

H.562

An act relating to the regulation of professions and occupations

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

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

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

§ 123. DUTIES OF OFFICE

* * *

~~(f) An interboard advisory committee consisting of one member of each board, designated by that board, is created. In the case of a profession which has advisor appointees, the appointees shall designate one of the appointees or another licensed member of the profession to serve on the committee. The committee shall meet at least annually with the director to discuss the operation of the office and matters of concern to boards.~~

~~(g) [Deleted.]~~

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

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

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

(1) Application for registration, \$75.00.

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

(3) Optician trainee registration, \$50.00.

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

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

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

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

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

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

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

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

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

* * *

(3) Issue warnings or reprimands, suspend, revoke, limit, condition, deny, or prevent renewal of licenses, after disciplinary hearings or, in cases

requiring emergency action, immediately suspend, as provided by section 814 of this title. In a case involving noncompliance with a statute or rule relating to administrative duties not related to patient, client, or customer care, a board or hearing officer may determine that ordering a monetary civil penalty does not constitute a finding of unprofessional conduct.

* * *

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

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

(2) Its chair or legal counsel to grant or deny stays pending appeal.

(3) Its chair or legal counsel to convene and conduct prehearing conferences.

~~(3)~~(4) Its legal counsel to preside at hearings for the purpose of making procedural and evidentiary rulings. The board may overrule a ruling by legal counsel under this subdivision.

* * *

* * * Pharmacists * * *

Sec. 4. 18 V.S.A. § 4606 is amended to read:

§ 4606. BRAND CERTIFICATION

~~If the prescriber does not wish substitution to take place, he or she shall write "brand necessary" or "no substitution" in his or her own handwriting on~~

~~the prescription blank, together with a written statement that the generic equivalent has not been effective, or with reasonable certainty is not expected to be effective, in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient. In the case of an unwritten prescription, there shall be no substitution if the prescriber expressly indicates to the pharmacist that the brand name drug is necessary and substitution is not allowed because the generic equivalent has not been effective, or with reasonable certainty is not expected to be effective, in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient.~~

If the generic equivalent of a drug being prescribed has not been effective, or with reasonable certainty is not expected to be effective in treating the patient's medical condition, or causes or is reasonably expected to cause adverse or harmful reactions in the patient, a pharmacist shall not substitute the generic equivalent if the prescriber writes "brand necessary," "no substitution," "dispense as written," or "DAW" in the prescriber's own handwriting on the prescription blank. If a prescription is unwritten and the generic equivalent of the drug being prescribed has not been effective, or with reasonable certainty is not expected to be effective in treating the patient's medical condition, or causes or is reasonably expected to cause adverse or harmful reactions in the patient, a pharmacist shall not substitute the generic equivalent if the prescriber

expressly indicates to the pharmacist that the brand-name drug is necessary and substitution is not allowed.

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

§ 4607. INFORMATION; LABELING

~~(a) Every pharmacy in the state shall have posted a sign in a prominent place that is in clear unobstructed view which shall read: "Vermont law requires pharmacists in some cases to select a less expensive generic equivalent for the drug prescribed unless you or your physician direct otherwise. Substitution will be noted on your prescription label by an "S" in the lower left corner. Ask your pharmacist."~~

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

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

Sec. 6. [DELETED]

* * * Chiropractors * * *

Sec. 7. 26 V.S.A. § 529(b) is amended to read:

(b) The board may adopt rules necessary for the performance of its duties, including:

* * *

(5) rules relating to medical recordkeeping standards and release of medical records;

(6) rules establishing requirements for licensing chiropractors with five years' licensed experience in another jurisdiction of the United States or Canada.

Sec. 8. 26 V.S.A. § 533(a) is amended to read:

(a) The board may grant a license without written examination to an applicant who:

~~(1) is licensed, and is in good standing to practice chiropractic in another jurisdiction, and has successfully completed not less than 24 hours of continuing chiropractic professional education during the two years immediately preceding application. For purposes of this section, "in good standing" means the applicant has no record of disciplinary actions on file with other jurisdictions, the Chiropractic Information Network Board Action Databank (CIN-BAD) or professional liability insurance carriers;~~

~~(2) presents proof of having graduated before January 1, 1996 from a four year school of chiropractic, accredited by the Council on Chiropractic Education (CCE), or which was accredited by the CCE at the time of the applicant's graduation, and which requires not less than 4,000 hours as a resident student; and~~

