

Office of Professional Regulation

FY2021 ANNUAL REPORT

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Secretary of State, Jim Condos
89 MAIN STREET | MONTPELIER

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Director's Note

During fiscal year of 2021, COVID-19 continued to impact our daily work and shape long-term policies and programs. During the pandemic, OPR immediately responded by temporarily modifying occupational licensing regulations and facilitating inter-agency consultation, including the complicated and time-sensitive work of testing and vaccination efforts. An important component of the COVID-19 response was to ensure that Vermonters maintained access to health care services. Telehealth services were identified as a critical health care access point and OPR was able to waive licensure requirements for out-of-state health care providers offering telehealth services to people in Vermont. OPR was also able to offer emergency licenses to graduates unable to sit for an exam due to COVID-19 and authorize retired health care professionals to practice through March 2022.

While supporting the COVID-19 response efforts, OPR continued our work of reducing barriers to professional licensure. As part of a statewide initiative to make Vermont an inviting place to work and live, OPR supports licensure policies that recognize a professional's training and experience outside of Vermont and in foreign countries. In FY21, OPR launched fast-track endorsement, a program that expedites licensure for applicants who hold an active license in good standing in another state. By recognizing out-of-state experience and training, reducing costs, and creating alternate paths to licensure, we are breaking down barriers to live and work in Vermont as a licensed professional.

As OPR and the state work to reduce barriers to licensure, increase access to health care services, and regulate new professions, licensing administration and enforcement have become increasingly complex. OPR is licensing people all over the country, the world, and has increased the types of credentials available. Because licensure can be a barrier to employment and access to services, the "menu" for licensure in Vermont has grown to ensure that the product meets demand, and that the public is adequately protected. Additionally, the complexity of regulation is intensified by the *types* of professions requiring regulation. For example, effective April 1, 2021, the regulation of massage therapy is required to address the serious public safety concerns of sexual misconduct and human trafficking. Human trafficking is an extremely complex problem that often involves significant levels of organized crime operating regionally within the United States, and in Vermont. OPR's investigators and prosecutors are poised to take on this challenge and have begun this hard work.

OPR is a special fund agency, meaning that the revenue from license fees remain at OPR and fund its operation. This financial model is paramount in ensuring that license revenues are earmarked for professional regulation and not used as a subsidy for general state operations. However, this financial model makes certain innovations challenging. For example, the tradeoff between increasing access to healthcare and increasing the cost of doing business is often unavoidable. The COVID-19 policies to waive certain licensure requirements achieved the goal of increasing access to health care, however it also increased the cost of operations and represented a loss of revenue. OPR supports the state's initiatives to reduce licensing barriers and increase access to health care and we are carefully monitoring the budgetary impact to ensure that licensing fees remain at an appropriate level.

Respectfully Submitted,


S. Lauren Hibbert

Organization

The Office of Professional Regulation, commonly known as "OPR," is a division of the Secretary of State's Office responsible for supporting the regulatory programs for 50 professions and occupations -- everything from Accountants and Acupuncturists to Tattooists and Veterinarians. Within those 50 professions and occupations, there are 167 different profession types and almost 80,000 licensees.

The Legislature created OPR as an umbrella agency to oversee both advisor and board professions where public protection is achieved through a system of licensure and enforcement. OPR provides its varied and diverse groups three distinct services:

- 1) the administrative services including initial licensure and renewal, public meetings, and regulation and statutory reform;
- 2) enforcement services including investigation and prosecutor staff necessary to receive complaints from the public and protect the public from incompetent, unethical, or otherwise unprofessional licensees in the regulated professions; and,
- 3) tribunal services which act in a quasi-judicial capacity for unprofessional conduct or pre-denial of applications.

OPR is headed by a Director who oversees a staff of 41 people including licensing specialists, administrators, an assistant director, a general counsel and staff attorney, case managers, investigators, inspectors, and prosecutors.

Regulation of a profession, occupation, or professional service assures that practitioners meet minimum standards for initial licensure or registration, continue to meet minimum competency requirements on renewal, and if there is a complaint filed, practitioners are held responsible for their conduct.

COVID-19 Response

Several licensed professions were substantially impacted by the COVID-19 pandemic, both operationally and as health care providers. Cosmetologists were unsure how to reopen safely, dentists needed to establish guidance for safe practice given their proximity to open mouths and aerosols, nurses were called out of retirement, and pharmacists were relied upon to administer testing and vaccination. With the support of the Secretary of State and the General Assembly, OPR responded to each of these COVID-related problems quickly, waiving certain licensing requirements and creating new license types to address the pandemic.

