

1 H.562

2 Introduced by Representative Sweaney of Windsor

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations

6 Statement of purpose: This bill proposes to modify statutory provisions
7 relating to the office of professional regulation and the following professions
8 and occupations: opticians, pharmacists, architects, chiropractors, dentists,
9 professional engineers, nurses, optometrists, osteopathic physicians, land
10 surveyors, psychologists, private investigative and security services, real estate
11 appraisers, dieticians, electrologists, and motor vehicle racing.

12 An act relating to the regulation of professions and occupations

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

14 * * * Office of Professional Regulation/General Provisions * * *

15 Sec. 1. 3 V.S.A. § 123 is amended to read:

16 § 123. DUTIES OF OFFICE

17 * * *

18 (f) ~~An interboard advisory committee consisting of one member of each~~
19 ~~board, designated by that board, is created. In the case of a profession which~~
20 ~~has advisor appointees, the appointees shall designate one of the appointees or~~

1 ~~another licensed member of the profession to serve on the committee. The~~
2 ~~committee shall meet at least annually with the director to discuss the~~
3 ~~operation of the office and matters of concern to boards.~~

4 ~~(g) [Deleted.]~~

5 ~~(h)~~ Classified state employees who are employed as investigators by the
6 secretary of state who have successfully met the standards of training for a
7 full-time law enforcement officer under chapter 151 of Title 20 shall have the
8 same powers as sheriffs in criminal matters and the enforcement of the law and
9 in serving criminal process, and shall have all the immunities and matters of
10 defense now available or hereafter made available to sheriffs in a suit brought
11 against them in consequence for acts done in the course of their employment.

12 Sec. 2. 3 V.S.A. § 125(b) is amended to read:

13 (b) Unless otherwise provided by law, the following fees shall apply to all
14 professions regulated by the director in consultation with advisor appointees
15 under Title 26:

16 (1) Application for registration, \$75.00.

17 (2) Application for licensure or certification, \$100.00.

18 (3) Optician trainee registration, \$50.00.

19 (4) Biennial renewal, \$200.00, except:

20 (A) Biennial renewal for clinical social workers, \$150.00.

1 (B) Biennial renewal for occupational therapists and assistants,
2 \$150.00.

3 (C) Biennial renewal for physical therapists and assistants, \$100.00.

4 (D) Biennial renewal for optician trainees, \$100.00.

5 ~~(4)(5)~~ Limited temporary license or work permit, \$50.00.

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

7 § 129. POWERS OF BOARDS; DISCIPLINE PROCESS

8 (a) In addition to any other provisions of law, a board may exercise the
9 following powers:

10 * * *

11 (3) Issue warnings or reprimands, suspend, revoke, limit, condition,
12 deny, or prevent renewal of licenses, after disciplinary hearings or, in cases
13 requiring emergency action, immediately suspend, as provided by section 814
14 of this title. In a case involving noncompliance with a statute or rule relating
15 to administrative duties not related to patient, client, or customer care, a board
16 or hearing officer may determine that ordering a monetary civil penalty does
17 not constitute a finding of unprofessional conduct.

18 * * *

19 (g) A board may authorize any of the following:

20 (1) Its chair or legal counsel to grant continuances of scheduled hearings
21 ~~and stays pending appeal.~~

1 ~~treating the patient's medical condition or causes or is reasonably expected to~~
2 ~~cause adverse or harmful reactions in the patient.~~

3 If the generic equivalent of a drug being prescribed has not been effective,
4 or with reasonable certainty is not expected to be effective in treating the
5 patient's medical condition, or causes or is reasonably expected to cause
6 adverse or harmful reactions in the patient, a pharmacist shall not substitute the
7 generic equivalent if the prescriber writes "brand necessary," "no substitution,"
8 "dispense as written," or "DAW" in the prescriber's own handwriting on the
9 prescription blank. If a prescription is unwritten and the generic equivalent of
10 the drug being prescribed has not been effective, or with reasonable certainty is
11 not expected to be effective in treating the patient's medical condition, or
12 causes or is reasonably expected to cause adverse or harmful reactions in the
13 patient, a pharmacist shall not substitute the generic equivalent if the prescriber
14 expressly indicates to the pharmacist that the brand-name drug is necessary and
15 substitution is not allowed.

16 Sec. 5. 18 V.S.A. § 4607 is amended to read:

17 § 4607. INFORMATION; LABELING

18 ~~(a) Every pharmacy in the state shall have posted a sign in a prominent~~
19 ~~place that is in clear unobstructed view which shall read: "Vermont law~~
20 ~~requires pharmacists in some cases to select a less expensive generic~~
21 ~~equivalent for the drug prescribed unless you or your physician direct~~

1 ~~otherwise. Substitution will be noted on your prescription label by an "S" in~~
2 ~~the lower left corner. Ask your pharmacist."~~

3 (b) The label of the container of all drugs dispensed by a pharmacist under
4 this chapter shall indicate the generic name using an abbreviation if necessary,
5 the strength of the drug and the name or number of the manufacturer or
6 distributor.