~~(3) has practiced chiropractic at least 500 hours during the two years immediately preceding the date of application of the United States or Canada with standards and qualifications required for licensure of chiropractors that are deemed by the board to be substantially equivalent to those required by this chapter.~~

* * * Dentists * * *

Sec. 9. 26 V.S.A. § 810(a) is amended to read:

(a) Each dentist licensed to practice by the board shall apply biennially for the renewal of a license. One month prior to the renewal date, the office of professional regulation shall send to each licensee a license renewal application form and a notice of the date on which existing license will expire. The licensee shall file the application for license renewal and pay a renewal fee. In order to be eligible for renewal, an applicant shall document completion of no fewer than 30 hours of board-approved continuing professional education which shall include emergency office procedures courses during the two-year licensing period preceding renewal. ~~This provision shall apply only to renewals after an applicant's initial two years of practice in Vermont.~~ Required accumulation of continuing education hours shall begin on the first day of the first full biennial licensing period following initial licensure.

* * * Nurses * * *

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

§ 1574. POWERS AND DUTIES

The board shall:

* * *

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

* * * Optometrists * * *

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

(5) “Contact lenses” means those lenses with prescription power and those lenses without prescription power which are worn for cosmetic purposes.

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

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

Sec. 13. 26 V.S.A. § 1728(a) is amended to read:

(a) An optometrist licensed under this chapter who possesses the endorsement required under section 1729 of this title, may:

(1) use and prescribe all appropriate pharmaceutical agents for the ~~appropriate~~ diagnosis, management, and treatment of the eye and adnexa.

* * *

Sec. 14. 26 V.S.A. § 1728c is amended to read:

§ 1728c. USE OF ORAL THERAPEUTIC PHARMACEUTICAL AGENT;
COMMUNICATION WITH PRIMARY CARE PROVIDER

A licensee who employs an oral therapeutic pharmaceutical agent, ~~as identified by the formulary established in section 1724a of this title, which that~~ might prove to have significant systemic adverse reactions or systemic side effects shall, in a manner consistent with Vermont law, ascertain the risk of systemic side effects through either a case history or by communicating with the patient's primary care provider. The licensee shall also communicate with the patient's primary care provider, or with a physician skilled in diseases of the eye, when in the professional judgment of the licensee, it is medically appropriate. The communication shall be noted in the patient's permanent record. The methodology of communication shall be determined by the licensee.

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

§ 1729. ENDORSEMENTS AND REQUIREMENTS

(a) Upon application, the board shall certify eligible licensees to use and prescribe therapeutic drugs and to perform those procedures ~~as~~ authorized by

subdivision 1728(a)(2) of this title, if the applicant meets the requirements of section 1715 of this chapter for licensure by examination or meets the requirements of section 1716 of this chapter for licensure by endorsement, and is authorized under the license of another jurisdiction to use therapeutic pharmaceutical agents.

* * *

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

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

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

(2) courses which include a review of diseases or conditions which might produce emergencies such as anaphylactic shock, diabetes, heart condition, or epilepsy.

~~(e)~~(d) A licensee certified to use therapeutic pharmaceutical agents shall, as part of required continuing education, receive not less than 50 percent of his or

her continuing education in the use of pharmaceuticals, including treating possible complications arising from their use, and the treatment of glaucoma.

* * * Osteopathic Physicians * * *

Sec. 16. 26 V.S.A. § 1831 is amended to read:

§ 1831. QUALIFICATIONS FOR LICENSURE

(a) To be eligible for licensure as an osteopathic physician, an applicant shall have attained the age of majority and shall provide evidence, acceptable to the board, that he or she has satisfactorily completed all of the following:

(1) A course of study in osteopathic education from an accredited school or college of osteopathic medicine as evidenced by a graduation certificate.

(2) ~~An~~ Documentation of no less than one year of an approved program as evidenced by a certificate of postgraduate training.

(b) In addition to the requirements of subsection (a) of this section, an applicant shall pass the ~~Vermont osteopathic licensure examination~~ Comprehensive Osteopathic Medical Licensing Examination – USA (COMLEX) or the United States Medical Licensing Examination (USMLE) or their successor or equivalent examinations approved by the board unless the applicant is exempt from all or a part of the examination under the provisions of section 1832 or 1832a of this title.