For example, OPR established emergency (EMGY) licenses, temporary and retiree license types for health care professionals wishing to re-license quickly. In addition to creating new license types to With the support of the Secretary of State and the General Assembly, OPR synthesized fast-changing clinical guidance and State mitigation requirements, publishing concise and current emergency guidance to assist dentists, pharmacists, veterinarians, and mental health providers.

Vaccinations and the PREP Act

When the COVID-19 vaccination rollout began in January of 2021, emergency planners knew the unprecedented scale and urgency of the effort would require a workforce of vaccinators to bolster existing clinics and providers. OPR worked with the Vermont Department of Health to assess the preparation and eligibility of health care providers from all sectors licensed by the Office, from dentists to radiologic technologists, to serve as vaccinators. The agencies coordinated outreach and recruiting so that every professional on the Office's rolls could receive timely advice about eligibility to serve as a vaccinator and how to sign up with the State's Medical Reserve Corps. Countless current and former Vermont clinicians stepped up to help their neighbors.

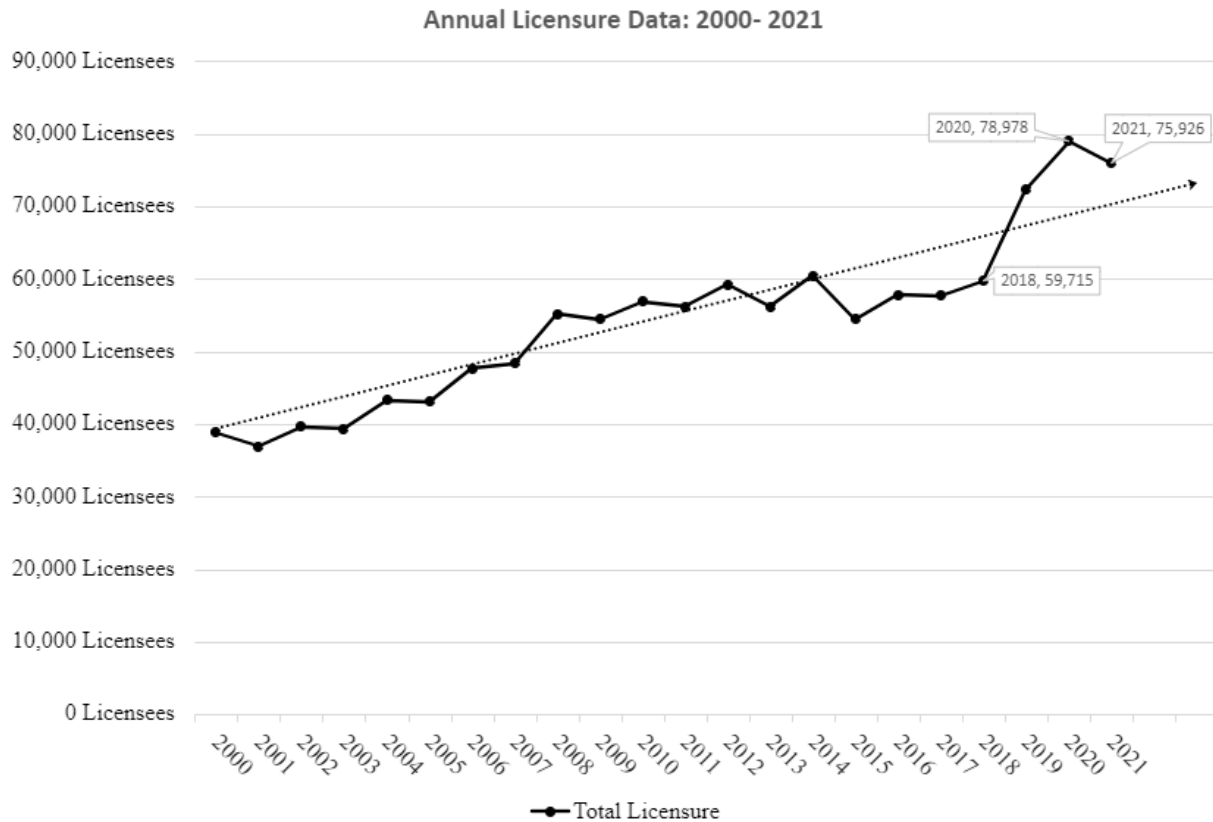
On March 11, 2021, the Biden Administration, through the United States Department of Health & Human Services, used a federal law known as the Public Readiness and Emergency Preparedness (PREP) Act to expand the universe of healthcare professionals eligible to serve as vaccinators. Affected OPR-licensed professionals included midwives, optometrists, respiratory therapists, and veterinarians. The PREP Act also expanded eligibility for certain retired professionals, as well as students in many of the health sciences. State and Federal expansions in the scope of pharmacy practice leveraged community pharmacies as sites of care, calling upon pharmacists to take the lead in providing testing and vaccination. Through the PREP Act, pharmacists were authorized to administer pediatric vaccinations to catch up children whose well visits were disrupted by the pandemic. By capitalizing on the Office's umbrella structure and nimble regulatory programs, our State was able to maximize contributions from citizens from all walks of life who held needed medical and scientific training.