7 (c) ~~If a generically equivalent substitution has been made, an "S" will be~~
8 ~~noted in the lower left corner of the prescription label.~~

9 * * * Architects * * *

10 Sec. 6. 26 V.S.A. § 201 is amended to read:

11 § 201. QUALIFICATIONS

12 (a) ~~To qualify for licensure as an architect in this state~~ under this chapter,
13 ~~an applicant shall have attained the age of majority and shall have graduated~~
14 ~~from an approved four year high school course or must have equivalent~~
15 ~~training. Additionally, an applicant shall have had:~~

16 (1) ~~Satisfactory training in a school or college of architecture approved~~
17 ~~by the board, with graduation therefrom as evidenced by a diploma setting~~
18 ~~forth a satisfactory degree in an accredited architectural program, and three~~
19 ~~years of practical architectural experience under the supervision of a practicing~~
20 ~~architect or architects who have been licensed for more than three years~~ a first
21 professional degree from an accredited architectural program approved by the

1 board and three years of practical architectural experience under the
2 supervision of a practicing architect or architects who shall have a minimum of
3 three years of licensed practice experience; or

4 (2) A degree from a postsecondary educational institution with courses
5 approved by the board by rule and five years of diversified practical
6 architectural experience defined by rule under the supervision of a practicing
7 architect or architects who have a minimum of three years of licensed
8 experience; or

9 (3) A total of nine years of diversified practical architectural experience
10 under the supervision of a practicing architect or architects who have been
11 licensed for more than three years. Credits from an accredited postsecondary
12 educational institution may be substituted for up to four years of the experience
13 requirement; ~~or~~

14 ~~(3) Training equivalent to that required herein.~~

15 (b) An applicant shall pass ~~written examinations under a syllabus selected~~
16 ~~or prepared by the board, in such technical and professional subjects as may be~~
17 ~~prescribed by the board. Examinations may be taken before the applicant~~
18 ~~completes the experience requirements established by this chapter, provided~~
19 ~~that the applicant has completed all but the final year of required practical~~
20 ~~experience. Notification of the results of such examinations shall be mailed to~~
21 ~~each candidate within 30 days of the date the results are received by the board.~~

1 ~~A candidate failing to pass the examinations may apply for re-examination and~~
2 ~~may sit for any regularly scheduled examination as many times as the~~
3 ~~candidate chooses to do so. If an applicant does not pass the entire~~
4 ~~examination, the applicant shall not be required to retake any section of an~~
5 ~~examination which the applicant previously passed an examination approved~~
6 ~~by the board.~~

7 * * *

8 (d) The board may conduct a personal interview of an applicant.—~~A~~
9 ~~personal interview shall be for the limited purposes of assisting the applicant to~~
10 ~~obtain licensure and or to verify the applicant's educational qualifications and~~
11 ~~that the applicant completed the practical architectural experience requirements~~
12 ~~for licensure. A personal interview shall not serve directly or indirectly as an~~
13 ~~oral examination of the applicant's substantive knowledge of architecture. An~~
14 ~~interview conducted under this section shall be taped and, at the request of the~~
15 ~~applicant, shall be transcribed. An applicant who is denied licensure shall be~~
16 ~~informed in writing of his or her right to have the interview transcribed free of~~
17 ~~charge. At least one of the public members of the board shall be present at any~~
18 ~~personal interview.~~

19 * * *

1 ~~provision shall apply only to renewals after an applicant's initial two years of~~
2 ~~practice in Vermont.~~ Required accumulation of continuing education hours
3 shall begin on the first day of the first full biennial licensing period following
4 initial licensure.

5 * * * Nurses * * *

6 Sec. 10. 26 V.S.A. § 1574 is amended to read:

7 § 1574. POWERS AND DUTIES

8 The board shall:

9 * * *

10 (9) Adopt rules necessary to perform its duties under this subchapter,
11 and may adopt rules establishing a program to serve as an alternative to the
12 disciplinary process for nurses and nursing assistants with chemical
13 dependencies or other professional practice issues as designated by the board.

14 * * * Optometrists * * *

15 Sec. 11. 26 V.S.A. § 1703(5) is added to read:

16 (5) "Contact lenses" means those lenses with prescription power and
17 those lenses without prescription power which are worn for cosmetic purposes.

18 Sec. 12. 26 V.S.A. § 1719(b)(3)(E) is added to read:

19 (E) Failure to comply with prescription-released requirements
20 established in the Federal Ophthalmic Practice Rule (CFR Part 456) or the
21 Fairness to Contact Lens Consumers Act (USCA §§ 7601–7610).

1 Sec. 15. 26 V.S.A. § 1729 is amended to read:

2 § 1729. ENDORSEMENTS AND REQUIREMENTS

3 (a) Upon application, the board shall certify eligible licensees to use and
4 prescribe therapeutic drugs and to perform those procedures as authorized by
5 subdivision 1728(a)(2) of this title, if the applicant meets the requirements of
6 section 1715 of this chapter for licensure by examination or meets the
7 requirements of section 1716 of this chapter for licensure by endorsement, and
8 is authorized under the license of another jurisdiction to use therapeutic
9 pharmaceutical agents.

10 * * *

11 (c) ~~Annually, the board shall notify the state board of pharmacy, in writing,~~
12 ~~of the optometrists certified under this section in the use of pharmaceutical~~
13 ~~agents.~~

14 (d) A licensee who is certified to use therapeutic pharmaceutical agents
15 shall demonstrate proof of current cardiopulmonary resuscitation certification
16 as a condition of initial certification and of license renewal. Acceptable
17 courses shall include:

18 (1) courses in external cardiopulmonary resuscitation which are
19 approved by the Vermont Heart Association or the American Red Cross; and

1 their successor or equivalent examinations approved by the board unless the
2 applicant is exempt from all or a part of the examination under the provisions
3 of section 1832 or 1832a of this title.

