

H.305

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

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

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR

PROFESSIONS; DISCIPLINE PROCESS

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(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 based on the applicant's past or current unprofessional conduct or based on an ongoing investigation of the applicant, in Vermont or elsewhere, for unprofessional conduct, 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~~ after the date on which the notice is mailed with the board or the Director for review of ~~its or his or her~~ the board's or Director's preliminary decision.

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

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

(2) The decision of a board or the Director, in the case of professions that have advisor appointees, to deny an application for a license based on a finding by the board or the Director that the applicant has not fulfilled the qualifications or met the standards required for licensure shall be a final decision of the board or Director.

(A) Upon such a final decision by the board or the Director, 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 appeal the decision of the board or Director to deny the application by filing a notice of appeal with the Director, who shall assign the case to an appellate officer.

(B) Appeals of decisions by the board or Director to deny an application for licensure based on the qualifications of an applicant shall be conducted in accordance with 3 V.S.A. § 130a. The record in the appeal shall include the applicant's application for the professional license, the written

notice of the decision to deny the application, and any other materials established in rules adopted in accordance with 3 V.S.A. chapter 25.

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(n)(1) A board may designate a hearing panel consisting of less than a quorum of the board to conduct hearings that would otherwise be heard by the full board. A hearing panel shall consist of at least three members, including at least one professional member of the board and at least one public member of the board. No member of the hearing panel shall have been a board member who was assigned, in accordance with subdivision (c)(3) of this section, to assist the Office investigators and prosecutor in relation to the investigation and prosecution of the matter being heard. The Director shall establish by rule the process for designating a hearing panel.

(2) If there is an insufficient number of board members to serve on a hearing panel by reason of disqualification, resignation, vacancy, or necessary absence, the Director may appoint ad hoc members to serve on the hearing panel for that matter only.

(3) If a board is unable to convene in a timely manner to hear a disciplinary matter or to appoint a hearing panel, the Director may designate a hearing panel to hear a matter that would otherwise be heard by the full board. If the Director appoints a hearing panel, the Director shall follow the requirements of subdivisions (1) and (2) of this subsection.

(4) A hearing panel shall be designated solely upon the request and decision of the board or the Director and in accordance with this subsection and rules adopted by the Director in accordance with 3 V.S.A. chapter 25.

Sec. 2. 3 V.S.A. § 136 is amended to read:

§ 136. UNIFORM CONTINUING EDUCATION EVALUATION; ~~SUNSET~~
REVIEW AND FORUM

(a)(1) If continuing education is required by law or rule, the Office shall apply uniform standards and processes that apply to all professions regulated by the Office for the assessment and approval or rejection of continuing education offerings, informed by profession-specific policies developed in consultation with relevant boards and advisor appointees.

~~(b)(1)(2)(A)~~ Not less than once every five years, each profession attached to the Office shall review its continuing education or other continuing competency requirements. The review results shall be in writing and address the following:

~~(A)~~(i) the renewal requirements of the profession;

~~(B)~~(ii) the renewal requirements in other jurisdictions, particularly in the Northeast region;

~~(C)~~(iii) the cost of the renewal requirements for the profession's licensees;

~~(D)~~(iv) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection; and

~~(E)~~(v) recommendations to the Director on whether the continuing education or other continuing competency requirements should be modified.

~~(2)~~(B) The Director shall respond to the profession within 45 days of ~~after~~ its submitted review results. The Director may require a profession to reduce, modify, or otherwise change the renewal requirements, including by proposing any necessary amendments to statute or rule.

(b) When completion of continuing education is required for renewal of a license regulated under this title, synchronous virtual continuing education courses shall qualify as live, in-person training and be accepted for renewal of the professional license.

* * * Barbers and Cosmetologists * * *

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

§ 281. POSTSECONDARY SCHOOL OF BARBERING AND

COSMETOLOGY; CERTIFICATE OF APPROVAL

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(b) Regional vocational centers may offer courses of instruction in barbering or cosmetology without a certificate of approval from the Director, and State correctional facilities may offer courses of instruction in barbering and cosmetology without a certificate of approval from the Director; however,

hours for licensing shall only be given for courses that meet the Director's standards for courses offered in postsecondary schools of barbering or cosmetology certified by the Director.

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* * * Dental Hygienist * * *

Sec. 4. 26 V.S.A. § 642 is amended to read:

§ 624. PRACTICE

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(b) A public-health hygienist, who shall be a dental hygienist with no fewer than three years of experience, may perform tasks in out-of-office settings, including residences, schools, nursing home and long-term care facilities, clinics, hospitals, medical facilities, community health centers licensed or approved by the Department of Health, Head Start programs, and any other facilities or programs deemed appropriate by the Department of Health in a manner consistent with ~~guidelines~~ rules adopted by the Board ~~by rule~~.

* * *

(d) A public health hygienist, who has completed training approved by the Vermont Department of Health in the silver modified atraumatic restorative technique (SMART), may use SMART to treat patients in a manner consistent with rules adopted by the Board.

Sec. 5. IMPLEMENTATION OF 26 V.S.A. Sec. 624(d)

Public health hygienists shall not be permitted to use silver modified atraumatic restorative technique (SMART) to treat patients in accordance with 26 V.S.A. Sec. 624(d) until the Board of Dental Examiners adopts rules governing the procedure.

