

October 4, 2013 Meeting of the Public Records Study Committee – Full Text of Exemptions

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I. Natural Resources/Historic Preservation

A. 1 V.S.A. § 317(c)(20) and 22 V.S.A. § 761—information regarding location of archaeological sites

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

(c) The following public records are exempt from public inspection and copying:

* * *

(20) information which would reveal the location of archeological sites and underwater historic properties, except as provided in 22 V.S.A. § 762;

* * *

22 V.S.A. § 761

§ 761. STATE ARCHEOLOGIST; SURVEY; PROTECTION OF ARCHEOLOGICAL SITES

(a) The state historic preservation officer shall employ a state archeologist through the classified service who shall conduct and maintain a survey of sites of archeological and anthropological specimens located within the state. The state archaeologist shall make the survey available to agencies of the state government that, in his or her opinion, may conduct activities which may affect these archaeological or anthropological sites.

(b) All information regarding the location of archeological sites and underwater historic properties shall be confidential except that the state archeologist shall provide this information to qualified individuals or organizations, public agencies and nonprofit organizations for archeological and scientific research or for preservation and planning purposes when the state archeologist determines that the preservation of these properties is not endangered. (Added 1975, No. 109, § 4; amended 1989, No. 136 (Adj. Sess.), § 2; 1995, No. 46, § 45.)

B. 10 V.S.A. § 101—mineral records**§ 101. DIVISION OF GEOLOGY AND MINERAL RESOURCES; DUTIES**

The division of geology and mineral resources shall:

- (1) Conduct surveys and research related to the geology, mineral resources and topography of the state.
- (2) Give aid and advice as may be possible relating to the development and working of rock or mineral deposits suitable for building, road making and economic or other purposes.
- (3) Provide information and education to government, industry, other institutions and organizations and to citizens regarding the geology, mineral resources and topography of the state.
- (4) Provide technical information and advice regarding the management of mineral resources on state-owned lands, and cooperate where possible by providing geologic expertise and advice to persons conducting regulatory programs for the state.
- (5) Provide geological services for the natural gas and oil resources board.
- (6) Maintain records of old and new information relating to the geology, mineral resources and topography of the state and make public new information resulting from research and field studies conducted by or for the division. **Certain information provided by the mineral industries of the state may be held in confidential status at the industries' request and used only for purposes and in a manner permitted by the industry.**
- (7) Prepare and publish reports on the geology, mineral resources and topography of the state. (Amended 1959, No. 328 (Adj. Sess.), § 8(b); 1983, No. 195 (Adj. Sess.), § 5(b); 1989, No. 245 (Adj. Sess.), § 3.)

C. 10 V.S.A. § 123—Vt. geographic information service; individual identifying information

§ 123. POWERS AND DUTIES

(a) The center shall have all the general powers conferred by 11B V.S.A. § 3.02 [chapter 19 of Title 11] and all amendments thereto, and all other powers necessary, desirable, or incidental fully to effectuate its corporate purposes except where otherwise limited by statute.

(b) The purposes of the center shall be to:

(1) Assure that all VGIS data are of high quality and are compatible with, useful to, and shared with other public-sector and private-sector data users.

(2) Encourage the same high standards of quality and compatibility in other Vermont GIS cooperators.

(3) Promote the efficient development and use of geographic information by agencies of the state, its political subdivisions, Vermont businesses and citizens.

(4) Facilitate the growth of commercial services within Vermont for the provision of spatial data, products, and services.

(c) Within the limits of available resources, the center shall operate a program of standards development, data dissemination, and quality assurance, and shall perform the following duties:

(1) Provide or ensure provision of geographic information products and services to Vermont citizens, to local and regional planning organizations, to state government, to the federal government, and to private businesses and industries.

(2) Develop procedures for access to the VGIS. Those procedures shall ensure that VGIS data are readily available for the purposes of chapter 117 of Title 24, as well as for the support of efficient and economical geographic analysis and decision making by government, business, and citizens of Vermont, at a reasonable cost and in reasonable forms.

(3) Develop, publish, maintain and implement such VGIS standards as are necessary to assure that data are compatible with, useful to, and shared with all users of VGIS data, including geographic data standards relating to scale, accuracy, coding, documentation, data format and physical media.

(4) In developing relevant policies, procedures, and standards, seek the consultation of institutions of higher learning, local government, local and regional planning, private business

and industry and other members of the public with an interest in or knowledge of GIS technology.