4 * * *

5 Sec. 17. 26 V.S.A. § 1832 is amended to read:

6 § 1832. EXAMINATION

7 (a) The board or its designee shall administer examinations to applicants
8 for licensure at least twice each year if applications are pending. Examinations
9 shall be designed and implemented to ensure that all applicants are admitted to
10 practice unless there is good reason to believe that practice by a particular
11 applicant would be inconsistent with the public health, safety, and welfare;
12 they shall not be designed for the purpose of limiting the number of licensees.

13 ~~(b) An applicant who has successfully completed the Federal Licensing~~
14 ~~Examination (FLEX) shall only be required to take and pass the osteopathic~~
15 ~~principles and practice portion of the Vermont osteopathic licensure~~
16 ~~examination.~~

17 * * * Pharmacists * * *

18 Sec. 18. 26 V.S.A. § 2022(15) is amended to read:

19 (15) "Practitioner" shall mean an individual authorized by the laws of
20 the United States or its jurisdictions or ~~the Province of Quebec~~ Canada to
21 prescribe and administer prescription drugs in the course of his or her

1 professional practice and permitted by that authorization to dispense, conduct
2 research with respect to, or administer drugs in the course of his or her
3 professional practice or research in his or her respective state or province.

4 * * * Land Surveyors * * *

5 Sec. 19. 26 V.S.A. § 2592 is amended to read:

6 § 2592. QUALIFICATIONS

7 * * *

8 (b) ~~Examinations~~ The fundamentals of land surveying examination may be
9 taken with board approval after an applicant for licensure submits the initial
10 application.

11 (c) The principles and practice of land surveying examination may be taken
12 before the applicant completes the educational and experience requirements
13 established by this chapter, provided that the applicant has completed all but
14 the final year of required practical experience. Notification of the results of
15 such examinations shall be mailed to each candidate within 30 days of the day
16 the results of any national examination are received by the board. A candidate
17 failing to pass the examinations may apply for reexamination under the rules of
18 the board and may sit for reexamination as many times as the candidate
19 chooses to do so. If an applicant does not pass the entire examination, the
20 applicant need not take again any portion of an examination which the
21 applicant previously passed.

1 obtain licensure and to verify the applicant's educational qualifications and
2 that the applicant completed the experience requirements for licensure. A
3 personal interview shall not serve directly or indirectly as an oral examination
4 of the applicant's substantive knowledge of surveying. An interview
5 conducted under this section shall be taped and, at the request of the applicant,
6 shall be transcribed. An applicant who is denied licensure shall be informed in
7 writing of his or her right to have the interview transcribed free of charge. At
8 least one of the public members of the board shall be present at any personal
9 interview.

10 ~~(g)~~(h) When the board intends to deny an application for license, the
11 director of the office of professional regulation shall send the applicant written
12 notice of the decision by certified mail, return receipt requested. The notice
13 shall include a specific statement of the reasons for the action. Within 30 days
14 of the date that an applicant receives such notice, the applicant may file a
15 petition with the board for review of its preliminary decision. At the hearing to
16 review the preliminary decision, the burden shall be on the applicant to show
17 that a license should be issued. After the hearing, the board shall affirm or
18 reverse the preliminary denial. The applicant may appeal a final denial by the
19 board to the appellate officer.

* * * Psychologists * * *

1
2 Sec. 20. 26 V.S.A. § 3001(12) is added to read:

3 (12) “Psychological trainee” means a person engaged in postdegree
4 supervision who shall register with the board and be subject to its jurisdiction.

5 Sec. 21. 26 V.S.A. § 3004 is amended to read:

6 § 3004. EXCEPTIONS

7 (a) This chapter shall not apply to a person engaged or acting:

8 (1) In the discharge of his or her duties as a student of psychology, ~~or~~
9 ~~preparing for the practice of psychology provided that his title indicates his~~
10 ~~training status, if the preparation occurs under the supervision of a licensed~~
11 ~~practicing psychologist in recognized training institutions or facilities or in a~~
12 ~~training program approved by the board.~~

13 (2) In the discharge of his or her duties as a psychologist in an
14 accredited academic institution.

15 (3) In the discharge of his or her duties in a business, corporation or
16 research laboratory, provided that he or she is performing those duties for
17 which he or she is employed within the confines of the corporation or
18 organization, and provided that the corporation or organization does not sell
19 psychological services to the public for a fee.

20 (4) In clinical training for licensure as a clinical social worker or clinical
21 mental health counselor or for certification as a marriage and family therapist

1 or a psychoanalyst provided that the person's title indicates his or her training
2 status and that the person does not identify ~~him~~ himself or herself as a
3 psychologist.

4 ~~(b) Notwithstanding the provisions of subsection (a) of this section, this~~
5 ~~chapter shall apply to any person licensed by the board of psychological~~
6 ~~examiners. A person who meets the qualifications set forth in subdivision~~
7 ~~(a)(1) of this section shall register with the board and be subject to regulation~~
8 ~~by the board.~~

9 Sec. 22. 26 V.S.A. § 3010 is amended to read:

10 § 3010. FEES; LICENSES

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

13	(1) Application for license	\$175.00
14	(2) Biennial renewal of license	\$225.00
15	<u>(3) Psychological trainee registration</u>	<u>\$75.00</u>
16	<u>(4) Biennial renewal of trainee registration</u>	<u>\$90.00</u>

17 * * * Private Investigative and Security Services * * *

18 Sec. 23. 26 V.S.A. § 3151 is amended to read:

19 § 3151. DEFINITIONS

20 As used in this chapter:

21 * * *

1 (3) “Private ~~detective~~” or “private investigator” means any person who,
2 for a consideration engages in or solicits business ~~or~~, accepts employment ~~to~~
3 ~~furnish, or agrees to make or makes any investigation to obtain, information~~
4 ~~with reference to any of the following or provides, or offers to provide,~~
5 ~~security of persons incident to any of the following~~ or holds himself or herself
6 out to the public as someone who will investigate, obtain information, or
7 provide security of persons incident to, but not limited to, the following:

8 (A) Any suspected crime, tort, or wrong committed or threatened
9 against the laws ~~or~~ of a government of the United States, any state or territory,
10 or any of its political subdivision thereof subdivisions or against any person.

