

RULES OF THE BOARD OF MEDICAL PRACTICE

SECTION I. GENERAL PROVISIONS; ~~PHYSICIAN LICENSING~~

~~PART 1 THE BOARD, ITS PURPOSES, AND GOVERNING AUTHORITIES~~

1.0 Overview

1.1 Rule 1.1 Purpose:

The purpose of the Board of Medical Practice ~~has been created and given powers by Vermont law. The Board's purpose is to protect the public health, safety and welfare. The Board does this by setting standards for issuing licenses, and certifications, by licensing and certifying only qualified applicants, by investigating complaints of unprofessional conduct and unlicensed practice of medicine, by disciplining and regulating the practices of license and certificate holders, and by providing licensees with guidelines, policies, and continuing medical education. Pursuant to 26 V.S.A. §1353(1) and 3 V.S.A. § 831(d), the Board adopts and promulgates the following Rules of Practice. These rules amend the rules previously effective November 1, 1995. All prior rules adopted by the Board are repealed. The Board presumes that every physician, physician assistant, and podiatrist has notice of these rules and expects that he or she will practice medicine in accordance with them.~~

1.2 Authority

~~This rule is adopted pursuant to 26 V.S.A. § 1351(e) and 3 V.S.A. § 831(d).~~

1.3 Scope

~~This rule establishes requirements for the licensing or certification, and regulation of physicians, physician assistants, podiatrists, anesthesiologist assistants, and radiologist assistants by the Board of Medical Practice.~~

2.0 Definitions

~~**2.1** (a) "ABMS" means the American Board of Medical Specialties.~~

~~**2.2** (b) "Accredited Medical School" means a medical school accredited by the LCME or the Canadian equivalent.~~

~~**2.3** (c) "ACGME" means the Accreditation Council for Graduate Medical Education.~~

~~**2.4** (d) "AMA" means the American Medical Association.~~

- 2.5** ~~(e)~~—"Board" means the Board of Medical Practice created by 26 V.S.A. Chapter 23.
- 2.6** ~~(f)~~—"Board-approved medical school" means a medical school that appears on the official California Recognized Medical Schools list listed in the World Directory of Medical Schools published by the World Health Organization and must that also does not appear on the California Medical Board list of "dDisapproved or uUnder rReview" schools.
- 2.7** ~~(g)~~—"CACMS" means the Committee on Accreditation of Canadian Medical Schools.
- 2.8** ~~(h)~~—"CFPC" means the College of Family Physicians of Canada.
- 2.9** "CME" means continuing medical education as defined by the Accreditation Council for Continuing Medical Education (ACCME).
- 2.10** "CPME" means Council on Podiatric Medical Education of the American Podiatric Medical Association.
- 2.11** "Delegation Agreement" means a document identifying the medical acts that the PA may perform pursuant to the delegation by the primary supervising physician and detailing the means by which supervision will occur.
- 2.12** ~~(i)~~—"ECFMG" means the Educational Commission for Foreign Medical Graduates.
- 2.13** ~~(j)~~—"Fifth pathway" means a program of medical education that meets the following requirements:
- 2.13.1** ~~(1)~~—Completion of two years of pre medical education in a college or university of the United States.
- 2.13.2** ~~(2)~~—Completion of all the formal requirements for the degree corresponding to doctor of medicine except internship and social service in a medical school outside the United States which is recognized by the World Health Organization.
- 2.13.3** ~~(3)~~—Completion of one academic year of supervised clinical training sponsored by an approved medical school in the United States or Canada.
- 2.13.4** ~~(4)~~—Completion of one year of graduate medical education in a program approved by the Liaison Committee on Graduate Medical Education of the American Medical Association.
- 2.14** ~~(k)~~—"FLEX" means the Federation Licensing Examination.
- 2.15** ~~(l)~~—"Foreign medical school" means a legally chartered medical school in a sovereign state other than the United States or Canada.
- 2.16** "Immediate family" means the following: a spouse (or spousal equivalent), parent, grand-parent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, or any other person who is permanently

residing in the same residence as the licensee. The listed familial relationships do not require residing in the same residence.

- 2.17** ~~(m)~~—“Lapsed license” means a license that has expired or is no longer valid due to the licensee’s failure to complete the requirements for renewal of that license.
- 2.18** ~~(n)~~—“Limited temporary license” means a license issued for the purpose of completing post-graduate training and allows the licensee to practice under the supervision and control of a Vermont-licensed physician in an ACGME-accredited training program.
- 2.19** ~~(o)~~—“LCME” means the Liaison Committee on Medical Education of the AMA.
- 2.20** ~~(p)~~—“LMCC” means the Licentiate of the Medical Council of Canada.
- 2.21** ~~(q)~~—“MCCQE” means Medical Council of Canada Qualifying Examination.
- ~~(r)~~—“RCPSC” means the Royal College of Physicians and Surgeons of Canada, which is the accrediting body for postgraduate medical education in Canada.
- ~~(s)~~—“RRC” means the Residency Review Committee of the ACGME.
- 2.22** ~~(t)~~—“National Boards” means the examination given by the National Board of Medical Examiners.
- 2.23** “NCCPA” means National Commission for the Certification of Physician Assistants.
- 2.24** “PA” means physician assistant.
- 2.25** “Physician” means a medical doctor or holder of an equivalent degree that qualifies a person to be licensed as an allopathic physician. It does not mean doctor of osteopathy when used in these rules unless specified.
- 2.26** “PMLexis” means the Podiatric Medical Licensure Examination for States.
- 2.27** “Primary supervising physician” means a Vermont-licensed Medical Doctor or Doctor of Osteopathy who supervises the practice of a PA in accordance with these rules.
- 2.28** “Professional” means a member of one of the health care professions licensed by the Board: medical doctor; physician assistant; podiatrist; anesthesiologist assistant, and radiologist assistant.
- 2.29** “RCPSC” means the Royal College of Physicians and Surgeons of Canada, which is the accrediting body for postgraduate medical education in Canada.
- 2.30** “Referral” means sending a patient to a non-supervising practitioner for diagnosis and treatment.
- 2.31** “RRC” means the Residency Review Committee of the ACGME.
- 2.32** “Secondary supervising physician” means a Vermont-licensed Medical Doctor or Doctor of Osteopath who supervises the practice of a PA in accordance with these rules when the primary supervising physician is unavailable.

- 2.33** ~~(u)~~—“Specialty Board certification” means the certification granted upon successfully completing the educational and examination requirements of a specialty board of the American Board of Medical Specialties.
- 2.34** “Supervision” means, with regard to physician assistants, the direction provided and review performed by the supervising physician of medical services provided by a physician assistant. The supervising physician need not be present on the premises where the physician assistant renders medical services and may provide supervision by telephone or electronic means of communication.
- 2.35** ~~(v)~~—“USMLE” means the United States Medical Licensing Examination.
- 2.36** “Verification” means documentation that is provided to the Board that comes directly from the original issuing authority, or recognized successor entity, in a format acceptable to the Board, or from the Federation Credential Verification Service (FCVS) or other record repository as may be recognized by the Board.
- 2.37** ~~(w)~~—“V.S.A.” means Vermont Statutes Annotated.

~~Rule 1.2 Board Members and Officers.~~

~~The Board has a total of 14 members, each member having been appointed by the governor for a term up to five years. Board members shall not serve more than two consecutive terms. When acting on matters related to physicians and podiatrists, the Board is composed of 13 members, nine licensed physicians, one licensed podiatrist, and three persons not associated with the medical field, who shall be known as “public members.” In matters relating to the general business of the Board, the Physician Assistant member shall also participate.~~

~~Rule 1.3 Meetings and Hearings.~~

~~(a) The Board meets a minimum of once a month. The chair or a majority of the members may call a special or emergency meeting if it is deemed necessary. Seven members of the Board constitute a quorum for all meetings.~~

~~(b) Hearings before the Board have different quorum requirements. Five members of the Board, including at least one public member, constitute a quorum for hearings before a full hearing panel. The Board chair may designate a hearing committee constituting less than a quorum, a minimum of one public member and one physician member of the Board, to conduct hearings which would otherwise be heard by a full hearing panel. Any recommendation by an investigative committee must be by a majority of that committee.~~

~~(c) Information on meeting times and places may be obtained from the Board.~~

3.0 Hearings Before the Board

- 3.1 Hearing Committee:** The Board chair may designate a hearing committee constituting less than a quorum, with a minimum of one public member and one physician member of the Board, to conduct hearings which would otherwise be heard by a full hearing panel. When a hearing is conducted by a hearing committee of the Board, the committee shall report its findings and conclusions to the Full Board Hearing Panel within 60 days of the conclusion of the hearing unless the Board grants an extension. The committee's report shall be considered at a hearing of the Board.
- 3.2 Full Board Hearing Panel:** Hearings before the Board require five members, including at least one public member. Members of a committee designated under section 26 V.S.A. § 1355 shall not participate in or be present during deliberations of the Board but may be present for all other parts of the hearing.
- 3.3** Hearings shall be open to the public, except when required or permitted to be closed pursuant to law.

4.0 Applicant's Right to a Written Decision

- 4.1** The Board must document, in writing, all decisions on whether an applicant is granted or denied a license or certification. The Board may stay its decision on an application for a license or certification from an applicant who is the subject of an unresolved licensing board investigation or a criminal complaint in another jurisdiction that involves or relates to the practitioner's care of patients or fitness to practice medicine. If an application is stayed, the Board may require the applicant to update some or all parts of the application when the stay is removed and the application is to be considered.
- 4.2** Whenever the Board intends to deny an applicant a license, it shall first issue a Notice of Intent to Revoke, which shall include:
- 4.2.1** The specific reasons for the license denial;
- 4.2.2** Notice that the applicant has the right to request a hearing at which the Board shall review the preliminary decision, and that such request must be filed with the Board within 30 days of the date the decision was sent to the applicant.
- 4.3** At the hearing to review the preliminary decision to deny the license application, the applicant shall be given the opportunity to show that he or she has met the licensing requirements;
- 4.4** After the hearing, the Board shall affirm or reverse the preliminary decision, and shall issue a final written decision and order setting forth its reasons for the decision. The decision and order shall be signed by the chair or vice-chair of the

Board and the Board shall enter the order. A decision and order is effective upon entry.

4.5 Notice of both the preliminary decision and the final decision and order shall be sent to the applicant by certified mail.

5.0 Applicant's Right to Appeal

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice, as provided by 26 V.S.A. § 1367 and the Vermont Rules of Appellate Procedure. For further rules concerning appeals, see 3 V.S.A. ch. 25 Administrative Procedures.

6.0 Fees

6.1 Application fees are established in 26 V.S.A. §§ 374, 378, 1401a, 1662, 1740, and 2862.

6.2 Physician fee waiver.

6.2.1 A physician who will limit his or her practice in Vermont to providing pro bono services at a Board-recognized free or reduced fee health care clinic, as provided by 26 V.S.A. § 1395(c), shall meet all license requirements, but may apply for a waiver of licensing fee, by submitting a fee waiver request to the Board which shall include the following information:

6.2.1.1 The name and address of the free or reduced fee health clinic(s) where the pro bono services shall be performed;

6.2.1.2 The licensee's certification that he or she shall perform only pro bono services in Vermont, and shall only perform such services at the listed clinics;

6.2.1.3 The clinic director's certification that the licensee shall perform only pro bono services at the clinic.

6.2.2 A physician granted this fee waiver request must reapply for the waiver at each biennial renewal. The licensee's failure to follow the terms of the certifications submitted or the provisions of this rule may constitute unprofessional conduct as set forth in 26 V.S.A. §§ 1354 and 1398 and may result in disciplinary action.

7.0 Renewing a License or Certification

7.1 Licenses and certifications are renewed on a fixed biennial schedule. A professional must renew his or her license or certification before it lapses. The date on which a license or certification shall lapse is printed on it. 90 days before such date, the Board will provide each professional with notice of renewal to the email address last provided to the Board. If a professional does not complete the renewal application, submit all required documentation, and pay the renewal fee

to the Board by the date on which the license or certification shall lapse, the license or certification will lapse automatically.

- 7.2** A professional whose initial license or certification is issued within 90 days of the next-occurring renewal date, will not be required to renew or pay the renewal fee. Instead, the license or certification will be issued with an expiration date at the end of the next full period of licensure or certification. A professional who is issued an initial license or certification more than 90 days prior to the next-occurring expiration date will be required to renew and pay the renewal fee or the license or certification will lapse.
- 7.3** Professionals have a continuing obligation during each two-year renewal period to promptly notify the Board of any change to the answers on the initial or renewal application last filed with the Board, including but not limited to disciplinary or other action limiting or conditioning his or her license, certification, or ability to practice in any jurisdiction. Failure to do so may subject the professional to disciplinary action by the Board.
- 7.4** Limited training licenses (LTLs) are issued on a fixed annual schedule. Otherwise, these provisions apply to holders of LTLs.
- 7.5** Additional, specific requirements for renewal as a physician assistant, radiologist assistant, or anesthesiologist assistant are listed in the sections specific to those professions.

8.0 Lapsed Licenses or Certifications

If a license or certification has not been renewed by the required date, it lapses. A professional regulated by the Board may not legally practice in Vermont after his or her license or certification has lapsed. The professional must halt practice immediately and completely until the license or certification has been reinstated.

9.0 Reinstatement of a License or Certification

- 9.1** Reinstating a License or Certification after It Has Been Lapsed for Less Than One Year (364 days or less).
- 9.1.1** To seek reinstatement after failing to renew, a professional must complete in full the renewal application and tender it to the Board with any required documentation and a late fee in addition to the fee required for renewal, within a year of lapsing. The Board may seek or request such additional information as it deems needed to make a determination as to the renewal application. The Board may deny the renewal of a license or certification on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the professional.

9.2 Reinstating a License or Certification after It Has Lapsed for One Year or More (365 days or more).

9.2.1 If a license or certification has been lapsed for one year or more the professional must complete a reinstatement application in full and pay the application fee for an initial application. The reinstatement application requires additional information beyond that required in the standard renewal application. This includes but is not limited to the requirement to submit a chronological accounting of all professional activities in other jurisdictions during the period the Vermont license or certification was lapsed.

9.2.2 The professional submitting a renewal for a license or certification lapsed for one year or more must provide:

9.2.2.1 For physicians or any other professional who held hospital privileges, a form completed by the chief of staff of the hospital at which he or she most recently held privileges during the period when the Vermont license was lapsed;

9.2.2.2 For professionals who are required to practice under supervision, a form completed by each supervisor who provided supervision during the period when the Vermont license or certification was lapsed; and

9.2.2.3 A verification from each state in which he or she held an active license or certification during the period when the Vermont license or certification was lapsed.

9.2.3 Reinstatement may be denied on grounds of unprofessional conduct as set forth under Vermont law or for other good cause, after notice and opportunity to be heard has been provided to the professional.

10.0 **Stale Applications**

10.1 An application that becomes stale under these provisions is terminated without Board action and without refund of any fees paid.

10.2 An application becomes stale if six months pass from the time that the applicant is notified that additional information or documentation is needed and the information or documentation has not been provided. Once an application has become stale, verifications and documentation as determined by the Board must be resubmitted and the fee must be paid again if the applicant desires to resume the application process.

10.3 An application that has been forwarded to the licensing committee may be determined by the licensing committee to be incomplete. An application becomes stale while before the licensing committee if the licensing committee requests additional information and the information is not submitted within sixty days. An

applicant may request more time from the licensing committee, which shall rule finally on all matters of whether the application was completed in a timely matter.

11.0 Enforcement of Child Support

The Board licenses or certifies five professions: Physicians, Physician Assistants, Podiatrists, Anesthesiologist Assistants, and Radiologist Assistants. Per 15 V.S.A. § 795, the Board may not issue or renew a professional license or certification to practice these professions or be a trainee if the applicant is under an obligation to pay child support and is not in good standing or in full compliance with a plan to pay the child support due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed.

12.0 Tax Compliance

The Board licenses or certifies five professions: Physicians, Physician Assistants, Podiatrists, Anesthesiologist Assistants, and Radiologist Assistants. Per 32 V.S.A. § 3113, the Board may not issue or renew a professional license or certification to practice those professions or be a trainee unless the applicant is in good standing with respect to or in full compliance with a plan to pay any and all taxes due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is in good standing with respect to or in full compliance with a plan to pay any and all taxes due.

13.0 PART 4 Professional Standards.

~~Rule 4.1 Grounds for Disciplinary Action.~~

~~Grounds for disciplinary action are set forth in 26 V.S.A. §§ 1354, 1398, and 1739a. Additional grounds are set forth in 3 V.S.A. § 129a and 18 V.S.A. § 1852. The Board may refuse to issue a physician's license or may suspend, revoke, condition, limit, reprimand, or otherwise take action against a licensee for any of the reasons set forth in those statutes. All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of these rules.~~

13.1 Rule 4.2 Change of Name or Address.

All professionals are responsible for notifying the Board within 10 days of any change of name, mailing address, or telephone number. All professionals who hold a Vermont license or certification are required to keep the Board informed of a current email address; email is used to provide important notices to all professionals regulated by the Board. A professional who holds a Vermont license but who has not been engaged in practice in Vermont shall notify the

Board at least 30 days in advance of the intended starting date of the Vermont practice.

13.2 ~~Rule 4.3~~ **Self-Prescribing and Prescribing for Family Members.**

13.2.1 Controlled Substances: It is unacceptable medical practice and unprofessional conduct for a licensee to prescribe or dispense controlled substances listed in US Drug Enforcement Agency (“D.E.A.”) Schedules II, III, ~~and or~~ IV for his or her own use. ~~Such conduct constitutes a violation of 26 V.S.A. § 1398.~~ It also is unacceptable medical practice and unprofessional conduct for a licensee to prescribe or dispense Schedule II, III, ~~and or~~ IV controlled substances to a member of his or her immediate family, as defined in subsection 2.16, except in a bona fide emergency, of short-term and unforeseeable character. Prescribing for self or immediate family members, as defined in these Rules, constitutes a violation of 26 V.S.A. § 1354.

13.2.2 Non-controlled Substances: It is discouraged for a licensee to prescribe or dispense non-controlled prescription substances for his or her own use. It is also discouraged for licensee to prescribe or dispense non-controlled prescription substances to a member of his or her immediate family, as defined in subsection 2.16. Licensees who do prescribe non-controlled substances for their own use or that of a family member are required to meet all standards of appropriate care, including proper establishment of a professional relationship with the patient and maintenance of appropriate patient records.

13.3 **Methadone Prescribing.** Federal law prohibits prescribing methadone outside of a certified opioid treatment program, unless it is prescribed or dispensed as an analgesic. A licensee must include the words “FOR PAIN” in a prescription for methadone.

Rule 1.4 Laws That Govern the Board.