(5) For all geographic data that are or may be useful to the center's users, and that have been collected by any part of state government or generated with state support, ensure that such data:

(A) Are developed and maintained so as to conform to VGIS standards.

(B) Upon request of a potential user, are actually made available to the user in a usable format in accordance with 1 V.S.A. § 315 relating to access to public records and related statutes.

(C) Are stored and distributed in a manner which will limit the disclosure of data containing individual identifiers to disclosure consented to by the individuals in the data.

* * *

(e) The center shall be subject to the provisions of 1 V.S.A. §§ 312-314 with respect to the right of the public to receive notice of and attend meetings, 1 V.S.A. §§ 315-320 with respect to the access of the public to its records and documents, and 1 V.S.A. § 172 regarding joint authority of the board. (Added 1993, No. 204 (Adj. Sess.), § 2, eff. June 17, 1994; amended 1995, No. 190 (Adj. Sess.), § 1, eff. July 1, 1996.)

D. 10 V.S.A. § 563—air contaminant source reports

§ 563. CONFIDENTIAL RECORDS; PENALTY

(a) Confidential records. Any records or other information furnished to or obtained by the secretary concerning one or more air contaminant sources, which records or information, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which would tend to affect adversely the competitive position of the owner or operator, shall be only for the confidential use of the secretary in the administration of this chapter, unless the owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of the records or information by the secretary in compiling or publishing analyses of summaries relating to the general condition of the outdoor atmosphere: provided that the analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this section.

(b) Penalty. A person who knowingly violates this section shall be fined not to exceed \$100.00. (1967, No. 310 (Adj. Sess.), § 13; amended 1971, No. 212 (Adj. Sess.), § 3.)

E. 10 V.S.A. § 1259(b)—water pollution control permits; trade secrets

§ 1259. PROHIBITIONS

(a) No person shall discharge any waste, substance, or material into waters of the state, nor shall any person discharge any waste, substance, or material into an injection well or discharge into a publicly owned treatment works any waste which interferes with, passes through without treatment, or is otherwise incompatible with those works or would have a substantial adverse effect on those works or on water quality, without first obtaining a permit for that discharge from the secretary. This subsection shall not prohibit the proper application of fertilizer to fields and crops, nor reduce or affect the authority or policy declared in joint house resolution 7 of the 1971 session of the general assembly.

(b) Any records, reports or information obtained under this permit program shall be available to the public for inspection and copying. However, upon a showing satisfactory to the secretary that any records, reports or information or part thereof, other than effluent data, would, if made public, divulge methods or processes entitled to protection as trade secrets, the secretary shall treat and protect those records, reports or information as confidential. Any records, reports or information accorded confidential treatment will be disclosed to authorized representatives of the state and the United States when relevant to any proceedings under this chapter.

(c) No person shall cause a direct discharge into Class A waters of any wastes that, prior to treatment, contained organisms pathogenic to human beings. Except within a waste management zone, no person shall cause a direct discharge into Class B waters of any wastes that prior to treatment contained organisms pathogenic to human beings.

(d) No person shall cause a discharge of wastes into Class A waters, except for on-site disposal of sewage from systems with a capacity of 1,000 gallons per day (gpd), or less, that are either exempt from or comply with the environmental protection rules, or existing systems, which shall require a permit according to the provisions of subsection 1263(f) of this title.

* * *

F. 10 V.S.A. § 5410—location of endangered species

§ 5410. LOCATION CONFIDENTIAL

All information regarding the location of endangered species sites shall be kept confidential in perpetuity except that the secretary shall disclose this information to the owner of land upon which the species has been located, or to a potential buyer who has a bona fide contract to buy the land and applies to the secretary for disclosure of endangered species information, and to qualified individuals or organizations, public agencies and nonprofit organizations for scientific research or for preservation and planning purposes when the secretary determines that the preservation of the species is not further endangered by the disclosure. (Added 1995, No. 159 (Adj. Sess.), § 3.)

G. 10 V.S.A. § 6628(a)—toxic use and haz. waste reduction plan

§ 6628. PLAN, PLAN SUMMARY AND PERFORMANCE REPORT REVIEW

(a) Except as provided for in this section, a toxics use reduction and hazardous waste reduction plan developed under this subchapter shall be retained at the facility and is not a public record under 1 V.S.A. § 317. If a person developing a toxics use reduction and hazardous waste reduction plan under this chapter chooses to send all or a portion of the plan to the secretary for review, it still shall not be a public record under 1 V.S.A. § 317. A plan summary submitted pursuant to section 6629 of this title shall be submitted to the secretary and shall be a public record.

