

1 H.656

2 Introduced by Representative Sweaney of Windsor

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; Office of Professional Regulation

6 Statement of purpose of bill as introduced: This bill proposes to amend
7 various laws regarding professions and occupations regulated by the Office of
8 Professional Regulation.

9 An act relating to professions and occupations regulated by the Office of
10 Professional Regulation

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

12 * * * General Provisions * * *

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

14 § 122. OFFICE OF PROFESSIONAL REGULATION

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

19 * * *

20 (11) ~~Board of Examiners for~~ Nursing Home Administrators

1 (12) ~~Board of Examiners of Opticians~~

2 * * *

3 (17) Board of ~~Radiological~~ Radiologic Technology

4 * * *

5 (20) ~~Veterinary~~ Board of Veterinary Medicine

6 (21) Motor Vehicle Racing ~~Commission~~

7 (22) ~~Boxing-~~

8 * * *

9 (27) ~~{Deleted.}~~ Tattooists and Body Piercers

10 * * *

11 (33) ~~{Deleted.}~~ Respiratory Care Practitioners

12 * * *

13 Sec. 2. 3 V.S.A. § 128 is amended to read:

14 § 128. DISCIPLINARY ACTION TO BE REPORTED TO THE BOARD

15 (a) Any hospital, clinic, community mental health center, or other health
16 care institution in which a licensee performs professional services shall report
17 to the appropriate board, along with supporting information and evidence, any
18 disciplinary action taken by it or its staff, after an initial investigation or
19 hearing in which the licensee has been afforded the opportunity to participate,
20 which limits or conditions the licensee's privilege to practice or leads to
21 suspension or expulsion from the institution. The report shall be made within

1 ten days of the date such disciplinary action was taken, regardless of whether
2 the action is the subject of a pending appeal, and in the case of a licensee who
3 is employed by, or under contract with, a community mental health center, a
4 copy of the report shall also be sent to the ~~Commissioner of Mental Health and~~
5 ~~Mental Retardation~~ Commissioners of Mental Health and of Disabilities,
6 Aging, and Independent Living. This section shall not apply to cases of
7 resignation, separation from service, or changes in privileges which are
8 unrelated to:

9 * * *

10 * * * Barbers and Cosmetologists * * *

11 Sec. 3. 26 V.S.A. § 281 is amended to read:

12 § 281. POSTSECONDARY SCHOOL OF BARBERING AND
13 COSMETOLOGY; ~~REGISTRATION~~ CERTIFICATE OF
14 APPROVAL

15 (a) No school of barbering or cosmetology shall be granted ~~registration a~~
16 certificate of approval unless the school:

17 (1) Is a postsecondary school operating a program of professional
18 education.

19 (2) Employs and maintains a sufficient number of competent instructors
20 and has apparatus and equipment sufficient for the proper and full teaching of
21 all subjects of its curriculum.

1 ~~(2)~~(3) Maintains a daily record of the attendance of each student and
2 regular class and instruction hours, establishes grades, and holds examinations
3 before issuing diplomas.

4 ~~(3)~~(4) Requires a school term of training,:

5 (A) in the case of a school of barbering, of not less than 1,000 hours
6 for a complete course which includes all or the majority of the practices of
7 barbering, and includes practical demonstrations and theoretical studies in
8 sanitation, sterilization, the use of antiseptics, and electrical appliances,
9 consistent with the practical and theoretical requirements applicable to
10 barbering or any practice of barbering; and

11 (B) in the case of a school of cosmetology, requires a school term of
12 training of not less than 1,500 hours for a complete course which includes all
13 or the majority of the practices of cosmetology, and includes practical
14 demonstrations and theoretical studies in sanitation, sterilization, the use of
15 antiseptics, cosmetics, and electrical appliances, consistent with the practical
16 and theoretical requirements applicable to cosmetology or any practice of
17 cosmetology.

18 (b) Regional vocational centers may offer courses of instruction in
19 barbering or cosmetology without ~~certification by~~ a certificate of approval
20 from the board Board, and ~~state State~~ correctional facilities may offer courses
21 of instruction in barbering without ~~certification by~~ a certificate of approval

1 from the ~~board~~ Board; however, credits for licensing will only be given for
2 courses that meet the ~~board's~~ Board's standards for courses offered in
3 postsecondary schools of barbering or cosmetology certified by the Board.

4 (c) A school of barbering or cosmetology shall not require, as a condition
5 of training for licensure, that a person enter into a covenant not to compete
6 with the training organization or an affiliate.

7 * * * Funeral Services * * *

8 Sec. 4. 26 V.S.A. § 1211 is amended to read:

9 § 1211. DEFINITIONS

10 (a) The following words as used in this chapter, unless a contrary meaning
11 is required by the context, shall have the following meanings:

12 (1) "Crematory establishment" means a ~~place of business~~ registered with
13 the Board conducted at a specific street address or location devoted to the
14 disposition of dead human bodies by means of cremation, alkaline hydrolysis,
15 or any other type of human reduction acceptable to the Board of Funeral
16 Service as established by Board rule.

17 (2) "Funeral director" means a licensed person who is the owner,
18 co-owner, employee, or manager of a licensed funeral establishment and who,
19 for compensation, engages in the practice of funeral service.

1 (3) “Funeral establishment” means a ~~place of business~~ registered with
2 the Board conducted at a specific street address or location devoted to the
3 practice of funeral service, and includes a limited services establishment.

4 (4) “Practice of funeral service” means arranging, directing, or
5 providing for the care, preparation, or disposition of dead human bodies for a
6 fee or other compensation. This includes, ~~but is not limited to:~~

7 (A) meeting with the public to select a method of disposition or
8 funeral observance and merchandise;

9 (B) entering into contracts, either at-need or pre-need, for the
10 provision of dispositions, funeral observances, and merchandise;

11 (C) arranging, directing, or performing the removal or transportation
12 of a dead human body;

13 (D) securing or filing certificates, permits, forms, or other
14 documents;

15 (E) supervising or arranging a funeral, memorial, viewing, or
16 graveside observance;

17 (F) holding oneself out to be a licensed funeral director by using the
18 words or terms “funeral director,” “mortician,” “undertaker,” or any other
19 words, terms, title, or picture that, when considered in context, would imply
20 that such person is engaged in the practice of funeral service or is a licensed
21 funeral director.