Licensing Trends and Policies

The following graph demonstrates OPR's rising number of licensed professionals in Vermont. The number of licenses issued by OPR has increased substantially over the last several years, growing by more than 4% year-over-year since 2015. This growth is attributed to the addition of newly regulated professions, growth in certain professions, and the transfer of licensee operations from another agency to OPR. For example, in FY21 the profession of well drillers was transferred to OPR from the Department of Environmental Conservation and Massage Therapy and Mixed Martial Arts were both added as newly regulated professions.

OPR usually observes a dip in licensee numbers each odd year given the biennial renewal cycle of some of the largest profession groups. However, OPR witnessed a significant decline in total licensure in FY21, most likely due to a combination of the odd-year renewal cycle, the first Notary Public license renewal, and also a consequence of the COVID-19 pandemic. Historically, each odd year results in lower total licensure than the preceding even year. This is generally attributed to the Registered Nurse renewal cycle: because nursing is a highly mobile profession, the end of each renewal cycle results in mass-license expirations for agency nurses who have finished their work contracts in Vermont and moved on to another state. In FY21, OPR conducted the first Notary Public license renewal. As a result, many of the notaries who had been transferred to OPR from the Judiciary did not renew their credentials. Lastly, although hard to quantify, the COVID-19 pandemic had unexpected implications for professional licensure. Professional

burnout and relocation were inevitable consequences of the pandemic, and those consequences had an impact on Vermont’s health care professional populations.



New Education Requirement: Green Energy Credits

Pursuant to [3 V.S.A. § 138](#), eight of OPR’s licensed professions must complete introductory and profession-specific courses on Vermont’s energy goals. The introductory module is intended to provide an overview to applicants during initial licensure. The profession-specific modules are designed to update professionals during their license renewals with new information about any changes to the State’s energy goals, and relevant programs/incentives therein. OPR is working with the Agency of Natural Resources and the Department of Public Service to ensure courses provide the necessary information from Vermont’s Climate Action Plan and Comprehensive Energy Plan, respectively. OPR is also working with the Department of Taxes on the profession-specific courses for real estate brokers/salespersons

Green Energy Goals

Professions required to complete courses on Vermont’s green energy goals:

- Architects
- Engineers
- Landscape Architects
- Pollution Abatement Facility Operators
- Property Inspectors
- Real Estate Appraisers
- Real Estate Brokers/Salespersons
- Wastewater/Water System Designers

and real estate appraisers. The introductory module for new applicants is already in use, and the profession-specific CE courses will launch July 1, 2023.

New Regulatory Requirement: Continuing Education Review

Pursuant to [3 V.S.A. § 136](#), OPR is now required to evaluate all existing continuing education (CE) criteria. At least once every five years, OPR must perform a regulatory review of:

- 1) Renewal criteria of each profession requiring CE;
- 2) Renewal criteria of said professions in other jurisdictions;
- 3) Cost of renewal requirements; and
- 4) the utility and effectiveness of said renewal criteria with respect to public protection.

Each profession's review must conclude with a written recommendation to the director of OPR whether the CE requirements should be modified. As of July 1, 2021, OPR is actively performing these reviews.