(b) For the purposes of this subchapter, a Class A generator, Class B generator or large user shall permit any designated employee of the department to inspect the toxics use reduction and hazardous waste reduction plan.

(c) The department may review a plan, plan summary or annual performance report to determine whether the plan, plan summary or performance report is adequate according to the provisions of sections 6629 and 6630 of this title. If a Class A generator, Class B generator, or large user fails to complete an adequate plan, plan summary or annual performance report, the department, upon review of the plan, plan summary, or performance report shall notify the generator or user of the inadequacy, identifying the specific deficiencies. The department shall specify a reasonable time frame of not less than 90 days nor more than 180 days within which the generator or user shall modify a plan, plan summary or performance report to address the specified deficiencies, and the department shall make technical assistance available to aid the generator or user in modifying its plan, plan summary or performance report.

(d) If the department determines that a modified plan, plan summary or performance report is inadequate, the department may either require further modification or issue an administrative order pursuant to subsection (e) of this section.

(e) If after having received a list of specified deficiencies from the department, a Class A generator, Class B generator, or large user fails to develop an adequate plan, plan summary or performance report within a time frame specified pursuant to subsection (c) or (d) of this section, the department may order that generator or user to submit an adequate plan, plan summary or performance report within a reasonable time frame of not less than 90 days. If the generator or user fails to develop an adequate plan, plan summary or performance report within

the time frame specified, a meeting shall be held between the generator or user, the department, and the secretary in a final attempt to resolve outstanding concerns and issues. If no compromise can be reached to modify the plan, plan summary, or performance report, the generator or large user shall submit to the secretary any inadequate plan, and the department shall conduct a public hearing on the plan, plan summary or performance report. Except as provided under 1 V.S.A. § 317, in any hearing under this section the relevant plan, plan summary or performance report shall be considered a public record as defined in 1 V.S.A. § 317.

(f) On or after October 1, 1992, and every two years thereafter the secretary shall select, by the SIC Code, at least two categories of generators with potential for toxics use reduction and hazardous waste reduction and shall:

(1) Examine the plans of selected generators and large users in the category, unless the secretary determines that agency resources are inadequate to complete plan reviews for all generators and users in the category, in which case the secretary need only complete those that resources will accommodate.

(2) Determine whether the selected generators and large users, that are reviewed, comply with section 6629 of this title.

(3) Identify successful toxics use reduction and hazardous waste reduction approaches, including risk reduction, employed by generators and large users in the category and disseminate information concerning those approaches to generators and large users within the category.

(g) On or after October 1, 1992 for Class A generators, on or after July 1, 1993 for Class B generators, and on or after July 1, 1996 for large users, the secretary may inspect the plan, plan summary or performance report. For generators, that are both Class A or Class B generators and large users, the toxics use reduction portion of the plan required for chemicals included in the planning process solely by the large user definition is not due until July 1, 1996.

(h) In reviewing the adequacy of any plan, plan summary or performance report, the department shall base its determination solely on whether the plan, plan summary or performance report is complete and prepared in accordance with section 6629 or 6630 of this title. The department shall consider information provided under subsection 6629(b) in its review.

(i) The department shall maintain a log of each plan, plan summary or performance report it reviews, a list of all plans, plan summaries or performance reports that have been found inadequate under subsection (e) of this section and descriptions of corrective actions taken. This information shall be available to the public at the department's office.

(j) Fees shall be submitted annually on March 31st. Fees shall be submitted to the secretary and deposited into the hazardous waste management account of the waste management assistance fund established under section 6618 of this title. Fees shall be computed according to the following:

(1) \$350.00 per toxic chemical identified pursuant to subdivision 6629(c)(4) of this title.

(2) \$350.00 per hazardous waste stream identified pursuant to subdivision 6629(c)(3) of this title.

(3) Up to a maximum amount of:

(A) \$1,750.00 per plan for Class A generators.

(B) \$350.00 per plan for Class B generators.

(C) \$1,750.00 per plan for large users.

(D) \$3,500.00 per plan for Class A generators that are large users.

(E) \$1,050.00 per plan for Class B generators that are large users. (Added 1989, No. 282 (Adj. Sess.), § 17, eff. June 22, 1990; amended 1991, No. 100, § 6; 1995, No. 42, §§ 1, 3; 1997, No. 155 (Adj. Sess.), § 38; 2003, No. 163 (Adj. Sess.), § 23; 2011, No. 161 (Adj. Sess.), § 5.)