* * *

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

§ 1832. EXAMINATION

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

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

* * * Pharmacists * * *

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

(15) "Practitioner" shall mean an individual authorized by the laws of the United States or its jurisdictions or ~~the Province of Quebec~~ Canada to prescribe and administer prescription drugs in the course of his or her professional practice and permitted by that authorization to dispense, conduct research with respect to, or administer drugs in the course of his or her professional practice or research in his or her respective state or province.

* * * Land Surveyors * * *

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

§ 2592. QUALIFICATIONS

* * *

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

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

~~(e)~~(d)(1) A person who has undertaken work in the office of a land surveyor shall notify the board:

(A) within six months of commencing work;

(B) within 30 days of making any change in the person supervising that work; and

(c) upon 30 days of completing the experience requirements for licensure.

* * *

~~(d)~~(e) Experience claimed by an applicant under a notice received under subsection ~~(e)~~(d) of this section shall be credited towards the requirements for licensure unless within 15 days following the next board meeting after receiving the notice, the board or a board member designated by the board gives the applicant notice of opportunity for hearing. Following such a hearing, the board may reject some or all of the claimed experience on grounds that it does not comply with the rules of the board.

~~(e)~~(f) License examinations may consist of a national surveying examination selected by the board plus a Vermont portion. The Vermont portion shall be limited to those subjects and skills necessary to perform land surveying.

~~(f)~~(g) The board may conduct a personal interview of an applicant. A personal interview shall be for the limited purposes of assisting the applicant to obtain licensure and to verify the applicant's educational qualifications and that the applicant completed the experience requirements for licensure. A personal interview shall not serve directly or indirectly as an oral examination

of the applicant's substantive knowledge of surveying. An interview conducted under this section shall be taped and, at the request of the applicant, shall be transcribed. An applicant who is denied licensure shall be informed in writing of his or her right to have the interview transcribed free of charge. At least one of the public members of the board shall be present at any personal interview.

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

* * * Psychologists * * *

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

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

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

§ 3004. EXCEPTIONS

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

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

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

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

(4) In clinical training for licensure as a clinical social worker or clinical mental health counselor or for certification as a marriage and family therapist or a psychoanalyst provided that the person's title indicates his or her training status and that the person does not identify ~~him~~ himself or herself as a psychologist.

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

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

§ 3010. FEES; LICENSES

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

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

* * * Private Investigative and Security Services * * *

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

§ 3151. DEFINITIONS

As used in this chapter:

* * *

(3) ~~“Private detective” or “private investigator” means any person who, for a consideration engages in or solicits business or accepts employment to furnish, or agrees to make or makes any investigation to obtain, information~~

~~with reference to any of the following or provides, or offers to provide,
security of persons incident to any of the following or holds himself or herself
out to the public as someone who will investigate, obtain information, or
provide security of persons incident to, but not limited to, the following:~~

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

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

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

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

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

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

(4) "Security ~~guard~~" means a person ~~who is~~ engaged for compensation in the business of protecting property or persons ~~through the use of guard dogs,~~ by providing armed or unarmed guard security service, or armed courier

transport service and performing one or more of the following functions, or the use of guard dogs. "Security services" includes:

- (A) Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property.
- (B) Prevention, observation, or detection of any unauthorized activity on private property.
- (C) Protection of patrons and persons lawfully authorized to be on the premises of the person, firm, association, or corporation that entered into the contract for security services.
- (D) Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, ~~on~~ onto the premises ~~of the person that entered into the contract for security services, and only to the extent and for the time directly and specifically required to assure the protection of properties.~~
- (E) Physically responding to any alarm signal device, burglar alarm, television camera, still camera, or a mechanical or electronic device installed or used to prevent or detect burglary, theft, shoplifting, pilferage, losses, or other security measures.
- (F) Providing armored ~~car~~ transport services ~~for the protection of persons or property.~~

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

(6) “Combination agency” means an agency that provides both private investigative and private security services to the public.

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

(a) The term “~~private detective~~” or “private investigator” shall not include:

* * *

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

* * *

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

§ 3161. STATE BOARD

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

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

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

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

§ 3172. LICENSES

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

- (1) An application filed in proper form.
- (2) The application fee.
- (3) Evidence of current Vermont business entity registration.