~~The Board is governed by 26 V.S.A Chapter 23, which establishes the Board's responsibilities for setting standards, issuing licenses and regulating physicians. The Board is governed by 26 V.S.A Chapter 7 in its regulation of podiatrists, by 26 V.S.A. Chapter 31 regulating physician assistants, and by 26 V.S.A. Chapter 57 regulating review of licensing statutes and boards.~~

~~In addition to the above, the Board is obligated to comply with several other state laws including, but not limited to, the Administrative Procedure Act (3 V.S.A. §§ 801-847), the Law of Professional Regulation (3 V.S.A. §§ 121-131), the Right to Know Law (1 V.S.A. §§ 312-313), the Access to Public Records Law (1 V.S.A. §§ 315-320), the Bill of Rights for Hospital Patients (18 V.S.A. § 1852), enforcement of child support orders (15 V.S.A. §§ 795 and 798), compliance with tax payments (32 V.S.A. § 3113), and compliance with unemployment compensation contributions (21 V.S.A. § 1378). These laws spell out the rights of applicants, license holders, or members of the public when~~

~~dealing with the Board.~~

~~Anyone wishing to read the complete text of any of these laws can find them at the Board's website www.docboard.org, or should contact a town clerk or library.~~

~~Rule 1.5 Definitions.~~

~~As used in these rules:~~

~~(a) "ABMS" means the American Board of Medical Specialties.~~

~~(b) "Accredited Medical School" means a medical school accredited by the LCME or the Canadian equivalent.~~

~~(c) "ACGME" means the Accreditation Council for Graduate Medical Education.~~

~~(d) "AMA" means the American Medical Association.~~

~~(e) "Board" means the Board of Medical Practice created by 26 V.S.A. Chapter 23.~~

~~(f) "Board approved medical school" means a medical school listed in the World Directory of Medical Schools published by the World Health Organization and must not appear on the California Medical Board list of "disapproved or under review" schools.~~

~~(g) "CACMS" means the Committee on Accreditation of Canadian Medical Schools.~~

~~(h) "CFPC" means the College of Family Physicians of Canada.~~

~~(i) "ECFMG" means the Educational Commission for Foreign Medical Graduates.~~

~~(j) "Fifth pathway" means a program of medical education that meets the following requirements:~~

~~(1) Completion of two years of pre-medical education in a college or university of the United States.~~

~~(2) Completion of all the formal requirements for the degree corresponding to doctor of medicine except internship and social service in a medical school outside the United States which is recognized by the World Health Organization.~~

~~(3) Completion of one academic year of supervised clinical training sponsored by an approved medical school in the United States or Canada.~~

~~(4) Completion of one year of graduate medical education in a program approved by the Liaison Committee on Graduate Medical Education of the American Medical Association.~~

- (k) ~~"FLEX" means the Federation Licensing Examination.~~
- (l) ~~"Foreign medical school" means a legally chartered medical school in a sovereign state other than the United States or Canada.~~
- (m) ~~"Lapsed license" means a license that has expired or is no longer valid due to the licensee's failure to complete the requirements for renewal of that license.~~
- (n) ~~"Limited temporary license" means a license issued for the purpose of completing post graduate training and allows the licensee to practice under the supervision and control of a Vermont licensed physician in an ACGME accredited training program.~~
- (o) ~~"LCME" means the Liaison Committee on Medical Education of the AMA.~~
- (p) ~~"LMCC" means the Licentiate of the Medical Council of Canada.~~
- (q) ~~"MCCQE" means Medical Council of Canada Qualifying Examination.~~
- (r) ~~"RCPSC" means the Royal College of Physicians and Surgeons of Canada, which is the accrediting body for postgraduate medical education in Canada.~~
- (s) ~~"RRC" means the Residency Review Committee of the ACGME.~~
- (t) ~~"National Boards" means the examination given by the National Board of Medical Examiners.~~
- (u) ~~"Specialty Board certification" means successfully completing the educational and examination requirements of a specialty board of the American Board of Medical Specialties.~~
- (v) ~~"USMLE" means the United States Medical Licensing Examination.~~
- (w) ~~"V.S.A." means Vermont Statutes Annotated.~~

SECTION II. PART 2 PHYSICIANS LICENSING

14.0 Rule 2.1 License Required.

No one may practice medicine in the state unless licensed by the Board, or when exempt under the provisions contained in 26 V.S.A. § 1313. Before allowing a physician who is not licensed in Vermont to practice pursuant to the exemption stated in 26 V.S.A. §1313(a)(4), a medical school or teaching hospital must first verify through primary

source verification the physician's qualifications and credentials, including that the physician has a valid, unrestricted license to practice medicine in the jurisdiction where he or she currently practices. Such documentation shall be submitted to the Executive Director for review; the Executive Director may approve the exemption or may elect to refer the matter to the Licensing Committee and/or Board. If referred directly to the Board, there is no requirement for review by the Licensing Committee.

15.0 ~~Rule 2.2~~ General Requirements for Licensing-

15.1 In order to be granted a license to practice medicine ~~an~~ the applicant must meet the following eligibility requirements present evidence satisfactory to the Board that the applicant:

15.1.1 ~~(a) At least 18 years of age; Is at least 18 years of age;~~

15.1.2 ~~(b) Is e~~Competent in speaking, writing and reading the English language;

15.1.3 ~~(c) Has e~~Completed high school and at least two years of college or the equivalent;

15.1.4 ~~(d) A~~ Is a graduate of a Board-approved medical school, or a medical school accredited by the LCME or CACMS;

15.1.5 ~~(e) Meets Has met~~ the Board's criteria for Postgraduate Training. ~~(See 2.6);~~

15.1.6 ~~(f) Meets Has met~~ the Board's criteria for License by Examination ~~(See 2.3); License by Reciprocity (See 2.4); or License by Appointment to the faculty of a Vermont medical college (See 2.5); and~~

15.1.7 ~~(g) Meets requirement for Has presented reference forms as to moral character and professional competence,; and~~

~~(h) Has been interviewed by a Board member, the licensing committee, and/or the Board.~~

15.2 For each applicant for licensure as a physician the Board must receive, in a form satisfactory to the Board:

15.2.1 A complete online application;

15.2.2 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

15.2.3 If applicable, an ECFMG certificate. An ECFMG certificate is required if an applicant graduated from a medical school outside of the United States or Canada, unless the applicant successfully completed a fifth pathway program.

15.2.4 Evidence of completion of high school and at least two years of college;

- 15.2.5 For each medical school attended, the Uniform Application Medical School Verification Form for primary source documentation of graduation from a Board-approved medical school or a medical school accredited by the LCME or CACMS;
- 15.2.6 For each postgraduate training program attended, the Uniform Application Postgraduate Training Verification Form for primary source documentation of all postgraduate training;
- 15.2.7 Verification of every medical license ever held in any state, territory, or province to practice medicine at any level, including permanent, temporary, and training licenses.
- 15.2.8 Verification of medical licensing examination results; sent directly by the applicable examining authority in accordance with the Board of Medical Practice examination requirements;
- 15.2.9 Board of Medical Practice Reference Forms completed and submitted directly by the chief of service (or equivalent) and two other active physician staff members of the hospital where the applicant currently holds, or most recently held, privileges. If an applicant has not held privileges at a hospital within two years of the date of submission of the application, or cannot provide references as indicated, the Board in its discretion may accept references from other physicians who have knowledge of the applicant's moral character and professional competence. An applicant shall indicate in the application if asking the Board to accept references that do not meet the above-stated standard;.
- 15.2.10 The Uniform Application Affidavit and Authorization for Release of Information Form;
- 15.2.11 American Medical Association Profile. This must be a current Profile issued within 60 days of submission of the application;
- 15.2.12 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application;
- 15.2.13 The applicant's CV (curriculum vitae) or résumé; and
- 15.2.14 If specialty board-certified, a copy of the specialty board certificate.
- 15.3** All applicants must submit a completed Board application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.
- 15.4** At the discretion of the licensing committee or the Board any applicant may be required to be interviewed by a Board member.

Upon request and at the discretion of the Board member or members conducting the required personal interview, the interview may be conducted with videoconferencing technology; such an interview shall be considered compliant with this section. In such case, the applicant shall be responsible for arranging and shall pay any costs incurred in accessing the communication technology required.

16.0 ~~Rule 2.3 License by Examination.~~

~~(a) In 1991, an agreement between the National Board of Medical Examiners and the Federation of State Medical Boards created a single national licensing examination, the United States Medical Licensing Examination. The USMLE replaced the prior two examination systems (the National Boards offered by the NBME and the FLEX offered by the Federation).~~

16.1 ~~(b) All applicants entering the examination system after December 31, 1994 must use and pass the USMLE three-step sequence. Primary source documentation of a passing grade of at least 75 must be obtained on each of the three USMLE steps is required. All three steps must be completed within seven (7) years of the first examination attempt, or ten (10) years if the applicant completed an MD/PhD or equivalent program. Applicants may retake USMLE Step I and II multiple times without limit until successful, subject to the time limit of seven or ten years. Applicants may retake USMLE Step III two times, for a total of three attempts, taking Step 1 for the first time. If Step 3 is failed on the first attempt, one reexamination is permitted for obtaining a Vermont license. The reexamination must be taken within one year of the date of notice of the first failed examination. Additional attempts, even if successful, do not qualify the applicant for a Vermont license unless granted a waiver as provided in section 3.2 below.~~

16.2 Applicants who do not meet the requirement to have passed all three Steps of the USMLE within a seven-year period, or ten-year period for an MD/PhD applicant, or have required more than three attempts to pass Step 3 may apply for a waiver of the requirement if they meet all the following criteria:

16.2.1 Hold a full unrestricted license in another U.S. or Canadian jurisdiction;

16.2.2 Hold an active ABMS, RCPSC, or CFPC specialty certification; and

16.2.3 Have successfully completed an ACGME, RCPSC, or CFPC approved post-graduate training program.

16.3 Applicants who first took a medical licensing exam on or before December 31, 1994, must satisfy at least one of the following criteria, as evidenced by primary source documentation:

16.3.1 (e) Applicants who successfully completed the National Boards Parts 1, 2, and 3 or FLEX Component 1 and 2 with a grade of at least 75 on all segments of either exam meet the examination criteria of the Board. All segments of either exam must have been completed within seven (7) years.

The final clinical segment (Part 3 or Component 2) must have been passed on the first or second attempt to qualify for a Vermont license.; or

16.3.2 (d) Applicants who entered, but did not complete, either the NBME or FLEX sequences before the discontinuance of FLEX or National Boards may combine some parts (components) from the two discontinued exam systems with USMLE for completion of an acceptable examination sequence. Each of the following combinations are acceptable:

(1)	NBME Part I or USMLE Step 1	plus	NBME Part II or USMLE Step 2	plus	NBME Part III or USMLE Step 3
OR					
(2)	FLEX Component I	plus	USMLE Step 3		
OR					
(3)	NBME Part I Or USMLE Step 1	plus	NBME Part II Or USMLE Step 2	plus	FLEX Component 2

16.3.3 Applicants who took and passed a medical licensing examination administered by one of the United States or its Territories with a minimum passing grade of 75% meet the examination requirements.

16.3.4 (e) Graduates of Canadian medical schools, in addition to the above examination options, can qualify for a Vermont license by successfully passing the MCCQE, Part I and Part II.

~~(f) Applicants who took and successfully passed a Vermont Board-designed and administered examination with a passing grade of 75 on either the first or second attempt meet the examination requirements for a Vermont license. Applicants who took and passed examinations designed and administered by other state boards must have these examinations reviewed by the Vermont Board for adequacy in meeting Vermont examination standards.~~

~~Rule 2.4 License by Reciprocity.~~

~~An applicant who holds a current, unrestricted license in another United States or Canadian jurisdiction may be licensed without further examination if the other jurisdiction has equivalent standards for licensure and grants the same reciprocity privileges to Vermont license holders. Board Counsel shall determine whether licensing standards and reciprocity privileges are equivalent. The applicant must present a certificate of medical licensure and a statement of reciprocity from the licensing jurisdiction.~~

17.0 Rule 2.5 License by Faculty Appointment.

The Board may license without examination a ~~citizen-resident~~ of a foreign country who is a licensed physician in good standing in the ~~home-country of residence~~ and who presents verifiable evidence of outstanding academic and clinical achievements and potential. To qualify for a Vermont license under this rule the applicant must present evidence that the applicant will be appointed to the University of Vermont College of Medicine full-time faculty at the rank of associate professor or higher. The license is issued only for the duration of the faculty appointment and is dependent on favorable faculty evaluations conducted according to the usual College of Medicine procedures. The licensee shall share these evaluations with the Board if requested.

18.0 Rule 2.6 Postgraduate Training Requirements.

18.1 ~~(a)~~ Graduates of accredited U.S. or Canadian medical schools must have successfully completed one year of two years of postgraduate training accredited by the ~~in~~ ACGME, RCPSC, or CFPC. The training should be a progression of directed experience. Multiple first-year programs are not acceptable. Applicants who are currently licensed and in good standing in another U.S. or Canadian jurisdiction who were first licensed to practice in the U.S. or Canada on or before December 31, 1994 must have successfully completed one year of a postgraduate training program accredited by the ACGME, RCPSC, or CFPC. ~~accredited programs.~~

18.2 ~~(b)~~ Graduates who hold a diploma from a Board-approved medical school outside of the United States or Canada must complete one of the following additional requirements:

18.2.1 ~~(1)~~ Three years of postgraduate training in programs approved by the ACGME, the RCPSC, or the CFPC. The training should be a progression of directed experience, preferably in a single program. Multiple first year programs are not acceptable;

18.2.2 ~~(2)~~ Specialty certification by a specialty board recognized by the ABMS, the RCPSC, or CFPC may be substituted for ~~(a)~~ 18.1 above; or

18.2.3 ~~(3)~~ Three years as a full-time faculty member at or above the level of assistant professor in a clinical discipline in a medical school approved by the LCME, with documentation of the applicant's clinical training and competence and the school's method of evaluating that competence. The evaluation must be part of the school's normal established procedure. The documentation shall ~~will~~ include letters from the chairperson and two senior members of the applicant's department, special honors or awards ~~which that~~ the applicant has achieved, and articles ~~that which~~ the applicant has published in reputable medical journals or medical textbooks.

18.3 ~~(e)~~-Fifth Pathway graduates are not required to submit an ECFMG certificate and are eligible for a Vermont license after three years of postgraduate training in an ACGME, RCPSC, or CFPC-accredited program.

19.0 ~~Rule 2.7~~-**Application to Take USMLE in Vermont.**

19.1 ~~(a)~~-The Federation of State Medical Boards and the National Board of Medical Examiners administer the United States Medical Licensing Examination (USMLE). Applicants for Vermont licensure shall contact the Federation to apply to take the USMLE. The Board administers the USMLE Step 3. Applicants who wish to take the exam in Vermont under Board auspices must include with the completed application and the required fee the following:

19.2 General eligibility requirements to take USMLE Step 3 are:

19.2.1 ~~(1)~~-Certification of graduation from an accredited medical school in the United States or Canada, or a Board-approved medical school located in another country ~~countries~~;

19.2.2 ~~(2)~~-Verification of ECFMG certificate if the applicant is a graduate ~~from~~ of a medical school outside the United States or Canada. Fifth Pathway graduates are not required to submit an ECFMG certificate;

19.2.3 ~~(3)~~-Certification that the applicant has completed at least seven months of postgraduate training in a program approved by the ACGME, the RCPSC, or the CFPC.

~~(b) Once the application is complete, the Board will notify the applicant of the time, date, and location of the next regularly scheduled exam.~~

~~(c) An applicant who fails USMLE Step 3 may apply for reexamination. By Vermont statute, only one reexamination is allowed in order to qualify for a Vermont license. The reexamination must be taken within one year of the date of notice of the first failed examination.~~

20.0 ~~Rule 2.8~~-**Limited Temporary License.**

20.1 ~~(a)~~-A limited temporary license is issued for the purpose of completing postgraduate training and allows the licensee to practice under the supervision and control of a Vermont-licensed physician in an ACGME-accredited training program. The applicant must be enrolled in an ACGME-accredited program of postgraduate training or in sub-specialty clinical fellowship training in an institution that has an accredited program in the parent specialty. A limited temporary license ~~is granted for a period of one year only~~ may be renewed or reissued, upon submission of a completed renewal application. ~~An applicant may renew a limited temporary license only four times.~~

20.2 ~~(b) Application for a limited temporary license must shall include; with the application~~

~~20.2.1 Completed online application.~~

~~20.2.2 The required fee,~~

~~20.2.3 A a certified copy of the applicant's medical school diploma,~~

~~20.2.4 A and a supervising physician's/ program director's statement, acknowledging statutory responsibility for the applicant's negligent or wrongful acts or omissions.~~

~~20.2.5 Direct verification of medical education,~~

~~20.2.6 ECFMG if applicable,~~

~~20.2.7 Verification of other state licensure,~~

~~20.2.8 NPDB self-query, and~~

~~20.2.9 Any additional forms or documentation required by the Board.~~

~~The diploma may be from any medical school that is legally chartered in the country where it is located. The medical school must be accredited in the United States or Canada, or be Board approved.~~

~~Rule 2.9 Applicant's Right to a Written Decision.~~

~~(a) The Board must document, in writing, all decisions on whether the applicant is granted or denied a license. The Board may stay its decision on an application for a license from a practitioner who is the subject of an unresolved complaint or allegations in another jurisdiction which involve or relate to the practitioner's care of patients.~~

~~(b) On all license denials, the Board follows a two-step process:~~

~~(1) If the Board intends to deny the applicant a license, it shall issue a written preliminary decision containing the following:~~

~~(A) The specific reasons for the license denial;~~

~~(B) The applicant has the right to request a hearing at which the Board shall review the preliminary decision, and that such request must be filed with the Board within 30 days of the date the decision was sent to the applicant.~~

~~(2) At the hearing to review the preliminary decision to deny the license application, the applicant shall be given the opportunity to show that he or she has met the licensing requirements;~~

~~(3) After the hearing, the Board shall affirm or reverse the preliminary decision, and shall issue a final written decision and order setting forth its reasons for the decision.~~

~~The decision and order shall be signed by the chair or vice chair of the Board and the Board shall enter the order. A decision and order is effective upon entry.~~

~~(e) Notice of both the preliminary decision and the final decision and order shall be sent to the applicant by certified mail.~~

~~Rule 2.10 Applicant's Right to Appeal.~~

~~A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. § 130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.~~

~~Rule 2.11 Fees.~~

~~Physician Application Fees are established by the Legislature and can be found at 26 V.S.A. § 1401a.~~

~~Rule 2.12 Waiver of Licensing Fee for Free Clinic Practitioners.~~

~~A physician who will limit his or her practice in Vermont to providing pro bono services at a Board recognized free health care clinic for no more than 10 days or 80 hours in any calendar year shall meet all of the usual license requirements, but may apply for a waiver of licensing fee, by submitting a fee waiver request to the Board which shall include the following information:~~

~~(a) The name and address of the free health clinic(s) where the pro bono services shall be performed;~~

~~(b) The licensee's certification that he or she shall perform only pro bono services in Vermont, and shall only perform such services at the listed clinics and within the time limit specified by this rule;~~

~~(c) The clinic director's certification that the licensee shall perform only pro bono services at the clinic and only within the time limit specified by this rule.~~

~~This fee waiver request must be filed with the Board at the biennial renewal. The licensee's failure to follow the terms of the certifications or the provisions of this rule shall constitute unprofessional conduct as set forth in 26 V.S.A. § 1398 and may result in disciplinary action.~~

PART 3 License Renewal; Lapsed License; License Reinstatement

Rule 3.1 Renewing a License.

Licenses are renewed on a fixed biennial schedule. A physician must renew his or her license before it lapses. The date on which a license shall lapse is printed on the license. One month before such date, the Board will mail each licensed physician a renewal application and notice of the renewal fee to the address last provided to the Board. If a physician does not return the completed renewal application and fee to the Board by the date on which the license shall lapse, the physician's license will lapse automatically.

A physician, whose initial license has been issued within 90 days of the renewal date, will not be required to renew and pay the renewal fee. Instead, the license will be issued through the next full license period. A physician who has been issued an initial license more than 90 days prior to the renewal expiration date will be required to renew and pay the renewal fee.

Licenses have a continuing obligation during each two-year renewal period to promptly notify the Board of any change or new information regarding their responses to Section III (licensure questions) of the renewal application, including but not limited to disciplinary or other action limiting or conditioning his or her license or ability to practice in any licensing jurisdiction. Failure to do so may subject the licensee to disciplinary action by the Board.