H. 10 V.S.A. § 6632—hazardous waste generator; trade secrets

§ 6632. TRADE SECRETS

The secretary shall adopt rules to ensure that trade secrets designated by a generator in all or a portion of the review and plans, and the report required by this subchapter, are utilized by the secretary or the department only in connection with the responsibilities of the department pursuant to this subchapter, and that those trade secrets are not otherwise disseminated by the secretary, the department, or any authorized representative of the department. The rules shall provide that a generator may only designate as trade secrets those that satisfy the criteria for trade secrets set forth in 18 V.S.A. § 1728(a). (Added 1989, No. 282 (Adj. Sess.), § 17, eff. June 22, 1990.)

I. 10 V.S.A. § 7153—confidential business information submitted to ANR by mercury lamp manufacturers

§ 7153. ANNUAL REPORT; PLAN AUDIT

(a) Annual report. At the end of each program year, a manufacturer of a mercury-containing lamp shall submit an annual report to the secretary that contains the following:

(1) a description of the collection program;

(2) the number and type of mercury-containing lamps collected and the collection facility from which the lamps were collected;

(3) an estimate of the number of mercury-containing lamps available for collection and the methodology used to develop this number. Sales data and other confidential business information provided under this section shall not be subject to inspection and review pursuant to subchapter 3 of chapter 5 of Title 1 (access to public records). Confidential information shall be redacted from any final public report.

(4) the steps that the manufacturer has taken during the past program year to improve the collection rate and life cycle performance of mercury-containing lamps.

(b) Plan audit. Once every five years, the manufacturer shall hire an independent third party to audit the plan and plan operation. The auditor shall examine the effectiveness of the program in collecting and disposing of mercury-containing lamps. The auditor shall examine the cost-effectiveness of the program and compare it to that of collection programs for mercury-containing lamps in other jurisdictions. The auditor shall make recommendations to the secretary on ways to increase program efficacy and cost-effectiveness. (Added 2011, No. 36, § 2, eff. May 19, 2011.)

II. Transportation/motor vehicles

A. 5 V.S.A. § 3452—transportation board; information provided by railroads

§ 3452. DISCLOSURE OF INFORMATION

(a) When requested to do so by the board or the agency, a railroad operating in this state shall furnish the board or agency any information specifically requested concerning the management of the railroad and the condition of its equipment and facilities, provided that the request shall extend only to information reasonably related to the railroad's operations in this state, and provided further that the board and the agency shall have no right to request information regarding salaries, pensions, options, or benefit programs or the expenses of officers or directors of railroads incorporated outside the United States.

(b) Any information provided by a railroad to the board or agency on the following subjects, whether pursuant to this section or otherwise, shall be confidential and shall not be disclosed by the board or the agency except as provided in subsection (c) of this section:

(1) customer data;

(2) compensation and benefits for a railroad's directors, officers, and employees;

(3) contracts, financial obligations, and financial standing; and

(4) proprietary data known only to certain individuals within a railroad's organization and which give the railroad the opportunity to obtain business advantage over competitors who do not know it.

(c) Confidential information may be made public by the board or the agency only if the board first determines that the public good requires disclosure and that the disclosure will not violate state or federal law. The board shall give the railroad written notice and shall afford the railroad an opportunity to be heard prior to making any determination that disclosure should be made, and shall make written findings of fact upon which its determination is made.

(d) Nothing contained in this title or in any provision of Title 19 shall be construed to require a railroad to produce an investigatory report or other information which was prepared by a railroad, its agents, or its employees at the request or direction of a railroad's attorney, nor shall anything contained in this title or any provision of Title 19 be construed to abrogate the attorney-client privilege as is otherwise provided by law. (Amended 1959, No. 329 (Adj. Sess.), § 39(b), eff. March 1, 1961; 1961, No. 183, § 6; 1993, No. 172 (Adj. Sess.), § 40.)

B. 9 V.S.A. § 4100b— motor vehicle manufacturers, distributors, and dealers franchising; enforcement; transportation board; parties’ pre-hearing conference discussions before transportation board

§ 4100b. ENFORCEMENT; TRANSPORTATION BOARD

(a) The transportation board established in 19 V.S.A. § 3 shall enforce the provisions of this chapter.

(b) The board shall adopt rules to implement the provisions of this chapter.

(c) Except for civil actions filed in superior court pursuant to section 4099 of this title, the board shall have the following exclusive powers:

(1) Any person may file a written protest with the board complaining of conduct governed by and in violation of this chapter. The board shall hold a public hearing in accordance with the rules adopted by the board.