11 (B) The identity, habits, conduct, honesty, loyalty, movements,
12 whereabouts, affiliations, associations, transactions, reputation, or character of
13 any living person.

14 (C) ~~Libels, fires, losses,~~ Damage, accidents, or ~~damage or~~ injury to
15 persons or property.

16 (D) The location, disposition, or recovery of lost or stolen property.

17 (E) Evidence ~~to be used before~~ related to a proceeding before any
18 court, ~~board~~ agency, officer, or investigative committee.

19 (F) The identity, location, or apprehension of persons ~~suspected of~~
20 ~~crimes.~~

1 (4) “Security ~~guard~~” means a person ~~who is~~ engaged for compensation
2 in the business of protecting property or persons ~~through the use of guard dogs,~~
3 by providing armed or unarmed guard security service, or armed courier
4 transport service and performing one or more of the following functions, or the
5 use of guard dogs. “Security services” includes:

6 (A) Prevention or detection of intrusion, entry, larceny, vandalism,
7 abuse, fire, or trespass on private property.

8 (B) Prevention, observation, or detection of any unauthorized activity
9 on private property.

10 (C) Protection of patrons and persons lawfully authorized to be on
11 the premises of the person, firm, association, or corporation that entered into
12 the contract for security services.

13 (D) Control, regulation, or direction of the flow or movement of the
14 public, whether by vehicle or otherwise, ~~on~~ onto the premises ~~of the person~~
15 ~~that entered into the contract for security services, and only to the extent and~~
16 ~~for the time directly and specifically required to assure the protection of~~
17 ~~properties.~~

18 (E) Physically responding to any alarm signal device, burglar alarm,
19 television camera, still camera, or a mechanical or electronic device installed
20 or used to prevent or detect burglary, theft, shoplifting, pilferage, losses, or
21 other security measures.

1 (F) Providing armored ~~car~~ transport services for the protection of
2 persons or property.

3 (5) "Qualifying agent" means a licensed private ~~detective~~ investigator
4 who is responsible for a private investigative services agency or combination
5 agency, or a licensed security guard who shall be the licensed holder for an
6 agency under section 3176 of this title, and who, in the case of a corporation is
7 an officer or an individual in a management capacity, and who in the case of a
8 partnership is a general or unlimited partner is responsible for a private
9 security services agency or combination agency. A sole proprietor shall be the
10 qualifying agent of his or her agency and shall meet all qualifying agent
11 licensure requirements.

12 (6) "Combination agency" means an agency that provides both private
13 investigative and private security services to the public.

14 Sec. 24. 26 V.S.A. § 3151a(a) is amended to read:

15 (a) The term "~~private detective~~" or "private investigator" shall not include:

16 * * *

17 (3) Persons regularly employed as investigators, exclusively by one
18 employer in connection with the affairs of that employer only, provided that
19 the employer is not a private ~~detective~~ investigative agency.

20 * * *

1 Sec. 25. 26 V.S.A. § 3161 is amended to read:

2 § 3161. STATE BOARD

3 The state board of private investigative and security services is created. The
4 board shall consist of five members appointed by the governor: one shall be a
5 provider of private ~~detective~~ investigative services; one shall be a provider of
6 private security services; two shall be members of the public with no financial
7 interest in either service other than as a consumer or potential consumer. The
8 remaining member shall be a provider of private ~~detective~~ investigative
9 services or a provider of private security services, or a provider of both types
10 of services. Board members shall be appointed by the governor pursuant to
11 sections 129b and 2004 of Title 3.

12 Sec. 26. 26 V.S.A. § 3171(c) is amended to read:

13 (c) ~~Licenses and~~ Individual registrations may ~~not~~ be transferred upon
14 approval by the board.

15 Sec. 27. 26 V.S.A. § 3172 is amended to read:

16 § 3172. LICENSES

17 The board shall issue ~~separate agency licenses to persons applying and~~
18 ~~qualifying for a private detective agency license, a~~ for private investigative
19 services, private security guard ~~agency license~~ services, or a combination
20 ~~private detective and security guard agency license~~ licenses to applicants that
21 submit all of the following:

1 (1) An application filed in proper form.

2 (2) The application fee.

3 (3) Evidence of current Vermont business entity registration.

4 Sec. 28. 26 V.S.A. § 3173 is amended to read:

5 § 3173. ~~PRIVATE DETECTIVE AND PRIVATE DETECTIVE AGENCY~~
6 INVESTIGATOR LICENSES

7 ~~(a) No person shall engage in the business of a private detective or operate~~
8 ~~a private detective agency in this state without first obtaining a license to do so~~
9 ~~from the board. The board shall not issue a license to a private detective or~~
10 ~~private detective agency without first~~ investigator after obtaining and
11 approving all of the following:

12 (1) An application filed in proper form.

13 ~~(2) An~~ The application fee ~~as established pursuant to section 3178a of~~
14 ~~this title.~~

15 (3) Evidence that the applicant has attained the age of majority.

16 (4) Evidence that the applicant has successfully passed the examination
17 required by section 3175 of this title.