Massage Therapy

Effective April 1, 2021, massage therapists, bodyworkers, and touch professionals are required to register with OPR in order to practice. In a 2020 sunset review, OPR found that requiring individuals to obtain registration prior to providing massage services would likely protect public safety by preventing repeated incidents of sexual misconduct if the initial instance of misconduct was reported. OPR anticipated that the regulation of Massage Therapy would require investigations into human trafficking and has dedicated resources to appropriately address allegations that are often sensitive and private.

In FY21, OPR administered 772 massage therapy licenses and received 4 complaints.

Well Drillers

In 2020, OPR's report on regulatory structures found that well drillers, a profession then regulated by the Agency of Natural Resources (ANR), could transfer to OPR to provide modest administrative relief to agency staff while slightly lowering costs to licensees and extending online licensing services. The Legislature transferred regulation of well drillers from ANR to OPR effective April 1, 2021. OPR has administered 14 well driller licenses and received 0 complaints. OPR was able to onboard well drillers with existing staff and reduce fees from \$140 per year to \$240 every two years.

Pharmacy

Pharmacies and pharmacy professionals have always been an important part of the health care system in Vermont. However, there has been an intentional shift of certain health care services from the doctor's office to the pharmacy as part of a state-wide effort to increase access to health care. Additionally, the types of pharmacies serving Vermonters has shifted, from locally owned and operated to corporations headquartered outside of Vermont. These shifts have contributed to a challenging year of changes for pharmacies, pharmacists and Vermonters in FY21.

Unprofessional Conduct and Chain Discipline

In recognition of adverse working conditions in retail pharmacies nationwide, OPR and the Board of Pharmacy developed a survey to address workplace conditions and impact on patient safety and pharmacist well-being. The survey was disseminated to all Vermont licensed pharmacists in September 2020.¹

The results were alarming, informative and stimulated a focus on workplace conditions for inclusion in the Board's rule revisions as well as the development of the new statutory category of unprofessional conduct, described below.²

Effective, July 1, 2021, Act 69 of 2021 created new standards of unprofessional conduct in the regulation of pharmacies that address interference with a pharmacist's ability to practice with competency and patient safety. Specifically, the Act authorizes OPR to discipline a chain if business-related policies manifest in unprofessional conduct. This new authority is particularly important at a time when pharmacies and pharmacists have been called upon to serve their communities during COVID-19.

OPR is poised to use this new authority should a pharmacy or chain introduce or enforce policies that deviate from safe practice, unreasonably prevent a patient's timely access to records or essential pharmacy services, fail to identify or solve conditions that interfere with a pharmacist's ability to practice with competency and safety (including failing to provide mandated rest periods), or fail to provide resources appropriate for safety and compliance.

State Protocols- Prescribing Authority

In OPR's 2020 report on the *Evaluation of Pharmacist Prescribing Authority*, OPR found that limited prescribing by pharmacists could benefit Vermonters by broadening access to care while integrating the pharmacist clinician into healthcare teams and facilitating efficient collaboration with primary-care providers.³ On October 12, 2020, S.220 was signed into law, authorizing Vermont pharmacists limited prescriptive authority. This included 9 State Protocol-based prescribing opportunities, to be developed in consultation with the Board of Pharmacy and OPR's Director, with stakeholder and public review prior to

PATIENT SAFETY AND WORKING CONDITIONS

In response to concerning results of OPR's 2020 Pharmacy Wellness Survey and a national concern for workplace conditions and patient safety, OPR was granted the authority to discipline a pharmacy or chain should it introduce or enforce policies that deviate from safe practice, unreasonably prevent a patient's timely access to records or essential pharmacy services, fail to identify or solve conditions that interfere with a pharmacist's ability to practice with competency and safety (including failing to provide mandated rest periods), or fail to provide resources appropriate for safety and compliance.

¹ A National Consensus Conference was held in 2019 as a joint effort between the National Association of Boards of Pharmacy, American Pharmacists Association, Accreditation Council for Pharmacy Education, American Association of Colleges of Pharmacy and National Alliance of State Pharmacy Associations, aimed at enhancing wellbeing and resilience among the pharmacist work force. The result was a report with 50 consensus recommendations, one of which was for the Board of Pharmacy to undertake a survey of its state's pharmacists regarding workplace conditions and impact on patient safety and pharmacist well-being.