1 (5) "Removal" means the removal of dead human bodies from places of
2 death, hospitals, institutions, or other locations, for a fee or other
3 compensation.

4 (b) Nothing in this section shall prohibit:

5 (1) cemetery owners, associations, or their employees from engaging in
6 any functions normally performed by them in the course of their everyday
7 affairs as allowed by 18 V.S.A. chapter 121;

8 (2) the University of Vermont from engaging in functions normally
9 performed by it in the course of receiving anatomical gifts for research or
10 education, provided that embalming and removal of dead human remains are
11 performed by persons licensed or registered under this chapter;

12 (3) immediate family members of the deceased from providing for the
13 care, preparation, or disposition of dead human bodies; or

14 (4) religious or spiritual persons directly authorized by the immediate
15 family members of the deceased from providing for the care or preparation of
16 dead human bodies without compensation.

17 (c) Notwithstanding this section, crematory owners and their personnel
18 may engage in the listed activities in subsection (a) of this section only to the
19 extent such functions are necessary to the performance of their duties.

20 Specifically, crematory personnel may:

1 (1) provide for the disposition of dead human bodies by cremation, and
2 meet with the public to arrange and provide for the disposition;

3 (2) enter into contracts, without taking prepaid funds, for the provision
4 of dispositions by cremation;

5 (3) arrange, direct, or perform the removal or transportation of a dead
6 human body, so long as removals are performed by licensed removal
7 personnel; and

8 (4) secure and file certificates, permits, forms, or other documents.

9 Sec. 5. 26 V.S.A. § 1252 is amended to read:

10 § 1252. APPLICATION; QUALIFICATIONS

11 * * *

12 (d) Crematory establishment. A person, partnership, corporation,
13 association, or other organization desiring to operate a crematory establishment
14 shall apply, in writing, to the ~~board of funeral service~~ Board of Funeral Service
15 for a license. The applicant, if a partnership, corporation, association, or other
16 organization, must have a designated manager or co-owner who is responsible
17 for the operation of the establishment and who is registered with the Board
18 under subsection (e) of this section. The application for a license shall be
19 sworn to by the individual, or a partner or a duly authorized officer of a
20 corporation, shall be on the form prescribed and furnished by the ~~board~~ Board,
21 and the applicant shall furnish information, as required by rule. The

1 application shall be accompanied by a licensing fee. However, the applicant
2 shall not be required to pay the fee under this subsection if the applicant pays
3 the fee under subsection (b) of this section.

4 (e) Crematory personnel. Any person who desires to engage in direct
5 handling, processing, identification, or cremation of dead human remains
6 within a licensed crematory establishment shall register with the Board of
7 Funeral Service and pay the fee established in subsection 1256(d) of this
8 chapter. The applicant shall have attained the age of majority and be directly
9 employed by a licensed crematory establishment. The Board may prescribe,
10 by rule, the forms for applicants, which may include proof of completion of up
11 to three hours of education and training in programs approved by the Board.

12 (f) Removal personnel. Any person who desires to engage in removals
13 shall register with the ~~board of funeral service~~ Board of Funeral Service and
14 pay the fee established in subsection 1256(d) of this ~~title~~ chapter. The
15 applicant shall have attained the age of majority and be directly employed by a
16 licensed funeral or crematory establishment, or the University of Vermont for
17 removals related to the University's anatomical gift program. The ~~board~~ Board
18 may prescribe, by rule, the forms for applicants, which may include proof of
19 completion of up to three hours of education and training in infectious diseases
20 in programs approved by the ~~board~~ Board. Registrants under this section are
21 authorized to perform removals only, as defined by this chapter. Unregistered

1 personnel may accompany registered personnel to assist in removals so long as
2 they have been instructed in handling and precautionary procedures prior to
3 the call.

4 (g) Limited services establishment.

5 (1) The Board of Funeral Service may adopt rules for the issuance of
6 limited service establishment licenses in accordance with this chapter. Limited
7 service establishment licensees are authorized to perform only disposition
8 services without arranging, directing, or performing embalming, public
9 viewings, gatherings, memorials, funerals, or related ceremonies. Disposition
10 services under this subsection (d) include direct cremation, direct alkaline
11 hydrolysis, immediate burial, or direct green burial.

12 (2) Limited services shall be overseen by a funeral director licensed
13 under this chapter who is employed by the limited service establishment.

14 (3) Each limited service arrangement shall include a mandatory written
15 disclosure providing notice to the purchaser that limited services do not include
16 embalming, public viewings, gatherings, memorials, funerals, or related
17 ceremonies.

18 (4) A funeral director associated with a funeral establishment licensed
19 under subsection (c) of this section may provide limited services so long as the
20 mandatory disclosure described under subdivision (3) of this subsection is
21 provided to the purchaser.

1 (2) ~~Practise~~ practice nursing under cover of any degree, diploma,
2 registration, license, or related document or record illegally or fraudulently
3 obtained or signed or issued unlawfully or under fraudulent representation;

4 (3) ~~Practise~~ practice nursing unless duly registered and currently
5 licensed to do so under the provisions of this chapter;

6 (4) ~~Use~~ use in connection with a name any words, letters, signs, or
7 figures which imply that a person is a registered or practical nurse or an
8 advanced practice registered nurse when not authorized under this chapter;

9 (5) ~~Practise~~ practice nursing during the time a license issued under this
10 chapter is suspended or revoked;

11 (6) ~~Conduct~~ conduct a nursing education program unless the program
12 has been approved by the board; or

13 (7) ~~Employ~~ employ unlicensed persons to practice registered nursing,
14 practical nursing, or as a nursing assistant.

