

1 H.369

2 Introduced by Representative Till of Jericho

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; podiatrists; physicians; anesthesiologist  
6 assistants; physician assistants; radiologist assistants

7 Statement of purpose: This bill proposes to amend statutes regulating various  
8 health professionals.

9 An act relating to health professionals regulated by the board of medical  
10 practice

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

12 Sec. 1. 26 V.S.A. chapter 7 is amended to read:

13 CHAPTER 7. PODIATRY

14 Subchapter 1. General Provisions

15 § 321. DEFINITIONS

16 In this chapter, unless the context requires another meaning:

17 (1) "Board" means the state board of medical practice established by  
18 chapter 23 of this title.

19 (2) "Disciplinary action" means any action taken against a licensee or an  
20 applicant by the board, ~~the appellate officer~~, or on appeal ~~therefrom~~ from that

1 action, when that action suspends, revokes, limits, or conditions licensure in  
2 any way, ~~and~~ or when it includes reprimands or an administrative penalty.

3 \* \* \*

4 § 324. PROHIBITIONS; PENALTIES

5 \* \* \*

6 (c) A person who violates a provision of this chapter shall be imprisoned  
7 not more than two years or fined not more than \$100.00 for the first offense  
8 ~~and not more than \$500.00 for each subsequent offense~~ \$10,000.00.

9 \* \* \*

10 § 371. ELIGIBILITY

11 To be eligible for licensure as a podiatrist, an applicant must:

12 \* \* \*

13 (3) have received a diploma or certificate of graduation from an  
14 accredited school of podiatric medicine approved by the board; ~~and~~

15 (4) successfully complete the examinations given by the National Board  
16 of Podiatry Examiners; and

17 (5) if the applicant has not engaged in practice as a podiatrist within the  
18 last three years, comply with the requirements for updating knowledge and  
19 skills as defined by board rules.

20 \* \* \*

1 § 373. RENEWAL OF LICENSURE

2 (a) ~~Licenses shall be renewable every two years without examination and~~  
3 ~~on payment of the required fee~~ A person licensed by the board to practice  
4 podiatry shall apply biennially for the renewal of his or her license. At least  
5 one month prior to the date on which renewal is required, the board shall send  
6 to each licensee a license renewal application form and notice of the date on  
7 which the existing license will expire. On or before the renewal date, the  
8 licensee shall file an application for license renewal and pay the required fee;  
9 however, any podiatrist while on extended active duty in the uniformed  
10 services of the United States or as a member of the national guard, state guard,  
11 or reserve component who is licensed as a podiatrist at the time of an  
12 activation or deployment shall receive an extension of licensure up to 90 days  
13 following the podiatrist's return from activation or deployment, provided the  
14 podiatrist notifies the board of his or her activation or deployment prior to the  
15 expiration of the current license and certifies that the circumstances of the  
16 activation or deployment impede good faith efforts to make timely application  
17 for renewal of the license. The board shall register the applicant and issue the  
18 renewal license. Within one month following the date by which renewal is  
19 required, the board shall pay the license renewal fees into the medical practice  
20 board special fund.

1 (b) A license which has lapsed may be reinstated on payment of a renewal  
2 fee and a late renewal penalty. The applicant shall not be required to pay  
3 renewal fees during periods when the license was lapsed. However, if such  
4 license remains lapsed for a period of three years, the board may, ~~after notice~~  
5 ~~and an opportunity for hearing,~~ require ~~reevaluation as a condition of~~  
6 ~~renewal~~ the licensee to update his or her knowledge and skills as defined by  
7 board rules.

8 \* \* \*

9 (d) All applicants shall demonstrate that the requirements for licensure are  
10 met.

11 § 374. FEES; LICENSES

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

14 (1) Application for licensure ~~\$565.00, in fiscal year 2009 \$600.00, and~~  
15 ~~in fiscal year 2010 and thereafter \$625.00;~~ the board shall use at least \$25.00  
16 of this fee to support the ~~costs~~ cost of ~~the creation and maintenance of a~~  
17 maintaining the Vermont practitioner recovery network which ~~will monitor~~  
18 monitors recovering chemically dependent licensees for the protection of the  
19 public.

20 (2) Biennial renewal ~~\$450.00 and in fiscal year 2009 and thereafter~~  
21 \$500.00; the board shall use at least \$25.00 of this fee to support the ~~costs~~ cost

1 of ~~the creation and maintenance of a~~ maintaining the Vermont practitioner  
2 recovery network which ~~will monitor~~ monitors recovering chemically  
3 dependent licensees for the protection of the public.

4 § 375. UNPROFESSIONAL CONDUCT

5 (a) ~~The term “unprofessional conduct” as used in this chapter shall mean~~  
6 ~~the conduct prohibited by this chapter.~~

7 (b) The following conduct and the conduct described in section 1354 of this  
8 title by a licensed podiatrist constitutes unprofessional conduct. When that  
9 conduct is by an applicant or person who later becomes an applicant, it may  
10 constitute grounds for denial of licensure:

11 (1) ~~fraudulent procuring fraud or use of a license~~ misrepresentation in  
12 applying for or procuring a podiatry license or in connection with applying for  
13 or procuring a periodic renewal of a podiatry license;

14 \* \* \*

15 (c) Unprofessional conduct includes the following actions by a licensee:

16 \* \* \*

17 (3) ~~professional negligence~~ failure to practice competently by reason of  
18 any cause on a single occasion or on multiple occasions constitutes  
19 unprofessional conduct. Failure to practice competently includes as  
20 determined by the board:

21 (A) performance of unsafe or unacceptable patient care; and



1 take disciplinary action described in subsection 1361(b) of this title against a  
2 podiatrist or applicant found guilty of unprofessional conduct.

3 (d) The board may approve a negotiated agreement between the parties  
4 when it is in the best interest of the public health, safety, or welfare to do so.  
5 Such an agreement may include, ~~without limitation,~~ any of the following  
6 conditions or restrictions which may be in addition to, or in lieu of, suspension:

7 \* \* \*

8 (4) a requirement that the scope of practice permitted be restricted to a  
9 specified extent;

10 (5) an administrative penalty not to exceed \$1,000.00 for each act that  
11 constitutes an unprofessional conduct violation. Any money received from the  
12 imposition of an administrative penalty imposed under this subdivision shall be  
13 deposited into the board of medical practice regulatory fee fund and shall not  
14 be used for any purpose other than professional regulation and other  
15 responsibilities of the board, as determined by the commissioner of health.

16 \* \* \*

17 Sec. 2. 26 V.S.A. chapter 23 is amended to read:

18 CHAPTER 23. MEDICINE ~~AND SURGERY~~

19 Subchapter 1. General Provisions

20 § 1311. DEFINITIONS

21 For the purposes of this chapter:

1           (1) ~~A person who advertises or holds himself or herself out to the public~~  
2 ~~as a physician or surgeon, or who assumes the title or uses the words or letters~~  
3 ~~“Dr.,” “Doctor,” “Professor,” “M.D.,” or “M.B.,” in connection with his or her~~  
4 ~~name, or any other title implying or designating that he or she is a practitioner~~  
5 ~~of medicine or surgery in any of its branches, or shall advertise or hold himself~~  
6 ~~or herself out to the public as one skilled in the art of curing or alleviating~~  
7 ~~disease, pain, bodily injuries or physical or nervous ailments, or shall~~  
8 ~~prescribe, direct, recommend, or advise, give or sell for the use of any person,~~  
9 ~~any drug, medicine or other agency or application for the treatment, cure or~~  
10 ~~relief of any bodily injury, pain, infirmity or disease, or who follows the~~  
11 ~~occupation of treating diseases by any system or method, shall be deemed a~~  
12 ~~physician, or practitioner of medicine or surgery. Practice of medicine means:~~

13                   (A) using the designation “Doctor,” “Doctor of Medicine,”  
14 “Physician,” “Dr.,” “M.D.,” or any combination thereof in the conduct of any  
15 occupation or profession pertaining to the prevention, diagnosis, or treatment  
16 of human disease or condition unless the designation additionally contains the  
17 description of another branch of the healing arts for which one holds a valid  
18 license in Vermont;

19                   (B) advertising, holding out to the public, or representing in any  
20 manner that one is authorized to practice medicine in the jurisdiction;





1 ~~1904, or to commissioned officers~~ The provisions of this chapter shall not  
2 apply to the following:

3 (1) a health care professional licensed or certified by the office of  
4 professional regulation when that person is practicing within the scope of his  
5 or her profession;

6 (2) a member of the United States army, navy or marine hospital service  
7 military or national guard, including a national guard member with in-state  
8 status, or to any person or persons giving aid, assistance, or relief in emergency  
9 or accident cases pending the arrival of a regularly licensed physician or  
10 surgeon;

11 ~~(b)(3) This chapter shall not apply to a nonresident physician or surgeon~~  
12 ~~who is called to treat a particular case in this state and who does not otherwise~~  
13 ~~practice in this state, provided that such nonresident physician or surgeon is~~  
14 ~~duly licensed where he resides and that the state of his residence grants the~~  
15 ~~same privilege to duly licensed practitioners of this state. This chapter shall~~  
16 ~~not prevent a nonresident physician or surgeon from coming into this state for~~  
17 ~~consultation~~ to consult or using telecommunications to consult with a duly  
18 licensed practitioner herein nor shall it prevent,; or

19 (4) a duly licensed physician or surgeon of an adjoining in another state,  
20 or of the Dominion of Canada from coming into a town bordering thereon, in  
21 this state for the purpose of treating a sick or disabled person therein who is

1 visiting a medical school or teaching hospital in this state to receive medical  
2 instruction for a period not to exceed three months or to conduct medical  
3 instruction, provided the practice is limited to that instruction and is under the  
4 supervision of a physician licensed by the board.

5 ~~(e)~~(b) The provisions of sections 1311 and 1312 of this title shall not apply  
6 to a person, firm or corporation that manufactures or sells patent, compound or  
7 proprietary medicines, that are compounded according to the prescription of a  
8 physician who has been duly authorized to practice medicine, or to the  
9 domestic administration of family remedies.

10 \* \* \*

11 ~~(e) Notwithstanding the provisions of subsection 1313(d) of this title, no~~  
12 ~~physician's assistant shall engage in the practice of optometry as defined in~~  
13 ~~section 1601 of this title.~~

14 \* \* \*

15 § 1314. ILLEGAL PRACTICE

16 (a) A person who, not being licensed, advertises or holds himself or herself  
17 out to the public as described in section 1311 of this title, or who, not being  
18 licensed, practices medicine or surgery as defined in section 1311 of this title,  
19 or who practices medicine or surgery under a fictitious or assumed name, or  
20 who impersonates another practitioner or who is not a licensed health care  
21 provider as defined in 18 V.S.A. § 5202 and signs a certificate of death for the

1 purpose of burial or removal, shall be imprisoned not more than ~~three months~~  
2 two years or fined not more than ~~\$200.00 nor less than \$50.00~~ \$10,000.00, or  
3 both.

4 \* \* \*

5 § 1317. UNPROFESSIONAL CONDUCT TO BE REPORTED TO BOARD

6 (a) Any hospital, clinic, community mental health center, or other health  
7 care institution in which a licensee performs professional services shall report  
8 to the ~~commissioner of health~~ board, along with supporting information and  
9 evidence, any disciplinary action taken by it or its staff which significantly  
10 limits the licensee's privilege to practice or leads to suspension or expulsion  
11 from the institution, a nonrenewal of medical staff membership, or the  
12 restrictions of privileges at a hospital taken in lieu of, or in settlement of, a  
13 pending disciplinary case related to unprofessional conduct as defined in  
14 sections 1354 and 1398 of this title. The commissioner of health shall forward  
15 any such information or evidence he or she receives immediately to the board.  
16 The report shall be made within 10 days of the date such disciplinary action  
17 was taken, and, in the case of disciplinary action taken against a licensee based  
18 on the provision of mental health services, a copy of the report shall also be  
19 sent to the commissioner of mental health and the commissioner of disabilities,  
20 aging, and independent living. This section shall not apply to cases of

1 resignation or separation from service for reasons unrelated to disciplinary  
2 action.

3 \* \* \*

4 (e) A person who violates this section shall be subject to a civil penalty of  
5 not more than ~~\$1,000.00~~ \$10,000.00.

6 § 1318. ACCESSIBILITY AND CONFIDENTIALITY OF DISCIPLINARY  
7 MATTERS

8 \* \* \*

9 (c) The commissioner of health shall prepare and maintain a register of all  
10 complaints, which shall be a public record, and which shall show:

11 \* \* \*

12 (2) only with respect to complaints resulting in filing of disciplinary  
13 charges or stipulations or the taking of disciplinary action, the following  
14 additional information, except for medical and other protected health  
15 information contained therein pertaining to any identifiable person that is  
16 otherwise confidential by state or federal law:

17 \* \* \*

18 (E) stipulations ~~filed with~~ presented to the board at a public meeting;  
19 and

20 \* \* \*

1           (f) For the purposes of this section, “disciplinary action” means action that  
2           suspends, revokes, limits, or conditions licensure or certification in any way,  
3           and includes reprimands and administrative penalties.

4           (g) Nothing in this section shall prohibit the disclosure of information by  
5           the commissioner regarding disciplinary complaints to Vermont or other state  
6           or federal law enforcement or regulatory agencies in the execution of its duties  
7           authorized by statute or regulation, including the department of disabilities,  
8           aging, and independent living or the department of banking, insurance,  
9           securities, and health care administration in the course of its investigations  
10          about an identified licensee, provided the agency or department agrees to  
11          maintain the confidentiality and privileged status of the information as  
12          provided in subsection (d) of this section.

13          (h) Nothing in this section shall prohibit the board, at its discretion, from  
14          sharing investigative and adjudicatory files of an identified licensee with  
15          another state, territorial, or international medical board at any time during the  
16          investigational or adjudicative process.

17          (i) Neither the commissioner nor any person who received documents,  
18          material, or information while acting under the authority of the commissioner  
19          shall be permitted or required to testify in any private civil action concerning  
20          any confidential documents, material, or information.



1 shall constitute a quorum for the transaction of business. The affirmative vote  
2 of the majority of the members present shall be required to carry any motion or  
3 resolution, to adopt any rule, to pass any measure or to authorize any decision  
4 or order of the board.

5 (b) In the performance of their duties members of the board shall be paid  
6 ~~\$30.00~~ a per diem and their actual and necessary expenses as provided by  
7 32 V.S.A. § 1010(b).

8 (c) The board of medical practice is established as an office within the  
9 department of health. With respect to the board, the commissioner shall have  
10 the following powers and duties to:

11 \* \* \*

12 (4) act as custodian of the records of the board; ~~and~~

13 (5) prepare an annual budget and administer money appropriated to the  
14 board by the general assembly. The budget of the board shall be part of the  
15 budget of the department. A board of medical practice regulatory fee fund is  
16 created. All board regulatory fees received by the department shall be  
17 deposited into this fund and used to offset up to two years of the costs incurred  
18 by the board, and shall not be used for any purpose other than professional  
19 regulation and responsibilities of the board, as determined by the commissioner  
20 of health. To ensure that revenues derived by the department are adequate to



1 offset the cost of regulation, the commissioner shall review fees from time to  
2 time, and present proposed fee changes to the general assembly;

3 (6) prepare and maintain a registry of all physicians licensed by the  
4 board; and

5 (7) make available an accounting of all fees and fines received by the  
6 board and all expenditures and costs of the board annually.

7 \* \* \*

8 § 1353. POWERS AND DUTIES OF THE BOARD

9 The board shall have the following powers and duties to:

10 (1) License and certify health professionals pursuant to this title.

11 (2) Investigate all complaints and charges of unprofessional conduct  
12 against any holder of a license or certificate, or any medical practitioner  
13 practicing pursuant to section 1313 of this title, and to hold hearings to  
14 determine whether such charges are substantiated or unsubstantiated.

15 ~~(2)~~(3) Issue subpoenas and administer oaths in connection with any  
16 investigations, hearings, or disciplinary proceedings held under this chapter.

17 ~~(3)~~(4) Take or cause depositions to be taken as needed in any  
18 investigation, hearing or proceeding.

19 ~~(4)~~(5) Undertake any such other actions and procedures specified in, or  
20 required or appropriate to carry out, the provisions of this chapter and chapters  
21 7, 29, 31, and 52 of this title.