² [2020 OPR and Board of Pharmacy Wellness Survey](#)

³ <https://sos.vermont.gov/media/pxzbbxws/pharmacist-prescribing-authority-report-january-2020.pdf>

their approval by the Commissioner of Health. The process began with the Board of Pharmacy's December 2020's board meeting and continued monthly. As of June 2021, protocols for pharmacist prescribing of opioid antagonists, influenza vaccines, COVID-19 vaccines and self-administered hormonal contraceptives were signed by Dr. Levine and made official. As of its January 2022 meeting, the Board completed the development process for five state protocols, which will soon be forwarded for Commissioner Levine's signature and made official: tobacco cessation products (official in December 2021), epinephrine auto-injectors, tuberculin purified protein derivative products, dietary fluoride supplements and emergency-based albuterol or glucagon.

Workforce and Reducing Barriers

Nationally, nearly 1 in 4 jobs require a government permission slip, often to the detriment of entrepreneurs and job seekers. Licensing began when the public demanded more accountability from the doctors, lawyers, and dentists who provided them with important services. Over time, well-meaning people added similar protections for a wide range of other services, sometimes losing sight of that basic public protection mission.

While we work to reduce barriers, we maintain a focus on public protection, understanding that licensing and enforcement of licensing standards benefits both the profession regulated and the consumers they serve.

Licensing itself doesn't have to be complicated or difficult to protect the public. Regulation must only go as far as is absolutely necessary to achieve that goal. Sometimes that even means eliminating licensing requirements for certain professions where there is little to no risk of harm to the public, which we do through a sunset process. We've made a lot of progress with these initiatives but there is always more to be done both at OPR and across state government where other licensing programs exist. In FY21, OPR continued its longstanding work of reducing barriers through programs such as fast-track endorsement, second chance determination and the nurse licensure compact.

Fast-track Endorsement

Fast-track endorsement is a more efficient way of getting qualified professionals into the Vermont by recognizing experience in another state. Fast-track allows applicants with at least three years of practice in good standing in another U.S. jurisdiction, regardless of whether that jurisdiction has licensing requirements substantially similar to those of this State, to be licensed through endorsement in Vermont. The act allows exemptions to this requirement if three years of practice in another jurisdiction is not adequately protective of the public and conversely allows for waivers from a profession's practice requirement.

Vermont is one of the less regulated states when it comes to professional and occupational licensing. We understand that while licensing is a public protection issue, it is also a workforce and economic development driver.

-Chris Winters, Deputy Secretary of State

Since its effective date on April 1, 2021, fast-track endorsement has been widely used in many professions as a path to licensure in Vermont. The following table shows the number of fast-track applications received by professions in FY21.

FY21 Fast Track Endorsement Applications			
Architect	6	Optician	2
Auctioneer	1	Optometrist	4
Certified Public Accountant	1	Osteopathic Physician	6
Dentist	2	Pharmacist	4
Dietitian	2	Physical Therapist	1
Landscape Architect	1	Physical Therapist Assistant	2
Land Surveyor	1	Property Inspector	1
Licensed Clinical Mental Health Counselor	14	Real Estate Broker	10
Licensed Nursing Assistant	19	Real Estate Salesperson	3
Licensed Private Investigator and/or Security Guard	2	Registered Nurse	181
Midwife	1	Respiratory Care Practitioner	7
Naturopathic Physician	1	Speech-Language Pathologist	9
Nursing Home Administrator	1	Tattooist Operator	1
Occupational Therapist	3	Veterinarian	7
Total 293			

Second Chance Determination

It is important for people to understand the implications of their criminal background in moving forward and selecting a professional path. OPR strives to make clear that a criminal conviction is not a permanent or automatic barrier to becoming licensed, although in some cases, the criminal background is indeed prohibitive. To an applicant, it is important to know if their criminal conviction is prohibitive before investing time or money in training and education. Through Second Chance Determination, an applicant may request a binding assessment regarding whether their criminal background would disqualify them from licensure. Applicants pay a \$25 fee for a second chance determination request, and this fee is deducted from the license application fee if the applicant later applies for licensure. With this determination, an applicant can make decisions about their professional future with the security of knowing how their criminal conviction impacts eligibility.

Nurse Licensure Compact

To advance the goal of reducing barriers to licensure while ensuring public protection, OPR worked with legislators and key stakeholders over several legislative sessions to enact legislation that would enter Vermont into the National Council of State Boards of Nursing’s Nursing Licensure Compact (NLC). The Compact provides mobility to nurses from member states to enter practice in any compact state without requiring individual state licenses. The NLC was successfully authorized by revisions to 26 V.S.A. § 1647 and enacted into law June 2021, making Vermont a member state of the Nurse Licensure Compact effective February 1, 2022. To date, the Compact has been enacted in 39 US States and jurisdictions. Each Compact state is authorized to issue multistate licenses to RNs and LPNs who meet the universal licensure requirements, enabling rapid onboarding of vetted, competent nurses from other states into Vermont to provide telehealth services, work in health care facilities or function as faculty in Vermont schools of nursing.