18 (b) The board may inquire of the Vermont criminal information center for
19 any information on criminal records of the applicant, and the center shall
20 provide such information to the board. The board, through the Vermont
21 criminal information center, may also inquire of the appropriate state criminal

1 record repositories in all states in which it has reason to believe an applicant
2 has resided or been employed, and it may also inquire of the Federal Bureau of
3 Investigation, for any information on criminal records of the applicant. ~~When~~
4 ~~fingerprinting is required, the~~ The applicant shall bear the costs associated with
5 ~~the return and resubmission of illegible fingerprint cards~~ fingerprinting. The
6 board may also make ~~such~~ additional inquiries it deems necessary into the
7 character, integrity and reputation of the applicant.

8 * * *

9 Sec. 29. 26 V.S.A. § 3174 is amended to read:

10 § 3174. SECURITY GUARD ~~AND SECURITY AGENCY~~ LICENSES

11 (a) No person shall engage in the business of security guard ~~or operate a~~
12 ~~private security agency providing or provide~~ guard services in this state
13 without first obtaining a license ~~to do so from the board. No person shall~~
14 ~~engage in the business of providing guard dog services or operate a private~~
15 ~~security agency providing guard dog services without first obtaining a license~~
16 ~~to do so from the board. The board shall not issue a license without first~~ after
17 obtaining and approving all of the following:

- 18 (1) An application filed in proper form.
19 (2) The application fee.
20 (3) Evidence that the applicant has attained the age of majority.

1 Sec. 31. 26 V.S.A. § 3175a is amended to read:

2 § 3175a. ~~FIREARMS AND GUARD DOG TRAINING;~~ INSTRUCTOR
3 LICENSURE; PROGRAM OF INSTRUCTION

4 (a) ~~An applicant for a private detective or security guard license to provide~~
5 ~~armed services shall demonstrate to the board competence in the safe use of~~
6 ~~firearms in a firearms training program approved by the board and taught by an~~
7 ~~instructor currently licensed under this section. Firearms training may include~~
8 ~~evidence of law enforcement or military training in firearms. An applicant for~~
9 ~~a license to provide guard dog services shall demonstrate to the board~~
10 ~~competence in the handling of guard dogs in a guard dog training program~~
11 ~~approved by the board and taught by an instructor currently licensed under this~~
12 ~~section.~~

13 (b) The board shall license firearms training course instructors of such
14 ~~training courses~~ and shall adopt rules governing the licensure of instructors and
15 the approval of firearms ~~and guard dog~~ training programs.

16 (e)(b) The board shall not issue a license as a firearms training program
17 instructor without first obtaining and approving all of the following:

18 * * *

19 (d) ~~The board shall not issue a license as a guard dog training program~~
20 ~~instructor without first obtaining and approving the following:~~

21 (1) ~~The application filed in the proper form.~~

1 ~~(2) The application fee established in subdivision 3178a(5)(A) of this~~
2 ~~title.~~

3 ~~(3) Evidence that the applicant has obtained the age of majority.~~

4 ~~(4) A copy of the applicant's training program.~~

5 ~~(5) Proof of certification as an instructor from an instructor's course~~
6 ~~approved by the board.~~

7 ~~(6) A federal background check.~~

8 ~~(e)(c)~~ Instructors licensed under this section are subject to the same renewal
9 requirements as others licensed under this chapter, and prior to renewal are
10 required to show proof of current instructor licensure and pay the renewal fee
11 established in subdivision 3178a(5)(B) of this title.

12 ~~(f) Hunter safety instructors shall be exempt from the licensure~~
13 ~~requirements of this section for the purpose of hunter safety instruction.~~

14 Sec. 32. 26 V.S.A. §§ 3175b and 3175c are added to read:

15 § 3175b. GUARD DOG TRAINING INSTRUCTOR LICENSE

16 (a) An applicant for a license to provide guard dog services shall
17 demonstrate to the board competence in the handling of guard dogs in a guard
18 dog training program approved by the board and taught by an instructor
19 currently licensed under this section.

20 (b) The board shall not issue a license as a guard dog training program
21 instructor without first obtaining and approving all of the following:

- 1 (1) The application filed in the proper form.
- 2 (2) The application fee set forth in section 3178 of this title.
- 3 (3) Evidence that the applicant has obtained the age of majority.
- 4 (4) A copy of the applicant's training program.
- 5 (5) Proof of certification as an instructor from an instructor's course
6 approved by the board.
- 7 (6) A federal background check.

8 § 3175c. FIREARMS TRAINING AND CERTIFICATION

9 (a) A licensee seeking a firearms certification shall meet the following
10 requirements:

- 11 (1) An applicant for a private investigator or security guard license to
12 provide armed services shall demonstrate to the board competence in the safe
13 use of firearms by successfully completing a firearms training program
14 approved by the board.
- 15 (2) An applicant shall pay the required fee.
- 16 (3) An applicant shall obtain the age of majority.
- 17 (4) An applicant shall receive a satisfactory federal background check.

18 (b) No licensee may possess a firearm while performing professional
19 services unless certified and in good standing under this section.