1           ~~(5)~~(6) Require a licensee or applicant to submit to a mental or physical  
2 examination, and an evaluation of medical knowledge and skill by individuals  
3 or entities designated by the board if the board has a reasonable basis to  
4 believe a licensee or applicant may be incompetent or unable to practice  
5 medicine with reasonable skill and safety. The results of the examination or  
6 evaluation shall be admissible in any hearing before the board. The results of  
7 an examination or evaluation obtained under this subsection and any  
8 information directly or indirectly derived from such examination or evaluation  
9 shall not be used for any purpose, including impeachment or cross-examination  
10 against the licensee or applicant in any criminal or civil case, except a  
11 prosecution for perjury or giving a false statement. The board shall bear the  
12 cost of any examination or evaluation ordered and conducted pursuant to this  
13 subdivision in whole or in part if the licensee demonstrates financial hardship  
14 or other good cause. The licensee or applicant, at his or her expense, shall  
15 have the right to present the results or reports of independent examinations and  
16 evaluations for the board's due consideration. An order by the board that a  
17 licensee or applicant submit to an examination, test or evaluation shall be  
18 treated as a discovery order for the purposes of enforcement under ~~sections~~  
19 3 V.S.A. §§ 809a and 809b of Title 3. The results of an examination or  
20 evaluation obtained under this subdivision shall be confidential except as  
21 provided in this subdivision.



1 \* \* \*

2 (23) revocation of a license to practice medicine or surgery in another  
3 jurisdiction on one or more of the grounds specified in ~~subdivisions (1) (25)~~ of  
4 this section;

5 \* \* \*

6 (30) conviction of a crime related to the practice of the profession or  
7 conviction of a felony, whether or not related to the practice of the profession,  
8 or failure to report to the board a conviction of any crime related to the practice  
9 of the profession or any felony in any court within 30 days of the conviction;

10 \* \* \*

11 (32) use of the services of a radiologist assistant by a radiologist in a  
12 manner that is inconsistent with the provisions of chapter 52 of this title;

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

18 (i) verification that the person requesting medication is in fact the  
19 patient, and is in fact who the person claims to be;

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

1                   (iii) maintenance of a current medical record.

2                   (B) For the purposes of this subdivision, an electronic, on-line, or  
3 telephonic evaluation by questionnaire is inadequate for the initial evaluation  
4 of the patient.

5                   (C) The following would not be in violation of this subdivision if  
6 transmitted or received by computer or other electronic means:

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

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

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

13                  (iv) continuing medication on a short-term basis for a new patient,  
14 prior to the patient's first appointment; or

15                  (v) emergency situations where life or health of the patient is in  
16 imminent danger;

17                  (34) failure to provide to the board such information it may reasonably  
18 request in furtherance of its statutory duties. The patient privilege set forth in  
19 12 V.S.A. § 1612 shall not bar the licensee's obligations under this subsection  
20 and no confidentiality agreement entered into in concluding a settlement of a

1 malpractice claim shall exempt the licensee from fulfilling his or her  
2 obligations under this subdivision;

3 (35) disruptive behavior which involves interaction with physicians,  
4 hospital personnel, office staff, patients, or support persons of the patient or  
5 others that interferes with patient care or could reasonably be expected to  
6 adversely affect the quality of care rendered to a patient;

7 (36) commission of any sexual misconduct which exploits the  
8 physician-patient relationship, including sexual contact with a patient,  
9 surrogates, or key third parties;

10 (37) prescribing, selling, administering, distributing, ordering, or  
11 dispensing any drug legally classified as a controlled substance for the  
12 licensee's own use or to an immediate family member as defined by rule;

13 (38) signing a blank or undated prescription form;

14 (39) use of the services of a physician assistant by a physician in a  
15 manner which is inconsistent with the provisions of chapter 31 of this title.

16 \* \* \*

17 § 1355. COMPLAINTS; HEARING COMMITTEE

18 (a) Any person, firm, corporation, or public officer may submit a written  
19 complaint to the ~~secretary charging~~ board alleging any person practicing  
20 medicine or surgery in the state ~~with~~ committed unprofessional conduct,  
21 specifying the grounds therefor. ~~If the board determines that such complaint~~

1 ~~merits consideration, or if the board shall have reason to believe, without a~~  
2 ~~formal complaint, that any person practicing medicine or surgery in the state~~  
3 ~~has been guilty of unprofessional conduct, and in the case of every formal~~  
4 ~~complaint received, the chairman~~ The board shall initiate an investigation of  
5 the physician when a complaint is received or may act on its own initiative  
6 without having received a complaint. The chairperson shall designate four  
7 members, including one public member to serve as a committee to hear or  
8 investigate and report upon such charges.

9 \* \* \*

10 (c) A person or organization shall not be liable in a civil action for damages  
11 resulting from the good faith reporting of information to the board about  
12 alleged incompetent, unprofessional, or unlawful conduct of a licensee.

13 (d) The hearing committee or the board may close portions of hearings to  
14 the public if the board deems it appropriate in order to protect the  
15 confidentiality of an individual or for medical and other protected health  
16 information pertaining to any identifiable person that is otherwise confidential  
17 by state or federal law.

18 (e) In any proceeding under this section which addresses an applicant's or  
19 licensee's alleged sexual misconduct, evidence of the sexual history of the  
20 victim of the alleged sexual misconduct shall neither be subject to discovery  
21 nor be admitted into evidence. Neither opinion evidence nor evidence of the

1 reputation of the victim's sexual conduct shall be admitted. At the request of  
2 the victim, the hearing committee may close portions of hearings to the public  
3 if the board deems it appropriate in order to protect the identity of the victim  
4 and the confidentiality of his or her medical records.

5 \* \* \*

6 § 1357. TIME AND NOTICE OF HEARING

7 The time of hearing shall be fixed by the secretary as soon as convenient,  
8 but not earlier than 30 days after service of the charge upon the person  
9 complained against. The secretary shall issue a notice of hearing of the  
10 charges, which notice shall specify the time and place of hearing and shall  
11 notify the person complained against that he or she may file with the secretary  
12 a written response within 20 days of the date of service. ~~Such~~ The notice shall  
13 also notify the person complained against that a stenographic record of the  
14 proceeding will be kept, that he or she will have the opportunity to appear  
15 personally and to have counsel present, with the right to produce witnesses and  
16 evidence in his or her own behalf, to cross-examine witnesses testifying  
17 against him or her and to examine such documentary evidence as may be  
18 produced against him or her.

19 \* \* \*



1 § 1359. REPORT OF HEARING

2 Within 30 days after holding a hearing under the provisions of section 1357  
3 ~~and section 1358~~ of this title, the committee shall make a written report of its  
4 findings of fact and its recommendations, and the same shall be forthwith  
5 transmitted to the secretary, with a transcript of the evidence.

6 \* \* \*

7 § 1361. DECISION AND ORDER

8 \* \* \*

9 (b) In such order, the board may reprimand the person complained against,  
10 as it deems appropriate; condition, limit, suspend or revoke the license,  
11 certificate, or practice of the person complained against; or take such other  
12 action relating to discipline or practice as the board determines is proper,  
13 including imposing an administrative penalty not to exceed \$1,000.00 for each  
14 act that constitutes an unprofessional conduct violation. Any money received  
15 from the imposition of an administrative penalty imposed under this subsection  
16 shall be deposited into the board of medical practice regulatory fee fund for the  
17 purpose of providing education and training for board members and licensees.  
18 The commissioner shall detail in the annual report receipts and expenses from  
19 money received under this subsection.

1 (c) If the person complained against is found not guilty, or the proceedings  
2 against him or her are dismissed, the board shall forthwith order a dismissal of  
3 the charges and the exoneration of the person complained against.

4 \* \* \*

5 § 1365. NOTICE OF CONVICTION OF CRIME; INTERIM SUSPENSION  
6 OF LICENSE

7 (a) The board shall treat a certified copy of the judgment of conviction of a  
8 crime for which a licensee may be disciplined under ~~subdivision~~ section  
9 1354(a)(3) of this title as an unprofessional conduct complaint. The record of  
10 conviction shall be conclusive evidence of the fact that the conviction  
11 occurred. If a person licensed under this chapter is convicted of a crime by a  
12 court in this state, the clerk of the court shall within 10 days of such conviction  
13 transmit a certified copy of the judgment of conviction to the board.

