork, or both for the three-year period immediately preceding appointment. These two advisors shall maintain their registrations in this State and be actively engaged in the practice of massage or the practice of bodywork, or both during their incumbency.

(d) The Director shall seek the advice of the advisors in carrying out the provisions of this chapter.

Subchapter 3. Registrations

§ 5421. APPLICATION

A person who desires to be registered under this chapter shall apply for a registration in the manner specified by the Director, accompanied by payment of the required fee.

§ 5422. REGISTRATION BY ENDORSEMENT

The Director may issue a registration to an individual under this chapter if the individual holds a license, registration, certification, or other authorization to practice massage therapy or bodywork from a U.S. or Canadian jurisdiction.

§ 5423. ESTABLISHMENTS; DESIGNEE AND INSPECTION

(a) An establishment shall designate a massage therapist, bodyworker, or touch professional to be responsible for ensuring the establishment complies with the requirements of this chapter and the rules adopted by the Director.

(b) A person authorized by the Director may enter any establishment for the purpose of inspection when a complaint has been filed with the Office regarding the practice of massage or the practice of bodywork at that establishment. A fee shall not be charged for any inspection under this subsection.

§ 5424. REGISTRATION RENEWAL

(a) A registration under this chapter shall be renewed every two years by submission of a new, completed application and shall be accompanied by payment of the required fee.

(b) A registration that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

§ 5426. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 5427. DISPLAY OF REGISTRATION

A massage therapist, bodyworker, or touch professional shall conspicuously display his or her registration in any establishment where the registrant is engaged in the practice of massage or the practice of bodywork.

§ 5428. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct set forth in 3 V.S.A. § 129a and the following:

- (1) engaging in activities in violation of 13 V.S.A. § 2605 (voyeurism);
- (2) engaging in a sexual act with a client;
- (3) conviction of a crime committed while engaged in the practice of massage or the practice of bodywork;
- (4) performing massage or bodywork that the massage therapist, bodyworker, or touch professional knows or has reason to know has not been authorized by a client or the client's legal representative; and
- (5) engaging in conduct of a character likely to deceive, defraud, or harm the public.

Sec. 30. TRANSITIONAL PROVISION; ADVISOR APPOINTEES

Notwithstanding the provisions of 26 V.S.A. § 5412 in Sec. 29 of this act that require a massage therapist, bodyworker, or touch professional advisor appointee to be registered under 26 V.S.A. chapter 105, the Secretary of State may initially appoint advisor appointees who are not registered under this

chapter because the law has yet to take effect, provided those advisor appointees otherwise meet the requirements of 26 V.S.A. § 5412.

Sec. 31. CREATION OF POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION; LICENSING.

(a) There are created within the Secretary of State's Office of Professional Regulation one new position in the licensing division and one new position in the enforcement division.

(b) Any funding necessary to support the positions created in subsection (a) of this section and the implementation of 26 V.S.A. chapter 105 set forth in Sec. 29 of this act shall be derived from the Office's Professional Regulatory Fee Fund and not from the General Fund.

Sec. 32. OFFICE OF PROFESSIONAL REGULATION; REGULATORY REVIEW

On or before November 1, 2023, the Office of Professional Regulation shall assess the manner in which the public is protected by the registration of massage therapists, bodyworkers, and touch professionals as set forth in this act and submit any recommended amendments to the law to the Senate and House Committees on Government Operations.

~~*** Climate Change and State Energy Goals ***~~

Sec. 33. SPECIFIED REGULATORY ENTITIES; OFFICE OF PROFESSIONAL REGULATION; REPORT ON CURRENT AND RECOMMENDED CONTINUING EDUCATION; CLIMATE CHANGE AND STATE ENERGY GOALS

(a)(1) On or before November 15, 2020, the regulatory entity for each of the following professions shall submit to the Director of the Office of Professional Regulation the information described in subdivision (2) of this subsection:

(A) architects licensed under 26 V.S.A. chapter 3;

(B) landscape architects licensed under 26 V.S.A. chapter 46;

(C) pollution abatement facility operators licensed under 26 V.S.A. chapter 99;

(D) potable water supply and wastewater system designers licensed under 26 V.S.A. chapter 97;

(E) professional engineers licensed under 26 V.S.A. chapter 20;

(F) property inspectors licensed under 26 V.S.A. chapter 19;

(G) real estate appraisers licensed under 26 V.S.A. chapter 69;

(H) real estate brokers and salespersons licensed under 20 V.S.A. chapter 41;

(I) gas appliance installers, inspectors, and servicers certified under 20 V.S.A. § 2731(c)(4)(C);

(J) oil burning equipment installers, inspectors, and servicers certified under 20 V.S.A. § 2731(c)(4)(D); and

(K) limited oil burning equipment installers, inspectors, and services certified under 20 V.S.A. § 2731(c)(4)(F);

(L) each type of electrician licensed under 26 V.S.A. chapter 15; and

(M) each type of plumber licensed under 26 V.S.A. chapter 39.