Rule 3.2 Lapsed License.

If a license has not been renewed by the required date, it has lapsed. A physician may not legally practice in Vermont after a license has lapsed. The physician must halt the practice of medicine until the license has been reinstated.

Rule 3.3 Reinstating a License after It Has Lapsed for Less Than One Year.

A physician may not legally practice medicine in Vermont after his or her license has lapsed. A physician must halt the practice of medicine if his or her license has lapsed. To seek reinstatement after failing to renew, a physician must complete in full the renewal application and tender it to the Board with a late fee in addition to the fee required for renewal. The Board may stay the decision on the application pending investigation of charges or allegations of unprofessional conduct against the renewal applicant. The Board may seek or request such additional information as it deems needed to make a determination as to the renewal application. The Board may deny the renewal of a license on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the physician.

Rule 3.4 Reinstating a License after It Has Lapsed for One Year or More.

If a license is lapsed for one year or more the physician must complete a reinstatement application in full and pay the application fee. The reinstatement application requires additional information beyond that

~~required in the standard renewal application. A chronological accounting of the physician's professional activities in other jurisdictions during the period the license was lapsed in Vermont must be presented.~~

~~The physician must include~~

~~(1) a letter from the chief of staff of each hospital at which he or she held privileges during the period in which the Vermont license was lapsed and~~

~~(2) a license verification from each state in which he or she held an active license during the period in which the Vermont license was lapsed. In addition, he or she must appear for a personal interview.~~

~~Reinstatement may be denied on grounds of unprofessional conduct as set forth under Vermont law or for other good cause, after notice and opportunity to be heard has been provided to the physician.~~

21.0 PART 4 Physician's Professional Standards Specific to Physicians.

~~Rule 4.1 Grounds for Disciplinary Action.~~

~~Grounds for disciplinary action are set forth in 26 V.S.A. §§ 1354, 1398, and 1739a. Additional grounds are set forth in 3 V.S.A. § 129a and 18 V.S.A. § 1852. The Board may refuse to issue a physician's license or may suspend, revoke, condition, limit, reprimand, or otherwise take action against a licensee for any of the reasons set forth in those statutes. All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of these rules.~~

21.1 ~~Rule 4.2 **Change of Name or Address**~~ Additional professional standards that apply to all professionals are in section 13.0 of these rules.

21.2 Physician Assistant Supervision. Physicians supervising PAs shall adhere to requirements found in 27.0.

21.2.1 When the Board investigates practice by a PA who is unlicensed, or by a PA at a work site that has not been documented with the Board, the Board's investigation will include inquiry into the actions of physicians associated with that work site.

21.2.2 If a Delegation Agreement has been signed by a physician as a supervising physician but not filed with the Board, the physician may be held accountable as a supervising physician regardless of the fact that the document has not been accepted by the Board.

21.2.3 If no Delegation Agreement has been prepared or signed, the Board will make inquiry as to which physician or physicians have supervisory or managerial authority for the location. In a physician-owned partnership in which no partner(s) are identified as having supervisory or managerial authority, any or all of the partners may be responsible for the PA's practice.

- 21.3** It is unprofessional conduct for a physician to delegate professional responsibilities to a person whom the physician knows or has reason to know is not qualified by training, experience, education, or licensing credentials to perform. See 26 V.S.A. § 1354(a)29. In addition, under 26 V.S.A. § 1739a, inappropriate use of the services of a physician assistant by a physician constitutes unprofessional conduct by the physician.
- 21.4** Requesting or Receiving a Prescription from a Physician Assistant Supervised by the Physician. A physician shall not request or receive the dispensing of or a prescription for controlled substances listed in D.E.A. Schedules II, III, or IV for his or her own use from a physician assistant who is supervised by the physician.
- 21.5** Requesting or Receiving a Prescription from an Advanced Practice Registered Nurse with Whom the Physician Has an Agreement to Act as the Collaborating Provider. A physician shall not request or receive the dispensing of or a prescription for controlled substances listed in D.E.A. Schedules II, III, or IV for his or her own use from an advanced practice registered nurse with whom the physician has an agreement to act as the collaborating provider.

~~All physicians are responsible for notifying the Board within 10 days of any change of name or address. A Vermont licensed out of state physician who intends to re-locate his or her practice to Vermont shall notify the Board 30 days in advance of the intended starting date of the Vermont practice.~~

~~Rule 4.3 Self- Prescribing and Prescribing for Family Members.~~

~~It is unacceptable medical practice and unprofessional conduct for a licensee to prescribe controlled substances listed in DEA Schedules II, III, and IV for his or her own use. Such conduct constitutes a violation of 26 V.S.A. § 1398. It also is unacceptable medical practice and unprofessional conduct for a licensee to prescribe Schedule II, III, and IV controlled substances to a member of his or her immediate family, except in a bona fide emergency, of short term and unforeseeable character.~~

22.0 Continuing Medical Education

22.1 Minimum Education Requirement - Hours and Subjects:

22.1.1 Except as provided in the following subparagraph, each physician applying for renewal of a license to practice medicine must certify that he or she has completed at least thirty hours of qualifying CME during the most recent two-year licensing period, naming the subject, sponsor, date, location, and hours or credits for each activity.

22.1.1.1 The licensee is not required to file documentation of CME that verifies completion at the time that it is reported, however it is the licensee's responsibility to retain documentation for four years from the time the information is submitted to the Board.

22.1.1.2 The Board may audit records of CME for up to four years from the time of submission; a licensee is required to promptly

submit documentation of CME completion in response to a request from the Board.

- 22.1.2 For physicians licensed in Vermont for the first time during the most recent two-year licensing period, if licensed in Vermont for less than one year, there is no requirement for CME at the time of the first renewal. If licensed for one year or more during that initial period of Vermont licensure, the licensee shall complete at least 15 hours of approved CME activity and those 15 hours shall include any subject-specific CME required by these rules.
- 22.1.3 Time is calculated from the date the license was approved by the Board until the date of expiration. Any physician who has not completed the required continuing medical education shall submit a make-up plan with his or her renewal application, as specified in these rules.
- 22.1.4 Except for required subjects that are mandated by these rules, all CME hours completed in satisfaction of this requirement shall be designed to assure that the licensee has updated his or her knowledge and skills in his or her own specialties and also has kept abreast of advances in other fields for which patient referrals may be appropriate. A licensee's "own area of practice" shall not be interpreted narrowly; it is acknowledged that training in many other fields may be reasonably related to a practitioner's own specialties.
- 22.1.5 Required Subject: Hospice, Palliative Care, Pain Management. 26 V.S.A. § 1400(b) mandates that the Board of Medical Practice shall require physician licensees to provide "evidence of current professional competence in recognizing the need for timely appropriate consultations and referrals to assure fully informed patient choice of treatment options, including treatments such as those offered by hospice, palliative care, and pain management services." Accordingly, all physician licensees who are required under these rules to complete CME shall certify at the time of each renewal that at least one of the hours of qualifying CME activity has been on the topics of hospice, palliative care, or pain management services.
- 22.1.6 Required Subject: Prescribing Controlled Substances. All physician licensees who are required to certify completion of CME and who prescribe controlled substances shall certify at the time of each renewal that at least two hours of qualifying CME activity on controlled substances prescribing. The following topics must be covered, as required by Vermont law: abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering and cessation of the use of controlled substances; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances. Each licensee who is

registered with the D.E.A. and who holds a D.E.A. number to prescribe controlled substances, or who has submitted a pending application for one, is presumed to prescribe controlled substances and must meet this requirement.

22.1.7 Licensees who are not in active practice shall still complete CME, including all required subjects, to be relicensed. For purposes of subsection (b), a physician not in active practice may consider his or her last area of practice as the area of practice to which activity shall relate, or the activity may relate to a new area of practice he or she intends to pursue.

22.1.8 Licensees who are members of the armed forces and who are subject to a mobilization and/or deployment for all or part of a licensing cycle will be treated the same as licensees who are licensed for the first time during a licensing cycle. E.g., a licensee whose military mobilization/deployment covers a year or more is not required to complete CME for that cycle. A licensee whose military duties during the two-year cycle total less than one year shall be required to meet the CME requirement of at least 15 hours, including any required subjects.

22.1.9 A licensee who allows his or her license to lapse by not timely applying for renewal shall certify completion of all CME that would have been required had he or she remained licensed in order to be granted a renewal license.

22.2 Qualifying Continuing Medical Education Activities:

22.2.1 Only CME activities that are approved for American Medical Association Physician's Recognition Award Category 1 Credit (AMA PRA Category 1 Credit™ qualify as approved Vermont CME.

22.2.2 Credit for providing training. The Board accepts all AMA PRA Category 1 Credit™ activity. The AMA PRA program grants two hours of credit for each hour of training presented by a physician. The Board recognizes those credits the same as the AMA PRA program.

22.2.3 Special Rule for holders of a full, unlimited license who are participants in a residency or fellowship program approved by a nationally-recognized body that approves graduate medical education (GME). Some physicians who are still in a GME program obtain full licensure in addition to a limited temporary license for training. As fully-licensed physicians, if licensed for a year or more (see Section 22.1.2) they must complete at least 15 hours of CME. If licensed the full period, they must complete 30 hours of CME. However, the Board will recognize participation in a GME program as qualifying for CME credit to the extent provided here.

22.2.3.1 The licensee must have successfully completed the program or continue to be in good standing in the GME program throughout the licensing period for which he or she wishes to have GME count as CME.

22.2.3.2 Successful completion of a year of full-time participation in an approved program during the two-year licensing period may count for 15 hours of CME to be used to satisfy a CME requirement for that licensing period. Licensees who wish to use participation in a GME program to satisfy part of the CME requirement shall submit a letter to the Board stating so and attesting to successful completion of the GME program year.

22.2.3.3 GME students who are fully licensed must meet the subject-specific requirement for hospice, palliative care, or pain management services if fully licensed for a year or more. See section 22.1.5. GME students who are fully licensed for a year or more and who have applied for or hold a DEA number must satisfy the statutory requirement for two hours of CME on controlled substances prescribing. See Section 22.1.6.

22.3 Make-Up Plans:

22.3.1 Any physician who has not completed the minimum number of hours of CME, or who has not completed the required subject-specific training, as of the deadline for submission of license renewal applications, will not be granted a renewal license unless the application includes an acceptable make-up plan signed by the licensee. The Board Executive Director is authorized to review and determine if make-up plans are acceptable.

22.3.2 An acceptable make-up plan must include a timeline for making up all CME that needs to be completed to satisfy the requirements of these Rules. The timeline shall identify the approved activities that the licensee plans to attend. The licensee may later substitute activities, but the plan shall indicate that it is the licensee's good faith intent to complete the activities listed at the time of submission. A licensee shall have up to one hundred twenty (120) days to complete the CME make-up plan.

22.3.3 Any licensee who will not complete a make-up plan within the time specified by the plan shall contact the Board at least 30 days in advance of the date on which the period will end to notify the Board and submit a revised plan and request for extension of time.

22.3.3.1 The request for extension of time must include an explanation of the reasons why the licensee was unable to complete the required training in accordance with the plan.

22.3.3.2 Extensions of the make-up plan period are limited to 90 days, during which the licensee shall complete the required CME. Further extensions will be granted only for good cause shown, for reasons such as: serious illness of the licensee or a family member; death of an immediate family member; significant personal hardship, such as a house fire; significant and ongoing medical staff shortage during the make-up period; or similarly compelling reasons.

22.3.3.3 The Board may delegate to the Board Executive Director the authority to approve requests to extend the time for a make-up plan in accordance with these rules. Any request for extension not granted by the Executive Director shall be considered by the Board.

22.3.4 CME activity completed as part of a make-up plan does not count toward satisfaction of the requirement to complete CME during that current licensing cycle; activity may only be counted once. If a multi-hour activity is performed partly in satisfaction of a make-up plan and partly for the CME requirement associated with the current licensing cycle, the licensee shall clearly document the allocation.

22.4 Failure to Certify Completion of Required CME, File a Make-Up Plan, or Complete a Make-Up Plan.

22.4.1 A licensee who has failed to submit certification of completion of CME as required by law and these rules, or who having failed to certify completion of CME has failed to submit a make-up plan with his or her renewal application, will be notified of such failure and have not more than 15 days from receipt of notice to file with the Board either his or her certification of completion of CME or a make-up plan.

22.4.2 A licensee who fails to file a certificate of completion of CME at the end of a make-up period, or to file a request for an extended make-up period, shall be notified of such failure and have not more than 15 days from receipt of notice to file with the Board either a certificate of completion of CME or another request for extension of time in which to make up CME.

22.4.3 A licensee who submits a certificate of completion at the time of submission of the license renewal application, or who has filed an acceptable make-up plan with the renewal application and is in the make-up period, or who having failed to complete the first make-up plan has received approval from the Board for an extended make-up period that has not yet expired, is in good standing with respect to CME requirements.

22.4.4 Any licensee not in good standing with respect to CME requirements is subject to investigation by the Board for unprofessional conduct.

~~"Immediate family", as referred to above, includes the following: a spouse (or spousal equivalent), parent, grand parent, child, sibling, parent in law, son/daughter in law, brother/sister in law, step parent, step child, step sibling, or any other person who is permanently residing in the same residence as the licensee.~~

~~Rule 4.4 Medications Brought into the Institution by Patients.~~

~~Notwithstanding Board of Pharmacy Rule 4.520, it is acceptable medical practice for medications brought into the institution by a patient to be used by the patient while the patient is~~

~~in the institution provided that the medications are identified by an attending physician, another prescribing practitioner, or a pharmacist according to the institution's policy and there is a written order from the practitioner responsible for the patient to administer the drugs.~~

~~Rule 4.5 Enforcement of Child Support Orders.~~

~~The Board regulates three professional licensing or certification programs: Physicians, Physician Assistants, and Podiatrists. Under 15 V.S.A. § 795, the Board may not issue or renew a professional license or certification to practice these professions if the applicant is under an obligation to pay child support and is not in good standing or in full compliance with a plan to pay the child support due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed.~~

~~When the Board receives a letter of non-compliance from the Office of Child Support, the Board will include the letter of non-compliance with any license or certification renewal application sent to the professional licensed or certified with the Board.~~

~~When the Board receives a suspension order from the Family Court, the Board will respond as required to implement the order of the Court.~~

SECTION III. RULES FOR PHYSICIAN ASSISTANTS

~~PART 5~~

~~CERTIFICATION OF PHYSICIAN ASSISTANTS~~

23.0 Rule 5.1 Introduction.

- 23.1 Physician assistants practice medicine with physician supervision. Physician assistants may perform those duties and responsibilities, including the prescribing and dispensing of drugs and medical devices, that are delegated by their supervising physicians.
- 23.2 Physician assistants shall be considered the agents of their supervising physicians in the performance of all practice-related activities, including but not limited to, the ordering of diagnostic, therapeutic and other medical services.
- 23.3 It is the obligation of each team of physician(s) and the physician assistant to ensure that the written Delegation Agreement scope of practice submitted to filed with the Board for approval clearly delineates the role of the physician assistant in the medical practice of the supervising physician(s), as further specified in these rules.

~~Rule 5.2 Definitions:~~

~~As used in these rules:~~

~~(a) "Authorization to prescribe medications and medical devices" means the authorization for a physician assistant to prescribe, dispense and administer drugs and medical devices to the extent delegated by the supervising physician. Prescribing and dispensing of drugs may include DEA Schedules II through V. At no time shall the prescriptive practices of the physician assistant exceed the prescriptive practices of the supervising physician(s).~~

~~(b) "Board" means the Vermont Board of Medical Practice established by Chapter 23 of Title 26 of the Vermont Statutes Annotated.~~

~~(c) "CME and Category 1 CME" means continuing medical education as defined by the Accreditation Council for Continuing Medical Education (ACCME).~~

~~(d) "Employer" means the organization, facility, and/or supervising physician entering into an employment contract with a physician assistant.~~

~~(e) "NCCPA" means National Commission for the Certification of Physician Assistants.~~

~~(f) "Physician assistant committee" means an ad hoc committee of the Board that reviews matters relating to physician assistants, reports its findings to the Board, and makes recommendations for action.~~

~~(g) "PA" means physician's assistant or physician assistant. These terms are identical in meaning and are used inter-changeably.~~

~~(h) "Physician assistant trainee" means a person enrolled in a Board approved apprenticeship program as a means of becoming eligible for certification as a physician assistant, or a person whose physician assistant certification has been revoked for failure to maintain competence and who has been permitted by the Board to practice for one year as a registered physician assistant trainee prior to re-examination.~~

~~(i) "Protocol": For purposes of these rules, "scope of practice" will be used instead of the word "protocol".~~

~~(j) "Referral" means sending a patient to a non-supervising practitioner for diagnosis and treatment. See also Rule 7.5.~~

~~(k) "Scope of practice" means a written document detailing those areas of medical practice including duties and medical acts, delegated to a physician assistant by the supervising physician for which the certificate holder is qualified by education, training and experience.~~

~~(l) "Secondary supervising physician" means a Vermont licensed physician who has been approved by the Board to supervise the practice of a physician assistant when the supervising physician is unavailable.~~

~~(m) "Supervising physician" means a Vermont licensed physician who has been approved by the Board to super vise the practice of a physician assistant.~~

~~(n) "Supervision" means the direction provided and review performed by the supervising physician, as determined to be appropriate by the Board, of the medical services provided by the physician assistant. The supervising physician need not be present on the premises where the physician assistant renders medical services and may provide supervision by telephonic or electronic means of communication. See also Rule 7.5.~~

~~Rule 5.3 Notifying the Board.~~

~~The Board must be notified and the appropriate applications and documentation must be filed whenever:~~

~~(a) The physician assistant's scope of practice changes. See Rule 7.3 for additional information.~~

~~(b) Additional practice sites are added. This applies to newly opened branch sites only. See Rule 7.6. for additional information.~~

~~(c) Additional employer(s) are obtained, the primary or secondary supervising physician changes, or a secondary supervising physician is added. See Rule 5.5 for additional information.~~

~~All physician assistants are responsible for notifying the Board within 10 days of any change of name or mailing address.~~

24.0 Rule 5.4 Initial Certification Licensure.

24.1 For each applicant for licensure as a physician assistant the Board must receive, in a form satisfactory to the Board: Applicants for initial certification as a physician assistant shall be interviewed by a Board member and may be interviewed by the licensing committee and/or the Board; and shall submit:

24.1.1 ~~(a) A complete online application; The Board's application form, completed in full;~~

24.1.2 ~~(b) Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate; Certified copy of birth certificate;~~

24.1.3 ~~(c) Verification of certification or licensure in all other states, territories, or provinces where currently or ever certified or licensed to practice at any level, including permanent, temporary, and training licenses or certifications;~~

24.1.4 ~~(d) Two reference forms from supervising allopathic or osteopathic physicians allopathic or osteopathic physicians with whom the applicant~~

~~has worked recently, including one form from the most recent primary supervising physician; assistant. If the applicant has recently graduated from a Board-approved physician assistant program, one form must be from the Director of the program. If the applicant has recently completed a Board-approved apprenticeship program, one form must be from the primary training physician;~~

24.1.4.1 Applicants with less than six months of substantially full-time (at least 30 hours per week) practice must provide a reference from their physician assistant training program director in place of one of the references from a supervising physician.