1 Sec. 33. 26 V.S.A. § 3176(a) is amended to read:

2 (a) ~~A licensed private detective or a licensed security guard may employ~~
3 ~~such other persons as he or she deems necessary. However, the license holder~~
4 ~~shall be the qualifying agent for all in his or her employ and shall be~~
5 ~~responsible for the conduct of any such employees. An agency licensed under~~
6 ~~this chapter may employ private investigators or security guards.~~

7 Sec. 34. 26 V.S.A. § 3176a is amended to read:

8 § 3176a. TRANSITORY PRACTICE

9 The director of the office of professional regulation, under rules adopted by
10 the board, may grant a transitory permit to practice as a private ~~detective~~
11 investigator to a person who is not a resident of Vermont and has no
12 established place of business in this state, if that person is legally qualified by
13 license to practice as a private ~~detective~~ investigator in any state or country that
14 regulates such practice. Practice under a transitory permit shall not exceed 30
15 days in any calendar year.

16 Sec. 35. 26 V.S.A. § 3176b(a) is amended to read:

17 (a) A 60-day temporary registration may be issued to a person who applies
18 for registration as an employee of a licensed private ~~detective~~ investigator or a
19 licensed security guard under section 3176 of this title. A temporary
20 registration shall authorize a person to work as an unarmed private ~~detective~~

1 investigator or unarmed security guard while employed by a private ~~detective~~
2 investigator agency or security guard agency licensed by the board.

3 Sec. 36. 26 V.S.A. § 3178 is amended to read:

4 § 3178. RENEWALS AND REINSTATEMENT

5 (a) A license or registration issued under this chapter shall be renewed
6 biennially upon payment of the required fee.

7 (b) If an individual or agency fails to renew in a timely manner, ~~he or she~~
8 the individual or agency may renew the license within ~~90 days~~ one year of the
9 renewal date by satisfying all the requirements for renewal and payment of an
10 additional late renewal penalty.

11 (c) An individual or agency whose license or registration has lapsed or
12 been terminated for more than one year may be reinstated upon filing a new
13 application and meeting all requirements for initial issuance of the license or
14 registration.

15 Sec. 37. 26 V.S.A. § 3178a is amended to read:

16 § 3178a. FEES

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

19 (1) Application for agency license:

20 (A) ~~Detective~~ Investigative agency ~~\$250.00~~ \$270.00

21 (B) Security agency ~~\$250.00~~ \$270.00

1	(C) Detective <u>Investigative</u> /security agency	\$300.00 <u>\$320.00</u>
2	(2) Initial license <u>Application for individual license:</u>	<u>\$ 20.00</u>
3	(A) <u>Unarmed licensee</u>	<u>\$130.00</u>
4	(B) <u>Armed licensee</u>	<u>\$180.00</u>
5	(3) Application for employee registration:	
6	* * *	
7	(4) Biennial renewal:	
8	(A) Detective <u>Investigative</u> agency	\$275.00
9	(B) Security agency	\$275.00
10	(C) Detective <u>Investigative</u> /security agency	\$275.00
11	(D) <u>Unarmed licensee</u>	<u>\$100.00</u>
12	(E) <u>Armed licensee</u>	<u>\$150.00</u>
13	(F) Unarmed registrants (agency employees)	\$ 80.00
14	(E) (G) Armed registrants (agency employees)	\$100.00 <u>\$130.00</u>
15	(5) Instructor licensure:	
16	* * *	
17	(6) <u>A sole proprietor of an investigative agency or security agency shall</u>	
18	<u>be required to apply for agency licensure and renewal but shall not be required</u>	
19	<u>to pay the fees for agency licensure or renewal.</u>	

1 Sec. 38. 26 V.S.A. § 3179 is amended to read:

2 § 3179. PENALTIES

3 (a) A person who engages in the practice or business of a private ~~detective~~
4 investigator or security guard without being licensed under to this chapter shall
5 be subject to the penalties provided in subsection 127(c) of Title 3.

6 (b) Any person who is or has been an employee of a licensee and any
7 licensee who divulges to anyone other than to his or her employer or as his or
8 her employer shall direct, except before an authorized tribunal, any
9 information acquired by him or her during such employment in respect to any
10 of the work to which he or she has been assigned by such employer, and any
11 such employee who ~~wilfully~~ willfully makes a false report to his or her
12 employer in respect to any such work, shall be guilty of a misdemeanor and
13 subject to a fine of not more than \$500.00.

14 Sec. 39. 26 V.S.A. § 3181 is amended to read:

15 § 3181. UNPROFESSIONAL CONDUCT

16 (a) ~~Unprofessional~~ It shall be unprofessional conduct ~~is the~~ for a licensee,
17 registrant, or applicant to engage in conduct prohibited by this section, or by
18 section 129a of Title 3, ~~whether or not taken by a license registrant or~~
19 applicant.

1 (b) Unprofessional conduct means any of the following:

2 (1) Conviction of ~~a crime of moral turpitude~~ any felony or a crime
3 involving fraud or dishonesty.

4 * * *

5 ~~(3) Conduct which evidences moral unfitness to practice the occupation.~~

6 ~~(4) Allowing any person to practice under a license who is not a partner~~
7 ~~or employee.~~

8 ~~(5)~~ Violating a confidential relationship with a client, or disclosing any
9 confidential client information except:

10 (A) with the client's permission;

11 (B) in response to a subpoena or court order;

12 (C) when necessary to establish or collect a fee from the client; or

13 (D) when the information is necessary to prevent a crime that the
14 client intends to commit.

15 ~~(6)~~(4) Accepting any assignment which would be a conflict of interest
16 because of confidential information obtained during employment for another
17 client.

18 ~~(7)~~(5) Accepting an assignment that would require the violation of any
19 municipal, state or federal law or client confidence.

20 ~~(8)~~(6) Using any badge, seal, card, or other device to misrepresent
21 oneself as a police officer, sheriff, or other law enforcement officer.