15 (8) [Deleted.]

16 (b) Any person violating this section shall be subject to the penalties
17 provided in ~~3 V.S.A. § 127(e)~~ 3 V.S.A. § 127.

18 (c) ~~{Deleted.}~~ The Board of Nursing may hear an action to enforce this
19 section and impose a civil penalty of not more than \$1,000.00 for violations of
20 subdivisions (a)(3)–(7) of this section by any person, including any
21 corporation, association, or individual.

1 Sec. 10. 26 V.S.A. § 1592 is amended to read:

2 § 1592. DEFINITIONS

3 As used in this subchapter:

4 (1) "Nursing assistant" means an individual, ~~regardless of title,~~ who
5 performs nursing or nursing related functions under the supervision of a
6 licensed nurse.

7 * * *

8 Sec. 11. 26 V.S.A. § 1595 is amended to read:

9 § 1595. REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

10 The ~~board~~ Board may deny an application for licensure or renewal or
11 revoke, suspend, discipline, or otherwise condition the license of a nursing
12 assistant who engages in the following conduct or the conduct set forth in
13 3 V.S.A. § 129a:

14 * * *

15 (6) has diverted or attempted to divert drugs for unauthorized use; or

16 (7) is habitually intemperate or is addicted to the use of habit-forming
17 substances; ~~or~~

18 ~~(8) has failed to report to the board any violation of this chapter or of the~~
19 ~~board's rules.~~

20 (9) ~~[Repealed.]~~

1 both in numeric and word form. If a prescription is communicated orally, it
2 shall be reduced promptly to writing by the pharmacist.

3 * * *

4 Sec. 14. 18 V.S.A. § 4215b is amended to read:

5 § 4215b. IDENTIFICATION

6 Only a patient for whom a prescription was written, the owner of an animal
7 for which a prescription was written, or a bona fide representative of the
8 patient or animal owner, as defined by the Board of Pharmacy by rule after
9 consultation with the Commissioner of Health, may pick up a prescription for a
10 Schedule II, III, or IV controlled substance. Prior to dispensing a prescription
11 for a Schedule II, III, or IV controlled substance, ~~a~~ to a patient not personally
12 known to the pharmacist, the pharmacist shall require the individual receiving
13 the drug to provide a signature and show valid and current government-issued
14 photographic identification as evidence that the individual is the patient for
15 whom the prescription was written, the owner of the animal for which the
16 prescription was written, or the bona fide representative of the patient or
17 animal owner. If the individual does not have valid, current
18 government-issued photographic identification, the pharmacist may request
19 alternative evidence of the individual's identity, as appropriate.

1 Sec. 15. 26 V.S.A. § 2022 is amended to read:

2 § 2022. DEFINITIONS

3 As used in this chapter:

4 * * *

5 (19) “Collaborative practice” means a licensed pharmacist providing
6 certain patient care under a written agreement with a Vermont licensed
7 practitioner pursuant to rules adopted by the Board of Pharmacy.

8 Sec. 16. 26 V.S.A. § 2042a is amended to read:

9 § 2042a. PHARMACY TECHNICIANS; QUALIFICATIONS FOR
10 REGISTRATION

11 No person shall perform the duties of a pharmacy technician unless
12 registered with the ~~board~~ Board. To obtain a registration as a pharmacy
13 technician, an applicant shall:

14 (1) not have engaged in acts which affect the ability of the applicant to
15 practice as a pharmacy technician; ~~and~~

16 (2) be certified or eligible for certification by a national pharmacy
17 technician certification authority pursuant to rules adopted by the Board; and

18 (3) have paid the fee specified in section 2046 of this ~~title~~ chapter.

1 Sec. 19. 26 V.S.A. § 2255 is amended to read:

2 § 2255. FEES

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

5 (1) Application

6 (A) Broker license \$ 50.00

7 (B) Salesperson license \$ 50.00

8 (C) Brokerage firm registration \$50.00

9 ~~(i) Corporation or partnership \$ 50.00~~

10 ~~(ii) Sole proprietor \$ 0.00~~

11 (D) Branch office registration \$ 50.00

12 (2) Biennial renewal of broker or salesperson license \$175.00

13 (3) Biennial brokerage firm or branch office

14 registration renewal \$75.00

15 ~~(A) Corporation or partnership \$ 75.00~~

16 ~~(B) Sole proprietor \$ 0.00~~

17 (4) Temporary permit \$ 25.00

18 (5) Transfer of license \$ 10.00

19 (6) Transfer to inactive status \$ 25.00

20 ~~(b) A sole proprietor of a brokerage firm shall only pay the sole proprietor~~
21 ~~application and renewal fees pursuant to this section, provided the brokerage~~

1 ~~firm has no other persons licensed under this chapter providing professional~~
2 ~~services within the brokerage firm.~~

3 Sec. 20. 26 V.S.A. § 2291 is amended to read:

4 § 2291. GENERAL PROVISIONS

5 (a) A real estate license shall not be authority for more than one person to
6 perform the activities listed in section 2211 of this ~~title~~ chapter.

7 (b) A ~~person, firm, partnership, association, or corporation~~ registered
8 brokerage firm shall designate in its application the individual who is to serve
9 as the principal broker under the ~~license~~ brokerage firm registration.

10 (c) Every applicant for licensure shall have attained the age of majority.

11 Sec. 21. 26 V.S.A. § 2293 is amended to read:

12 § 2293. RENEWAL OF LICENSE; LAPSED LICENSE

13 (a)(1) Licenses shall be renewed every two years without examination and
14 on payment of the required fees, provided that the person applying for renewal
15 completes at least ~~16~~ 24 hours of instruction for brokers and 16 hours of
16 instruction for salespersons, approved by the ~~commission~~ Commission, during
17 the preceding two-year period. Four hours of this continuing education
18 instruction shall address legislation and other topics specified by the ~~real estate~~
19 ~~commission~~ Commission for each renewal period.