24.1.5 ~~(e) Either (1) The Board of Medical Practice's Certificate of Physician Assistant Education form for primary source documentation of completion of a Board-approved physician assistant program sponsored by an institution of higher education, completed and submitted by the institution;~~

24.1.6 An original certification from NCCPA. Primary source documentation and proof of current certification sent directly to the Board by NCCPA; satisfactory completion of the certification examination given by the NCCPA; or (2) documentation of completion of a Board-approved apprenticeship program, including the evaluation conducted by the Board;

24.1.7 ~~(f) Completed primary supervising physician Application form; by the proposed supervising physician(s), including a statement that the physician shall be personally responsible for all medical acts of the physician assistant;~~

24.1.8 Secondary supervising physician form, if applicable, for each physician who will be a secondary supervisor; ~~(g) Application by the proposed secondary supervising physician(s), including a statement that the secondary physician shall be personally responsible for all medical acts of the physician assistant only when the supervising physician is unavailable and only when consulted by the physician assistant;~~

24.1.9 ~~(h) A Delegation Agreement that meets the requirements of section 27.0; scope of practice as defined by Rule 5.2(k) and described in Rule 7.3.~~

24.1.10 ~~(i) A completed Employment Contract Form; and applicant's employment contract (form provided by the Board);~~

24.1.11 The Uniform Application Affidavit and Authorization for Release of Information Form.

24.1.12 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application.

24.1.13 The applicant's CV (curriculum vitae) or résumé.

24.1.14 ~~(j) The required fee.~~

24.2 Upon written request of the applicant, an application may be considered complete and be processed by the Board without supervising physician documentation, a delegation agreement, and the Employment Contract Form. However, if a license is issued it will be inoperable and the applicant will not be able to engage in Vermont practice until all the required documentation has been accepted by the Board.

24.3 At the discretion of the licensing committee or the Board, any applicant may be required to be interviewed by a Board member.

~~Regarding any of the above items, except the required fee, the Board shall have the discretion to require additional information.~~

25.0 **Physician Assistant Renewal.** In addition to the general renewal requirements set forth in section 7.0 for renewal, a physician assistant must submit: current contract; updated Delegation Agreement; updated Primary Supervisor Form; and, if applicable, updated Secondary Supervisor Form(s). A physician assistant who is not in active practice may renew, but cannot practice until those documents are filed with and accepted by the Board.

26.0 **Changes in Employment, Supervision or Practice Site** ~~Rule 5.5 Subsequent Certification Applications.~~

26.1 ~~All required notifications and any additional requested materials must be received by the Board prior to a PA's practice in a new location or with a new primary supervisor. PAs and supervising physicians shall verify that the documentation has been accepted through the Board's online system. To maintain certification as a physician assistant, renewal of certification is required every two years (See Rule 6.1) and additional certification applications must be filed in advance with the Board in the following circumstances:~~

26.1.1 ~~(a) Adding a New Employer:~~ If the physician assistant adds a new employer, such as an additional or new institution, clinic, department, or other agency, the following information ~~and fees~~ shall be submitted:

26.1.1.1 ~~Primary supervising physician form; (1) The physician assistant's name and current home address;~~

26.1.1.2 ~~Secondary supervising physician form, if applicable; (2) The name and office address of the additional employer;~~

26.1.1.3 ~~A Delegation Agreement that meets the requirements of section 27.0;~~

26.1.1.4 ~~(3) A completed Employment eContract Form;~~

~~(4) Any new primary supervising physician(s)' application(s), including a statement that the physician shall be personally responsible for all medical acts of the physician assistant;~~

~~(5) Any new secondary supervising physician(s)' application(s), including a statement that the secondary physician shall be personally responsible for all medical acts of the physician assistant only when the supervising physician is unavailable and only when consulted by the physician assistant;~~

~~(6) A scope of practice as defined by Rule in 5.2(k) and described in Rule 7.3;~~

~~(7) The required fees.~~

26.1.2 ~~(b) The following information shall be submitted prior to a Cchange of Primary Supervising Physician when Secondary Supervising Physician Remains the Same: the following information and fees shall be submitted:~~

26.1.2.1 ~~(1) Primary supervising physician(s)' form; and application(s), including a statement that the physician shall be personally responsible for those medical acts of the physician assistant;~~

26.1.2.2 ~~(2) A Delegation Agreement scope of practice as defined by 2.11 Rule 5.2(k) and described in 27.0 7.3;~~

~~(3) The required fees.~~

26.1.3 ~~(e) When a Cchange or Aaddition of a Secondary Supervising Physician occurs when but the Primary Supervising Physician Remains the Same, a Secondary Supervising Physician Form shall be submitted prior to the change.: the following information and fees shall be submitted:~~

~~(1) Secondary supervising physician(s)' application(s), including a statement that the secondary physician shall be personally responsible for all medical acts of the physician assistant only when the supervising physician is unavailable and only when consulted by the physician assistant;~~

~~(2) A scope of practice as defined by Rule 5.2(k) and described in Rule 7.3;~~

~~(3) The required fees.~~

26.1.4 ~~Prior to any changes in tasks, duties, or terms of primary supervision, a new Delegation Agreement shall be submitted. (d) Change of Primary and Secondary Supervising Physician when the Employer Remains the Same: the following information and fees shall be submitted:~~

~~(1) Primary supervising physician's application, including a statement that the physician shall be personally responsible for those medical acts of the physician assistant;~~

~~(2) Secondary supervising physician(s)' application(s), including a statement that the~~

~~physician shall be personally responsible for those medical acts of the physician assistant only when the supervising physician is unavailable or only when consulted by the physician assistant;~~

~~(3) A scope of practice as defined by Rule 5.2(k) and described in Rule 7.3.~~

~~(4) The required fees.~~

~~Regarding any of the above items, except the required fee, the Board shall have the discretion to require additional information.~~

~~Rule 5.6 Temporary Certification.~~

~~(a) The applicant may be issued temporary certification if:~~

~~(1) The applicant is applying for certification for the first time in this State; and~~

~~(2) The applicant has graduated from a Board approved school for physician assistants, or has completed a Board approved apprenticeship program; and~~

~~(3) Either: (A) the applicant is eligible and has applied to sit for the first NCCPA examination; or (B) the applicant is a graduate of a Board approved apprenticeship program and has applied to sit for the first Board approved evaluation available after completion of the application process; and~~

~~(4) The required fee is paid.~~

~~(b) If the applicant fails the first examination or evaluation, the applicant may sit for the next scheduled examination or evaluation. If the applicant fails the examination or evaluation after the second sitting, the applicant must obtain additional training before sitting again for the examination or evaluation. Temporary certification is not valid during periods of retraining.~~

~~(c) In no case shall a temporary certification be valid for longer than two years.~~

~~Rule 5.7 Applicant's Right to a Written Decision.~~

~~(a) The Board must document, in writing, all decisions on whether the applicant is granted or denied a certification. The Board may stay its decision on an application for certification from a practitioner who is the subject of an unre-solved complaint or allegations in another jurisdiction which involve or relate to the practitioner's care of patients.~~

~~(b) On all certification denials, the Board follows a three step process:~~

~~(1) If the Board intends to deny the applicant a certification, it shall issue a written~~

~~preliminary decision containing the following:~~

~~(A) The specific reasons for the certification denial;~~

~~(B) Notice that the applicant has the right to request a hearing at which the Board shall review the preliminary decision, and that such request must be filed with the Board within 30 days of the date the decision was sent to the applicant. Failure to appeal within the 30-day period shall render the preliminary decision final.~~

~~(2) At the hearing to review the preliminary decision to deny the certification application, the applicant shall be given the opportunity to show that he or she has met the certification requirements;~~

~~(3) After the hearing, the Board shall affirm or reverse the preliminary decision, and shall issue a final written decision and order setting forth its reasons for the decision. The decision and order shall be signed by the chair or vice chair of the Board and the Board shall enter the order. A decision and order is effective upon entry.~~

~~(e) Notice of both the preliminary decision and the final decision and order shall be sent to the applicant by certified mail.~~

~~Rule 5.8 Applicant's Right to Appeal.~~

~~A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. § 130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.~~

~~Rule 5.9 Registration as a Physician Assistant Trainee.~~

~~All physician assistant trainees enrolled in a Board approved apprenticeship program, shall register with the Board every two years. Applicants for registration as a physician assistant trainee shall submit:~~

~~(a) The Board's application form, completed in full;~~

~~(b) An application by the proposed supervising physician, including a statement that the physician shall be personally responsible for all medical acts of the trainee;~~

~~(c) The name of the Board approved apprenticeship program (See Rule 6.8);~~

~~(d) A copy of the applicant's employment contract;~~

~~(e) The required fee.~~

Regarding any of the above items, except the required fee, the Board shall have the discretion to require additional information. See Rule 6.8.

~~PART 6 License Certification Renewal; Lapsed Certification; Certification Reinstatement.~~

~~Rule 6.1 Renewing a Certification.~~

~~Licenses are renewed on a fixed biennial schedule. A PA must renew his or her certificate before it lapses. The date on which a certificate shall lapse is printed on the certificate.~~

~~One month before such date, the Board will mail each certified PA a renewal application and notice of the renewal fee to the address last provided to the Board. If a PA does not return the renewal application completed in full and fee to the Board by the date on which the certificate shall lapse, the PA's certificate will lapse automatically.~~

~~A PA, whose initial certificate has been issued within 90 days of the renewal date, will not be required to renew and pay the renewal fee. Instead, the certificate will be issued through the next full license period. A PA who has been issued an initial certificate more than 90 days prior to the renewal expiration date will be required to renew and pay the renewal fee.~~

~~Certified PA's have a continuing obligation during each two-year renewal period to promptly notify the Board of any changes or new information regarding their responses to Section III (certification questions) of the renewal application, including but not limited to disciplinary or other action limiting or conditioning his or her certificate or ability to practice in any certifying or licensing jurisdiction. Failure to do so may subject the certified PA to disciplinary action by the Board.~~

~~Rule 6.2 Lapsed Certification.~~

~~If a certification has not been renewed by the required date, it has lapsed. A physician assistant may not legally practice in Vermont after a certification has lapsed. The physician assistant must halt the practice of a physician assistant until the certification has been reinstated.~~

~~Rule 6.3 Reinstating a Certification after It Has Lapsed for Less Than One Year.~~

~~A physician assistant may not legally practice as a physician assistant in Vermont after his or her certification has lapsed. A physician assistant must halt such practice if his or her certification has lapsed. To seek reinstatement after failing to renew, a physician assistant must complete in full the renewal application and tender it to the Board with a late fee in addition to the fee required for renewal. The Board may stay the decision on the application pending investigation of charges or allegations of unprofessional conduct against the renewal applicant.~~

~~The Board may seek or request such additional information as it deems necessary to make a determination as to the renewal application. The Board may deny the renewal~~

~~of a certification on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the physician assistant.~~

~~Rule 6.4 Reinstating a Certification after It Has Lapsed One Year or More.~~

~~If a certification is lapsed for one year or more the physician assistant must complete a reinstatement application in full and pay the application fee. The reinstatement application requires additional information beyond that required in the standard renewal application. A chronological accounting of the physician assistant's professional activities in other jurisdictions during the period the certification was lapsed in Vermont must be presented. The physician assistant must include (1) a letter from each supervising physician under whom he or she worked during the period in which the Vermont certification was lapsed and (2) a certification or license verification from each state in which he or she held an active certification or license during the period in which the Vermont certification was lapsed. In addition, he or she must appear for a personal interview. Reinstatement may be denied on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the physician assistant.~~

~~Rule 6.5 Reinstating a Certification after It Has Lapsed Three Years or More.~~

~~If a certification is lapsed for three years or more, in addition to the provisions of Rule 6.4, above, the Board may, after notice and opportunity for hearing, require examination as a condition of certification renewal.~~

~~Rule 6.6 Change or Termination of Certification or Registration.~~

~~If there is to be any change in the scope of practice, employer, or the primary or secondary supervising physician, prior Board approval must be received. Documents already on file with the Board may be referred to and need not be resubmitted. If the change requires extensive review by the Board, a fee may be charged. Such review may require a period of time to complete. Applicants should seek to avoid possible delays by requesting Board approval of such changes as early as possible.~~

~~If the employment contract of a physician assistant is terminated, the supervising physician and PA must notify the Board on a form supplied by the Board. The notification shall include the reason(s) for ending the employment relationship.~~

~~Rule 6.7 Change in Scope of Practice.~~

~~Any certified physician assistant wishing to change his or her scope of practice shall submit documentation of competency in the newly proposed scope of practice. The proposed scope of practice must be within the scope of practice of the primary supervising physician and the secondary supervising physician(s).~~

~~The Board shall evaluate the proposed changes in the scopes of practice, years of experience in the current scope of practice, continuing education, and any other factors deemed appropriate. The Board may require satisfactory completion of additional supervised training prior to approval of the proposed changes in the scope of practice.~~

~~A certified physician assistant with a valid employment contract may continue to practice within the current scope of practice while training for the proposed scope of practice.~~

~~Rule 6.8 Apprenticeship Program.~~

~~A person who wishes to become certified as a PA via an apprenticeship program must have Board approval prior to entering a program and the program itself must have received prior Board approval.~~

~~Apprenticeship programs shall be at least twenty three months in duration. The program shall include at least nine months study of the basic sciences, including gross anatomy (college level), laboratory sciences, physiology, pathology, pharmacology, and microbiology (pre-clinical level). The program shall also include a minimum of 1,800 hours of clinical instruction within a fourteen month period. Clinical training must include history taking and physical examination, interviewing techniques, the ethical and legal aspects of medicine as well as, but not limited to, cardiac care and CPR, emergency medicine and trauma. The program shall have on-site inspection. The student shall be evaluated for satisfactory completion of the program by oral, written, or practical examinations by a person(s) assigned by the Board.~~

~~Before starting a Board approved apprenticeship program, persons who intend to obtain their education and training as a physician assistant in an apprenticeship program shall submit:~~

~~(a) A transcript showing completion of at least 60 hours of college credits, or equivalent, including one course each in English, the humanities, chemistry, and biology, and one other natural sciences course;~~

~~(b) Documentation showing at least six months health care experience;~~

~~(c) A detailed plan of the apprenticeship program provided by the program director setting forth the curriculum and preclinical and clinical experience.~~

27.0 PART 7-Supervision, Responsibilities, Scope of Practice, Delegation Agreement, Prescribing

27.1 Supervision shall include: Rule 7.1 Primary Supervising Physician.

~~The supervising physician shall:~~

- 27.1.1 Regular and effective access to the supervising physician for consultation regarding on-going patient care while they are being treated by the PA; ~~(a) Supervise physician assistants only in the field(s) of medicine in which he or she is qualified and actively practices;~~
- 27.1.2 Regular, retrospective review of selected PA-generated charts by the supervising physician, with documentation of such review; ~~(b) Approve and sign the PA's scope of practice as described in Rule 7.3.~~
- 27.1.3 Regularly scheduled and documented discussions of cases selected by the supervising physician and may also include additional cases chosen by the PA; ~~(c) Outline in detail how he or she will be available for consultation and review of work performed by the physician assistant;~~
- 27.1.4 Review of PA referrals outside the normal practice referral pattern as defined in the Delegation Agreement; and ~~(d) Supervise no more physician assistants concurrently than have been approved by the Board after review of the system of care delivery;~~
- 27.1.5 Methods for in-practice consultation for patients not improving in a reasonable manner or time frame. ~~(e) Furnish copies of the physician assistant's scope of practice to any medical facilities with which the physician assistant is affiliated or employed;~~

27.2 Responsibilities.

27.2.1 The Physician Assistant shall:

- 27.2.1.1 Ensure adequate supervision of his or her practice is occurring in accordance with these rules, as specified in section 27.1 and the Delegation Agreement.
- 27.2.1.2 During periods of unavailability of the primary supervision physician, practice only if he or she has verified the availability of secondary supervising physician, who is identified in documentation on file with the Board.
- 27.2.1.3 Verify on-line that documentation regarding supervising physician(s) has been accepted.

27.2.2 The Primary Supervising Physician shall:

- 27.2.2.1 Supervise PAs only in the field(s) of medicine in which he or she is qualified and actively practices;
- 27.2.2.2 Ensure that the PA's tasks/duties are appropriate given the PA's training, experience, and practice setting;
- 27.2.2.3 When supervising, be available for consultation and review in accordance with the plan set forth in the Delegation Agreement;

27.2.2.4 Ensure a copy of the PA's Delegation Agreement is available at each location where the PA practices under his or her supervision;

27.2.2.5 ~~(f) Notify the Board immediately in writing no later than the next business day of termination of the PA's physician assistant's employment contract and the reason(s) for termination. Notification shall be submitted using the Board's form and shall include the reasons for termination of employment and any allegation of unprofessional conduct as described in 26 V.S.A. §1736; Similar notification is required if the scope of practice changes, the employer(s) change, or there is a change in the primary or secondary supervising physician(s). Prior Board approval must be received. Documents already on file with the Board need not be resubmitted. See Rule 5.3 and 6.6.~~

27.2.2.6 ~~(g) Sign a statement certifying that he or she the primary supervising physician has read the statutes and Board rules governing physician assistants PAs; and~~

27.2.2.7 Verify online that documentation regarding supervising physician(s) has been accepted.

27.2.3 ~~Rule 7.2~~ The Secondary Supervising Physician shall:-

~~The secondary supervising physician shall:~~

27.2.4 ~~(a) Supervise PAs physician assistants only in the field(s) of medicine in which he or she is qualified and actively practices;~~

~~(b) Be personally responsible for the physician assistant's medical acts only when consulted by the physician assistant.~~

27.2.5 ~~(c) Be available for consultation as secondary supervising physician;~~

27.2.6 ~~(d) Have read the Delegation Agreement scope of practice submitted to the Board;~~

~~(e) Supervise no more physician assistants concurrently than have been approved by the Board after review of the system of care delivery;~~

27.2.7 ~~(f) Notify the Board no later than the next business day immediately in writing of the termination of secondary supervision and the reason(s) for termination. Similar nNotification is required if the scope of practice changes or there is a change in the secondary supervising physician(s);- See Rule 5.3 and 6.6.~~

27.2.8 ~~(g) Sign a statement certifying that he or she the secondary supervising physician has read the statutes and Board rules governing physician assistants.~~

27.3 ~~The Delegation Agreement document shall be signed by the primary supervising physician and the PA, and Rule 7.3 Scope of Practice. The scope of practice document shall cover at least the following:~~

27.3.1 ~~(a)~~ Narrative: A ~~brief~~ description of the practice setting, the types of patients and patient encounters common to this practice and a general overview of the role of the physician assistant in that practice.