14 \* \* \*

15 § 1368. DATA REPOSITORY; LICENSEE PROFILES

16 (a) A data repository is created within the department of health which will  
17 be responsible for the compilation of all data required under this section and  
18 any other law or rule which requires the reporting of such information.  
19 Notwithstanding any provision of law to the contrary, licensees shall promptly  
20 report and the department shall collect the following information to create  
21 individual profiles on all health care professionals licensed, certified, or

1 registered by the department, pursuant to the provisions of this title, in a format  
2 created that shall be available for dissemination to the public:

3 \* \* \*

4 (6)(A) All medical malpractice court judgments and all medical  
5 malpractice arbitration awards in which a payment is awarded to a complaining  
6 party during the last 10 years, and all settlements of medical malpractice  
7 claims in which a payment is made to a complaining party within the last 10  
8 years. Dispositions of paid claims shall be reported in a minimum of three  
9 graduated categories, indicating the level of significance of the award or  
10 settlement, if valid comparison data are available for the profession or  
11 specialty. Information concerning paid medical malpractice claims shall be put  
12 in context by comparing an individual health care professional's medical  
13 malpractice judgment awards and settlements to the experience of other health  
14 care professionals within the same specialty within the New England region or  
15 nationally. The commissioner may, in consultation with the Vermont medical  
16 society, report comparisons of individual health care professionals covered  
17 under this section to all similar health care professionals within the New  
18 England region or nationally.



1 amounts paid by or on behalf of a ~~physician~~ professional in connection with a  
2 malpractice judgment, award or settlement shall not be disclosed by the  
3 commissioner of health or by the licensing authority to the public. Nothing  
4 herein shall be construed to prevent the licensing authority from investigating  
5 and disciplining a health care professional on the basis of medical malpractice  
6 claims that are pending.

7 \* \* \*

8 (c) The profile shall include the following conspicuous statement: "This  
9 profile contains information which may be used as a starting point in  
10 evaluating the ~~physician~~ professional. This profile should not, however, be  
11 your sole basis for selecting a ~~physician~~ professional."

12 Subchapter 3. Licenses

13 § 1391. ~~GENERAL PROVISIONS~~ QUALIFICATIONS FOR MEDICAL  
14 LICENSURE

15 \* \* \*

16 (b) If a person successfully completes the examination, he or she may then  
17 apply for licensure to practice medicine and surgery in the state of Vermont.  
18 In addition, each applicant ~~must appear for a personal interview with one or~~  
19 ~~more members of the~~ may be interviewed by a board member.

20 \* \* \*

1 (e) An applicant for limited temporary license, who shall furnish the board  
2 with satisfactory proof that he or she has attained the age of majority, ~~and~~ is of  
3 good moral character, ~~that he or she~~ is a graduate of a legally chartered medical  
4 school of this country or of a foreign country ~~having~~ that is recognized by the  
5 board and which has power to grant degrees in medicine, that all other  
6 eligibility requirements for house officer status have been met, and that he or  
7 she has been appointed an intern, resident, fellow or medical officer in a  
8 licensed hospital or in a clinic which is affiliated with a licensed hospital, or in  
9 any hospital or institution maintained by the state, or in any clinic or outpatient  
10 clinic affiliated with or maintained by the state, may upon the payment of the  
11 required fee, be granted a limited temporary license by the board as a hospital  
12 medical officer for a period of up to 54 weeks and such license may be  
13 renewed or reissued, upon payment of the fee, for the period of the applicant's  
14 postgraduate training, internship, or fellowship program. Such limited  
15 temporary license shall entitle the said applicant to practice medicine only in  
16 the hospital or other institution designated on his or her certificate of limited  
17 temporary license and in clinics or outpatient clinics operated by or affiliated  
18 with such designated hospital or institution and only if such applicant is under  
19 the direct supervision and control of a licensed physician. Such licensed  
20 physician shall be legally responsible and liable for all negligent or wrongful  
21 acts or omissions of the limited temporary licensee and shall file with the board

1 the name and address both of himself or herself and the limited temporary  
2 licensee and the name of such hospital or other institution. Such limited  
3 temporary license shall be revoked upon the death or legal incompetency of the  
4 licensed physician or, upon ten days written notice, by withdrawal of his or her  
5 filing by such licensed physician. The limited temporary licensee shall at all  
6 times exercise the same standard of care and skill as a licensed physician,  
7 practicing in the same specialty, in the state of Vermont. Termination of  
8 appointment as intern, resident, fellow or medical officer of such designated  
9 hospital or institution shall operate as a revocation of such limited temporary  
10 license. An application for limited temporary license shall not be subject to  
11 ~~section~~ subsection 1391(d) of this title.

12 § 1392. [Repealed.]

13 § 1393. EXAMINATIONS

14 The examinations shall be wholly or partly in writing, in the English  
15 language, and shall be of a practical character, sufficiently strict to test the  
16 qualifications of the applicant. In its discretion the board may use multiple  
17 choice style examinations provided by the National Board of Medical  
18 Examiners or by the Federation of State Medical Boards (~~The Federation~~  
19 ~~Licensing Examination or FLEX~~), or as determined by rule. The ~~examinations~~  
20 examination shall embrace the general subjects of anatomy, physiology,  
21 chemistry, pathology, bacteriology, hygiene, practice of medicine, surgery,





1 satisfactory proof that he or she has attained the age of majority, is of good  
2 moral character, is licensed to practice medicine in his or her country of  
3 residence, and that he or she has been appointed to the faculty of an LCME  
4 accredited medical college located within the state of Vermont. The  
5 information submitted to the board concerning the applicant's faculty  
6 appointment shall include detailed information concerning the nature and term  
7 of the appointment and the method by which the performance of the applicant  
8 will be monitored and evaluated. A license issued under this subsection shall  
9 be for a period no longer than the term of the applicant's faculty appointment  
10 and may, in the discretion of the board, be for a shorter period. A license  
11 issued under this subsection shall expire automatically upon termination for  
12 any reason of the licensee's faculty appointment.

13 \* \* \*

14 § 1396. REQUIREMENTS FOR ADMISSION TO PRACTICE

15 (a) The standard of requirements for admission to practice in this state,  
16 under section 1395 of this title, shall be as follows:

17 \* \* \*

18 (4) Moral: Applicant shall present letters of reference as to moral  
19 character and professional competence from the chief of service and two other  
20 active physician staff members at the hospital where he was last affiliated. In  
21 the discretion of the board, letters from different sources may be presented.

1 The board may inquire of the Vermont criminal information center for any  
2 information on criminal records of any applicant or licensee, and the center  
3 shall provide this information to the board. The board, through the Vermont  
4 criminal information center, may also inquire of the appropriate state criminal  
5 record repositories in all states in which it has reason to believe an applicant  
6 has resided or been employed, and it may also inquire of the Federal Bureau of  
7 Investigation or Interpol for any information on criminal records of the  
8 applicant. When fingerprinting is required, the applicant shall bear the costs  
9 associated with the return and resubmission of illegible fingerprint cards.

10 \* \* \*

11 (7) Practice: Applicant shall have practiced medicine within the last  
12 three years as defined in section 1311 of this title or comply with the  
13 requirements for updating knowledge and skills as defined by board rules.

14 \* \* \*

15 § 1398. REFUSAL OR REVOCATION OF LICENSES

16 The board may refuse to issue the licenses provided for in section 1391 of  
17 this title to persons who ~~have been convicted of the practice of criminal~~  
18 ~~abortion, or who~~, by false or fraudulent representations, have obtained or  
19 sought to obtain practice in their profession, or by false or fraudulent  
20 representations of their profession, have obtained or sought to obtain money or  
21 any other thing of value, or who assume names other than their own, or for any

1 other immoral, unprofessional or dishonorable conduct. ~~For like cause, or~~  
2 ~~when a licensee has been admitted to a mental hospital or has become~~  
3 ~~incompetent by reason of senility, the board may suspend or revoke any~~  
4 ~~certificate issued by it.~~ However, a certificate shall not be suspended, revoked,  
5 or refused until the holder or applicant is given a hearing before the board. In  
6 the event of revocation, the holder of any certificate so revoked shall forthwith  
7 relinquish the same to the secretary of the board.

8 § 1399. [Repealed.]

9 § 1400. RENEWAL OF LICENSE

10 (a) Every person licensed to practice medicine ~~and surgery~~ by the board  
11 shall apply biennially for the renewal of his or her license. ~~One~~ At least one  
12 month prior to the date on which renewal is required, the board shall send to  
13 each licensee a license renewal application form and notice of the date on  
14 which the existing license will expire. On or before the renewal date, the  
15 licensee shall file an application for license renewal and pay the required fee.  
16 The board shall register the applicant and issue the renewal license. Within  
17 one month following the date renewal is required, the board shall pay the  
18 license renewal fees into the medical practice board special fund ~~and shall file~~  
19 ~~a list of licensees with the department of health.~~

20 (b) All licensees shall demonstrate that the requirements for licensure are  
21 met.