20 (2) In addition to the 16 hours of required continuing education for
21 salespersons, within 90 days from the issuance of an initial salesperson license,

1 the salesperson shall complete eight hours of instruction addressing topics
2 specified by the Commission related to the salesperson's practice of the
3 profession post-licensure.

4 (b) A broker or salesperson applying for reinstatement of a license that has
5 lapsed shall be assessed both the renewal fee and late renewal penalty
6 established by the ~~director of the office of professional regulation~~ Director of
7 the Office of Professional Regulation and shall not be assessed renewal fees
8 for the years during which the license was lapsed. Reinstatement shall not take
9 place until the applicant completes the continuing education required for the
10 previous renewal period.

11 (c) If a broker or salesperson's license has lapsed for greater than five
12 consecutive years, the broker or salesperson shall apply for reinstatement in
13 accordance with the initial licensure requirements as set forth in section 2292
14 of this ~~title chapter~~, including a course of instruction and examination. The
15 ~~commission~~ Commission may waive the reinstatement requirements based
16 upon licensed practice in another state.

17 (d) The ~~commission~~ Commission may waive or postpone compliance with
18 the instructional requirements of this section in cases of extreme hardship on
19 the part of the licensee. No licensee, however, may receive a postponement or
20 waiver for two successive two-year periods of licensure. The ~~commission~~
21 Commission may accept fewer hours of continuing education instruction for

1 renewal of a license on a prorated basis following an initial licensing period of
2 less than two years.

3 (e) [Repealed.]

4 Sec. 22. 26 V.S.A. § 2294 is amended to read:

5 § 2294. CHANGE OF NAME OR LOCATION

6 (a) Whenever a licensed broker desires to be licensed under a different
7 name, the broker shall pay the fee established under section 2255 of this ~~title~~
8 chapter. ~~A license shall not be issued to a broker in a name other than the~~
9 ~~broker's own, or transferred to a name other than the broker's own, unless he~~
10 ~~or she has complied with 11 V.S.A. chapter 15 relating to registration of~~
11 ~~business entities. If a licensee is a partnership, corporation, or association,~~
12 ~~notice~~ Notice of any change in the names and addresses of the ~~partners,~~
13 ~~officers, or associates~~ licensees shall be given to the ~~real estate commission~~
14 Commission within ~~ten~~ 30 days after the change becomes effective.

15 (b) Each licensee shall notify the ~~commission~~ Commission in writing of
16 any change of the licensee's principal business location, and the ~~commission~~
17 Commission shall issue a new license with the new address for the fee
18 established under section 2255. ~~Duplicate licenses may be obtained on~~
19 ~~payment of the fee established under section 2255 of this chapter.~~

20 (c) If a ~~broker~~ brokerage firm maintains more than one place of business
21 within the ~~state~~ State, a branch office ~~license shall be issued to that broker~~

1 registration is required for each branch office so maintained. Branch offices
2 shall ~~incorporate~~ use the same registered brokerage firm name as the main
3 office and shall ~~have~~ designate a licensed broker in charge for each branch
4 office.

5 Sec. 23. 26 V.S.A. § 2299 is amended to read:

6 § 2299. DEATH OF BROKER; TEMPORARY LICENSE

7 In the event of the death of a licensed real estate broker, the ~~commission~~
8 Commission may, upon application by the broker's legal representative, issue
9 without examination a temporary license to such legal representative or to an
10 individual designated by the representative or the broker and approved by the
11 ~~commission~~ Commission on payment of the prescribed fee established under
12 section 2255 of this ~~title~~ chapter. Such temporary licensee may continue to
13 transact said real estate business for a period not to exceed one year. A
14 temporary licensee shall not ~~take new listings~~ enter into new brokerage service
15 agreements.

16 * * * Opticians * * *

17 Sec. 24. 26 V.S.A. chapter 47, subchapter 2 is redesignated to read:

18 Subchapter 2. ~~State Board of Opticians~~ Administration

19 * * *

1 registered on the roster of psychotherapists who are nonlicensed and
2 noncertified.

3 (c) In exceptional cases, the ~~board~~ Board may waive any requirement of
4 this section if in its judgment the applicant demonstrates appropriate
5 qualifications.

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

7 Sec. 28. 26 V.S.A. § 3162 is amended to read:

8 § 3162. POWERS AND DUTIES

9 The ~~board~~ Board may:

10 * * *

11 (7)(A) Adopt rules establishing a security guard or private investigator
12 training program, consisting of not fewer than 40 hours of training, as a
13 prerequisite to registration.

14 (B) Full-time employees shall complete the training program prior to
15 being issued a permanent registration.

16 (C)(i) Part-time employees shall complete not fewer than eight hours
17 of training prior to being issued a part-time employee temporary registration,
18 which shall be valid for not more than 180 days from the date of issuance. The
19 remaining training hours for part-time employees shall be completed within the
20 temporary registration period of 180 days or before the employee has worked
21 500 hours, whichever occurs first. The part-time employee temporary

1 registration may be issued only once and shall expire after 180 days or 500
2 hours.

3 (ii) ~~For the purposes of As used in this section~~ subdivision (C),
4 “part-time employee” means an employee who works no more than 80 hours
5 per month.

6 (iii) ~~The board~~ Board may prioritize training subjects to require
7 that certain subject areas are covered in the initial eight hours of training
8 required for part-time employees.

9 * * *

10 * * * Social Workers * * *

11 Sec. 29. 26 V.S.A. chapter 61 is redesignated to read:

12 CHAPTER 61. ~~CLINICAL~~ SOCIAL WORKERS

13 Sec. 30. 26 V.S.A. § 3201 is amended to read:

14 § 3201. DEFINITIONS

15 As used in this chapter:

16 (1) ~~“Clinical social work” is defined as providing a service, for a~~
17 ~~consideration, which is primarily drawn from the academic discipline of social~~
18 ~~work theory, in which a special knowledge of social resources, human~~
19 ~~capabilities, and the part that motivation plays in determining behavior, is~~
20 ~~directed at helping people to achieve a more adequate, satisfying, and~~
21 ~~productive psychosocial adjustment. The application of social work principles~~

1 ~~and methods includes, but is not restricted to assessment, diagnosis,~~
2 ~~prevention, and amelioration of adjustment problems and emotional and~~
3 ~~mental disorders of individuals, families, and groups. The scope of practice for~~
4 ~~licensed clinical social workers includes the provision of psychotherapy.~~

5 “Director” means the Director of the Office of Professional Regulation.