1 ~~(9)~~(7) Knowingly submitting a false or misleading report or failing to
2 disclose a material fact to a client.

3 ~~(10)~~(8) Falsifying or failing to provide required compulsory minimum
4 training in firearms or guard dog handling as required by this chapter.

5 ~~(11)~~(9) Failing to complete in a timely manner the registration of an
6 employee.

7 ~~(12)~~(10) Allowing an employee to carry firearms or handle guard dogs
8 prior to being issued a permanent registration card.

9 ~~(13)~~(11) Allowing an employee to work without carrying the required
10 evidence of temporary or permanent registration.

11 ~~(14)~~(12) Allowing an employee to use or be accompanied by an
12 untrained guard dog while rendering professional services.

13 ~~(15)~~(13) Failing to provide information requested by the board.

14 ~~(16)~~(14) Failing to return the temporary or permanent registration of an
15 employee.

16 ~~(17)~~(15) Failing to notify the board of a change in ownership, partners,
17 officers or qualifying agent.

18 ~~(18)~~(16) Providing incomplete, false, or misleading information on an
19 application.

20 ~~(19)~~(17) Any of the following except when reasonably undertaken in an
21 emergency situation in order to protect life, health or property:

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~~(20)(18)~~ For armed and guard dog certified licensees, brandishing, exhibiting, displaying, or otherwise misusing a firearm or guard dog in a careless, angry, or threatening manner unnecessary for the course of the licensee's duties.

(c) After conducting a hearing, ~~the board may take disciplinary action against and upon a finding that~~ a licensee, registrant, or applicant ~~found guilty of engaged in unprofessional conduct, the board may take disciplinary action.~~ Discipline by the board against an applicant, licensee or registrant for unprofessional conduct may include denial of an application, revocation or suspension of a license or registration, ~~imposed~~ supervision, reprimand, warning, or the required completion of a course of action.

* * * Real Estate Appraisers * * *

Sec. 40. 26 V.S.A. § 3311(6) is added to read:

(6) "Appraisal management company" means an entity that acts as a broker in acquiring finished appraisals from real estate appraisers licensed under this chapter and that supplies the appraisals to third parties.

Sec. 41. 26 V.S.A. § 3312 is amended to read:

§ 3312. PROHIBITIONS; PENALTY; EXEMPTION

* * *

1 (b) An appraisal management company does not include:

2 (1) a government agency;

3 (2) a bank, credit union, licensed lender, or savings institution;

4 (3) a person or entity that has as its primary business the performance of
5 appraisals in accordance with this chapter but who or which, in the normal
6 course of business, engages the services of a licensed appraiser to perform
7 appraisals or related services that the person or entity cannot perform because
8 of the location or type of property in question, work load, scope of practice
9 required by an assignment, or to otherwise maintain professional responsibility
10 to clients.

11 (c) An appraisal management company shall register with the board prior
12 to conducting business in this state. An application shall include a registration
13 fee and information required by the board that is necessary to determine
14 eligibility for registration.

15 (d) When contracting for the performance of real estate appraisal services,
16 an appraisal management company shall only engage the professional services
17 of an appraiser licensed and in good standing to practice pursuant to this
18 chapter.

19 (e) A registrant's employee reviewing a finished appraisals shall be
20 certified or licensed in good standing in one or more states and shall be

1 certified at a level that corresponds with or is higher than the level of licensure
2 required to perform the appraisal.

3 Sec. 46. 26 V.S.A. § 3321(e) is added to read:

4 (e) An appraisal management company shall renew its registration
5 biennially.

6 Sec. 47. 26 V.S.A. § 3322 is amended to read:

7 § 3322. USE OF LICENSE NUMBER

8 Each licensee or registrant shall be assigned a license or registration number
9 which shall be used in a report, a contract, engagement letter, or other
10 instrument used by the licensee or registrant in connection with the licensee's
11 or registrant's activities under this chapter. The license number shall be placed
12 adjacent to or immediately below the title the licensee is entitled to use under
13 this chapter, and the registration number shall appear adjacent to or
14 immediately below the appraisal management company's registered name on
15 documents supplied to clients or customers in this state.

16 Sec. 48. 26 V.S.A. § 3323 is amended to read:

17 § 3323. UNPROFESSIONAL CONDUCT

18 * * *

19 (b) The following conduct by an appraisal management company and the
20 conduct set forth in section 129a of Title 3 constitute unprofessional conduct.
21 An appraisal management company includes agents acting on behalf of the

1 registrant in the acquisition, delivery, or use of a real estate appraisal produced
2 by a licensed real estate appraiser. When that conduct is by an applicant or an
3 entity that later becomes an applicant for registration, it may constitute grounds
4 for denial of a license:

5 (1) Influencing or attempting to influence the development, reporting,
6 result, or review of a real estate appraisal through coercion, compensation,
7 inducement, intimidation, or other manner intended to affect the independent
8 judgment of a licensed real estate appraiser, including:

9 (A) Withholding or threatening to withhold timely payment for a real
10 estate appraisal report.

11 (B) Withholding or threatening to withhold future business or work
12 opportunities from a licensed real estate appraiser.

13 (C) Expressly or implicitly promising future business or work-related
14 compensation for a real estate appraiser.

15 (D) Ordering or paying for real estate appraisal services based on
16 predetermined valuations or other conclusions to be reached by a licensed real
17 estate appraiser.

18 (E) Requesting or suggesting that a licensed real estate appraiser
19 provide an estimated, predetermined, or desired valuation in a real estate
20 appraisal report or provide estimated values or comparable sales prior to
21 completion of the appraisal report.