1        (c) A licensee for renewal of an active license to practice medicine shall  
2        have practiced medicine within the last three years as defined in section 1311  
3        of this title or have complied with the requirements for updating knowledge  
4        and skills as defined by board rules.

5        (d) A licensee shall promptly provide the board with new or changed  
6        information pertinent to the information in his or her license and license  
7        renewal applications at the time he or she becomes aware of the new or  
8        changed information.

9        (e) A person who practices medicine and surgery and who fails to renew  
10       his or her license in accordance with the provisions of this section shall be  
11       deemed an illegal practitioner and shall forfeit the right to so practice or to  
12       hold himself or herself out as a person licensed to practice medicine and  
13       surgery in the state until reinstated by the board, but nevertheless a person who  
14       was licensed to practice medicine and surgery at the time of his induction, call  
15       on reserve commission or enlistment into the armed forces of the United  
16       States, shall be entitled to practice medicine and surgery during the time of his  
17       service with the armed forces of the United States and for 60 days after  
18       separation from such service physician while on extended active duty in the  
19       uniformed services of the United States or as a member of the national guard,  
20       state guard, or reserve component who is licensed as a physician at the time of  
21       an activation or deployment shall receive an extension of licensure up to 90

1 days following the physician's return from activation or deployment, provided  
2 the physician notifies the board of his or her activation or deployment prior to  
3 the expiration of the current license and certifies that the circumstances of the  
4 activation or deployment impede good faith efforts to make timely application  
5 for renewal of the license.

6 ~~(e)~~(f) Any person who allows a license to lapse by failing to renew the  
7 same in accordance with the provisions of this section may be reinstated by the  
8 board by payment of the renewal fee and the late renewal penalty.

9 § 1401. [Expired.]

10 § 1401a. FEES

11 (a) The department of health shall collect the following fees:

12 (1) Application for licensure ~~\$565.00, in fiscal year 2009 \$600.00, and~~  
13 ~~in fiscal year 2010 and thereafter \$625.00~~; the board shall use at least \$25.00  
14 of this fee to support the ~~eosts~~ cost of the creation and maintenance of a  
15 maintaining the Vermont practitioner recovery network which ~~will monitor~~  
16 monitors recovering chemically dependent licensees for the protection of the  
17 public.

18 (2) Biennial renewal ~~\$450.00 and in fiscal year 2009 and thereafter~~  
19 \$500.00; the board shall use at least \$25.00 of this fee to support the ~~eosts~~ cost  
20 of the creation and maintenance of a maintaining the Vermont practitioner

1 recovery network which ~~will monitor~~ monitors recovering chemically  
2 dependent licensees for the protection of the public.

3 \* \* \*

4 § 1403. PROFESSIONAL CORPORATIONS; MEDICINE ~~AND SURGERY~~

5 A person licensed to practice medicine ~~and surgery~~ under this chapter may  
6 own shares in a professional corporation created under chapter 4 of Title 11  
7 which provides professional services in the medical and nursing professions.

8 \* \* \*

9 Subchapter 5. Quality Assurance Data

10 \* \* \*

11 § 1446. DIRECTORS OF CORPORATION

12 The board of directors of the Vermont Program for Quality in Health Care,  
13 Inc. shall include ~~without limitation~~ the commissioner of the department of  
14 health, ~~the chair of the hospital data council~~ and two directors each of whom  
15 represents at least one of the following populations: elderly, handicapped, or  
16 low income individuals.

17 \* \* \*

18 Sec. 3. 26 V.S.A. chapter 29 is amended to read:

19 CHAPTER 29. ANESTHESIOLOGIST ASSISTANTS

20 \* \* \*

1 § 1654. ELIGIBILITY

2 To be eligible for certification as an anesthesiologist assistant, an applicant  
3 shall have:

4 (1) obtained a master's degree from a board-approved anesthesiologist  
5 assistant program at an institution of higher education accredited by the  
6 Committee on Allied Health Education and Accreditation, the Commission on  
7 Accreditation of Allied Health Education Programs, or their successor  
8 agencies, or graduated from a board-approved anesthesiologist assistant  
9 program at an institution of higher education accredited by the Committee on  
10 Allied Health Education and Accreditation or the Commission of Accreditation  
11 of Allied Health Education Programs, prior to January 1, 1984; ~~and~~

12 (2) satisfactorily completed the certification examination given by the  
13 NCCAA and be currently certified by the NCCAA; and

14 (3) if the applicant has not engaged in practice as an anesthesiologist  
15 assistant within the last three years, complied with the requirements for  
16 updating knowledge and skills as defined by board rules.

17 \* \* \*

18 § 1656. RENEWAL OF CERTIFICATION

19 (a) Certifications shall be ~~renewable~~ renewed every two years ~~on payment~~  
20 ~~of the required fee and submission of proof of current, active NCCAA~~  
21 ~~certification.~~ At least one month prior to the date on which renewal is

1 required, the board shall send to each anesthesiologist assistant a renewal  
2 application form and notice of the date on which the existing certification will  
3 expire. On or before the renewal date, the anesthesiologist assistant shall file  
4 an application for renewal, pay the required fee and submit proof of current  
5 active NCCAA certification. The board shall register the applicant and issue  
6 the renewal certification. Within one month following the date renewal is  
7 required, the board shall pay the certification renewal fees into the medical  
8 practice board special fund.

9 (b) A certification that has lapsed may be reinstated on payment of a  
10 renewal fee and a late renewal fee. The applicant shall not be required to pay  
11 back renewal fees for the periods when certification was lapsed. However, if  
12 such certification remains lapsed for a period of three years, the board may,  
13 ~~after notice and an opportunity for hearing, require reexamination as a~~  
14 ~~condition of renewal~~ the applicant to update his or her knowledge and skills as  
15 defined by board rules.

16 \* \* \*

17 § 1658. UNPROFESSIONAL CONDUCT

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







1 (d) The board may approve a negotiated agreement between the parties  
2 when it is in the best interest of the public health, safety, or welfare to do so.  
3 That agreement may include any of the following conditions or restrictions  
4 which may be in addition to, or in lieu of, suspension:

5 \* \* \*

6 (4) a requirement that the scope of practice permitted be restricted to a  
7 specified extent;

8 (5) an administrative penalty not to exceed \$1,000.00 for each act that  
9 constitutes an unprofessional conduct violation. Any money received from the  
10 imposition of an administrative penalty imposed under this subsection shall be  
11 deposited into the board of medical practice regulatory fee fund and shall not  
12 be used for any other purpose other than professional regulation and other  
13 responsibilities of the board, as determined by the commissioner of health.

14 \* \* \*

15 § 1662. FEES

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

18 (1)(A)(i) Original application for certification, \$115.00;

19 (ii) Each additional application, \$50.00;

20 (B) The board shall use at least \$10.00 of these fees to support the  
21 ~~costs~~ cost of ~~the creation and maintenance of a~~ maintaining the Vermont

1 practitioner recovery network which ~~will monitor~~ monitors recovering  
2 chemically dependent licensees for the protection of the public.

3 (2)(A)(i) Biennial renewal, \$115.00;

4 (ii) Each additional renewal, \$50.00;

5 (B) The board shall use at least \$10.00 of these fees to support the  
6 ~~costs~~ cost of ~~the creation and maintenance of a~~ maintaining the Vermont  
7 practitioner recovery network ~~that will monitor~~ which monitors recovering  
8 chemically dependent licensees for the protection of the public. In addition to  
9 the fee, an applicant for certification renewal shall submit evidence in a  
10 manner acceptable to the board that he or she continues to meet the  
11 certification requirements of the NCCAA.

12 \* \* \*

13 § 1664. PENALTY

14 (a) A person who, not being certified, holds himself or herself out to the  
15 public as being certified under this chapter shall be liable for a fine of not more  
16 than ~~\$1,000.00~~ \$10,000.00.