6 (2) ~~“Clinical social worker” means a person who practices clinical social~~
7 ~~work in some or all of its aspects and is licensed to practice clinical social~~
8 ~~work in this state. “Licensed independent clinical social worker” means a~~
9 ~~person licensed under this chapter to practice independent clinical social work,~~
10 ~~which includes providing social work and psychotherapy services. Licensed~~
11 ~~independent clinical social workers are qualified to use the Diagnostic and~~
12 ~~Statistical Manual of Mental Disorders (DSM), the International Classification~~
13 ~~of Diseases (ICD), and other diagnostic classification systems used in~~
14 ~~diagnosis and other activities.~~

15 (3) ~~“Disciplinary action” or “disciplinary cases” includes any action~~
16 ~~taken by the secretary of state or an administrative law officer established by~~
17 ~~3 V.S.A. § 129(j) against a licensed clinical social worker or applicant~~
18 ~~premised on a finding of unprofessional conduct by the licensed clinical social~~
19 ~~worker or applicant. It includes all sanctions of any kind, refusal to grant or~~
20 ~~renew a license, suspension or revocation of a license, issuing warnings, and~~
21 ~~other similar sanctions. “Licensed master’s social worker” means a person~~

1 licensed under this chapter who practices social work. Psychotherapy is not
2 within the scope of practice of a licensed master's social worker.

3 (4) "Office" means the Office of Professional Regulation.

4 ~~(4)(5)(A)~~ "Psychotherapy" means the provision of treatment, diagnosis,
5 evaluation, or counseling services to individuals or groups, for a consideration,
6 for the purpose of alleviating mental disorders.

7 (B) "Psychotherapy" involves the application of therapeutic
8 techniques to understand unconscious or conscious motivation, resolve
9 emotional, relationship or attitudinal conflicts, or modify behavior which
10 interferes with effective emotional, social, or mental functioning.

11 (C) "Psychotherapy" follows a systematic procedure of
12 psychotherapeutic intervention which takes place on a regular basis over a
13 period of time, or, in the case of evaluation and brief psychotherapies, in a
14 single or limited number of interventions.

15 (D) If a person is employed by or under contract with the ~~agency of~~
16 ~~human services~~ Agency of Human Services, this definition does not apply to
17 persons with less than a master's degree, to persons providing life skills
18 training or instruction, such as learning to make friends, to handle social
19 situations, to do laundry, and to develop community awareness, or interactions
20 of employees or contracted individuals with clients whose job description or

1 contract specifications do not specifically mention “psychotherapy” as a job
2 responsibility or duty.

3 (6) “Social work” is defined as providing a service, for a consideration,
4 which is primarily drawn from the academic discipline of social work theory,
5 in which a special knowledge of social resources, human capabilities, and the
6 part that motivation plays in determining behavior, is directed at helping
7 people to achieve a more adequate, satisfying, and productive psychosocial
8 adjustment. The application of social work principles and methods includes
9 assessment, diagnosis, prevention, and amelioration of adjustment problems
10 and emotional and mental disorders of individuals, families, and groups.

11 Sec. 31. TRANSITIONAL PROVISION; PERSONS CURRENTLY
12 LICENSED AS CLINICAL SOCIAL WORKERS

13 A person licensed as a clinical social worker on the effective date of
14 Sec. 30, 26 V.S.A. § 3201 (definitions), of this act shall be deemed to be
15 licensed at the level of a licensed independent clinical social worker, as that
16 term is defined in that section, and may within the limits of his or her
17 education, training, and experience practice all aspects of social work without
18 restriction.

1 Sec. 32. 26 V.S.A. § 3202 is amended to read:

2 § 3202. PROHIBITION, OFFENSES

3 (a) No person shall practice or attempt to practice licensed independent
4 clinical social work or licensed master's social work, nor shall any person use
5 in connection with the person's name any letters, words, or insignia indicating
6 or implying that the person is a licensed independent clinical social worker or a
7 licensed master's social worker unless the person is licensed in accordance
8 with this chapter.

9 (b) A person who violates any of the provisions of subsection (a) of this
10 section shall be subject to the penalties provided in ~~3 V.S.A. § 127(e)~~
11 3 V.S.A. § 127.

12 Sec. 33. 26 V.S.A. § 3203 is amended to read:

13 § 3203. DIRECTOR OF THE OFFICE OF PROFESSIONAL
14 REGULATION; DUTIES

15 (a) The ~~director of professional regulation~~ Director shall:

16 (1) explain appeal procedures to ~~licensed clinical social workers~~
17 licensees and applicants and complaint procedures to the public;

18 (2) administer fees collected under this chapter;

19 (3) provide general information to applicants for licensure as licensed
20 independent clinical social workers and licensed master's social workers;

1 (4) receive applications for licensing, license applicants qualified under
2 this chapter, or renew, revoke, reinstate, and condition ~~licensing~~ licenses as
3 ordered by an administrative law officer; and

4 (5) adopt by rule criteria for licensing independent clinical social
5 workers and licensed master's social workers who have five years' licensed or
6 certified practice experience in another jurisdiction of the United States or
7 Canada.

8 (b) The ~~director~~ Director, with the advice of two licensed independent
9 clinical social workers appointed under section 3204 of this ~~title~~ chapter, may
10 adopt rules necessary to enable the ~~director~~ Director to perform his or her
11 duties under subsection (a) of this section.