27.3.2 ~~(b)~~ Supervision:

27.3.2.1 ~~(1) The mechanisms for~~ A detailed description of the manner in which on-site and off-site physician supervision and communication will occur;

27.3.2.2 ~~(2) How back-up and~~ A detailed description of the manner in which secondary supervising physicians will be utilized, and the means by which communication with them will be managed;

27.3.2.3 ~~(3) How~~ A detailed description of the manner in which emergency conditions will be handled in the absence of an on-site physician, including:

27.3.2.3.1 ~~(A)~~ Plans for immediate care,

27.3.2.3.2 ~~(B)~~ Means of accessing emergency transport;

27.3.2.4 A detailed description of the physician's supervision plan for the PA's practice; and (4) How ongoing supervision of the PA's activities are reviewed;

27.3.2.5 A detailed description of the physician's plan ~~(5) Provisions for retrospective review of PA charts which must at least include the following:~~

27.3.2.5.1 ~~(A)~~ The frequency with which these reviews will be conducted;

27.3.2.5.2 The minimum number or percentage of charts that will be reviewed;

27.3.2.5.3 The method by which charts will be selected for review; and

27.3.2.5.4 ~~(B)~~ The methods by which the review will be documented; to be used to document this review;

~~(6) The practice referral patterns to non-supervising physicians and other health care providers. If a referral is to be made out of the usual referral pattern of the practice, describe:~~

~~(A) the supervising physician's role in the decision,~~

~~(B) the methods to be used to document this involvement~~

~~(7) The methods for in-practice consultation for patients who are not improving in a reasonable manner or time frame, including the ways in which the PA will access the supervising physician's expertise in determining diagnostic treatment and referral plans for a patient whose progress is not satisfactory;~~

~~27.3.3 (e)-Sites of Practice: Name, physical address and type of facility for each A description of any and all practice site,s (e.g. office, clinic, hospital outpatient, hospital inpatient, industrial sites, schools). For each site, a description of the PA's activities.~~

~~27.3.4 (d)-Tasks/Duties: A list of the PA's-tasks and duties delegated to the PA, which shall include only activities within the supervising physician's scope of practice. in the supervising physician's scope of practice. This list should express a sense of involvement in the level of medical care in that practice. The supervising physician may only delegate those tasks for which the physician assistant is qualified by education, training and experience to perform. Notwithstanding the above, the physician assistant should initiate emergency care when required while accessing back up assistance. At no time should a particular task assigned to the PA fall outside of the scope of practice of the supervising physician.~~

~~27.3.5 (e)-An Authorization To Prescribe. A PA may prescribe only those drugs that are within the scope of practice of both the PA and the primary supervising physician as documented in the Delegation Agreement. If authorized to prescribe prescription drugs and/or devices, the delegation agreement must address all of the following (if applicable): -medications which shall include the following statements, verbatim:~~

~~27.3.5.1 Whether the PA is authorized to prescribe controlled substances; (1) "[insert physician assistant name] is authorized to prescribe medications in accordance with the scope of practice submitted to and approved by the Vermont Board of Medical Practice."~~

~~27.3.5.2 The PA's DEA number; and(2) "[insert physician assistant name] is authorized to prescribe controlled drugs in accordance with the scope of practice submitted to and approved by the Vermont Board of Medical Practice. [insert physician assistant name] has obtained a DEA number which is [insert number]."~~

~~27.3.5.3 The specific schedules authorized.~~

~~27.4 (f)-At no time shall the scope of practice of the physician assistant PA exceed the normal scope of either the primary or secondary supervising physician(s)' practice.~~

~~27.5 (g)-Advertising or communications with the public from the PA or regarding the PA and/or the availability of the PA's services shall clearly identify the PA's~~

supervising physician by name and shall not state, imply, or otherwise lead the public to believe that the PA practices independently of such supervision.

27.6 Filing of a Delegation Agreement with the Board to establish a work site for a PA does not constitute Board approval of the substance of the Delegation Agreement, nor is it evidence that the Board finds the plan for supervision adequate. Acceptance of the filing is only acknowledgement that the Board has received the completed documentation.

27.7 Adequacy of Supervision. If the question of adequacy of supervision is presented in a case before the Board, the Board will consider:

27.7.1.1 Whether the documented plan for supervision was followed;

27.7.1.2 The PA's experience level in terms of time and quality;

27.7.1.3 The physician's familiarity with the PA's capabilities based upon the length of time the two have worked together and the degree to which the physician has had the opportunity to observe the PA's performance;

27.7.1.4 The complexity, difficulty, and seriousness of the medical procedures that the PA is allowed to undertake pursuant to the Delegation Agreement;

27.7.1.5 The degree to which the supervisor or other physicians are readily available to immediately consult or take over care in the event of difficulty;

27.7.1.6 Any adverse information that the physician supervisor knows about or reasonably should know about regarding specific risks, such as a history of discipline of the PA or indications of impairments that may impact quality of care.

~~Rule 7.4 Authority to Prescribe Drugs; Requirements. The certified physician assistant may prescribe only those drugs utilized by the primary supervising physician and permitted by the scope of practice submitted to and approved by the Board. The prescription form used by the PA must include:~~

~~(a) The printed name of the physician assistant;~~

~~(b) The printed name of the supervising physician;~~

~~(c) The practice address and telephone number;~~

~~(d) A space for the physician assistant's signature;~~

~~(e) A space for the physician assistant's DEA number.~~

~~Upon a pharmacist's request, the Board shall furnish a copy of the Board-approved scope of practice and a signature sample of the physician assistant.~~

~~Rule 7.5 Supervision.~~

~~Supervision shall include:~~

- ~~(a) Regular and effective access to the supervising physician for consultation regarding on-going patient care while they are being treated by the PA;~~
- ~~(b) Regular, retrospective review of selected PA-generated charts by the supervising physician, with documentation of such review;~~
- ~~(c) Regularly scheduled and documented discussion of cases chosen by either the PA or the supervising physician. These may be cases which the PA handled, or cases which the physician handled and believes may be instructive for the PA;~~
- ~~(d) Review of PA referrals outside the normal practice referral pattern as defined in the scope of practice;~~
- ~~(e) Methods for in-practice consultation for patients not improving in a reasonable manner or time frame;~~
- ~~(f) Review of the record of services rendered the patient by the physician assistant and sign such records within 72 hours after any such care was rendered by the physician assistant;~~

~~Rule 7.6 Branch Operations.~~

~~A physician assistant may practice in a health care facility other than the supervising physician's primary place for meeting patients only if prior approval is obtained from the Board. If a new or additional branch operation is added, the Board must be notified immediately, so that approval to practice at the additional branch operation may be obtained. The supervising physician must satisfy the Board that communication with the physician assistant is direct and prompt. The supervising physician must demonstrate to the Board's satisfaction that:~~

- ~~(a) There is adequate provision for prompt electronic communication between the physician assistant and the supervising physician;~~
- ~~(b) There is adequate provision for back-up emergency care, delivery, and transport;~~
- ~~(c) Patient care rendered by a physician assistant in this setting shall be reviewed in accordance with the scope of practice and with Rules 7.1, 7.2, 7.3, and 7.5.~~

27.8 ~~Rule 7.7~~ **Notice to Patients of Use of Physician Assistant.** Any physician, clinic, or hospital that uses the services of a physician assistant must post a clear public notice to that effect.

28.0 PART 8 Physician Assistant Professional Standards; Disciplinary Procedures

28.1 ~~Rule 8.1~~ **Prescribing Controlled Substances for Supervisors.** It is unprofessional conduct for a physician assistant to prescribe or dispense controlled substances listed in D.E.A. Schedules II, III, or IV for a physician who is his or her primary or secondary supervisor.

28.2 **Prescribing or Treating Supervisors.** It is discouraged for a PA to prescribe or dispense non-controlled prescription substances for his or her primary or secondary supervisor. PAs who treat a supervisor are required to meet all standards of appropriate care, including proper establishment of a professional relationship with the patient and maintenance of appropriate patient records.

28.3 **Continuing Education.**

28.3.1 As evidence of continued competence in the knowledge and skills of a physician assistant, all physician assistants shall complete a continuing medical education program of 100 approved credit hours every two years. A minimum of 40 credit hours shall be from Category 1. Proof of completion shall be submitted to the Board with the application for renewal of certification. ~~See Rule 6.1.~~

28.3.2 Certification or recertification by the NCCPA at any time during a 2-year licensure period may be accepted in lieu of 100 hours continuing medical education credits for that 2-year period. PAs must also comply with any applicable continuing medical education requirements established by Vermont law or Board Rule.

28.3.3 **Required CME for PAs With DEA Number.** All licensees who prescribe controlled substances shall certify at the time of each renewal that they have completed at least two hours of CME activity on controlled substances prescribing. The activity must be accredited as AMA PRA Category 1 Credit[™] training or American Academy of Physician Assistants Category 1 training. The following topics must be covered, as required by Vermont law: abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering and cessation of the use of controlled substances; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances. Each licensee who is registered with the D.E.A. and who holds a D.E.A. number to prescribe controlled substances, or who has submitted a pending application for one, is presumed to prescribe controlled substances and must meet this requirement. Any physician assistant who is required to certify completion of this CME to renew, but who cannot, will be subject

to the provisions regarding makeup of missing CME in subsections 22.3 and 22.4.

28.4 ~~Rule 8.2~~ Grounds for Disciplinary Action.

28.4.1 Grounds for disciplinary action include the conduct set forth in 26 V.S.A. § 1736 and ~~3 V.S.A. § 129a~~. Under 26 V.S.A. § 1734(e), failure to maintain competence in the knowledge and skills of a physician assistant may result in revocation of license ~~certification~~, following notice of the deficiency and an opportunity for a hearing.

28.5 ~~Rule 8.3~~ Disciplinary Action.

28.5.1 All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of these rules.

28.5.2 After notice and an opportunity for hearing, the Board may take disciplinary action against any applicant, ~~physician assistant trainee~~, or physician assistant found guilty of unprofessional conduct, as provided by 3 V.S.A. §§ ~~129 and 809~~, and 26 V.S.A. §§ ~~1734~~ 1361(b) and 1737, including but not limited to:

28.5.2.1 ~~(a)~~ Reprimand, suspend, revoke, limit, condition, deny or prevent renewal of license; ~~certification or registration~~;

28.5.2.2 ~~(b)~~ Required completion of continuing education;

28.5.2.3 ~~(c)~~ Required supervised training or practice for a specified period of time or until a satisfactory evaluation by the supervising physician has been submitted to the Board.

28.5.3 The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in addition to those above, in such an agreement are set forth in 3 V.S.A. § 809(d) and 26 V.S.A. § 1737(d).

28.6 ~~Rule 8.4~~ Right to Appeal.

28.6.1 A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice, Office of Professional Regulation, Vermont Secretary of State's Office, as provided by 26 V.S.A. § 1367 and 3 V.S.A. § 815.130a. ~~For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.~~

Rule 8.5 Enforcement of Child Support Orders.

~~The Board regulates three professional licensing or certification programs: Physicians, Physician Assistants, and Podiatrists. Under 15 V.S.A. § 795, the Board may not issue or renew a professional license or certification to practice these professions if the applicant is under an obligation to pay child support and is~~

~~not in good standing or in full compliance with a plan to pay the child support due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed.~~

~~When the Board receives a letter of non-compliance from the Office of Child Support, the Board will include the letter of non-compliance with any license or certification renewal application sent to the professional licensed or certified with the Board.~~

~~When the Board receives a suspension order from the Family Court, the Board will respond as required to implement the order of the Court.~~

SECTION IV. RULES FOR PODIATRISTS

PART 9

PODIATRISTS' LICENSES

Rule 9.1 Definitions:

~~As used in these rules:~~

~~(a) "Board" means the Vermont Board of Medical Practice established by Chapter 23 of Title 26 of the Vermont Statutes Annotated.~~

~~(b) "CPME" means Council on Podiatric Medical Education of the American Podiatric Medical Association.~~

~~(c) "Disciplinary action" means any action against a licensee or an applicant by the Board, or an appeal therefrom, when that action suspends, revokes, limits or conditions licensure in any way, and includes reprimands.~~

~~(d) "Practice of Podiatry" is set forth in 26 V.S.A. § 321(3).~~

~~(e) "PMLexis" means the Podiatric Medical Licensure Examination for States.~~

~~(f) "V.S.A." means Vermont Statutes Annotated.~~

28.0 Rule 9.2 License Required.

No person shall practice or attempt to practice podiatry or hold himself or herself out as being able to do so in this state without possessing a valid, current license issued by the Board. In addition, no person shall use in connection with his or her name letters, words,

or insignia indicating or implying that he or she is a ~~p~~Podiatrist unless licensed by the Board.

29.0 ~~Rule 9.3~~ **General Requirements for Licensing.**

29.1 In order to be granted a license to practice podiatry ~~An applicant must meet the following eligibility requirements: for licensure as a Podiatrist must present evidence satisfactory to the Board that the applicant:~~

29.1.1 ~~(a) Is~~ Be at least 18 years of age;

29.1.2 ~~(b) C~~Be competent in speaking, writing and reading the English language;

29.1.3 ~~(c) Hold~~ Has received a diploma or certificate of graduation from a school of podiatric medicine accredited by the CPME and approved by the Board;

29.1.4 ~~(d) Have~~ s satisfactorily completed one year's postgraduate training in a United States hospital program or preceptor-ship which is approved by the Board and which meets the minimum requirements set by the CPME;

29.1.5 ~~(e) Have~~ s successfully completed the following examinations given by the National Board of Podiatry Examiners: Part I and Part II of the National Board of Podiatric Medical Examiners examination followed in sequence by the PMLexis examination; and:-

29.1.6 ~~(f) Meet the requirements for~~ Has presented three current reference forms ~~as to~~ moral character and professional competence; and

~~(g) Has been interviewed by a Board member, the licensing committee, and/or the Board.~~

29.2 For each applicant for licensure as a podiatrist the Board must receive, in a form satisfactory to the Board:

29.2.1 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

29.2.2 For each podiatric medical school attended, the Board of Medical Practice Podiatric Medical Education Form;

29.2.3 For each postgraduate training program attended, the Board of Medical Practice Verification of Postgraduate Podiatric Training Form for primary source documentation of all postgraduate training;

29.2.4 Verification of podiatric medical licensing examination results; sent directly to the Board by the National Board of Podiatric Medical Examiners;

29.2.5 Verification of all podiatric medical licenses ever held in any state, territory, or province at any level, including permanent, temporary, and training licenses;

- 29.2.6 The Uniform Application Affidavit and Authorization for Release of Information Form.
- 29.2.7 Federation of Podiatric Medical Boards Disciplinary Inquiry Report. This must be a current report issued within 60 days of submission of of application.
- 29.2.8 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application.
- 29.2.9 The applicant's CV (curriculum vitae) or résumé.
- 29.2.10 Board of Medical Practice Reference Forms completed and submitted directly by the chief of service (or equivalent) and two other active physician or podiatrist staff members of the hospital where the applicant currently holds, or most recently held, privileges. At least one reference must be from a podiatrist. If an applicant has not held privileges at a hospital within two years of the date of submission of the application, or cannot provide references as indicated, the Board in its discretion may accept references from other podiatrists or physicians who have knowledge of the applicant's moral character and professional competence. An applicant shall indicate in the application if asking the Board to accept references that do not meet the above-stated standard.

29.3 All applicants must submit a completed Board application package, provide required documentation as specified in the application form or requested by the Board, and pay the applicationlicensing fee. Documents submitted with the application become part of the official record and will not be returned.

29.4 At the discretion of the licensing committee or the Board any applicant may be required to be interviewed by a Board member.

30.0 ~~Rule 9.4~~ **Licensure Without Examination.**

30.1 To qualify for licensure without examination, an applicant must present evidence satisfactory to the Board that he or she:

- 30.1.1 ~~(a)~~ Holds a current and unrestricted podiatrist license in another jurisdiction;
- 30.1.2 ~~(b)~~ Has met licensing requirements in the other jurisdiction ~~which~~ that are substantially equal to the Board's requirements for podiatric licensure;
- 30.1.3 ~~(c)~~ Has presented current reference letters as to moral character and professional competence; and
- 30.1.4 ~~(d)~~ Has been interviewed by a Board member, the licensing committee, and/or the Board. To assure that an applicant is professionally qualified;

the Board may, in its discretion, require an applicant to take and pass the PMLexis examination prior to licensure.

30.2 At the discretion of the licensing committee, any applicant may be required to be interviewed by a Board member.

31.0 Limited Temporary License:

31.1 A limited temporary license may be issued for the purpose of completing postgraduate training and allows the licensee to practice under the supervision and control of a Vermont-licensed podiatrist in a CPME-accredited training program. The applicant must be enrolled in a CPME-accredited program of postgraduate training or in sub-specialty clinical fellowship training in an institution that has an accredited program in the parent specialty. A limited temporary license may be renewed or reissued, upon submission of a completed renewal application, including fee and required documentation.

31.2 Application for a limited temporary license shall include:

31.2.1 Completed online application;

31.2.2 The required fee;

31.2.3 A copy of the applicant's podiatric medical school diploma;

31.2.4 A supervising podiatrist's / program director's statement acknowledging statutory responsibility for the applicant's negligent or wrongful acts or omissions;

31.2.5 Direct verification of medical education;

31.2.6 ECFMG if applicable;

31.2.7 Verification of other state licensure;

31.2.8 NPDB self-query; and

31.2.9 Any additional forms or documentation required by the Board.

Rule 9.5 Applicant's Right to a Written Decision.

~~(a) The Board must document, in writing, all decisions on whether the applicant is granted or denied a license. The Board may stay its decision on an application for a license from a practitioner who is the subject of an unresolved complaint or allegations in another jurisdiction which involve or relate to the practitioner's care of patients.~~

~~(b) On all license denials, the Board follows a three-step process:~~

~~(1) If the Board intends to deny the applicant a license, it shall issue a written preliminary decision containing the following:~~

~~(A) The specific reasons for the license denial;~~

~~(B) The applicant has the right to request a hearing at which the Board shall review the preliminary decision, and that such request must be filed with the Board within 30 days of the date~~

~~the decision was sent to the applicant. Failure to appeal within the 30 day period shall render the preliminary decision final.~~

~~(2) At the hearing to review the preliminary decision to deny the license application, the applicant shall be given the opportunity to show that he or she has met the license requirements;~~

~~(3) After the hearing, the Board shall affirm or reverse the preliminary decision, and shall issue a final written decision and order setting forth its reasons for the decision. The decision and order shall be signed by the chair or vice chair of the Board, and the Board shall enter the order. A decision and order is effective upon entry.~~

~~(c) Notice of both the preliminary decision and the final decision and order shall be sent to the applicant by certified mail.~~

32.0 ~~Rule 9.6~~ **An Applicant's Right to Appeal.** A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the director of the Office of Professional Regulation, Vermont Secretary of State's Office ~~Vermont Supreme Court~~ as provided by 3 V.S.A. § 130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation. **PART 10 Podiatrists' Professional Standards**

32.1 ~~Rule 10.~~ **Continuing Medical Education. Required CME:** Prescribing Controlled Substances. All podiatry licensees who prescribe controlled substances shall certify at the time of each renewal that they have completed at least two hours of CME activity on controlled substances prescribing. The activity must be accredited as AMA PRA Category 1 Credit™ training or Council on Podiatric Medical Education approved training. The following topics must be covered, as required by Vermont law: abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering and cessation of the use of controlled substances; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances. Each licensee who is registered with the U.S. Drug Enforcement Agency (D.E.A.) and who holds a D.E.A. number to prescribe controlled substances, or who has submitted a pending application for one, is presumed to prescribe controlled substances and must meet this requirement. Any podiatrist who is required to certify completion of this CME to renew, but who cannot, will be subject to the provisions regarding makeup of missing CME in 22.3 and 22.4.

32.2 **Grounds for Disciplinary Action.** Grounds for disciplinary action are set out in 3 V.S.A. § 129a, 18 V.S.A. § 1852, and 26 V.S.A. § 375.

32.3 ~~Rule 10.2~~ **Disciplinary Action.**

32.3.1 All complaints and allegations of unprofessional conduct shall be processed in accordance with ~~Section IV of these~~ this rules.

32.3.2 After notice and opportunity for hearing and upon a finding of unprofessional conduct, the Board may take disciplinary action against a licensed podiatrist, applicant, or person who later becomes an applicant as provided in ~~3 V.S.A. § 129 and~~ 26 V.S.A. § 376 and 26 V.S.A. § 1361(b). Disciplinary action may include:

32.3.2.1 ~~(a)~~ Refusal to issue or renew a license;

32.3.2.2 ~~(b)~~ Suspension, revocation, limitation, or conditioning of a license;

32.3.2.3 ~~(c)~~ Issuance of a warning or reprimand; and/or

32.3.2.4 Issuance of an administrative penalty.

32.3.3 The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in such an agreement are set forth in ~~3 V.S.A. § 809(d) and~~ 26 V.S.A. § 376(d).