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

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

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

- (1) An application filed in proper form.
- (2) ~~An~~ The application fee ~~as established pursuant to section 3178a of this title.~~
- (3) Evidence that the applicant has attained the age of majority.
- (4) Evidence that the applicant has successfully passed the examination required by section 3175 of this title.

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

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

* * *

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

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

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

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

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

(b) The board may inquire of the Vermont criminal information center for any information on criminal records of the applicant, and the center shall provide such information to the board. The board, through the Vermont criminal information center, may also inquire of the appropriate state criminal record repositories in all states in which it has reason to believe an applicant has resided or been employed, and it may also inquire of the Federal Bureau of Investigation, for any information on criminal records of the applicant. When fingerprinting is required, the applicant shall bear ~~the~~ all costs ~~associated with the return and resubmission of illegible fingerprint cards.~~ The board may also make ~~such~~ additional inquiries it deems necessary into the character, integrity and reputation of the applicant.

* * *

Sec. 30. 26 V.S.A. § 3175 is amended to read:

§ 3175. EXAMINATIONS

The board shall prepare, or have prepared, and administer, separate examinations for private ~~detectives~~ investigators and private security services. Each examination shall be designed to test the competency of the applicant with respect to the lawful and safe provision of each respective service to the public.

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

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

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

§ 3175b. GUARD DOG TRAINING INSTRUCTOR LICENSE

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

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

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

approved by the board.

- (6) A federal background check.

§ 3175c. FIREARMS TRAINING AND CERTIFICATION

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

(1) An applicant for a private investigator or security guard license to provide armed services shall demonstrate to the board competence in the safe use of firearms by successfully completing a firearms training program approved by the board.

- (2) An applicant shall pay the required fee.
- (3) An applicant shall obtain the age of majority.
- (4) An applicant shall receive a satisfactory federal background check.

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

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

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

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

§ 3176a. TRANSITORY PRACTICE

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

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

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

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

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

§ 3178. RENEWALS AND REINSTATEMENT

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

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

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

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

§ 3178a. FEES

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

(1) Application for agency license:

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

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

- | | |
|---|-------------------------------------|
| (C) Detective <u>Investigative</u> /security agency | \$300.00 <u>\$320.00</u> |
| (2) Initial license <u>Application for individual license:</u> | \$ 20.00 |
| (A) <u>Unarmed licensee</u> | <u>\$130.00</u> |
| (B) <u>Armed licensee</u> | <u>\$180.00</u> |
| (3) Application for employee registration: | |

* * *

- | | |
|--|-------------------------------------|
| (4) Biennial renewal: | |
| (A) Detective <u>Investigative</u> agency | \$275.00 |
| (B) Security agency | \$275.00 |
| (C) Detective <u>Investigative</u> /security agency | \$275.00 |
| (D) <u>Unarmed licensee</u> | <u>\$100.00</u> |
| (E) <u>Armed licensee</u> | <u>\$150.00</u> |
| (F) Unarmed registrants (agency employees) | \$ 80.00 |
| (E) (G) Armed registrants (agency employees) | \$100.00 <u>\$130.00</u> |

- (5) Instructor licensure:

* * *

(6) A sole proprietor of an investigative agency or security agency shall be required to apply for agency licensure and renewal but shall not be required to pay the fees for agency licensure or renewal.

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

§ 3179. PENALTIES

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

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

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

§ 3181. UNPROFESSIONAL CONDUCT

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

(b) Unprofessional conduct means any of the following:

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

* * *

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

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

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

(A) with the client's permission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

~~(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

* * *

(c) A registered appraisal management company shall not be required to be licensed in order to acquire and provide finished appraisals to third parties.

Sec. 42. 26 V.S.A. § 3313 is amended to read:

§ 3313. BOARD OF REAL ESTATE APPRAISERS

A board of real estate appraisers is established. The board shall consist of ~~five~~ six members appointed by the governor pursuant to sections 129b and 2004 of Title 3. Three members shall be real estate appraisers licensed under this chapter who have been actively engaged in the full-time practice of real estate appraising for five years preceding appointment and have been practicing in Vermont for the two-year period immediately preceding appointment. Two members shall be public members who shall have no direct financial interest personally or through a spouse, parent, child, brother, or sister in real estate appraising. One member shall be a public member actively engaged in the business of banking, including lending for the purpose of buying real property, or shall be a person who is a consumer of appraisal services in the regular course of his or her business.