12 Sec. 34. 26 V.S.A. § 3204 is amended to read:

13 § 3204. ADVISOR APPOINTEES

14 (a) The ~~secretary of state~~ Secretary of State shall appoint two licensed
15 independent clinical social workers to serve as advisors in matters relating to
16 licensed ~~clinical~~ social workers. They shall be appointed as set forth in
17 3 V.S.A. § 129b and shall serve at the pleasure of the ~~secretary~~ Secretary. One
18 of the initial appointments may be for less than a full term.

19 (b) Appointees shall not have less than three years' experience as a licensed
20 independent clinical social worker ~~certified or licensed under this chapter~~
21 ~~during the period immediately preceding appointment~~ and shall be actively

1 engaged in the active practice of ~~clinical social work~~ in Vermont during
2 incumbency.

3 (c) The ~~office of professional regulation~~ Director shall refer complaints and
4 disciplinary matters to an administrative law officer established under 3 V.S.A.
5 § 129(j).

6 (d) The ~~director~~ Director shall seek the advice of the ~~clinical social workers~~
7 advisors appointed under this section in carrying out the provisions of this
8 chapter. Such members shall be entitled to compensation and expenses as
9 provided in 32 V.S.A. § 1010 for attendance at any meeting called by the
10 ~~director~~ Director for this purpose.

11 Sec. 35. 26 V.S.A. § 3205 is amended to read:

12 § 3205. LICENSED MASTER'S SOCIAL WORKER ELIGIBILITY

13 (a) To be eligible for licensing as a ~~clinical~~ licensed master's social worker
14 an applicant ~~must~~ shall have:

15 (1) received a master's degree or ~~doctorate~~ doctoral degree from an
16 accredited social work education program;

17 (2) ~~[Deleted.]~~ within five years prior to applying for licensure, passed
18 the examinations designated by the Director; and

19 (3) completed ~~3,000~~ 1,200 hours of supervised practice of ~~clinical~~ social
20 work as defined by rule under the supervision of a ~~licensed physician or a~~
21 ~~licensed osteopathic physician who has completed a residency in psychiatry, a~~

1 ~~licensed psychologist, a licensed clinical mental health counselor, a person~~
2 ~~licensed or certified~~ under this chapter, or a person licensed ~~or certified~~ in
3 another state or Canada ~~in one of these professions~~ as a licensed independent
4 clinical social worker or a licensed master's social worker or their substantial
5 equivalent.

6 (b) Persons engaged in ~~post masters~~ post-master's degree supervised
7 practice in Vermont to become licensed master's social workers shall ~~be~~
8 ~~entered on the roster of nonlicensed, noncertified psychotherapists; register~~
9 with the Office as provided by rule.

10 (4) ~~submitted the names and addresses of three persons who can attest to~~
11 ~~the applicant's professional competence. Such person shall be a licensed~~
12 ~~physician or a licensed osteopathic physician who has completed a residency in~~
13 ~~psychiatry, a licensed psychologist, a licensed clinical mental health counselor,~~
14 ~~a person licensed or certified under this chapter, or a person licensed in another~~
15 ~~state or Canada in one of these professions; and~~

16 (5) ~~passed an examination to the satisfaction of the director of the office~~
17 ~~of professional regulation.~~

1 Sec. 36. 26 V.S.A. § 3205a is added to read:

2 § 3205a. LICENSED INDEPENDENT CLINICAL SOCIAL WORKER

3 ELIGIBILITY

4 (a) To be eligible for licensure as a licensed independent clinical social
5 worker, an applicant shall have:

6 (1) received a master's degree or doctoral degree from an accredited
7 social work education program;

8 (2) within five years prior to applying for licensure, passed the
9 examinations designated by the Director; and

10 (3) completed 3,000 hours of supervised practice of independent clinical
11 social work as defined by rule under the supervision of a:

12 (A) licensed independent clinical social worker;

13 (B) licensed independent clinical mental health counselor;

14 (C) licensed psychologist; or

15 (D) a person licensed or certified in another state or Canada in one of
16 these professions or their substantial equivalent.

17 (b) Persons not licensed as master's social workers who engage in
18 post-master's supervised practice in Vermont toward licensure as licensed
19 independent clinical social workers shall be entered on the roster of
20 nonlicensed, noncertified psychotherapists.

1 (c) Licensed master's social workers who engage in post-master's
2 supervised practice to become licensed independent clinical social workers
3 must first register with the Office as set forth by rule, if the supervised practice
4 toward licensure as an independent clinical social worker is to occur within the
5 State of Vermont.

6 Sec. 37. 26 V.S.A. § 3206 is amended to read:

7 § 3206. APPLICATION

8 A person who desires to be licensed as a ~~clinical social worker~~ under this
9 chapter shall apply to the secretary in writing on a using an application form
10 furnished by the secretary available from the Office, accompanied by payment
11 of the specified fee.

12 Sec. 38. 26 V.S.A. § 3207 is amended to read:

13 § 3207. EXAMINATION

14 ~~(a) The director of professional regulation shall conduct examinations~~
15 ~~under this chapter at least once a year at a time and place designated by it,~~
16 ~~provided, however, that examinations need not be conducted at times when~~
17 ~~there are no applicants requesting to be examined. Examinations shall be~~
18 ~~written. Each applicant shall be designated by a number so that his or her~~
19 ~~name is not disclosed to the director until the examination has been graded.~~
20 ~~Examinations shall include questions in such theoretical and applied fields as~~
21 ~~the director deems most suitable to test an applicant's knowledge and~~

1 ~~competence to engage in the practice of clinical social work. The director of~~
2 ~~professional regulation, with the advice of the clinical social workers appointed~~
3 ~~under section 3204 of this title, shall establish by rule fixed criteria for passing~~
4 ~~an examination that shall apply to all persons taking the examination.~~

5 (b) ~~Examinations administered by the director and the procedures of~~
6 ~~administration shall be fair and reasonable and shall be designed and~~
7 ~~implemented to ensure that all applicants are granted a license if they~~
8 ~~demonstrate that they possess the minimal occupational qualifications which~~
9 ~~are consistent with the public health, safety, and welfare. They shall not be~~
10 ~~designed or implemented for the purpose of limiting the number of licenses~~
11 ~~issued.~~

12 (c) ~~The director of the office of professional regulation~~ Director may
13 contract with ~~clinical social workers or with~~ independent testing services for
14 the preparation and administration of ~~the exam~~ examinations.