(2) In accordance with subdivision (1) of this subsection, each regulatory entity shall submit to the Director of the Office the following information regarding its regulated profession:

(A) any current continuing education relating to climate change or the State's energy goals or both that is offered to the profession;

(B) any continuing education relating to climate change or the State's energy goals or both that should be offered to the profession; and

(C) a description of how the profession addresses its role in mitigating the effects of climate change and in furthering the State's energy goals, and how any current and recommended continuing education addresses those issues.

(3) "Regulatory entity" has the same meaning as in 26 V.S.A. § 3101a.

(b) On or before January 15, 2021, the Director of the Office of Professional Regulation shall compile the information submitted to the Director under subsection (a) of this section and report it, along with any further recommendations, to the Senate and House Committees on Government Operations.

** * * Effective Dates * * **

Sec. 34. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Secs. 28 and 29 (massage therapists, bodyworkers, and touch professionals) shall take effect on November 1, 2020.

** * * State Energy Goals * * **

Sec. 33. 3 V.S.A. § 138 is added to read:

§ 138. REQUIRED EDUCATION FOR SPECIFIED LICENSEES; STATE

ENERGY GOALS

(a) The following licensees are required to complete the education module regarding the State's energy goals as described in this section:

(1) architects licensed under 26 V.S.A. chapter 3;

(2) landscape architects licensed under 26 V.S.A. chapter 46;

(3) pollution abatement facility operators licensed under 26 V.S.A. chapter 99;

(4) potable water supply and wastewater system designers licensed under 26 V.S.A. chapter 97;

(5) professional engineers licensed under 26 V.S.A. chapter 20;

(6) property inspectors licensed under 26 V.S.A. chapter 19;

(7) real estate appraisers licensed under 26 V.S.A. chapter 69; and

(8) real estate brokers and salespersons licensed under 26 V.S.A. chapter 41.

(b) The Office shall require each of the licensees described in subsection (a) of this section to complete an education module regarding the State's energy goals and how each licensee's specific profession can further those goals.

(1) The education module shall be not more than two hours and shall be required as a condition of initial licensure and each license renewal. The module shall include education on any State or utility incentives relevant to the profession.

(A) The education module for initial licensure shall provide general information regarding the State's energy goals.

(B) The education module for license renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(2) The Office shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service for all the licensees set forth in subsection (a) of this section and in consultation with the Department of Taxes for real estate appraisers and real estate brokers and sales persons.

Sec. 34. 20 V.S.A. chapter 173, subchapter 2 is amended to read:

Subchapter 2. ~~Fire Safety~~ Division of Fire Safety

** * **

§ 2731. RULES; INSPECTIONS; VARIANCES

(a) Rules.

(1) The Commissioner is authorized to adopt rules regarding the construction of buildings, maintenance and operation of premises, and prevention of fires and removal of fire hazards, and to prescribe standards necessary to protect the public, employees, and property against harm arising out of or likely to arise out of fire.

(2)(A) The Commissioner shall require each of the following certificants to complete an education module regarding the State's energy goals and how each certificant's specific profession can further those goals:

(i) gas appliance installers, inspectors, and servicers certified under subdivision (c)(4)(C) of this section;

(ii) oil burning equipment installers, inspectors, and servicers certified under subdivision (c)(4)(D) of this section; and

(iii) limited oil burning equipment installers, inspectors, and services certified under subdivision (c)(4)(F) of this section.

(B) The education module shall be not more than two hours and shall be required as a condition of initial certification and certification renewal. The module shall include education on any State or utility incentives relevant to the profession.

(i) The education module for initial certification shall provide general information regarding the State's energy goals.

(ii) The education module for certification renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(C) The Commissioner shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service.

(b) Inspections.

(1) The Commissioner shall conduct inspections of premises to assure ensure that the rules adopted under this subchapter are being observed and

may establish priorities for enforcing these rules and standards based on the relative risks to persons and property from fire of particular types of premises.

(2) The Commissioner may also conduct inspections to ~~assure~~ ensure that buildings are constructed in accordance with approved plans and drawings.

(c) Fees. The following fire prevention and building code fees are established:

** * **

(4) Three-year initial certificate of fitness and renewal fees for individuals performing activities related to fire or life safety established under subsection (a) of this section shall be:

(A) Water-based fire protection system design:

(i) Initial certification: \$150.00.

(ii) Renewal: \$50.00.