1 Sec. 49. 26 V.S.A. § 3324 is amended to read:

2 § 3324. ~~RECORDS TO BE RETAINED~~ RECORD RETENTION

3 A licensee, applicant or a person who later becomes an applicant shall retain
4 for a period of five years copies of all contracts engaging his or her services for
5 real estate appraisals regulated under this chapter, reports and the supporting
6 data assembled and formulated by the appraiser in preparing the reports.

7 However, if materials required to be retained under this section relate to a
8 matter which is in litigation, they shall be retained for a period of five years
9 plus the time the matter is in litigation. A licensee, applicant or a person who
10 later becomes an applicant shall retain written records of appraisal, review, and
11 consulting assignments, including oral testimony and reports, for a period of at
12 least five years after preparation or at least two years after final disposition of
13 any judicial proceeding in which testimony was given, whichever period
14 expires last. With reasonable notice, the licensee or applicant shall produce the
15 records for inspection and copying by the board or its duly authorized agent.

16 (a) A licensee or registrant shall retain all records related to an appraisal,
17 review, or consulting assignment for no less than five years after preparation.

18 (b) A licensee or registrant shall retain records under this section that relate
19 to a matter in litigation for two years after the litigation concludes or in
20 conformance with the "Uniform Standards of Professional Appraisal Practice,"

1 as promulgated by the Appraisal Standards Board of the Appraisal Foundation,
2 whichever period is longer.

3 (c) With reasonable notice, a licensee or registrant shall produce any
4 records governed by this section for inspection and copying by the board or its
5 authorized agent.

6 * * * Dieticians * * *

7 Sec. 50. 26 V.S.A. § 3384 is amended to read:

8 § 3384. ~~FUNCTIONS AND ADVISOR APPOINTEES OF~~
9 ~~ADMINISTRATIVE LAW OFFICER~~

10 * * *

11 * * * Electrologists * * *

12 Sec. 51. 26 V.S.A. § 4402 is amended to read:

13 § 4402. DEFINITIONS

14 As used in this chapter:

15 * * *

16 (3) "Electrology" means the removal of hair by electrical current using
17 needle/probe electrode-type epilation which would include electrolysis (direct
18 current/DC), thermolysis (alternating current/AC), or a combination of both
19 (superimposed or sequential blend). "Electrology" includes the use by
20 properly trained licensed electrologists of lasers approved by the United States

1 Food and Drug Administration for electrology and as otherwise permitted by
2 Vermont law.

3 * * *

4 (5) "Practice of electrology" or "practicing electrology" means engaging
5 in the ~~continuing~~ performance of electrology.

6 * * * Motor Vehicle Racing * * *

7 Sec. 52. 26 V.S.A. § 4806 is amended to read:

8 § 4806. FEES; DISPOSITIONS

9 (a) Notwithstanding the fee provisions of section 125 of Title 3, applicants
10 and persons regulated under this chapter shall pay the following fees:

11 (1) ~~Application~~ Annual event permit applications:

12 (A) Auto racing permit \$ 800.00;

13 (B) Go-cart, snowmobile, or motorcycle racing permit \$ 500.00;

14 ~~(C) Single auto racing permit \$ 500.00;~~

15 ~~(D) Single go-cart or motorcycle racing permit \$ 500.00;~~

16 ~~(2) Biennial renewal:~~

17 ~~(A) Auto racing permit \$ 2,500.00;~~

18 ~~(B) Go-cart or motorcycle racing permit \$ 500.00;~~

19 (2) Unlimited event permit applications:

20 ~~(C)~~(A) Single auto Auto racing permit \$ 1,250.00;

21 ~~(D) Single go-cart or motorcycle racing permit \$ 500.00;~~

1	<u>(B) Go-cart, snowmobile, or motorcycle racing</u>	<u>\$ 1,250.00;</u>
2	<u>(3) Single event permit applications:</u>	
3	<u>(A) Auto racing</u>	<u>\$ 500.00;</u>
4	<u>(B) Go-cart, snowmobile, or motorcycle racing</u>	<u>\$ 500.00;</u>
5	<u>(4) Annual event permit biennial renewal:</u>	
6	<u>(A) Auto racing</u>	<u>\$ 500.00;</u>
7	<u>(B) Go-cart, snowmobile, or motorcycle racing</u>	<u>\$ 500.00;</u>
8	<u>(5) Unlimited event permit biennial renewal:</u>	
9	<u>(A) Auto racing</u>	<u>\$ 2,500.00;</u>
10	<u>(B) Go-cart, snowmobile, or motorcycle racing</u>	<u>\$ 2,500.00.</u>

11 * * *

12 (c) A single event permit shall authorize any number of events within a
13 10-day period in the same location and on the same racing track. An
14 annual-event permit shall authorize any number of events within two 10-day
15 periods in consecutive years and may be renewed every two years.

16 Sec. 53. REPEAL

17 (a) 26 V.S.A. § 201(a)(2) (qualification for licensure as an architect by
18 having a degree from a postsecondary institution) and (a)(3) (qualification for
19 licensure as an architect by having a total of nine years of supervised
20 diversified practical architectural experience) shall be repealed on
21 September 15, 2019.

1 (b) 26 V.S.A. §§ 1187 (secretary of state as agent for process for
2 professional engineers); 1723 (use of diagnostic pharmaceutical agents by
3 optometrists); 1724a (annual update of formulary for optometrists by the
4 director of the office of professional regulation); and 3178b (reinstatement of
5 private investigator or security guard license) shall be repealed.