32.4 ~~Rule 10.3~~ **Right to Appeal.** A party aggrieved by a final decision of the Board may, within 30 days of the decision appeal to the Vermont Supreme Court, appeal that decision by filing a notice of appeal with the Executive dDirector of the Office of Professional Regulation, Vermont Secretary of State's Office as provided by 26 V.S.A. § 375(d), 3 V.S.A. § 130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.

~~Rule 10.4 Enforcement of Child Support Orders.~~

~~The Board regulates three professional licensing or certification programs: Physicians, Physician Assistants, and Podiatrists. Under 15 V.S.A. § 795, the Board may not issue or renew a professional license or certification to practice these professions if the applicant is under an obligation to pay child support and is not in good standing or in full compliance with a plan to pay the child support due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed.~~

~~When the Board receives a letter of non-compliance from the Office of Child Support, the Board will include the letter of non-compliance with any license or certification renewal application sent to the professional licensed or certified with the Board.~~

~~When the Board receives a suspension order from the Family Court, the Board will respond as required to implement the order of the Court.~~

PART 11 License Renewal; Lapsed License; License Reinstatement

Rule 11.1 Renewing a License.

Licenses are renewed on a fixed biennial schedule. A podiatrist must renew his or her license before it lapses.

The date on which a license shall lapse is printed on the license. One month before the such date, the Board will mail each licensed podiatrist a renewal application and notice of the renewal fee to the address last provided to the Board. If a podiatrist does not return the renewal application completed in full and fee to the Board by the date on which the license shall lapse, the license will lapse automatically.

A podiatrist, whose initial license has been issued within 90 days of the renewal date, will not be required to renew and pay the renewal fee. Instead, the license will be issued through the next full license period. A podiatrist who has been issued an initial license more than 90 days prior to the renewal expiration date will be required to renew and pay the renewal fee.

Licenseses have a continuing obligation during each two-year renewal period to promptly notify the Board of any change or new information regarding their responses to Section III (licensure questions) of the renewal application, including but not limited to disciplinary or other action limiting or conditioning his or her license or ability to practice in any licensing jurisdiction. Failure to do so may subject the licensee to disciplinary action by the Board.

Rule 11.2 Lapsed License. If a license has not been renewed by the required date, it has lapsed. A podiatrist may not legally practice in Vermont after a license has lapsed. The podiatrist must halt the practice of podiatry until the license has been reinstated.

Rule 11.3 Reinstating a License after It Has Lapsed for Less Than One Year.

A podiatrist may not legally practice medicine in Vermont after his or her license has lapsed. A podiatrist must halt the practice of medicine if his or her license has lapsed. To seek reinstatement after failing to renew, a podiatrist must complete in full the renewal application and tender it to the Board with the fee required for renewal plus an additional penalty.

The Board may stay the decision on the application pending investigation of charges or allegations of unprofessional conduct against the renewal applicant. The Board may seek or request such additional information as it deems needed to make a determination as to the renewal application. The Board may deny the renewal of a license on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the podiatrist.

Rule 11.4 Reinstating a License after It Has Lapsed One Year or More.

If a license is lapsed for one year or more the podiatrist must complete a reinstatement application in full and pay the application fee. The reinstatement application requires additional information beyond that

required in the standard renewal application. A chronological accounting of the podiatrist's professional activities in other jurisdictions during the period the license was lapsed in Vermont must be presented.

The podiatrist must provide:

(1) a letter from the chief of staff of each hospital at which he or she held privileges during the period in which the Vermont license was lapsed and

(2) a license verification from each state in which he or she held an active license during the period in which the Vermont license was lapsed. In addition, he or she must appear for a personal interview.

The Board may seek or request such additional information as it deems needed to make a determination as to the renewal application.

Reinstatement may be denied on grounds of unprofessional conduct as set forth under Vermont law or for other good cause, after notice and opportunity to be heard has been provided to the podiatrist.

~~Rule 11.5 Reinstating a License after It Has Lapsed Three Years or More.~~

If a license is lapsed for three years or more, in addition to the provisions of Rule 11.4, above, the Board may, after notice and opportunity for hearing, require examination as a condition of license renewal.

~~Rule 11.6 Failure to Maintain Competency.~~ Notwithstanding Rules 11.3, 11.4, and 11.5, above, if, after notice and opportunity for hearing, the Board finds that the licensee has failed to maintain competence in the knowledge and skills of a podiatrist, the Board may require examination as a condition of license renewal.

~~Rule 11.7 Change of Name or Address.~~ All podiatrists are responsible for notifying the Board within 10 days of any change of name or address. A Vermont-licensed, out-of-state podiatrist who intends to re-locate his or her practice to Vermont shall notify the Board 30 days in advance of the intended start date of the Vermont practice.

SECTION V. SECTION IV. COMPLIANT PROCEDURE FOR COMPLAINTS MADE AGAINST PHYSICIANS, PODIATRISTS, AND PHYSICIAN ASSISTANTS, ANESTHESIOLOGIST ASSISTANTS, AND RADIOLOGIST ASSISTANTS

33.0 PART 12 Initiating a Complaint.

33.1 Rule 12.1 Form of Complaint; Filing.

33.1.1 Anyone wishing to make a complaint of unprofessional conduct against a physician, podiatrist, or physician assistant, professional regulated by the Board may file a written complaint with the Board. Written complaints must include identifying and contact information for the complainant. The Board provides a printed complaint form for this purpose. Use of a form is preferred, but not required. If applicable, a complainant must provide authorization for the release of relevant medical records using the Board's form. A complaint must be signed. Also included with the complaint form is a release of medical records form.

33.1.2 The Board may open an investigation on its own initiative to evaluate instances of possible unprofessional conduct that may come to its attention. 26 V.S.A. § 1355(a); 3 V.S.A. § 129(b).

~~Rule 12.2 Verification.~~

~~The Board will verify the Vermont license number of the practitioner against whom the complaint has been filed. If the respondent is licensed in Vermont, the complaint will be docketed and investigated.~~

~~If the Board determines that the respondent does not hold a valid Vermont medical license, and the complaint alleges unprofessional conduct, the matter will be preliminarily investigated by the Board. If the respondent appears to have provided medical care or surgery or has held himself or herself out as a doctor, physician, surgeon, or other provider of medical care, the matter shall be referred to the Office of the Attorney General for possible criminal prosecution based on such unlicensed practice.~~

~~Rule 12.3 Docketing.~~

~~As soon as a written complaint against a licensee reaches the Board, it will be date stamped, assigned a coded number, and docketed. A permanent file will be opened and all original documents will be retained in this master file.~~

34.0 PART 13 Notice

~~Rule 13.1 **Notice to the Investigating Committee and to the Attorney General.** The Board has three standing committees for the investigation of complaints, each having at least three physicians and one public member. Complaints are divided between the three committees based on geography; therefore the committees are called the North Committee, the Central Committee and the South Committee. Once a committee has been assigned to investigate a complaint, the Board will send a copy of the letter of complaint and any accompanying material to the members of that committee and to the Assistant Attorney General.~~

34.1 **Rule 13.2 Notice to Complainant.** The Board will send the complainant a standard letter of acknowledgment stating that the complaint has been received by

the Board, and that it will be investigated, ~~in conjunction with the Attorney General's Office, that a medical release form signed by the patient who is the subject of the complaint must be filed with the Board, that the complainant may expect to be notified of the status of the complaint, and that further inquiries or material should be sent to the North, Central or South Committee at the address of the Board. Included with this letter will be a copy of the applicable grounds of unprofessional conduct set out in Vermont Statutes.~~

34.2 Rule ~~13.3~~ Notice to Respondent.

34.2.1 The Board will send the Respondent a copy of the complaint, a copy of a release of medical records signed by the patient or other authorized person, a copy of the grounds of unprofessional conduct, and a standard letter stating that:

34.2.1.1 ~~(a)~~ This complaint has been lodged against him or her;

34.2.1.2 ~~(b)~~ The letter is not a notice of a formal hearing; and

~~(c)~~ The matter will be investigated by a committee of the Board working with the Attorney General's Office; and

34.2.1.3 ~~(d)~~ The Respondents must respond in writing. The response answer should be addressed to the North, Central, or South Investigating Committee at the address of the Board and filed with the Board within ~~10~~ 20 days of the date of the letter.

34.2.2 The Respondent is responsible for the accuracy of the response and must sign the response, even if also signed by an attorney.

34.2.3 The Executive Director or Investigator may grant one extension of up to 20 additional days to provide the response. A request for further delay must be submitted to the assigned investigating committee.

34.2.4 In cases where the Board has initiated an investigation, the Board will send the Respondent a letter providing notice of the investigation and describing the matters for which response is requested.

34.2.5 Unlicensed Practice. No notice need be provided to the target of an investigation into unlicensed practice.

35.0 PART ~~14~~ Investigation

35.1 Rule ~~14.1~~ Investigating Committee. A standing investigating committee or one specially appointed, and an assistant attorney general, will investigate each complaint and recommend disposition to the Board. The investigating committee shall be assisted by an investigator from the Board. After the file is received, the investigating committee will discuss the complaint and plan the investigation.

35.2 Cooperation with Investigation; Impeding an Investigation.

35.2.1 Professionals are obligated to cooperate with the Board throughout an investigation. A Respondent may contest a subpoena using the appropriate mechanisms, but in the absence of a delay associated with a bona fide

objection to subpoena a failure to respond to a subpoena within a reasonable time constitutes a violation of these rules.

35.2.2 Professionals are prohibited from engaging in any action that may deter a witness from cooperating with a Board investigation and from retaliating against any person based upon the filing of a complaint or cooperation in any way with a Board investigation. Professionals are prohibited from concealing, altering or destroying any evidence that is or may be pertinent to a Board investigation.

Rule 14.2 Investigative Plan.

~~After the file is received, the committee will discuss the complaint and plan the investigation. All complaints shall be investigated.~~

Rule 14.3 Status Reports.

~~The committee shall report on the progress of the investigation to the Board at each successive meeting until there is a recommendation for final disposition. These status reports will not disclose the substance of the investigation but will inform the Board only that the investigation is ongoing.~~

36.0 Suspension Prior to Completion of an Investigation.

36.1 Summary Suspension: the investigating committee may find that certain alleged misconduct poses so grave a threat to the public health, safety, or welfare that emergency action must be taken. In such a case, the committee will request a special meeting of the hearing panel, and recommend that the Board order summary suspension of the Respondent's license or certification, pending a hearing under the authority of 3 V.S.A. § 814(c). If the Board orders summary suspension, a hearing will be scheduled as soon as practical, and the Assistant Attorney General will present the case against the suspended professional.

36.2 Interim Suspension: grounds for entry of such an order are as follow:

36.2.1 Criminal Convictions: the investigating committee shall consider any criminal conviction for which a licensee may be disciplined under 26 V.S.A. § 1354(3) as an unprofessional conduct complaint and may request that the Board immediately suspend the Respondent's license or certification under the authority of 26 V.S.A. § 1365. Upon receipt of the certified copy of the judgment of conviction, the Board may order an interim suspension pending a disciplinary hearing before the Board.

36.2.1.1 The disciplinary hearing shall not be held until the judgment of conviction has become final, unless Respondent requests that the disciplinary hearing be held without delay. The sole issue to be determined at the hearing shall be the nature of the disciplinary action to be taken by the Board.

36.2.1.2 The Respondent, within 90 days of the effective date of the order of interim suspension, may request a hearing concerning the interim suspension at which Respondent shall have the burden of demonstrating why the interim suspension should not remain in effect. The interim suspension shall automatically terminate if Respondent demonstrates that the judgment of conviction has been reversed or otherwise vacated.

36.2.2 **Out-of-State Discipline:** the committee shall consider certain out-of-state disciplinary action as set forth in 26 V.S.A. § 1366 as an unprofessional conduct complaint and may request that the Board immediately suspend the Respondent's license or certification under authority of that statute.

36.2.2.1 Upon receipt of the certified copy of the order or statement regarding the relevant out-of-state disciplinary action, the Board may order an interim suspension pending a disciplinary hearing before the Board.

36.2.2.2 The Respondent, within 90 days of the effective date of the order of interim suspension, may request a hearing concerning the interim suspension at which Respondent shall have the burden of demonstrating why the interim suspension should not remain in effect. The interim suspension shall automatically terminate if Respondent demonstrates that the out-of-state disciplinary action has been reversed or vacated.

37.0 PART 15 ~~Recommendation as to Disposition by the Investigating Committee~~

37.1 ~~Rule 15.1 Committee Recommendation:~~ Once the investigating committee determines is satisfied that the investigation is complete, it shall pursue one of three possible dispositions: and present its recommendation for final disposition to the Board at a regularly scheduled meeting. ~~The committee may recommend one of five possible dispositions depending on the results of the investigation: concluding the investigation, settlement, specification of charges, interim suspension, or summary suspension.~~

37.1.1 ~~(a) Concluding the Investigation:~~ If, after investigating the complaint, the committee and the assistant attorney general ~~are convinced~~ determine that the facts established by the investigation do not present cause for pursuing charges of alleged misconduct does not constitute unprofessional conduct, then the committee ~~must~~ may recommend that the Board conclude the investigation. If approved by the Board, the case is closed without further action. A concluded investigation may be reopened if new evidence is received, ~~or an additional~~ a new and related complaint is made, or upon request for reconsideration.

37.1.2 ~~(b) Settlement: when an investigation demonstrates a case of~~ If, after investigating the complaint, the committee and the Office of the Attorney

General determine that the facts established by the investigation present cause for pursuing charges of unprofessional conduct, the committee may recommend disposition, as provided in 3 VSA § 809(d). The committee shall explore the possibility of stipulated settlements and consent orders, as established in a Stipulation settlement.

37.1.2.1 ~~(1)~~ Recommended Stipulations settlements should include a concession of wrongdoing by the ~~licensee~~ Respondent, terms and conditions, an understanding that this concession may be relied on by the Board in case the licensee is later found to have engaged in unprofessional conduct, and an understanding that this final disposition of the complaint is public and that the Board shall notify the Federation of State Medical Boards Board Action Data Bank, and the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank, and may notify other states of its contents.

37.1.2.2 ~~(2)~~ When a Stipulation settlement is filed with the Board, the complainant shall be provided with a copy of the stipulation and notice of any stipulation review scheduled before the Board. The complainant shall have the right to be heard at any stipulation review.

37.1.2.3 ~~(3)~~ The ~~entire agreement~~ Stipulation as drafted by the committee and the assistant attorney general will be expressly conditioned is finalized only up on acceptance by the full Board. If the investigating committee recommends a disposition in the form of a Stipulation, the Board may vote to ask the committee to change the terms of the Stipulation. If a Stipulation is not accepted by the Board within a reasonable time, the investigating committee may pursue specification of charges.

37.1.3 ~~(e)~~ **Recommendation of Specification of Charges:** If after investigation the investigating committee and the Assistant Attorney General determine that the facts established provide a basis to allege the complaint alleges unprofessional conduct as defined by 26 V.S.A. § 1354 within the meaning of the statute and the committee believes a settlement cannot be reached or is not warranted on the facts, the committee shall recommend the filing of a Specification of Charges by the Office of the Attorney General. Charges will be signed by the Board Secretary, with the Board, setting out the allegations against the licensee in accordance with 3 V.S.A. § 809. The assistant attorney general will draft the charges and file them with the Board. The Board secretary shall prepare the charges for service by signing them. The charges, together with a notice of hearing, shall be served upon the Respondent.

Rule 15.2 Board Disagreement with Investigating Committee's Recommendation. Although the Board must hold a hearing after a specification

~~of charges has been filed, the Board may decline other recommendations by the investigating committee for the disposition of complaints. If the investigating committee recommends concluding the investigation, after hearing the committee's rationale and after an opportunity for questions, the Board may vote to ask the Committee to continue its investigation and to examine unexplored aspects of the alleged misconduct.~~

~~If the investigating committee recommends a disposition in the form of a settlement, the Board may vote to ask the committee to change the terms of the recommended settlement. If a settlement is not accepted by the Board within a reasonable time, a disciplinary hearing shall be scheduled.~~

38.0 PART ~~16~~ Disciplinary Proceedings

38.1 The Board Chair may designate a hearing committee comprised of at least one physician member of the Board and at least one public member. Members may be appointed as provided by 26 V.S.A. § 1355(b).

38.2 Rule ~~16.1~~ Specification of Charges; Notice; Failure to Appear; Default.

38.2.1 ~~(a)~~ The Board commences disciplinary proceedings by serving a sSpecification of Ccharges and a notice of hearing upon the respondentRespondent. The hearing is scheduled no sooner than 30 days after service. Notice shall tell the respondentRespondent that he or she may file a response within 20 days of service;

38.2.2 ~~(b)~~ Notice shall be sent to the Rrespondent or other person or entity entitled to notice by certified mail, return receipt requested, with restricted delivery to addressee only. If service cannot be accomplished by certified mail, the Board will make reasonable attempt to accomplish service by regular mail or by personal service within the state, if feasible. A continuance may be granted upon request for good cause as determined by the Board, hearing committee, or a presiding officer. Copies of the notice shall be sent to the complainant, the Aassistant aAttorney Ggeneral, and the respondentRespondent's attorney;

38.2.3 ~~(c)~~ If the respondentRespondent, after proper notice, does not respond to the Specification of Ccharges or appear at a hearing, after proper notice, the allegations of the charges shall be treated as proven, and the Board may take disciplinary action after hearing the evidence. Upon a request written motion by the respondentRespondent and a showing of good cause, the Board may remove a default and schedule shall issue a written decision making a determination on whether to grant a new hearing.

38.3 Rule ~~16.2~~ Discovery. After a specification of charges has been filed, the Board, or its legal counsel on its behalf, shall have authority to conduct a prehearing conference or discovery conference and to issue orders regulating discovery and

depositions, scheduling, motions by the parties, and such other matters as may be necessary to ensure orderly preparation for hearing.

38.4 ~~Rule 16.3~~ **Hearing.** The hearing will be conducted according to the hearing provisions of 26 V.S.A. ch. 23 and the contested case provisions of the Administrative Procedure Act, 3 V.S.A. § 809-815. The Board may authorize its legal counsel to act as presiding officer ~~preside~~ at hearings and pre- and post-hearing conferences for the purpose of making procedural and evidentiary rulings. A presiding officer may administer oaths and affirmations, rule on offers of proof and receive relevant evidence, regulate the course of the hearing, convene and conduct prehearing conferences, dispose of procedural requests and similar matters, and take any other action authorized by the Administrative Procedure Act.

38.5 ~~Rule 16.4~~ **Decision, Order, and Entry; Notice of Decision; Transcripts.** Board legal counsel will prepare the written decision and order in accordance with the Board's instructions, within a reasonable time of the closing of the record in the case. The decision and order will be signed by the chair or vice-chair of the hearing panel and the Board shall enter the order. A decision and order is effective upon entry. Notice of the decision and order will be sent to the ~~respondent~~ Respondent by certified mail. Notice of the decision and order will be sent to the ; respondent Respondent's attorney, the complainant, and the prosecuting attorney by regular mail or email. A transcript of the proceeding is available at cost.