17 \* \* \*

18 Sec. 4. 26 V.S.A. chapter 31 is amended to read:

19 CHAPTER 31. ~~PHYSICIAN'S~~ PHYSICIAN ASSISTANTS

20 \* \* \*

1 § 1732. DEFINITIONS

2 As used in this chapter:

3 (1) “Accredited physician assistant program” means a physician  
4 assistant educational program that has been accredited by the Accreditation  
5 Review Commission on Education for the Physician Assistant (ARC-PA), or,  
6 prior to 2001, by either the Committee on Allied Health Education and  
7 Accreditation (CAHEA), or the Commission on Accreditation of Allied Health  
8 Education Programs (CAAHEP).

9 ~~(1)~~(2) “Board” means the state board of medical practice established by  
10 chapter 23 of this title.

11 ~~(2)~~(3) ~~“Contract” means a legally binding agreement, expressed in~~  
12 ~~writing, containing the terms of employment of a physician’s assistant.~~

13 “Delegation agreement” means a detailed description of the duties and scope of  
14 practice delegated by a primary supervising physician to a physician assistant  
15 that is signed by both the physician assistant and the supervising physicians.

16 ~~(3)~~(4) “Physician” means an individual licensed to practice medicine  
17 pursuant to ~~chapters~~ chapter 23 ~~and or~~ 33 of this title.

18 ~~(4)~~(5) ~~“Physician’s Physician assistant” means an individual certified~~  
19 licensed by the state of Vermont who is qualified by education, training,  
20 experience and personal character to provide medical services ~~under~~ with the  
21 direction and supervision of a Vermont licensed physician.

1           ~~(5) “Physician’s assistant trainee” means a person who is not certified as~~  
2           ~~a “physician’s assistant” under this chapter but who assists a physician under~~  
3           ~~the physician’s direct supervision for the purpose of acquiring the basic~~  
4           ~~knowledge and skills of a physician’s assistant by the apprentice-preceptor~~  
5           ~~mode of education.~~

6           (6) ~~“Protocol” means a detailed description of the duties and scope of~~  
7           ~~practice delegated by a physician to a physician’s assistant~~ “Supervising  
8           physician” means an M.D. or D.O. licensed by the state of Vermont who  
9           oversees and accepts responsibility for the medical services provided by a  
10           physician assistant.

11           (7) “Supervision” means the direction and review by the supervising  
12           physician, ~~as determined to be appropriate by the board,~~ of the medical  
13           services provided by the ~~physician’s~~ physician assistant. The constant physical  
14           presence of the supervising physician is not required as long as the supervising  
15           physician and physician assistant are or easily can be in contact with each other  
16           by telecommunication.

17           (8) “Disciplinary action” means any action taken against a ~~certified~~  
18           ~~physician’s~~ physician assistant, ~~a registered physician’s assistant trainee or an~~  
19           ~~applicant by the board, the appellate officer, or on appeal therefrom, when that~~  
20           ~~action suspends, revokes, limits, or conditions certification or registration~~  
21           licensure in any way, and includes reprimands and administrative penalties.

1        § 1733. ~~CERTIFICATION AND REGISTRATION~~ LICENSURE

2            (a) The state board of medical practice is responsible for the ~~certification~~  
3        licensure of ~~physician's physician~~ assistants and the registration of ~~physician's~~  
4        ~~assistant trainees~~ and the commissioner of health shall adopt, amend, or repeal  
5        rules regarding the training, practice ~~and~~ qualification, and discipline of  
6        ~~physician's physician~~ assistants.

7            (b) ~~All applications for certification shall be accompanied by an application~~  
8        ~~by the proposed supervising physician which shall contain a statement that the~~  
9        ~~physician shall be responsible for all medical activities of the physician's~~  
10       ~~assistant~~ In order to practice, a licensed physician assistant shall have  
11       completed a delegation agreement as described in section 1735a of this title  
12       with a Vermont licensed physician signed by both the physician assistant and  
13       the supervising physician and filed with the board and kept on file at the  
14       physician assistant's primary practice site.

15           (c) ~~All applications for certification shall be accompanied by a protocol~~  
16        ~~signed by the supervising physician and a copy of the physician's assistant~~  
17        ~~employment contract~~ All applicants and licensees shall demonstrate that the  
18        requirements for licensure are met.

19           (d) ~~All physician's assistant trainees shall register biennially with the~~  
20        ~~board. Registrants shall provide the board with such information as it may~~

1 ~~require, including a copy of an employment contract and description of the~~  
2 ~~apprenticeship program involved~~

3 § 1734. ELIGIBILITY

4 (a) ~~To be eligible for certification as a physician's assistant, an applicant~~  
5 ~~shall:~~

6 ~~(1) have graduated from a board approved physician's assistant program~~  
7 ~~sponsored by an institution of higher education and have satisfactorily~~  
8 ~~completed the certification examination given by the National Commission on~~  
9 ~~the Certification of Physicians' Assistants (NCCPA); or~~

10 ~~(2) have completed a board approved apprenticeship program, including~~  
11 ~~an evaluation conducted by the board. The requirements of apprenticeship~~  
12 ~~programs shall be set by the board to ensure continuing opportunity for~~  
13 ~~nonuniversity trained persons to practice as physician's assistants consistent~~  
14 ~~with ensuring the highest standards of professional medical care The board~~  
15 ~~may grant a license to practice as a physician assistant to an applicant who:~~

16 ~~(1) submits a completed application form provided by the board;~~

17 ~~(2) pays the required application fee;~~

18 ~~(3) has graduated from an accredited physician assistant program or~~  
19 ~~has passed and maintained the certification examination by the National~~  
20 ~~Commission on the Certification of Physician Assistants (NCCPA) prior to~~  
21 ~~1988;~~



1           (4) has passed the certification examination given by the NCCPA;

2           (5) is mentally and physically able to engage safely in practice as a  
3 physician assistant;

4           (6) does not hold any license, certification, or registration as a  
5 physician assistant in another state or jurisdiction which is under current  
6 disciplinary action, or has been revoked, suspended, or placed on probation for  
7 cause resulting from the applicant's practice as a physician assistant, unless the  
8 board has considered the applicant's circumstances and determines that  
9 licensure is appropriate;

10           (7) is of good moral character;

11           (8) submits to the board any other information that the board deems  
12 necessary to evaluate the applicant's qualifications; and

13           (9) has engaged in practice as a physician assistant within the last three  
14 years or has complied with the requirements for updating knowledge and skills  
15 as defined by board rules. This requirement shall not apply to applicants who  
16 have graduated from an accredited physician assistant program within the last  
17 three years.

18           ~~(b) A person intending to practice as a physician's assistant and his or her~~  
19 ~~supervising physician shall be responsible for designing and presenting an~~  
20 ~~apprenticeship program to the board for approval. The program shall be~~

1 approved in a timely fashion unless there is good reason to believe that the  
2 program would be inconsistent with the public health, safety and welfare.

3 (c) Evaluation procedures followed by the board shall be fair and  
4 reasonable and shall be designed and implemented to demonstrate competence  
5 in the skills required of a physician's assistant and to reasonably ensure that all  
6 applicants are certified unless there is good reason to believe that certification  
7 of a particular applicant would be inconsistent with the public health, safety  
8 and welfare. An evaluation shall include reviewing statements of the  
9 supervising physician who has observed the applicant conduct a physical  
10 examination, render a diagnosis, give certain tests to patients, prepare and  
11 maintain medical records and charts, render treatment, provide patient  
12 education and prescribe medication. The evaluation shall be of activities  
13 appropriate to the applicant's approved training program. They shall not be  
14 designed or implemented for the purpose of limiting the number of certified  
15 physician's assistants.

16 (d) When the board intends to deny an application for ~~certification~~  
17 licensure, it shall send the applicant written notice of its decision by certified  
18 mail. The notice shall include a statement of the reasons for the action. Within  
19 30 days of the date that an applicant receives such notice, the applicant may  
20 file a petition with the board for review of its preliminary decision. At the  
21 hearing, the burden shall be on the applicant to show that ~~certification~~ licensure

1 should be granted. After the hearing, the board shall affirm or reverse its  
2 preliminary denial.