(B) Water-based fire protection system installation, maintenance, repair, and testing:

(i) Initial certification: \$115.00.

(ii) Renewal: \$50.00.

(C) Gas appliance installation, inspection, and service: \$60.00.

(D) Oil burning equipment installation, inspection, and service: \$60.00.

(E) Fire alarm system inspection and testing: \$90.00.

(F) Limited oil burning equipment installation, inspection, and service: \$60.00.

(G) Domestic water-based fire protection system installation, maintenance, repair, and testing:

(i) Initial certification: \$60.00.

(ii) Renewal: \$20.00.

(H) Fixed fire extinguishing system design, installation, inspection, servicing, and recharging:

(i) Initial certification: \$60.00.

(ii) Renewal: \$20.00.

(I) Emergency generator installation, maintenance, repair, and testing: \$30.00;

(J) Chimney and solid fuel burning appliance cleaning, maintenance, and evaluation: \$30.00.

* * *

(e) Variances; exemptions. The Except for any rules requiring the education module regarding the State's energy goals described in subdivision (a)(2) of this section, the Commissioner may grant variances or exemptions from rules adopted under this subchapter where strict compliance would entail practical difficulty, unnecessary hardship, or is otherwise found unwarranted, provided that:

(1) any such variance or exemption secures the public safety and health;

(2) any petitioner for such a variance or exemption can demonstrate that the methods, means, or practices proposed to be taken in lieu of compliance with the rule or rules provide, in the opinion of the Commissioner, equal protection of the public safety and health as provided by the rule or rules;

(3) the rule or rules from which the variance or exemption is sought has not also been adopted as a rule or standard under 21 V.S.A. chapter 3, subchapters 4 and 5; and

(4) any such variance or exemption does not violate any of the provisions of 26 V.S.A. chapters 3 and 20 or any rules adopted thereunder.

* * *

Sec. 35. 20 V.S.A. chapter 173, subchapter 5 is amended to read:

Subchapter 5. Boilers and Pressure Vessels

* * *

§ 2883. BOILER INSPECTIONS

(a) ~~The commissioner~~ Commissioner has authority to obtain specific information from boiler inspectors on forms ~~which~~ that shall first be approved by the ~~commissioner~~ Commissioner.

(b) ~~The commissioner~~ Commissioner may authorize qualified inspectors to conduct inspections under such rules as the ~~commissioner~~ Commissioner may prescribe.

(1) If a boiler or pressure vessel is insured, the inspection may be conducted by a qualified inspector who is employed, or contractually authorized, by the insurer.

(2) If a boiler or pressure vessel is not insured, the inspection may be conducted by any qualified inspector authorized by the ~~commissioner~~ Commissioner. In case the inspection is made by such an inspector, ~~no~~ a fee shall not be charged by the ~~division~~ Division, except a process fee of \$30.00 for issuance of an operating certificate.

(c)(1) The fee for a person requesting a three-year authorization to conduct inspections shall be \$150.00.

(2) A licensed boiler inspector shall carry liability insurance in an amount determined by the ~~department~~ Department.

§ 2884. QUALIFICATIONS OF INSPECTORS

(a) Examination. All boiler inspectors shall have passed the examination required by the National Board of Boiler and Pressure Vessel Inspectors, and hold annual certification from ~~such~~ that board.

(b) Education. The Commissioner shall require each boiler inspector to complete an education module regarding the State's energy goals and how the boiler inspection profession can further those goals.

(1) The education module shall be not more than two hours and shall be required as a condition of initial authorization and authorization renewal. The module shall include education on any State or utility incentives relevant to the profession.

(A) The education module for initial authorization shall provide general information regarding the State's energy goals.

(B) The education module for authorization renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(2) The Commissioner shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service.

* * *

Sec. 36. 26 V.S.A. chapter 15, subchapter 3 is amended to read:

Subchapter 3. Licensing Electricians

§ 901. ELECTRICIANS' LICENSING BOARD

(a) A board for the licensing of electricians is created, to be known as the "Electricians' Licensing Board."

(b) ~~The board~~ Board consists of the Commissioner of Public Safety or a member of that Department designated by the Commissioner and four persons appointed by the Governor with the advice and consent of the Senate.

(1) The four appointed members shall serve for terms of three years, beginning on July 1 in the year of appointment, and they shall include one licensed master electrician, one licensed journeyman electrician, one person associated with the public electrical utility industry who is knowledgeable in technical as well as operational issues of the electrical utility industry, and one person associated with the fire insurance industry.

(2) ~~No~~ Not more than two appointed members' terms shall expire in the same year.

(c) The Governor shall appoint one of the members of the Board to serve as its chair.