39.0 ~~PART 17~~ **Compliance Investigation, License or Certification Reinstatement or Removal of Conditions After Disciplinary Action**

39.1 ~~Rule 17.1~~ **Assignment of Compliance Investigation.** Upon entry of an order taking disciplinary action against a Respondent ~~licensee of the Board~~, a compliance investigation file will be opened. The file will be assigned to the ~~investigative~~ investigating committee that was responsible for the initial investigation of unprofessional conduct. The committee shall make recommendations for action to the full ~~B~~board regarding compliance, requests for reinstatement, or modification or removal of conditions established by the order.

39.2 ~~Rule 17.2~~ **License or Certification Reinstatement or Removal of Conditions.** A person licensed or certified by the Board who has been disciplined may petition at a later date for license or certification reinstatement or modification or removal of conditions from his or her license or certification. In addition to complying with any restrictions or conditions on reinstatement imposed by the Board in its disciplinary order, an applicant applying for reinstatement may be asked to complete a reinstatement application. An investigating committee will review such information and make a recommendation to the full Board. The Board may hold a hearing to determine whether reinstatement should be granted.

40.0 ~~PART 18~~ **Appeals.** ~~Rule 18.1~~ **Appeals.** A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision to the Vermont Supreme Court pursuant to 18 V.S.A. 1367. ~~by filing a notice of appeal with the director of the Office of~~

Professional Regulation, Vermont Secretary of State's Office, as provided by 3 V.S.A. § 130a. For further rules concerning appeals, see the Administrative Rules for the Office of Professional Regulation.

~~PART 19 Confidentiality Rule 19.1~~ **Confidentiality; Access to Documents.**

All complaints shall remain confidential until charges are filed or disciplinary or other action affecting a license is taken. Only the date and nature of the complaint, a summary of the investigation, and the date the matter was closed is public information. The name of a licensee against whom a complaint of unprofessional conduct has been made is confidential during the investigative stage.

If a Specification of Charges has been filed, and the Specification of Charges has been served or a reasonable effort to serve them has been made, or if disciplinary or other action affecting a license has been taken, the following information shall be public: (1) the name and business address of the licensee and the complainant; (2) formal charges, if served or a reasonable effort to serve them has been made; (3) any exhibits admitted at a formal hearing and any transcript of the hearing; (4) the Board's findings and order; (5) any stipulations approved by the Board; and (6) the final disposition of the matter on appeal. The licensee is entitled to any information in the Board's possession, with the exception of (1) investigatory files as to matters which have not resulted in charges of unprofessional conduct; and (2) attorney work product.

Hearings before the Board are open to the public. However, in any hearing before the Board which addresses an applicant's or licensee's alleged sexual misconduct, the discovery and admission at hearing of certain evidence may be restricted. The Board may close portions of the hearing to protect the victim's identity and privacy. See 26 V.S.A. § 1360(c).

SECTION VI. RULES FOR ANESTHESIOLOGIST ASSISTANTS RULES

PART 20 RULES REGARDING ANESTHESIOLOGIST ASSISTANTS

Rule 20.1 Introduction and Definitions.

Copies of the statutes concerning anesthesiologist assistants, Chapter 29 of Title 26 Vermont Statutes Annotated (VSA), are accessible online, and hard copies may be obtained from the Department of Health, Board of Medical Practice.

These Rules pertaining to anesthesiologist assistants are adopted under authority of current 26 VSA § 1652.

The words and phrases used in these Rules shall have the same meaning given to them at current 26 VSA § 1651.

These are rules specifically regarding the training, practice, supervision, qualification, scope of

practice, places of practice, and protocols for anesthesiologist assistants, and patient notification and consent.

41.0 Rule 20.2 Training and Qualification.

41.1 The eligibility requirements for certification as an anesthesiologist assistant are listed ~~at current~~ in 26 V.S.A. § 1654 and supplemented by these rules. The requirements for temporary certification are outlined ~~at current~~ in 26 V.S.A. § 1655 and supplemented by these rules.

41.2 Prior to being certified as an anesthesiologist assistant by the Board of Medical Practice, a person must be qualified by education, training, experience, and personal character to provide medical services under the direction and supervision of an anesthesiologist. The applicant must submit to the Board all information that the Board requests to evaluate the applicant's qualifications.

42.0 Rule 20.3 Training and Qualification; Initial Certification.

42.1 ~~(a) An~~ For each applicant for initial certification as an anesthesiologist assistant ~~shall submit to the Board~~ must receive, in a form satisfactory to the Board:

42.1.1 ~~(1) The~~ A complete online application~~Board's application form, completed in full;~~

42.1.2 ~~(2) Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate~~ A certified copy of his or her birth certificate;

42.1.3 ~~(3) Verification of certification or licensure in all other states, territories, or provinces where the applicant is currently or ever was certified or licensed to provide medical services, including permanent, temporary, and training licenses or certifications;~~

42.1.4 ~~(4) Two~~ Board of Medical Practice reference forms including one from a recent supervising anesthesiologist and one from ~~either~~ another prior supervising anesthesiologist;

42.1.4.1 Applicants with less than six months of substantially full-time (at least 30 hours per week) practice must provide a reference form ~~or, if the applicant is a recent graduate,~~ from the director of the applicant's training program and another reference form from an anesthesiologist who has supervised the applicant in practice or in training;

42.1.5 ~~(5) The~~ Board of Medical Practice's Certificate of Anesthesiologist Assistant Education form for primary source documentation of completion of a Board-approved anesthesiologist assistant program sponsored by an institution of higher education, completed and submitted by the institution; ~~Documentation of successful completion of a board-approved anesthesiologist assistant program as specified in 26 V.S.A. § 1654(1);~~

- 42.1.6 ~~(6) Primary source documentation and proof of current certification sent directly to the Board by the National Commission for the Certification of Anesthesiologist Assistants (NCCAA) Documentation of satisfactory completion of the National Commission for the Certification of Anesthesiologist Assistants (NCCAA) certification examination, with current certification;~~
- 42.1.7 ~~(7) Completed Proposed Primary Supervising Anesthesiologist form signed by the applicant and supervising anesthesiologist Application by the applicant's proposed supervising anesthesiologist, including a statement that the supervising anesthesiologist shall be personally responsible for all professional activities of the anesthesiologist assistant;~~
- 42.1.8 Completed Proposed Secondary Supervising Anesthesiologist form signed by the secondary supervising anesthesiologist;
- 42.1.9 ~~(8) A protocol signed by the proposed supervising anesthesiologist;~~
- 42.1.10 ~~(9) A copy of the anesthesiologist assistant's employment contract;~~
- 42.1.11 The Board of Medical Practice Anesthesiologist Assistant Employment Contract form;
- 42.1.12 The Uniform Application Affidavit and Authorization for Release of Information Form;
- 42.1.13 The applicant's CV (curriculum vitae) or résumé; and
- 42.1.14 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application.

42.2 All applicants must submit a completed Board application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.

42.3 ~~(b) At the discretion of the licensing committee or the Board, any applicant may be required to be interviewed by a Board member. Regarding any of the above items, except the required fee, the Board shall have the discretion to require additional information to make certain that the requirement has been met.~~

43.0 ~~Rule 20.4~~ **Training and Qualification; Temporary Certification.**

43.1 ~~(a) The Board may issue a temporary certification to an applicant who meets the educational requirements under 26 V.S.A. § 1654(1) if:~~

- 43.1.1 ~~(1) The NCCAA certification examination has not been offered since the applicant became eligible to take it; or~~
- 43.1.2 ~~(2) The applicant has taken the NCCAA certification examination one time but has not yet received the results of the examination.~~

43.2 ~~(b)~~ The holder of a temporary certification shall take and successfully pass the first available NCCAA examination. If the holder of a temporary certification does not take the examination, his or her temporary certification shall expire on the date of that examination. However, if the holder of a temporary certification can show that there was exceptional cause that prevented him or her from taking the examination, the Board may, in its discretion, and for good cause shown, renew the temporary certification until the date of the next available NCCAA examination.

43.3 ~~(c)~~ If the holder of a temporary certification takes the first available NCCAA examination but does not successfully pass it, his or her temporary certification shall expire on the day after he or she receives notice of the failure to pass the examination. In that case, the Board shall not renew the temporary certification. The applicant may re-apply for certification only after having taken and passed the examination.

44.0 ~~Rule 20.5 Training and Qualification; Renewal of Certification.~~

44.1 ~~(a)~~ Certification shall be renewable every two years on completion of the online renewal form, submission of a completed renewal form provided by the board, payment of the required fee and submission of: current contract; updated copies of primary and secondary supervision forms; updated protocol; and, submission of verification of proof of current, active NCCAA certification.

44.2 ~~(b)~~ Lapsed licenses may be renewed under the provisions of 26 V.S.A. § 1656.

45.0 ~~Rule 20.6 Training and Qualification; Change of Certification.~~

45.1 ~~(a)~~ The Board shall be notified and the appropriate applications and documentation filed whenever:

45.1.1 ~~(1)~~ The anesthesiologist assistant's protocol changes;

45.1.2 ~~(2)~~ The anesthesiologist assistant will be working at a different or an additional accredited facility; or

45.1.3 ~~(3)~~ The anesthesiologist assistant will be supervised by a new or an additional anesthesiologist.

45.2 ~~(b)~~ Documents already on file with the Board may be referred to and need not be resubmitted.

46.0 ~~Rule 20.7 Training and Qualification; More Than One Supervising Anesthesiologist.~~

46.1 In any application for initial certification, temporary certification, renewal of certification or change of certification, if there is more than one anesthesiologist at an accredited facility who will supervise an anesthesiologist assistant, then, in addition to the information required to be submitted by these rules, a document signed by all anesthesiologists who will be supervising the anesthesiologist assistant shall be filed with the Board with the application.

46.2 Additional supervising anesthesiologists may be added subsequent to the application, provided the supervising anesthesiologist files a signed document

with the Board. In the document, the anesthesiologists shall affirm that each assumes responsibility for all professional activities of the anesthesiologist assistant while he or she is supervising the anesthesiologist assistant.

47.0 ~~Rule 20.8 Training and Qualification;~~ **Termination of Certification.**

If the supervisory relationship between the anesthesiologist and the anesthesiologist assistant is terminated for any reason, each party must notify the Board directly and immediately in writing. The notice shall include the reasons for the termination. The anesthesiologist assistant shall cease practice until a new application is submitted by the supervising anesthesiologist and is approved by the Board.

48.0 ~~Rule 20.9 Practice.~~

48.1 ~~(a)~~ An anesthesiologist assistant shall perform only those tasks assigned on a case-by-case basis by the supervising anesthesiologist. The anesthesiologist assistant shall implement the personalized plan for each patient as individually prescribed by the supervising anesthesiologist after that physician has completed a specific assessment of each patient. In determining which anesthetic procedures to assign to an anesthesiologist assistant, a supervising anesthesiologist shall consider all of the following:

48.1.1 ~~(1)~~ The education, training and experience of the anesthesiologist assistant;

48.1.2 ~~(2)~~ The anesthesiologist assistant's scope of practice as defined in 26 VSA Chapter 29 and these rules;

48.1.3 ~~(3)~~ The conditions on the practice of the anesthesiologist assistant set out in the written practice protocol;

48.1.4 ~~(4)~~ The physical status of the patient according to the physical status classification system of the American Society of Anesthesiologists, as in effect at the time the assignment of procedures is made. The classification system is available from the American Society of Anesthesiologists and shall be posted on the Board's website;

48.1.5 ~~(5)~~ The invasiveness of the anesthetic procedure;

48.1.6 ~~(6)~~ The level of risk of the anesthetic procedure;

48.1.7 ~~(7)~~ The incidence of complications of the anesthetic procedure;

48.1.8 ~~(8)~~ The physical proximity of the supervising anesthesiologist and the anesthesiologist assistant or assistants he or she may be supervising concurrently; and

48.1.9 ~~(9)~~ The number of patients whose care is being supervised concurrently by the supervising anesthesiologist.

48.2 ~~(b)~~ The supervising anesthesiologist retains responsibility for the anesthetic management in which the anesthesiologist assistant has participated.

49.0 ~~Rule 20.10 Supervision.~~

- 49.1** ~~(a)~~ A supervising anesthesiologist shall supervise an anesthesiologist assistant within the terms, conditions, and limitations set forth in a written practice protocol. Anesthesiologist supervision requires, at all times, a direct, continuing and close supervisory relationship between an anesthesiologist assistant and the supervising anesthesiologist.
- 49.2** ~~(b)~~ Supervision does not, necessarily, require the constant physical presence of the supervising anesthesiologist; however, the anesthesiologist must remain readily available in the facility for immediate diagnosis and treatment of emergencies.
- 49.3** ~~(c)~~ The supervising anesthesiologist shall be readily available for personal supervision and shall be responsible for pre-operative, intra-operative and post-operative care.
- 49.4** ~~(d)~~ The supervising anesthesiologist shall personally participate in the most demanding procedures in the anesthesia plan, which shall include induction and emergence.
- 49.5** ~~(e)~~ The supervising anesthesiologist shall insure that, with respect to each patient, all activities, functions, services and treatment measures are immediately and properly documented in written form by the anesthesiologist assistant. All written entries shall be reviewed, countersigned, and dated by the supervising anesthesiologist. The supervising anesthesiologist's signature on the anesthetic record will fulfill this requirement for all written entries on the anesthetic record.
- 49.6** ~~(f)~~ Nothing in this section shall prohibit the supervising anesthesiologist from addressing an emergency in another location in the ~~accredited~~ facility.

50.0 ~~Rule 20.11~~ **Protocol and Scope of Practice.**

- 50.1** ~~(a)~~ At no time shall the scope of practice for the anesthesiologist assistant include procedures or treatments that the supervising anesthesiologist does not perform in his or her own practice.
- 50.2** ~~(b)~~ The anesthesiologist assistant may assist the anesthesiologist in developing and implementing an anesthesia care plan for a patient. In so doing, the anesthesiologist assistant may, in the discretion of the anesthesiologist, do any of the following:
- 50.2.1** ~~(1)~~ Obtain a comprehensive patient history and present that history to the anesthesiologist who must conduct a pre-anesthesia interview and evaluation sufficient to confirm the anesthesiologist assistant's evaluation;
- 50.2.2** ~~(2)~~ Pretest and calibrate anesthesia delivery systems;
- 50.2.3** ~~(3)~~ Monitor, obtain and interpret information from the anesthesia delivery systems and anesthesia monitoring equipment;
- 50.2.4** ~~(4)~~ Place medically accepted monitoring equipment;

- 50.2.5 ~~(5)~~ Establish basic and advanced airway interventions, including intubations of the trachea and ventilatory support;
- 50.2.6 ~~(6)~~ Administer vasoactive drugs and start and adjust vasoactive infusions;
- 50.2.7 ~~(7)~~ Administer anesthetic drugs, adjuvant drugs and accessory drugs;
- 50.2.8 ~~(8)~~ Administer regional anesthetics;
- 50.2.9 ~~(9)~~ Administer blood, blood products and supportive fluids;
- 50.2.10 ~~(10)~~ Participate in administrative activities and clinical teaching activities;
- 50.2.11 ~~(11)~~ Provide assistance to cardiopulmonary resuscitation teams in response to life-threatening situations;
- 50.2.12 ~~(12)~~ Prescribe peri-operative medications to be used in the accredited facility; and
- 50.2.13 ~~(13)~~ Participate in research activities by performing the same procedures listed above.
- 50.2.14 ~~(14)~~ Any other activity that the Board approves in a protocol to allow for changing technology or practices in anesthesiology.

51.0 Rule ~~20.12~~ Prescriptive Authority.

An anesthesiologist assistant shall not have authority to write prescriptions for medications that will be filled outside of the ~~accredited~~ facility in which he or she works.

52.0 Rule ~~20.13~~ Places of Practice.

An anesthesiologist assistant shall work only in a licensed hospital ~~n-accredited~~ facility with the supervision of an anesthesiologist.

53.0 Rule ~~20.14~~ Patient Notification and Consent.

Any physician, clinic, or hospital that uses the services of an anesthesiologist assistant must:

- 53.1** ~~(1)~~ post a clear notice to that effect in a conspicuous place;
- 53.2** ~~(2)~~ except in case of an emergency, include language in the patient consent form that the anesthesiologist may use an anesthesiologist assistant; and
- 53.3** ~~(3)~~ require each anesthesiologist assistant to wear a name tag clearly indicating that he or she is an anesthesiologist assistant. 26 V.S.A. § 1652.

54.0 Disciplinary Action.

54.1 All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of these rules.

54.2 After notice and an opportunity for hearing, the Board may take disciplinary action against any applicant, anesthesiologist assistant trainee, or anesthesiologist assistant found guilty of unprofessional conduct, as provided by 3 V.S.A. §§ 129 and 809, and 26 V.S.A. §§ 1658, including but not limited to:

54.2.1 Reprimand, suspend, revoke, limit, condition, deny or prevent renewal of certification;

54.2.2 Required completion of continuing education;

54.2.3 Required supervised training or practice for a specified period of time or until a satisfactory evaluation by the supervising physician has been submitted to the Board.

54.3 The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in addition to those above, in such an agreement are set forth in 3 V.S.A. § 809(d) and 26 V.S.A. § 1659(d).

55.0 Right to Appeal.

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice, as provided by 26 V.S.A. § 1367 and 3 V.S.A. § 815.

SECTION VII. RULE FOR RADIOLOGIST ASSISTANTS RULES

PART 21

RULES REGARDING RADIOLOGIST ASSISTANTS

Rule 21.1 Introduction and Definitions.

~~(a) Copies of the statutes concerning radiologist assistants, Chapter 52 of Title 26 Vermont Statutes Annotated (V.S.A.), are accessible online, and hard copies may be obtained from the Department of Health, Board of Medical Practice.~~

~~(b) These Rules pertaining to radiologist assistants are adopted under authority of current 26 V.S.A. § 2852.~~

~~(c) The words and phrases used in these Rules shall have the same meaning given to them at current 26 V.S.A. § 2852.~~

~~(d) These are rules specifically regarding the training, practice, supervision, qualification, scope of practice, places of practice, and protocols for radiologist assistants, and patient notification and consent.~~

56.0 ~~Rule 21.2~~ **Training and Qualification.**

56.1 ~~(a)~~ The eligibility requirements for certification as a radiologist assistant are listed ~~in at current~~ 26 V.S.A. § 2854 and supplemented by these rules. The requirements for temporary certification are outlined ~~in at current~~ 26 V.S.A. § 2855 and supplemented by these rules.

56.2 ~~(b)~~ Prior to being certified as a radiologist assistant by the Board of Medical Practice, a person must be qualified by education, training, experience, and personal character to provide medical services under the direction and supervision of a radiologist. The applicant must submit to the Board all information that the Board ~~considers necessary~~ requests to evaluate the applicant's qualifications.