Upon passage of the NLC, the staff at the OPR began steadily upgrading systems, processes, and policies to ensure the successful launch of multistate licenses. The systems implemented by the OPR staff in those six months were designed to ensure compliance with Statute and to provide licensees with a user-friendly experience. Our website has been updated with a new webpage, Nurse Licensure Compact (vermont.gov), that includes information for licensees, employers and members of the public regarding the benefits, rules and requirements of multistate licensure.

Enforcement

The Enforcement Division of OPR has two Units working together to meet its public protection mandate: the Investigation Unit and the Prosecution Unit.

Investigation Unit

The role of the Investigation Unit is to conduct thorough, impartial investigations to assist the Prosecution Unit with determining if a licensee engaged in unprofessional conduct. The majority of complaints handled by the Enforcement Division are regulatory (civil) in nature; however, some investigations are criminal and result in the arrest and criminal prosecution of licensees in state and federal court. Approximately ten percent of OPR complaints have a criminal conduct component.

The purpose of OPR's enforcement process is to protect the public. The Enforcement Unit strives to conduct fair and impartial investigations seeking only to determine the truth of what happened in each circumstance that gave rise to a complaint and to prosecute only when there is a risk to the public health, safety or welfare. The focus of discipline against a licensee is remediation to ensure safety and fitness to practice in their profession.

In 2021, nine individuals licensed by OPR were arrested and criminally charged in state court as the result of OPR investigations. One additional investigation led to federal prosecution of drug diversion for a licensee tampering with federally regulated substances that compromised public protection.

The Investigation Unit gained an additional position this year from the onboarding of Massage Therapy as a regulated profession. The Investigation Unit now consists of five full-time law enforcement investigators, as well as three full-time civil investigators. OPR investigators often travel throughout the State to conduct in-person interviews of licensees and witnesses, collect necessary documents and locate and review physical evidence. Investigators use a variety of methods to gather sufficient information for the determination of whether a licensee engaged in unprofessional conduct.

With the recent addition of Massage Therapy, the Investigation Unit has already been involved with investigations that include the element of "human/sex trafficking." These investigations require a significant amount of skill, resources, and time to investigate appropriately and often involve women performing sexual acts for money during a massage at a business location.

The women involved are often non-English speaking, frequently moved in and out of the state, are not properly trained or licensed to perform massage therapy, and are required to work under significant force, fraud and coercion by the organizations with which they are associated. The Investigation Unit is in the process of working to determine its role in enforcement action against human/sex trafficking, building effective policies, and identifying additional needs related to the statutes and rules which protect the public as related to this profession.

In FY21, the Investigation Unit has seen an increase in the seriousness of the violations alleged in complaints. In the last year, the work of the Investigation Unit has included several large-scale drug diversion investigations; numerous cases involving unwanted sexual contact by licensed professionals against their clients; investigations that included multiple licensed locations accused of conduct that put the public at significant risk of harm, numerous funeral cases involving detriment to the public welfare, practitioners who financially exploited vulnerable patients or clients, as well as a variety of other complex investigations requiring multiple investigators along with assistance from outside agencies including the Food and Drug Administration, Drug Enforcement Administration, Vermont Adult Protective Services, Vermont State Police, Local Police Departments, and others.

Prosecution Unit

The Prosecution Unit has four state prosecuting attorneys, two case managers, and one paralegal. When the investigator completes each investigation, an Investigative Team (or “I-Team”), consisting of the investigator, prosecutor, case manager, and a Board Member/Advisor, reviews the investigation and evidence. The I-Team then meets or communicates to discuss whether the evidence gathered establishes that the licensee engaged in unprofessional conduct, and, if so, whether the licensee should be subject to public prosecution and discipline. If the investigation does not reveal evidence that supports public prosecution for unprofessional conduct, the complaint is then closed with no further action, and the complainant and licensee are notified of the outcome.