* * *

§ 905. APPLICATION; EXAMINATIONS, EDUCATION, AND FEES

(a)(1) Each applicant for a license shall submit to the Board, on forms furnished by it, a written application containing such relevant information as the Board may require, accompanied by the required examination fee.

(2) The examination fee shall be established by the Board but shall be no greater than the cost associated with administering the examination. Notwithstanding 32 V.S.A. § 502(a), if the examination is conducted by an outside testing service, the required examination fee may be paid directly to the testing service.

* * *

(d)(1) Three-year electrical license fees shall be:

(A) For a masters license (initial and renewal) \$150.00;

(B) For a journeyman's license (initial and renewal) \$115.00;

(C) For a type-S journeyman's license (initial and renewal) per field \$115.00;_

(2) The fee for a certificate for framing shall be: \$10.00.

* * *

(g) In addition to other education requirements of this subchapter, the Commissioner shall require each applicant to complete an education module regarding the State's energy goals and how the electrician profession can further those goals.

(1) The education module shall be not more than two hours and shall be required as a condition of initial licensure and license renewal. The module shall include education on any State or utility incentives relevant to the profession.

(A) The education module for initial licensure shall provide general information regarding the State's energy goals.

(B) The education module for license renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(2) The Commissioner shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service.

* * *

Sec. 37. 26 V.S.A. chapter 39 is amended to read:

CHAPTER 39. PLUMBERS AND PLUMBING

* * *

Subchapter 2. Plumber's Examining Board

§ 2181. PLUMBER'S EXAMINING BOARD; MEMBERSHIP; POWERS

(a) A The Plumber's Examining Board, within the Department of Public Safety, hereinafter called "Board," shall consist of five members, one of whom shall be the Commissioner of Public Safety or designee and one of whom shall represent the Commissioner of Health or designee. The remaining three members shall be appointed by the Governor with the advice and consent of the Senate. One of the appointive members shall be a master plumber; one shall be a journey plumber; and one shall be a public member not associated with the plumbing or heating trades.

* * *

Subchapter 3. Licenses

* * *

§ 2193. APPLICATIONS AND; EXAMINATIONS; EDUCATION, AND FEES

(a)(1) Each applicant for license shall present to the executive office of the Board on blanks furnished by the Board, a written application for examination and license containing such information as the Board may require, accompanied by the fee required. Notwithstanding 32 V.S.A. § 502(a), if the

examination is conducted by an outside testing service, the required examination fee may be paid directly to the testing service.

(2) Examinations shall be in whole or in part in writing and shall include the theoretical and practical nature of plumbing or specialties, or both, and knowledge of State laws and Department of Health and Environmental Conservation regulations and such other regulations as the Board may determine necessary to satisfactorily determine the qualifications of the applicant. Examinations shall be relevant to the instructional material taught in classes, codes used, and new developments and procedures within the trade.

* * *

(c) License and renewal fees are as follows:

| | |
|---------------------------------------|------------------|
| <i>(1) Master plumber license</i> | <i>\$ 120.00</i> |
| <i>(2) Journeyman plumber license</i> | <i>\$ 90.00</i> |
| <i>(3) Specialist license</i> | <i>\$ 50.00</i> |
| <i>(4) Master renewal fee</i> | <i>\$ 120.00</i> |
| <i>(5) Journeyman renewal fee</i> | <i>\$ 90.00</i> |
| <i>(6) Specialist renewal fee</i> | <i>\$ 50.00</i> |
| <i>(7) License certificate</i> | <i>\$ 10.00</i> |

(d) Master and journeyman plumbers shall be exempt from paying license or renewal fees as specialists.

(e) In addition to other education requirements of this subchapter, the Commissioner shall require each applicant to complete an education module regarding the State's energy goals and how the plumbing profession can further those goals.

(1) The education module shall be not more than two hours and shall be required as a condition of initial licensure and license renewal, except that master and journeyman plumbers who complete this education module shall not be required to complete this education module for any additional specialty license. The module shall include education on any State or utility incentives relevant to the profession.

(A) The education module for initial licensure shall provide general information regarding the State's energy goals.

(B) The education module for license renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(2) The Commissioner shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service.

* * *

* * * *Effective Dates; Application* * * *

Sec. 38. EFFECTIVE DATES; APPLICATION

This act shall take effect on July 1, 2020, except that:

(1) Secs. 28 and 29 (massage therapists, bodyworkers, and touch professionals) shall take effect on November 1, 2020; and

(2) Secs. 33–37 (State energy goals; education modules) shall take effect on July 1, 2021, except that all existing licensed, certified, or authorized professionals to whom these provisions apply shall be required to obtain the education module for initial licensure as a condition of their upcoming renewal and shall thereafter be required to obtain the education module for renewal at the subsequent renewal cycle.