57.0 ~~Rule 21.3~~ **Training and Qualification; Initial Certification.**

57.1 ~~(a)~~ An applicant for initial certification as a radiologist assistant shall submit to the Board:

57.1.1 ~~(1)~~ ~~A complete online application~~ ~~The Board's application form,~~
completed in full;

57.1.2 ~~(2)~~ ~~Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate~~ ~~A certified copy of his or her birth certificate, or for an applicant who can show good cause why he or she cannot obtain a certified copy of a birth certificate, other proof of identity and date of birth as found acceptable by the Board;~~

57.1.3 ~~(3)~~ Verification of current licensure as a radiologic technologist in radiography in Vermont under Chapter 51 of Title 26 V.S.A.;

57.1.4 ~~(4)~~ Verification of certification or licensure in all other states, territories, or provinces where the applicant is currently or ever was certified or licensed to provide medical services, including permanent, temporary, and training licenses or certifications;

57.1.5 ~~(5)~~ Two Board of Medical Practice reference forms including one from a recent supervising radiologist and one from ~~either another prior supervising radiologist; or, if the applicant is a recent graduate, from the director of the applicant's training program;~~

57.1.5.1 Applicants with less than six months of substantially full-time (at least 30 hours per week) practice must provide a reference form from the director of the applicant's training program and another reference form from a radiologist who has supervised the applicant in practice or in training;

57.1.6 ~~(6)~~ The Board of Medical Practice's Certificate of Radiologist Assistant Education form for primary source documentation of completion of a Board-approved radiologist assistant program sponsored by an institution

of higher education, completed and submitted by the institution;
~~Documentation of successful completion of a radiologist assistant educational program as specified in 26 V.S.A. §2854(1);~~

57.1.7 ~~(7) Primary source documentation and proof of current certification sent directly to the Board by the~~ Documentation of satisfactory completion of the radiologist assistant certification examination given by the American Registry of Radiologic Technologists (ARRT), with current certification;

57.1.8 ~~(8) Completed Proposed Primary Supervising Radiologist form signed by the applicant and supervising radiologist; Verification of current certification as a radiologic technologist in radiography by the ARRT;~~

57.1.9 ~~(9) Completed Proposed Secondary Supervising Radiologist form signed by the secondary supervising radiologist; Application by the applicant's proposed primary supervising radiologist, including a statement that the primary supervising radiologist shall be personally responsible for all professional activities of the radiologist assistant, except for those activities performed under the supervision of a different radiologist who has been designated as a primary or secondary supervising radiologist for that radiologist assistant;~~

57.1.10~~(10)~~ A protocol signed by the proposed primary supervising radiologist;

57.1.11 The Board of Medical Practice Radiologist Assistant Employment Contract form;

57.1.12~~(11)~~ A copy of the employment contract with the primary supervising radiologist or the hospital at which the radiologist practices, or in the absence of a contract, other proof of employment by the primary supervising radiologist or by the hospital at which the radiologist practices, as may be determined by the Board;

57.1.13 The Uniform Application Affidavit and Authorization for Release of Information Form;

57.1.14 The applicant's CV (curriculum vitae) or résumé; and

57.1.15 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application.

57.2 All applicants must submit a completed Board application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.

~~and(12) The required fee.~~

57.3 ~~(b) At the discretion of the licensing committee or the Board, any applicant may be required to be interviewed by a Board member. Regarding any of the above items, except the required fee, the Board shall have the discretion to require additional information to verify that the requirement has been met.~~

58.0 ~~Rule 21.4~~ **Training and Qualification; Temporary Certification.**

58.1 ~~(a)~~ The Board may issue a temporary certification to an applicant who otherwise meets the requirements of 26 V.S.A. § 2854(1), (3) and (4) if:

~~58.1.1~~ ~~(1)~~ The ARRT certification examination has not been offered since the applicant became eligible to take it; or

~~58.1.2~~ ~~(2)~~ The applicant has taken the ARRT certification examination one time but has not yet received the results of the examination.

58.2 ~~(b)~~ The holder of a temporary certification shall take and successfully pass the first available ARRT examination. If the holder of a temporary certification does not take the examination, his or her temporary certification shall expire on the date of that examination. However, if the holder of a temporary certification can show that there was exceptional cause that prevented him or her from taking the examination, the Board may, in its discretion, and for good cause shown, renew the temporary certification until the date of the next available ARRT examination.

58.3 ~~(c)~~ If the holder of a temporary certification takes the first available ARRT examination but does not successfully pass it, his or her temporary certification shall expire on the day after he or she receives notice of the failure to pass the examination. In that case, the Board shall not renew the temporary certification. The applicant may re-apply for certification only after having taken and passed the examination.

59.0 ~~Rule 21.5~~ **Training and Qualification; Renewal of Certification.**

59.1 ~~(a)~~ Certification shall be renewable every two years on completion of the online renewal form, payment of the required fee, and submission of: current contract; updated copies of primary and secondary supervision forms; updated protocol; verification of current licensure as a radiologic technologist in radiography in Vermont under Chapter 51 of Title 26 V.S.A.; and, verification of a completed renewal form provided by the Board, payment of the required fee, submission of proof of current, active ARRT certification, and submission of proof of continuing education requirements as required by the Board.

59.2 ~~(b)~~ Lapsed licenses may be renewed under the provisions of 26 V.S.A. § 2856.

60.0 ~~Rule 21.6~~ **Training and Qualification; Change of Certification.**

60.1 ~~(a)~~ The Board shall be notified and the appropriate applications and documentation filed whenever:

~~60.1.1~~ ~~(1)~~ The radiologist assistant's protocol changes;

~~60.1.2~~ ~~(2)~~ The radiologist assistant will be working at a different or an additional office or hospital; or

~~60.1.3~~ ~~(3)~~ The radiologist assistant will be primarily supervised by a different radiologist.

60.2 ~~(b)~~ Documents already on file with the Board may be referred to and need not be resubmitted.

61.0 ~~Rule 21.7~~ **Training and Qualification; More Than One Supervising Radiologist.**

61.1 Each application for initial certification, temporary certification, renewal of certification or change of certification shall identify the primary supervising radiologist who shall be responsible for the radiologist assistant's professional activities and sign the protocol required under 26 V.S.A. § 2853.

61.2 Subject to the scope of practice restrictions in this rule and Chapter 52 of Title 26, the radiologist assistant may also perform services under the supervision of additional board-certified radiologists working in the same office or hospital as the primary supervising radiologist ("secondary supervising radiologists[s]"), but must file a protocol regarding that supervisory relationship and a statement from the secondary supervising radiologist that he or she is responsible for the professional activities of the radiologist assistant performed under his or her supervision.

62.0 ~~Rule 21.8~~ **Training and Qualification; Termination of Certification.**

If the supervisory relationship between the primary supervising radiologist and the radiologist assistant is terminated for any reason, each party must notify the Board directly and immediately in writing, using the Board's Termination of Contract form. The radiologist assistant shall cease practice until a new application is submitted by a primary supervising radiologist and is approved by the Board.

63.0 ~~Rule 21.9~~ **Practice.**

63.1 ~~(a)~~ A radiologist assistant shall perform only those tasks assigned on a case-by-case basis by the supervising radiologist. The radiologist assistant shall implement the personalized plan for each patient as individually prescribed by the supervising radiologist after that physician has completed a specific assessment of each patient. In determining which radiologic procedures to assign to a radiologist assistant, a supervising radiologist shall consider all of the following:

63.1.1 ~~(1)~~ The education, training and experience of the radiologist assistant;

63.1.2 ~~(2)~~ The radiologist assistant's scope of practice as defined in Chapter 52 of Title 26 and these rules;

63.1.3 ~~(3)~~ The conditions on the practice of the radiologist assistant set out in the written practice protocol;

63.1.4 ~~(4)~~ The guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the ARRT, as amended from time to time;

63.1.5 ~~(5)~~ The physical proximity of the supervising radiologist and the radiologist assistant or assistants he or she may be supervising concurrently; and

63.1.6 ~~(6)~~ The number of patients whose care is being supervised concurrently by the supervising radiologist.

64.0 Rule 21.10 Supervision.

- 64.1** ~~(a)~~ A supervising radiologist shall supervise a radiologist assistant within the terms, conditions, and limitations set forth in the written practice protocol filed with the Board. Radiologist supervision requires, at all times, a direct, continuing and close supervisory relationship between a radiologist assistant and the supervising radiologist.
- 64.2** ~~(b)~~ Supervision does not, necessarily, require the constant physical presence of the supervising radiologist; however, the radiologist must remain readily available in the facility for immediate diagnosis and treatment of emergencies.
- 64.3** ~~(c)~~ The supervising radiologist shall ensure that, with respect to each patient, all activities, functions, services and treatment measures are immediately and properly documented in written form by the radiologist assistant. All written entries shall be reviewed, countersigned, and dated by the supervising radiologist. The supervising radiologist's signature on the medical record will fulfill this requirement for all written entries on the record.
- 64.4** ~~(d)~~ Nothing in this section shall prohibit the supervising radiologist from addressing an emergency in another location in the facility.

65.0 Rule 21.11 Protocol and Scope of Practice.

- 65.1** ~~(a)~~ At no time shall the scope of practice for the radiologist assistant include procedures or treatments that the supervising radiologist does not perform in his or her own practice.
- 65.2** ~~(b)~~ A radiologist assistant may not interpret images, make diagnoses, or prescribe medications or therapies.
- 65.3** ~~(c)~~ The radiologist assistant may assist the radiologist in developing and implementing a radiologic care plan for a patient. In so doing, the radiologist assistant may, in the discretion of the radiologist, perform patient assessment, patient management and selected examinations as outlined below:
- 65.3.1** ~~(1)~~ Obtaining consent for and injecting agents that facilitate and/or enable diagnostic imaging;
- 65.3.2** ~~(2)~~ Obtaining clinical history from the patient or medical record;
- 65.3.3** ~~(3)~~ Performing pre-procedure and post-procedure evaluation of patients undergoing invasive procedures;
- 65.3.4** ~~(4)~~ Assisting radiologists with invasive procedures;
- 65.3.5** ~~(5)~~ Performing fluoroscopy for non-invasive procedures with the radiologist providing direct supervision of the service;
- 65.3.6** ~~(6)~~ Monitoring and tailoring selected examinations under direct supervision (i.e., IVU, CT urogram, GI studies, VCUG, and retrograde urethrograms);

- 65.3.7 ~~(7)~~ Communicating the reports of radiologist's findings to the referring physician or an appropriate representative with appropriate documentation;
- 65.3.8 ~~(8)~~ Providing naso-enteric and oro-enteric feeding tube placement in uncomplicated patients;
- 65.3.9 ~~(9)~~ Performing selected peripheral venous diagnostic procedures; and
- 65.3.10 ~~(10)~~ Any other activity that the Board approves in a protocol to allow for changing technology or practices in radiology.

66.0 Rule ~~21.12~~ Places of Practice.

A radiologist assistant shall work only in the office of the primary supervising radiologist or in the hospital in which the primary supervising radiologist practices.

67.0 Rule ~~21.13~~ Patient Notification and Consent.

Any physician, clinic, or hospital that uses the services of a radiologist assistant must:

- 67.1** ~~(1)~~ post a clear notice to that effect in a conspicuous place;
- 67.2** ~~(2)~~ except in case of an emergency, include language in the patient consent form that the radiologist may use a radiologist assistant; and
- 67.3** ~~(3)~~ require each radiologist assistant to wear a name tag clearly indicating that he or she is a radiologist assistant.

68.0 Disciplinary Action.

- 68.1** All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of these rules.
- 68.2** After notice and an opportunity for hearing, the Board may take disciplinary action against any applicant, anesthesiologist assistant trainee, or anesthesiologist assistant found guilty of unprofessional conduct, as provided by 3 V.S.A. §§ 129 and 809, and 26 V.S.A. §§ 2858, including but not limited to:
 - 68.2.1 Reprimand, suspend, revoke, limit, condition, deny or prevent renewal of certification;
 - 68.2.2 Required completion of continuing education;
 - 68.2.3 Required supervised training or practice for a specified period of time or until a satisfactory evaluation by the supervising physician has been submitted to the Board.
- 68.3** The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in addition to those above, in such an agreement are set forth in 3 V.S.A. § 809(d) and 26 V.S.A. § 2859(e).

69.0 Right to Appeal.

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice, as provided by 26 V.S.A. § 1367 and 3 V.S.A. § 815.

SECTION VII CONTINUING MEDICAL EDUCATION RULES

PART 22 RULES REGARDING CONTINUING MEDICAL EDUCATION

Rule 22.1 Introduction and Definitions.

~~(a) Copies of the statute concerning continuing medical education for physicians, 26 V.S.A. § 1400(b), are accessible online, and hard copies may be obtained from the Department of Health, Board of Medical Practice.~~

~~(b) These Rules pertaining to continuing medical education for physicians are adopted under authority of 26 V.S.A. § 1351(e) and 26 V.S.A. § 1400.~~

~~(c) These are rules specifically regarding the requirement for physicians licensed by the Board of Medical Practice to complete continuing medical education ("CME") during each two-year licensing period in order to be eligible to renew their license for the following two-year licensing period.~~

~~(d) The words and phrases that are defined in 26 V.S.A. § 1311 shall have the same meaning here as assigned to them there.~~

~~(e) The terms "hour" and "credit" are both used with respect to continuing medical education. The term hour means an hour of activity that has been approved as qualifying to count toward satisfaction of the requirement for continuing medical education. The term credit is also used as a measure of approved continuing medical education activity, and equals an hour of approved activity.~~

~~(f) "Palliative care" refers to specialized medical care that is focused on relief from the pain and symptoms of a serious medical condition.~~

Rule 22.2 Minimum Education Requirement—Hours and Subjects.

~~(a) Except as provided in the following subparagraph, each physician applying for renewal of a license to practice medicine must certify that he or she has completed at least thirty hours of qualifying CME during the most recent two-year licensing period, naming the subject, sponsor,~~

date, location, and hours or credits for each activity. During the initial licensing period that the requirement is in effect, training during the six months preceding the licensing period may be used to satisfy CME requirements; training completed during the period June 1, 2012 through November 30, 2012 will count as training completed December 1, 2012 through November 30, 2014. The licensee is not required to file documentation of CME that verifies completion at the time that it is reported, however it is the licensee's responsibility to retain documentation for four years from the time the information is submitted to the Board. The Board may audit records of CME for up to four years from the time of submission; a licensee is required to promptly submit documentation of CME completion in response to a request from the Board.

~~(b) For physicians licensed in Vermont for the first time during the most recent two year licensing period, if licensed in Vermont for less than one year, there is no requirement for CME at the time of the first renewal. If licensed for one year or more during that initial period of Vermont licensure, the licensee shall complete at least 15 hours of approved CME activity and those 15 hours shall include any subject-specific CME required by these rules.~~

~~(c) Time is calculated from the date the license was approved by the Board until the date of expiration. Any physician who has not completed the required continuing medical education shall submit a make-up plan with his or her renewal application, as specified in these rules.~~

~~(d) Except for required subjects that are mandated by these rules, all CME hours completed in satisfaction of this requirement shall be designed to assure that the licensee has updated his or her knowledge and skills in his or her own specialties and also has kept abreast of advances in other fields for which patient referrals may be appropriate. A licensee's "own area of practice" shall not be interpreted narrowly; it is acknowledged that training in many other fields may be reasonably related to a practitioner's own specialties.~~

~~(e) Required Subject: Hospice, Palliative Care, Pain Management. 26 V.S.A. § 1400(b) mandates that the Board of Medical Practice shall require licensees to provide "evidence of current professional competence in recognizing the need for timely appropriate consultations and referrals to assure fully informed patient choice of treatment options, including treatments such as those offered by hospice, palliative care, and pain management services." Accordingly, all licensees who are required under these rules to complete CME shall certify at the time of each renewal that at least one of the hours of qualifying CME activity has been on the topics of hospice, palliative care, or pain management services.~~

~~(f) Required Subject: Prescribing Controlled Substances. All licensees who are required to certify completion of CME and who prescribe controlled substances shall certify at the time of each renewal that at least one of the hours of qualifying CME activity has related to the topic of safe and effective prescribing of controlled substances. Each licensee who is registered with the U.S. Drug Enforcement Agency (D.E.A.) and who holds a D.E.A. number to prescribe controlled substances, or who has submitted a pending application for one, is presumed to prescribe controlled substances.~~

~~(g) Licensees who are not in active practice shall still complete CME, including all required subjects, to be relicensed. For purposes of subsection (b), a physician not in active practice may~~

consider his or her last area of practice as the area of practice to which activity shall relate, or the activity may relate to a new area of practice he or she intends to pursue.

~~(h) Licensees who are members of the armed forces and who are subject to a mobilization and/or deployment for all or part of a licensing cycle will be treated the same as licensees who are licensed for the first time during a licensing cycle. To wit, a licensee whose military mobilization/deployment covers a year or more is not required to complete CME for that cycle. A licensee whose military duties during the two-year cycle total less than one year shall be required to meet the CME requirement of at least 15 hours, including any required subjects.~~

~~(i) A licensee who allows his or her license to lapse by not timely applying for renewal shall certify completion of all CME that would have been required had he or she remained licensed in order to be granted a renewal license.~~

~~Rule 22.3 Qualifying Continuing Medical Education Activities.~~

~~(a) Only CME activities that are approved for American Medical Association Physician's Recognition Award Category 1 Credit (AMA PRA Category 1 Credit [TM]) qualify as approved Vermont CME.~~

~~(b) Credit for providing training. The Board accepts all AMA PRA Category 1 Credit [TM] activity. The AMA PRA program grants two hours of credit for each hour of training presented by a physician. The Board recognizes those credits the same as the AMA PRA program.~~

~~Rule 22.4 Make-Up Plans.~~

~~(a) Any physician who has not completed the minimum number of hours of CME, or who has not completed the required subject-specific training, as of the deadline for submission of license renewal applications, will not be granted a renewal license unless the application includes an acceptable make-up plan signed by the licensee. The Board Executive Director is authorized to review and determine if make-up plans are acceptable.~~

~~(b) An acceptable make-up plan must include a timeline for making up all CME that needs to be completed to satisfy the requirements of these Rules. The timeline shall identify the approved activities that the licensee plans to attend. The licensee may later substitute activities, but the plan shall indicate that it is the licensee's good faith intent to complete the activities listed at the time of submission. A licensee shall have up to one hundred twenty (120) days to complete the CME make-up plan.~~

~~(c) Any licensee who will not complete a make-up plan within the time specified by the plan shall contact the Board at least 30 days in advance of the date on which the period will end to notify the Board and submit a revised plan and request for extension of time. The request for extension of time must include an explanation of the reasons why the licensee was unable to complete the required training in accordance with the plan. Extensions of the make-up plan period are limited to 90 days, during which the licensee shall complete the required CME. Further extensions will be granted only for good cause shown, for reasons such as: serious illness~~

of the licensee or a family member; death of an immediate family member; significant personal hardship, such as a house fire; significant and ongoing medical staff shortage during the make-up period; or similarly compelling reasons. The Board may delegate to the Board Executive Director the authority to approve requests to extend the time for a make-up plan in accordance with these rules. Any request for extension not granted by the Executive Director shall be considered by the Board.

(d) CME activity completed as part of a make-up plan does not count toward satisfaction of the requirement to complete CME during that current licensing cycle; activity may only be counted once. If a multi-hour activity is performed partly in satisfaction of a make-up plan and partly for the CME requirement associated with the current licensing cycle, the licensee shall clearly document the allocation.

~~Rule 22.5 Failure to Certify Completion of Required CME, File a Make-Up Plan, or Complete a Make-Up Plan.~~

(a) ~~A licensee who has failed to submit certification of completion of CME as required by law and these rules, or who having failed to certify completion of CME has failed to submit a make-up plan with his or her renewal application, will be notified of such failure and have not more than 15 days from receipt of notice to file with the Board either his or her certification of completion of CME or a make-up plan.~~

(b) ~~A licensee who fails to file a certificate of completion of CME at the end of a make-up period, or to file a request for an extended make-up period, shall be notified of such failure and have not more than 15 days from receipt of notice to file with the Board either a certificate of completion of CME or another request for extension of time in which to make up CME.~~

(c) ~~A licensee who submits a certificate of completion at the time of submission of the license renewal application, or who has filed an acceptable make-up plan with the renewal application and is in the make-up period, or who having failed to complete the first make-up plan has received approval from the Board for an extended make-up period that has not yet expired, is in good standing with respect to CME requirements.~~

(d) ~~Any licensee not in good standing with respect to CME requirements is subject to investigation by the Board for unprofessional conduct.~~