3 (e) Failure to maintain competence in the knowledge and skills of a  
4 ~~physician's physician~~ assistant, as determined by the board, shall be cause for  
5 revocation of ~~certification~~ licensure. ~~Any person whose certification has been~~  
6 ~~revoked for failure to maintain competence may practice for one year as a~~  
7 ~~registered physician's assistant trainee, but shall be examined at the end of that~~  
8 ~~period in the manner provided in subsection (a) of this section. Should the~~  
9 ~~person fail upon reexamination, the person shall be enjoined from practice~~  
10 ~~until meeting all requirements for certification under this chapter.~~

11 \* \* \*

12 § 1734b. RENEWAL OF ~~CERTIFICATION~~ LICENSE

13 (a) ~~Certifications~~ Licenses shall be ~~renewable~~ renewed every two years  
14 ~~without examination and~~ on payment of the required fee. At least one month  
15 prior to the date on which renewal is required, the board shall send to each  
16 licensee a license renewal application form and notice of the date on which the  
17 existing license will expire. On or before the renewal date, the licensee shall  
18 file an application for license renewal and pay the required fee. The board  
19 shall register the applicant and issue the renewal license. Within one month  
20 following the date renewal is required, the board shall pay the license renewal  
21 fees into the medical practice board special fund. Any physician assistant

1 while on extended active duty in the uniformed services of the United States or  
2 member of the national guard, state guard, or reserve component who is  
3 licensed as a physician assistant at the time of an activation or deployment  
4 shall receive an extension of licensure up to 90 days following the physician  
5 assistant's return from activation or deployment, provided the physician  
6 assistant notifies the board of his or her activation or deployment prior to the  
7 expiration of the current license, and certifies that the circumstances of the  
8 activation or deployment impede good faith efforts to make timely application  
9 for renewal of the license.

10 (b) A licensee shall demonstrate that the requirements for licensure are met.

11 (c) A licensee for renewal of an active license to practice shall have  
12 practiced within the last three years as defined in section 1311 of this title or  
13 have complied with the requirements for updating knowledge and skills as  
14 defined by board rules.

15 (d) A licensee shall promptly provide the board with new or changed  
16 information pertinent to the information in his or her license and license  
17 renewal applications at the time he or she becomes aware of the new or  
18 changed information.

19 (e) A ~~certification~~ license which has lapsed may be reinstated on payment  
20 of a renewal fee and a late renewal fee. The applicant shall not be required to  
21 pay renewal fees during periods when ~~certification~~ the license was lapsed.



1 supervising physician is defined; and that a process for evaluation of the  
2 physician assistant's performance is established.

3 (b) The information required in subsection (a) of this section shall be  
4 included in a delegation agreement as required by the commissioner by rule.  
5 The delegation agreement shall be signed by both the physician assistant and  
6 the supervising physician or physicians, and a copy shall be kept on file at the  
7 physician assistant's primary practice site and with the board.

8 (c) The physician assistant's scope of practice shall be limited to those  
9 medical services which are delegated to the physician assistant by the  
10 supervising physician, and are performed under the supervision of the  
11 supervising physician. The medical services must be within the supervising  
12 physician's scope of practice, and must be services which the supervising  
13 physician has determined that the physician assistant is qualified by education,  
14 training, and experience to perform.

15 (d) A physician assistant may prescribe, dispense, and administer drugs and  
16 medical devices to the extent delegated by a supervising physician. A  
17 physician assistant who is authorized by a supervising physician to prescribe  
18 controlled substances must register with the federal Drug Enforcement  
19 Administration.

20 (e) A supervising physician and physician assistant shall report to the board  
21 immediately upon an alteration or the termination of the delegation agreement.

1 § 1736. UNPROFESSIONAL CONDUCT

2 (a) The following conduct and the conduct described in section 1354 of this  
3 title by a ~~certified physician's~~ licensed physician assistant ~~or registered~~  
4 physician's assistant trainee constitutes shall constitute unprofessional conduct.

5 When that conduct is by an applicant or person who later becomes an  
6 applicant, it may constitute grounds for denial of ~~certification or registration~~  
7 licensure:

8 (1) ~~fraudulent procuring~~ fraud or ~~use of certification or registration~~  
9 misrepresentation in applying for or procuring a license or in applying for or  
10 procuring a periodic renewal of a license;

11 \* \* \*

12 (b) Unprofessional conduct includes the following actions by a ~~certified~~  
13 ~~physician's~~ licensed physician assistant ~~or a registered physician's assistant~~  
14 trainee:

15 \* \* \*

16 (3) ~~professional negligence~~ practicing the profession without having a  
17 delegation agreement meeting the requirements of this chapter on file at the  
18 primary location of the physician assistant's practice and the board;

19 \* \* \*

20 (7) performing otherwise than at the direction and under the supervision  
21 of a physician licensed by the board or an osteopath;





1 may initiate disciplinary action in any complaint against a ~~physician's~~  
2 physician assistant and may act without having received a complaint.

3 (c) After giving opportunity for hearing, the board shall take disciplinary  
4 action described in subsection 1361(b) of this title against a ~~physician's~~  
5 physician assistant, ~~physician's assistant trainee~~, or applicant found guilty of  
6 unprofessional conduct.

7 (d) The board may approve a negotiated agreement between the parties  
8 when it is in the best interest of the public health, safety, or welfare to do so.  
9 Such an agreement may include, ~~without limitation~~, any of the following  
10 conditions or restrictions which may be in addition to, or in lieu of, suspension:

11 (1) a requirement that the individual submit to care or counseling;

12 (2) a restriction that the individual practice only under supervision of a  
13 named person or a person with specified credentials;

14 (3) a requirement that the individual participate in continuing education  
15 in order to overcome specified practical deficiencies;

16 (4) a requirement that the scope of practice permitted be restricted to a  
17 specified extent;

18 (5) an administrative penalty not to exceed \$1,000.00 for each act that  
19 constitutes an unprofessional conduct violation. Any money received from the  
20 imposition of an administrative penalty imposed under this subsection shall be  
21 deposited into the board of medical practice regulatory fee fund for the purpose

1 of providing education and training for board members and the professions  
2 regulated by the board. The commissioner shall detail in the annual report  
3 receipts and expenses from money received under this subsection.

4 (e) Upon application, the board may modify the terms of an order under  
5 this section and, if ~~certification or registration~~ licensure has been revoked or  
6 suspended, order reinstatement on terms and conditions it deems proper.

7 § 1738. USE OF TITLE

8 Any person who is ~~certified~~ licensed to practice as a ~~physician's~~ physician  
9 assistant in this state shall have the right to use the title "~~physician's~~ physician  
10 assistant" and the abbreviation "P.A." and "PA-CC". No other person may  
11 assume that title or use that abbreviation, or any other words, letters, signs, or  
12 devices to indicate that the person using them is a ~~physician's~~ physician  
13 assistant. ~~A physician's assistant shall not so represent himself or herself~~  
14 ~~unless there is currently in existence, a valid contract between the physician's~~  
15 ~~assistant and his or her employer supervising physician, and unless the~~  
16 ~~protocol under which the physician's assistant's duties are delegated is on file~~  
17 ~~with, and has been approved by, the board.~~

18 § 1739. LEGAL LIABILITY

19 (a) The supervising physician delegating activities to a ~~physician's~~  
20 physician assistant shall be legally liable for such activities of the ~~physician's~~

1 ~~physician~~ assistant, and the ~~physician's~~ physician assistant shall in this  
2 relationship be the physician's agent.

3 \* \* \*

4 § 1739a. INAPPROPRIATE USE OF SERVICES BY PHYSICIAN;  
5 UNPROFESSIONAL CONDUCT

6 Use of the services of a ~~physician's~~ physician assistant ~~or a physician's~~  
7 ~~assistant trainee~~ by a physician in a manner which is inconsistent with the  
8 provisions of this chapter constitutes unprofessional conduct by the physician  
9 and such physician shall be subject to disciplinary action by the board in  
10 accordance with the provisions of chapter 23 or 33 of this title, as appropriate.

11 § 1740. FEES

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

14 (1) Original application for ~~certification and registration~~ \$115.00 with  
15 ~~each additional application at \$50.00~~ licensure \$210.00; the board shall use at  
16 least \$10.00 of this fee to support the ~~costs~~ cost of ~~the creation and~~  
17 ~~maintenance of a~~ maintaining the Vermont practitioner recovery network  
18 which ~~will monitor~~ monitors recovering chemically dependent licensees for the  
19 protection of the public.

20 (2) Biennial renewal \$115.00 with ~~each additional renewal at \$50.00~~  
21 \$210.00; the board shall use at least \$10.00 of this fee to support the ~~costs~~ cost

1 of ~~the creation and maintenance of a~~ maintaining the Vermont practitioner  
2 recovery network which ~~will monitor~~ monitors recovering chemically  
3 dependent licensees for the protection of the public.