If the I-Team determines the complaint warrants public prosecution based upon the investigation, then the prosecutor files a Specification of Charges identifying the alleged conduct of the licensee and the alleged violations of law. The licensee may file a written answer to the Charges. If the licensee contests the Charges and files an Answer, a hearing before the Hearing Authority, either a Board of professionals or an Administrative Law Officer, is scheduled. Before the hearing, the parties exchange documents, information and exhibits and may take depositions. The parties also have the opportunity to negotiate a mutually acceptable resolution, which must be approved by the hearing authority. If the case is not settled and proceeds to a final hearing, the parties present evidence and witness testimony to the Hearing Authority. After hearing, the Hearing Authority issues a written decision which includes factual findings and either a dismissal of the Charges or a determination of unprofessional conduct. If the Board or Administrative Law Officer determines the licensee engaged in unprofessional conduct, the final order sets forth discipline against the licensee, which is published on OPR’s website and is a matter of public record. The sanctions resulting from the disciplinary process can range from: a warning, reprimand, monetary administrative penalty, or coursework to the issuance of a conditioned license for a period of time with requirements such as supervision, limited practice setting, random drug testing, and employer

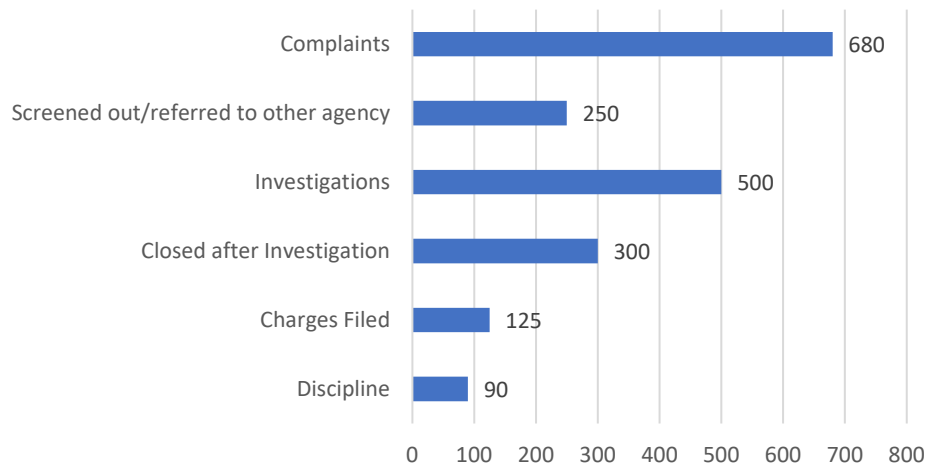
reports, to the most serious of sanctions, a revocation of the license. Upon issuance of the final order, a licensee may appeal the decision. The intermediate appeal is heard by an Administrative Law Officer within OPR. If the licensee appeals the intermediate decision, the final appeal is heard by the Vermont Supreme Court. If the licensee is subject to conditions as the result of the final order, the case manager monitors compliance to ensure requirements are met.

Enforcement Unit FY21 Summary

During FY21, the Enforcement Unit resolved approximately 680 complaint cases, which included the following:

- Approximately 250 complaints were screened out and/or referred to other agencies for reasons such as: the individual complained about was not a licensee; the complaint was anonymous and did not provide adequate information; the profession is not regulated by OPR; or the complaint did not allege facts that would constitute unprofessional conduct;
- Investigators conducted approximately 500 investigations;
- Prosecutors closed approximately 300 complaint cases after investigation and I-Team review;
- Prosecutors filed charges in approximately 125 cases; and
- Disciplinary sanctions were ordered in 90 cases.⁴