15 Sec. 39. 26 V.S.A. § 3208 is amended to read:

16 § 3208. RENEWALS

17 (a) Licenses shall be renewed every two years on a schedule determined by
18 the Office and upon payment of the required fee.

19 (b) An application for ~~renewal~~ reinstatement of a license which has lapsed
20 shall be accompanied by the renewal fee in addition to ~~the reinstatement fee~~

1 other fees set forth in 3 V.S.A. chapter 5. A person shall not be required to pay
2 renewal fees for the years during which the license was lapsed.

3 (c) ~~The director may, after notice and an opportunity for hearing, revoke a~~
4 ~~person's right to renew his or her license if such license has lapsed for five~~
5 ~~years.~~ [Repealed.]

6 (d) As a condition of renewal, a licensee shall complete continuing
7 education, approved by the ~~director~~ Director by rule, during the preceding
8 two-year period. For purposes of this subsection, the ~~director~~ Director may
9 require, as set forth by rule, not more than 20 hours of approved continuing
10 social work education as a condition of renewal.

11 (e) The Director may by rule prescribe standards for persons wishing to
12 resume practice after five years since holding an active license.

13 Sec. 40. 26 V.S.A. § 3209 is amended to read:

14 § 3209. ~~LICENSING WITHOUT EXAMINATION~~ LICENSURE BY
15 ENDORSEMENT

16 The ~~director of the office of professional regulation~~ Director may, upon
17 payment of the required fee, grant a license without examination if the
18 applicant:

19 (1) ~~is licensed~~ holds an active license to practice ~~clinical~~ licensed
20 master's social work or licensed independent clinical social work in another
21 state or Canadian jurisdiction; and

1 (2) the requirements for licensing in that state or jurisdiction are, in the
2 judgment of the ~~director of the office of professional regulation~~ Director,
3 ~~essentially~~ substantially equivalent to the requirements of this chapter.

4 Sec. 41. 26 V.S.A. § 3210 is amended to read:

5 § 3210. UNPROFESSIONAL CONDUCT

6 (a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a
7 person licensed ~~social worker~~ under this chapter constitutes unprofessional
8 conduct. When that conduct is by an applicant or a person who later becomes
9 an applicant, it may constitute grounds for denial or discipline of a license:

10 (1) failing to use a correct title in professional activity;

11 (2) conduct which evidences unfitness to practice licensed independent
12 clinical social work or licensed master's social work;

13 (3) engaging in any sexual conduct with a client, or with the immediate
14 family member of a client, with whom the licensee has had a professional
15 relationship within the previous two years;

16 (4) harassing, intimidating, or abusing a client or patient;

17 (5) practicing outside or beyond a ~~clinical social worker's area of~~
18 licensee's education, training, experience, or competence ~~without appropriate~~
19 supervision;

1 (6) ~~engaging in conflicts~~ having a conflict of interest that ~~interfere~~
2 interferes with the exercise of the ~~clinical social worker's licensee's~~
3 professional responsibilities, discretion, and impartial judgment;

4 (7) failing to inform a client when a real or potential conflict of interest
5 arises, and failing to take reasonable steps to resolve the issue in a manner that
6 makes the client's interest primary and protects the client's interest to the
7 greatest extent possible;

8 (8) taking unfair advantage of any professional relationship or exploiting
9 others to further the ~~clinical social worker's licensee's~~ personal, religious,
10 political, or business interests;

11 (9) engaging in dual or multiple relationships with a client or former
12 client in which there is a risk of exploitation or potential harm to the client;

13 (10) failing to take steps to protect a client and to set clear, appropriate,
14 and culturally sensitive boundaries, in instances where dual or multiple
15 relationships are unavoidable;

16 (11) failing to clarify with all parties which individuals will be
17 considered clients and the nature of the ~~clinical social worker's licensee's~~
18 professional obligations to the various individuals who are receiving services,
19 when a ~~clinical social worker licensee~~ provides services to two or more people
20 who have a spousal, familial, or other relationship with each other;

1 (12) failing to clarify the ~~clinical social worker's~~ licensee's role with the
2 parties involved and to take appropriate action to minimize any conflicts of
3 interest, when the clinical social worker anticipates a conflict of interest among
4 the individuals receiving services or anticipates having to perform in
5 conflicting roles such as testifying in a child custody dispute or divorce
6 proceedings involving clients.

7 (b) After hearing, and upon a finding of unprofessional conduct, an
8 administrative hearing officer may take disciplinary action against a ~~licensed~~
9 ~~clinical social worker~~ licensee or applicant.

10 Sec. 42. 26 V.S.A. § 3212 is amended to read:

11 § 3212. EXEMPTIONS

12 (a) The provisions of this chapter shall not apply to persons while engaged
13 in the course of their customary duties as clergy, licensed physicians, nurses,
14 osteopaths, optometrists, dentists, lawyers, psychologists, mental health
15 counselors, certified marriage and family therapists and psychoanalysts,
16 rostered psychotherapists, or licensed educators when performing their duties
17 consistent with the accepted standards of their respective professions;
18 provided, however, that they do not describe themselves to the public by any
19 other title or description stating or implying that they are licensed independent
20 clinical social workers or ~~are licensed to practice clinical social work~~ master's
21 social workers.