Sec. 43. 26 V.S.A. § 3314(b) is amended to read:

(b) In addition to its other powers and duties under this chapter, the board shall:

* * *

(4) Register appraisal management companies.

(5) Perform ~~such~~ other functions and duties as may be necessary to carry out the provisions of this chapter.

Sec. 44. 26 V.S.A. § 3316 is amended to read:

§ 3316. LICENSING AND REGISTRATION FEES

Applicants and persons licensed under this chapter shall pay the following fees:

* * *

(8) Appraisal management company registration application \$125.00

(9) Appraisal management company registration renewal \$500.00

Sec. 45. 26 V.S.A. § 3320a is added to read:

§ 3320a. APPRAISAL MANAGEMENT COMPANIES

(a) An appraisal management company registered by the board acts as a broker in acquiring finished appraisals from real estate appraisers and supplying the appraisals to third parties, but appraisal management companies are not licensed to perform real estate appraisals under this chapter. Acting as an appraisal management company includes:

(1) administering or assigning work to licensed real estate appraisers;

(2) receiving requests for real estate appraisals from clients;

(3) receiving a fee paid by clients for acquiring real estate appraisals; or

(4) entering into an agreement with one or more real estate appraisers to perform appraisals.

(b) An appraisal management company does not include:

(1) a government agency;

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

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

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

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

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

level that corresponds with or is higher than the level of licensure required to perform the appraisal.

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

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

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

§ 3322. USE OF LICENSE NUMBER

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

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

§ 3323. UNPROFESSIONAL CONDUCT

* * *

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

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

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

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

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

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

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

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

(2) Altering or otherwise changing a completed appraisal report submitted by a licensed appraiser.

(3) Using an appraisal report submitted by an appraiser for a transaction other than the one for which it was developed.

(4) Requiring an independent appraiser to enter into an agreement requiring the independent appraiser to defend, to indemnify, or to hold harmless the registrant or other third party for the development, use, or contents of a real estate appraisal.

(5) Using or possessing an independent licensed real estate appraiser's digital signature, seal, or other similar stamp of endorsement.

(c) Registrants shall only transmit an exact copy of the completed appraisal to the client or other intended user.

(d) After hearing, and upon a finding of unprofessional conduct, the board may take disciplinary action against a licensee ~~or an~~ applicant, or registrant.

Without limitation, disciplinary action may include any of the following:

(1) suspending or conditioning a license or registration;

* * *

~~(e)~~(e) Appeals from decisions of the board shall be governed by the provisions of section 130a of Title 3.

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

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

~~A licensee, applicant or a person who later becomes an applicant shall retain for a period of five years copies of all contracts engaging his or her services for real estate appraisals regulated under this chapter, reports and the supporting data assembled and formulated by the appraiser in preparing the reports. However, if materials required to be retained under this section relate to a matter which is in litigation, they shall be retained for a period of five years plus the time the matter is in litigation. A licensee, applicant or a person who later becomes an applicant shall retain written records of appraisal, review, and consulting assignments, including oral testimony and reports, for a period of at least five years after preparation or at least two years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last. With reasonable notice, the licensee or applicant shall produce the records for inspection and copying by the board or its duly authorized agent.~~

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

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

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

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

* * * Dieticians * * *

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

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

* * *

* * * Electrologists * * *

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

§ 4402. DEFINITIONS

As used in this chapter:

* * *

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

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

* * *

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

* * * Motor Vehicle Racing * * *

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

§ 4806. FEES; DISPOSITIONS

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

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

- | | |
|---|-----------------------|
| (A) Auto racing permit | \$ 800.00; |
| (B) Go-cart, <u>snowmobile</u> , or motorcycle racing permit | \$ 500.00; |
| (C) Single auto racing permit | \$ 500.00; |
| (D) Single go cart or motorcycle racing permit | \$ 500.00; |

~~(2) Biennial renewal:~~

- | | |
|--|-------------------------|
| (A) Auto racing permit | \$ 2,500.00; |
| (B) Go cart or motorcycle racing permit | \$ 500.00; |

(2) Unlimited event permit applications:

- | | |
|---|-----------------------|
| (C)(A) Single auto <u>Auto racing permit</u> | \$ 1,250.00; |
| (D) Single go cart or motorcycle racing permit | \$ 500.00; |

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

* * *

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

Sec. 53. REPEAL

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