* * * Osteopathy * * *

Sec. 6. 26 V.S.A. § 1836 is amended to read:

§ 1836. BIENNIAL RENEWAL OF LICENSE; CONTINUING
EDUCATION

~~(a)(1) Licenses shall be renewed every two years.~~ A license issued under this chapter shall be renewed every two years upon application, payment of the required fee, and proof of completion of required continuing education.
Failure to comply with the provisions of this section shall result in the suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

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

~~(b) Biennially, the Board shall forward a renewal form to each licensee. Upon receipt of the completed form, evidence of compliance with the provisions of subsection (c) of this section, and the renewal fee, the Board shall issue a new license.~~ The Director may adopt rules necessary for the protection

of the public to assure that an applicant whose license has lapsed or who has not worked for more than three years as an osteopathic physician is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

(c) As a condition of renewal, a licensee shall complete a minimum of 30 hours of continuing medical education, ~~approved by the Board by rule,~~ during the preceding two-year period. ~~At least 40 percent of these hours must be osteopathic medical education.~~ The 30 hours of continuing medical education shall meet the requirements established by the Board by rule.

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* * * Pharmacy * * *

Sec. 7. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(14) “Pharmacy technician” means an individual who, only while assisting and under the supervision of a licensed pharmacist, performs tasks relative to dispensing ~~only while assisting and under the supervision and control of a licensed pharmacist~~ prescription drugs, administering immunizations, and performing tests for SARS-CoV. Pharmacy technicians

shall administer immunizations and perform tests for SARS-CoV in compliance and accordance with section 2042a of this title.

* * *

(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, subcutaneous, or vaginal route of administration.

Sec. 8. 26 V.S.A. § 2023 is amended to read:

§ 2023. CLINICAL PHARMACY; PRESCRIBING

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

* * *

(2) State protocol.

(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:

* * *

(v) self-administered hormonal contraceptives, including subcutaneous depot medroxyprogesterone acetate;

* * *

(vii) influenza vaccines for patients 18 years of age or older,
vaccinations recommended by the Centers for Disease Control and
Prevention's Advisory Committee on Immunization Practices (ACIP) and
administered consistently with the ACIP-approved immunization schedules, as
may be amended from time to time;

* * *

Sec. 9. 26 V.S.A. § 2042a is amended to read:

§ 2042a. PHARMACY TECHNICIANS; QUALIFICATIONS FOR
REGISTRATION

(a) No person shall perform the duties of a pharmacy technician unless
registered with the Board. To obtain a registration as a pharmacy technician,
an applicant shall:

* * *

(b) Pharmacy technicians administering immunizations shall meet the
following requirements:

(1) hold a registration as a pharmacy technician in accordance with
subsection (a) of this section;

(2) hold a current CPR certification;

(3) have successfully completed an Accreditation Council of Pharmacy
Education-accredited training program approved by the Board; and

(4) successfully complete two hours of immunization-related continuing education approved by the Accreditation Council for Pharmacy Education every two-year licensing period.

(c) Pharmacy technicians shall only administer immunizations:

(1) to patients 18 years of age or older;

(2) pursuant to the schedules and recommendations of the Advisory Committee on Immunization Practices' recommendations for the administration of immunizations, as those recommendations may be updated from time to time; and

(3) when a licensed pharmacist who is trained to immunize is present and able to assist with the immunization, as needed.

(d) Pharmacy technicians shall administer only those immunizations that:

(1) are recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP); and

(2) licensed pharmacists are permitted to administer under the State clinical pharmacy protocol, as established in subdivision 2023(b)(2) of this title.

(e) Pharmacy technicians performing SARS-CoV tests shall do so only:

(1) when a licensed pharmacist who is trained to perform SARS-CoV tests is present and able to assist with the test, as needed;

(2) in accordance with a State protocol adopted under subdivision
2023(b)(2)(A)(x) of this title; and

(3) in accordance with rules adopted by the Board.

(f) The Board may adopt rules regarding the administration of
immunizations and the performance of SARS-CoV tests by pharmacy
technicians.

* * * Audiologists and Hearing Aid Dispensers * * *

Sec. 10. 26 V.S.A. § 3286 is amended to read:

§ 3286. EXEMPTIONS

(a) The provisions of section 3285 of this chapter shall not apply to a
person enrolled in a course of study leading to a degree or certificate in
audiology at a school accredited by the American Speech-Language Hearing
Association, provided:

* * *

(b) In accordance with 21 C.F.R. § 800.30, persons dispensing over-the-
counter hearing aids, as defined in 21 C.F.R. § 800.30(b) and meeting the
standards established in 21 C.F.R. § 800.30(c)–(f), including self-fitting air-
conduction hearing aids, as defined in 21 C.F.R. § 874.3325, shall be exempt
from this chapter.

* * * Notaries * * *

Sec. 11. 26 V.S.A. § 5361 is amended to read:

§ 5361. NOTARIAL ACTS IN THIS STATE; AUTHORITY TO PERFORM

(a) A notarial act, as defined in subdivision ~~5304(7)(A)~~ 5304(10) of this chapter, may only be performed in this State by a notary public commissioned under this chapter.

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* * * Effective Date * * *

Sec. 12. EFFECTIVE DATE

This act shall take effect on passage.