4 ~~(3) Transfer of certification or registration, \$15.00.~~

5 § 1741. NOTICE OF USE OF ~~PHYSICIAN'S~~ PHYSICIAN ASSISTANT TO  
6 BE POSTED

7 A physician, clinic, or hospital that utilizes the services of a ~~physician's~~  
8 physician assistant shall post a notice to that effect in a prominent place.

9 § 1742. PENALTY

10 (a) Any person who, not being ~~certified or registered~~ licensed, holds  
11 himself or herself out to the public as being ~~so certified or registered~~ licensed  
12 under this chapter shall be liable for a fine of not more than ~~\$1,000.00~~  
13 \$10,000.00.

14 \* \* \*

15 § 1743. MEDICAID REIMBURSEMENT

16 The secretary of the agency of human services shall, pursuant to the  
17 Administrative Procedure Act, promulgate rules providing for a fee schedule  
18 for reimbursement under Title XIX of the Social Security Act and chapter ~~36~~  
19 19 of Title 33, relating to medical assistance which recognizes reasonable cost  
20 differences between services provided by physicians and those provided by  
21 ~~physician's~~ physician assistants under this chapter.

1     § 1744. CERTIFIED PHYSICIAN ASSISTANTS

2         Any person who is certified by the board as a physician assistant prior to the  
3     enactment of this section shall be considered to be licensed as a physician  
4     assistant under this chapter immediately upon enactment of this section, and  
5     shall be eligible for licensure renewal pursuant to section 1734 of this title.

6     Sec. 5. 26 V.S.A. chapter 52 is amended to read:

7                             CHAPTER 52. RADIOLOGIST ASSISTANTS

8                                     \* \* \*

9     § 2854. ELIGIBILITY

10         To be eligible for certification as a radiologist assistant, an applicant shall:

11                                     \* \* \*

12             (3) be certified as a radiologic technologist in radiography by the  
13     ARRT; ~~and~~

14             (4) be licensed as a radiologic technologist in radiography in this state  
15     under chapter 51 of this title; and

16             (5) if the applicant has not engaged in practice as a radiologist assistant  
17     within the last three years, comply with the requirements for updating  
18     knowledge and skills as defined by board rules.

19                                     \* \* \*

1 § 2856. RENEWAL OF CERTIFICATION

2 (a) ~~Certifications shall be renewable every two years upon payment of the~~  
3 ~~required fee and submission of proof of current, active ARRT certification,~~  
4 ~~including compliance with continuing education requirements~~ At least one  
5 month prior to the date on which renewal is required, the board shall send to  
6 each radiology assistant a renewal application form and notice of the date on  
7 which the existing certification will expire. On or before the renewal date, the  
8 radiologist assistant shall file an application for renewal, pay the required fee  
9 and submit proof of current active ARRT certification, including compliance  
10 with continuing education requirements. The board shall register the applicant  
11 and issue the renewal certification. Within one month following the date  
12 renewal is required, the board shall pay the certification renewal fees into the  
13 medical practice board special fund.

14 (b) A certification that has lapsed may be reinstated on payment of a  
15 renewal fee and a late renewal fee. The applicant shall not be required to pay  
16 back renewal fees for the periods when certification was lapsed. However, if  
17 certification remains lapsed for a period of three years, the board may, ~~after~~  
18 ~~notice and an opportunity for hearing,~~ require ~~reexamination as a condition of~~  
19 ~~renewal~~ the applicant to update his or her knowledge and skills as defined by  
20 board rules.

21 \* \* \*

1 § 2858. UNPROFESSIONAL CONDUCT

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

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

6 (1) ~~fraudulent procuring fraud or use of certification~~ misrepresentation  
7 in applying for or procuring a certificate or in connection with applying for or  
8 procuring a periodic recertification as a radiologist assistant;

9 \* \* \*

10 (5) conviction of a crime related to the profession or conviction of a  
11 felony, whether or not related to the practice of the profession or failure to  
12 report to the board of medical practice a conviction of any crime related to the  
13 practice of the profession or any felony in any court within 30 days of the  
14 conviction;

15 \* \* \*

16 (9) ~~professional negligence~~ failure to practice competently by reason of  
17 any cause on a single occasion or on multiple occasions constitutes  
18 unprofessional conduct. Failure to practice competently includes as  
19 determined by the board:

20 (A) performance of unsafe or unacceptable patient care; or





1 written complaint to the board alleging a radiologist assistant practicing in the  
2 state engaged in unprofessional conduct, specifying the grounds. The board  
3 shall initiate an investigation of a radiologist assistant when a complaint is  
4 received or may act on its own initiative without having received a complaint.

5 \* \* \*

6 (d) After giving an opportunity for hearing, the board shall take  
7 disciplinary action described in subsection 1361(b) of this title against a  
8 radiologist assistant or applicant found guilty of unprofessional conduct.

9 (e) The board may approve a negotiated agreement between the parties  
10 when it is in the best interest of the public health, safety, or welfare to do so.  
11 That agreement may include any of the following conditions or restrictions  
12 which may be in addition to or in lieu of suspension:

13 \* \* \*

14 (4) a requirement that the scope of practice permitted be restricted to a  
15 specified extent;

16 (5) an administrative penalty not to exceed \$1,000.00 for each act that  
17 constitutes an unprofessional conduct violation. Any money received from the  
18 imposition of an administrative penalty imposed under this subdivision shall be  
19 deposited into the board of medical practice regulatory fee fund for the purpose  
20 of providing education and training for board members. The commissioner

1 shall detail in the annual report receipts and expenses from money received  
2 under this subsection.

3 \* \* \*

4 § 2862. FEES

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

7 (1)(A)(i) Original application for certification \$115.00;  
8 (ii) Each additional application \$ 50.00;

9 (B) The board shall use at least \$10.00 of these fees to support the  
10 ~~costs~~ cost of the creation and maintenance of a maintaining the Vermont  
11 practitioner recovery network which ~~will monitor~~ monitors recovering  
12 chemically dependent licensees for the protection of the public.

13 (2)(A)(i) Biennial renewal \$115.00;  
14 (ii) Each additional renewal \$ 50.00;

15 (B) The board shall use at least \$10.00 of these fees to support the  
16 ~~costs~~ cost of the creation and maintenance of a maintaining the Vermont  
17 practitioner recovery network ~~that will monitor~~ which monitors recovering  
18 chemically dependent licensees for the protection of the public. In addition to  
19 the fee, an applicant for certification renewal shall submit evidence in a  
20 manner acceptable to the board that he or she continues to meet the

1 certification requirements of the ARRT and is licensed as a radiologic  
2 technologist under chapter 51 of this title.

3 \* \* \*

4 § 2864. PENALTY

5 (a) A person who, not being certified, holds himself or herself out to the  
6 public as being certified under this chapter shall be liable for a fine of not more  
7 than ~~\$1,000.00~~ \$10,000.00.

8 \* \* \*

9 Sec. 6. REPEAL

10 The following sections of Title 26 are repealed:

11 (1) § 322 (podiatrist as member of board of medical practice);

12 (2) § 1352 (reports);

13 (3) § 1397 (recording license);

14 (4) § 1734a (temporary certification); and

15 (5) § 1735 (supervision and scope of practice).

16 Sec. 7. ADOPTION OF RULES

17 The state board of medical practice shall adopt maintenance of licensure  
18 rules for podiatrists, physicians, and physician assistants by September 1,  
19 2012.

1       Sec. 8. EFFECTIVE DATES

2           This act shall take effect on passage, except that, in Title 26:

3           (1) §§ 371(5) and 373 (b)–(d) shall take effect 60 days after the adoption  
4           of the maintenance of licensure rule for podiatrists;

5           (2) §§ 1396(7) and 1400(b) and (c) shall take effect 60 days after the  
6           adoption of the maintenance of licensure rule for physicians;

7           (3) §§ 1654(3) and 1656(b) shall take effect 60 days after the adoption  
8           of rule referenced in 26 V.S.A. § 1654(3);

9           (4) §§ 1733(d) and 1734b(b) and (c) shall take effect 60 days after the  
10          adoption of the maintenance of licensure rule for physician assistants; and

11          (5) §§ 2854(5) and 2856(b) shall take effect 60 days after the adoption  
12          of the rule referenced in 26 V.S.A. § 2854(5).