Enforcement Unit FY21 Summary⁴



⁴ Data is approximate

Inspections

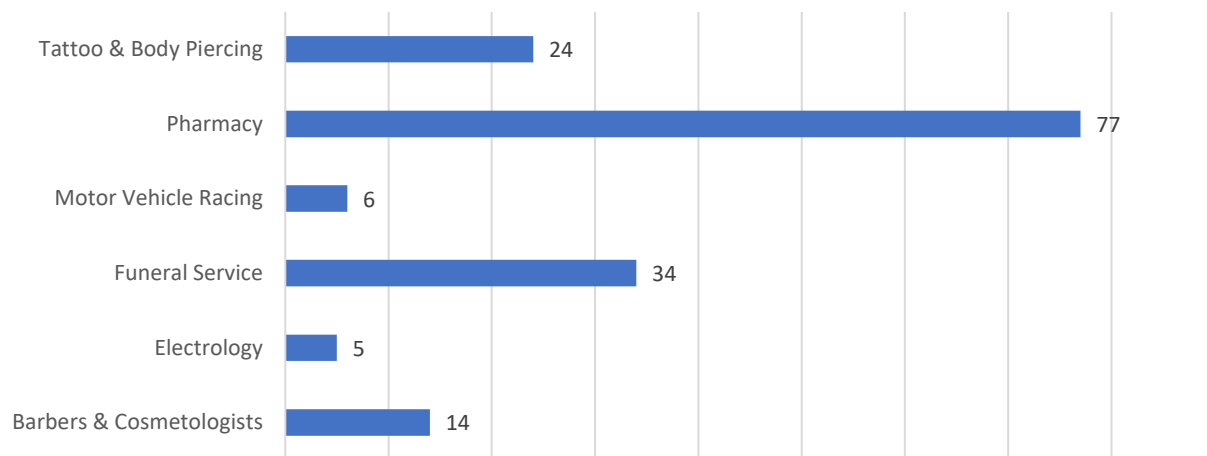
The Licensing Inspection Unit is primarily focused on consumer protection and enhancing the public's safety by maximizing compliance and minimizing risk, via profession specific rules, statutes and federal regulations. Inspectors provide periodic and directed facility inspections of establishments licensed by OPR.

The inspection process is tailored to individual professions and verifies compliance with applicable statutes, rules and workplace safety standards, helping to identify unsafe or unprofessional conditions before they impact the consumer or employees. This process also affords Inspectors the in-person opportunity to present relevant guidance and education to licensees and address any questions or concerns that may arise outside of the regular renewal cycle.

Post inspection, reports submitted by Inspectors for internal review also allow OPR to provide relevant information and real-time, trending data to Boards and Advisory Panels. In the past year, as the state experienced an increased volume of pharmacy closures, OPR received an associated increase in pharmacy complaints. Operational limitations were identified within the inspection complaint process, which supported the Director's advocacy before the State Legislature. Her successful redefinition of what constitutes unprofessional conduct was codified in 26 V.S.A. § 2053, allowing corporations to be held accountable for systemic failures that affect patient outcomes at the retail level.

The yearly schedule of inspections is based on initial, annual, biennial and random cycles established by statute, administrative rule or OPR policy. In FY2021, OPR inspected and licensed the state's first mobile cosmetology shop following the release of the revised administrative rules for the Barbering & Cosmetology profession in December. Additionally, OPR inspected and issued the first mixed martial arts event license following the addition of Chapter 109 to Title 26, which provides statutes for the regulation of Boxing and Mixed Martial Arts.

Inspections Unit FY21 Summary



Legislative Reports and Rulemaking

The following section provides a summary of reports submitted to the General Assembly in FY2021.

Music Therapy Preliminary Sunrise Review Assessment

Pursuant to 3 VSA 3105(a)

In this sunrise review assessment, OPR recommends that the General Assembly establish a creative arts therapy certification that incorporates music therapists, as well as other creative-arts-therapy professionals.

Massage Therapy Preliminary Sunrise Review Assessment Addendum

Pursuant to [Act 30 of 2019](#)

In this sunrise assessment addendum, the Office finds that requiring individuals and businesses to obtain registration prior to providing massage services will likely protect public safety by preventing repeated incidents of sexual misconduct if the initial instance of misconduct is reported. The Office finds that regulation of individuals or businesses providing massage services would not address the public harms presented by human trafficking.

Barbers, Cosmetologists, Estheticians, and Nail Technicians Administrative Rules

Effective December 22, 2020

With Act 144 (2018), § 12, eff. Jan. 1, 2019, the General Assembly converted the regulatory model governing the cosmetology-related professions from board-based regulation to advisor-based regulation by the Director of Professional Regulation. Act 144 recalibrated educational requirement to reduce barriers to marketplace entry. Act 144 also recognized that demand for cosmetology-related services exists outside traditional shop settings. The revised rules reduce hours of education required, recognized school-based testing toward licensure, freedom to practice outside in a mobile shop and more flexible options for those who wish to apprentice in lieu of formal schooling. These rules implement the Act by setting necessary qualifications and standards, and by anticipating entrepreneurial demand to provide services in unconventional settings.

FY21 Licenses by Profession Type