1 * * *

2 (c) ~~Notwithstanding the provisions of subsections (a) and (b) of this~~
3 ~~section, the provisions of this chapter shall apply to any person licensed as a~~
4 ~~clinical social worker under this chapter. [Repealed.]~~

5 Sec. 43. 26 V.S.A. § 3213 is amended to read:

6 § 3213. DISCLOSURE OF INFORMATION

7 (a) ~~The office of professional regulation~~ Director, in consultation with the
8 advisor appointees, shall adopt rules requiring licensed independent clinical
9 social workers to disclose to each client the licensed independent clinical social
10 worker's professional qualifications and experience, those actions that
11 constitute unprofessional conduct, the method for filing a complaint or making
12 a consumer inquiry, and provisions relating to the manner in which the
13 information shall be displayed and signed by both the licensed independent
14 clinical social worker and the client. The rules may include provisions for
15 applying or modifying these requirements in cases involving institutionalized
16 clients, minors, and adults under the supervision of a guardian.

17 (b) The Director, in consultation with the advisor appointees, may adopt
18 rules requiring licensed master's social workers to disclose to each client the
19 licensed master's social worker's professional qualifications and experience,
20 those actions that constitute unprofessional conduct, the method for filing a
21 complaint or making a consumer inquiry, and provisions relating to the manner

1 in which the information shall be displayed and signed by both the licensed
2 master's social worker and the client. The rules may include provisions for
3 applying or modifying these requirements in cases involving institutionalized
4 clients, minors, and adults under the supervision of a guardian.

5 * * * Clinical Mental Health Counselors * * *

6 Sec. 44. 26 V.S.A. § 3262a is amended to read:

7 § 3262a. BOARD OF ALLIED MENTAL HEALTH PRACTITIONERS

8 (a) A ~~board of allied mental health practitioners~~ Board of Allied Mental
9 Health Practitioners is established.

10 (b) The ~~board~~ Board shall consist of six members appointed by the
11 ~~governor~~ Governor pursuant to 3 V.S.A. §§ 129b and 2004.

12 (1) Two members shall be licensed clinical mental health counselors;
13 one member shall be a ~~certified~~ licensed marriage and family therapist; one
14 member shall, at the time of appointment, be a nonlicensed and noncertified
15 psychotherapist entered on the roster; and two members shall be public
16 members.

17 (2) The public members shall have no direct financial interest personally
18 or through a spouse, parent, child, brother, or sister in clinical mental health
19 counseling, marriage and family therapy, or psychotherapy.

20 (3) The professional members ~~of the board~~ shall have at least three years
21 of professional experience as a clinical mental health counselor, marriage and

1 family therapist, or psychotherapist, ~~during the period immediately preceding~~
2 ~~appointment~~ and shall be actively engaged in ~~the practice of clinical mental~~
3 ~~health counseling, marriage and family therapy, or psychotherapy~~ one of these
4 professions during incumbency.

5 (c) A majority of the members of the ~~board~~ Board shall constitute a quorum
6 for transacting business, and all action shall be taken upon a majority vote of
7 the members present and voting.

8 * * * Real Estate Appraisers * * *

9 Sec. 45. 26 V.S.A. § 3319a is amended to read:

10 § 3319a. APPRAISER TRAINEE REGISTRATION

11 * * *

12 (b) ~~To be credited toward the hourly experience requirement for licensure,~~
13 ~~the trainee shall inspect each property appraised with the trainee's supervisor.~~
14 [Repealed.]

15 (c) ~~Notwithstanding subsection (b) of this section, the~~ The Board may, in
16 its discretion, give credit for training hours, not exceeding 10 percent of the
17 total hourly experience requirement, for hours worked or training given that
18 does not include or is unrelated to a site inspection.

1 (3) Apprentices shall contact the ~~office~~ Office for the appropriate forms
2 prior to beginning the apprenticeship.

3 (4) ~~For the purposes of As used in this section subsection,~~ “good
4 standing” shall mean that the tattooist or body piercer supervisor holds a
5 current, unrestricted ~~license~~ registration in this State or an unrestricted
6 authorization to practice tattooing or body piercing in another state. A tattooist
7 or body piercer who holds a restricted ~~license~~ registration or restricted
8 authorization to practice may petition the ~~director~~ Director for permission to be
9 a tattooist or body piercer supervisor, which may be granted by the ~~director~~
10 Director for good cause shown.

11 (c)(1) As a prerequisite to registration for the practice of permanent
12 cosmetics, an applicant shall provide proof of a course of approved study
13 lasting at least 60 hours. In addition, the applicant shall obtain at least 40
14 hours of practical experience, within two calendar years preceding the
15 application, working under the direct supervision of a ~~registered~~ tattooist or
16 permanent cosmetologist registered and in good standing ~~in Vermont with this~~
17 State or the state ~~where~~ in which he or she is regulated, and who has been in
18 practice a minimum of three years. Proof may be in the form of a sworn
19 affidavit from the supervising permanent cosmetologist or tattooist, including
20 information ~~in a form~~ as the ~~director~~ Director may reasonably require on forms
21 provided by the Director.

1 (2) Training shall include successful completion of a three-hour course
2 in universal precautions and infectious diseases.

3 (3) Prior to training and obtaining practical experience, applicants shall
4 contact the ~~office~~ Office and submit the appropriate forms.

5 (4) ~~For the purposes of~~ As used in this section subsection, “in good
6 standing” shall mean that the permanent cosmetologist or tattooist supervisor
7 holds a current, unrestricted ~~license~~ registration in this State or an unrestricted
8 authorization to practice permanent cosmetics or tattooing in another state. A
9 permanent cosmetologist or tattooist who holds a restricted ~~license~~ registration
10 or restricted authorization to practice may petition the ~~director~~ Director for
11 permission to be a supervisor, which the ~~director~~ Director may grant for good
12 cause shown.

13 (d) No shop shall operate in this ~~state~~ State without first registering with
14 the ~~office of professional regulation~~ Office of Professional Regulation and
15 paying a fee of \$100.00. Registration shall be in the form required by the
16 ~~director~~ Director.

17 (1) No shop shall be granted registration unless the shop complies with
18 this chapter and rules adopted under this chapter.

19 (2) All shops shall designate a person, who is ~~licensed pursuant to~~
20 registered under this chapter in the practice of tattooing or body piercing, who
21 shall be responsible for overall cleanliness and sanitation of the shop.