(2) The board shall issue written decisions and may issue orders to any person in violation of this chapter.

(d) The parties to protests shall be permitted to conduct and use the same discovery procedures as are provided in civil actions in the superior court.

(e) The board shall be empowered to determine the location of hearings, appoint persons to serve at the deposition of out-of-state witnesses, administer oaths, and authorize stenographic or recorded transcripts of proceedings before it. Prior to the hearing on any protest, but no later than 45 days after the filing of the protest, the board shall require the parties to the proceeding to attend a prehearing conference in which the chair or designee shall have the parties address the possibility of settlement. If the matter is not resolved through the conference, the matter shall be placed on the board's calendar for hearing. **Conference discussions shall remain confidential and shall not be disclosed or used as an admission in any subsequent hearing.**

* * *

C. 19 V.S.A. § 2603—confidential business information submitted to AOT in design-build prequalification process

§ 2603. PREQUALIFICATION

(a) The agency may require that entities be prequalified to submit proposals. If the agency requires prequalification, it shall give public notice requesting qualifications from interested entities electronically through the agency's publicly accessible website or through advertisements in newspapers. The agency shall issue a request-for-qualifications package to all entities requesting one in accordance with the notice.

(b) Interested entities shall supply for themselves and for all major participants all information required by the agency. The agency may investigate and verify all information received. **All financial information, trade secrets, or other information customarily regarded as confidential business information submitted to the agency shall be confidential.**

(c) The agency shall evaluate and rate all entities submitting a conforming statement of qualifications and select the most qualified entities to receive a request for proposals. The agency may select any number of entities, except that if the agency fails to prequalify at least two entities, the agency shall readvertise the project. (Added 2009, No. 50, § 84.)

D. 19 V.S.A. § 2604—design-build proposals; conceptual submissions and responses**§ 2604. REQUEST FOR PROPOSALS**

The agency may issue a request for proposals, which shall set forth the scope of work, design parameters, construction requirements, time constraints, and all other requirements that have a substantial impact on the cost or quality of the project and the project development process, as determined by the agency. The request for proposals shall include the criteria for acceptable proposals. For projects to be awarded on a best-value basis, the scoring process and quality criteria must also be contained in the request for proposals. In the agency's discretion, the request for proposals may provide for a process, including the establishment of a team to review proposals, for the agency to review conceptual technical elements of each proposal before full proposal submittal for the purposes of identifying defects that would cause rejection of the proposal as nonresponsive. **All such conceptual submittals and responses shall be confidential until award of the contract.** The request for proposals may also provide for a stipend upon specified terms to unsuccessful proposers that submit proposals conforming to all request-for-proposals requirements. (Added 2009, No. 50, § 84.)

E. 19 V.S.A § 2606(a)—technical and price proposals during evaluation of design to build contract applications

§ 2606. BEST-VALUE AWARD

(a) If the basis of the award of responsive proposals is best-value, then each proposal shall be submitted by the proposer to the agency in two separate components: a sealed technical proposal and a sealed price proposal. These two components shall be submitted simultaneously. The agency shall first open, evaluate, and score each responsive technical proposal, based on the quality criteria contained in the request for proposals. The request for proposals may provide that the range between the highest and lowest quality scores of responsive technical proposals must be limited to an amount certain. **During this evaluation process, the price proposals shall remain sealed, and all technical proposals shall be confidential.**

(b) After completion of the evaluation of the technical proposals, the agency shall open and review each price proposal. The agency shall develop a system for assessing the cost and quality criteria. The agency shall award the contract to the proposer of the project representing the best value to the agency. (Added 2009, No. 50, § 84.)

F. 23 V.S.A. § 104—motor vehicle records; photo images of person

§ 104. PUBLIC RECORDS

(a) The records of the registration of motor vehicles, snowmobiles, and motorboats, licensing of operators and registration of dealers, all original accident reports, and the records showing suspension and revocation of licenses and registrations and the records regarding diesel fuel, gasoline, and rental vehicle taxes shall be deemed official and public records, and shall be open to public inspection at all reasonable hours. The commissioner shall furnish certified copies of the records to any interested person on payment of such fee as established by subdivision 114(a)(21) of this title. Notwithstanding section 114 of this title, information from the records of the department may be made available to government agencies in the manner determined by the commissioner and at the actual cost of furnishing the same. The records may be maintained on microfilm or electronic imaging.

(b) Notwithstanding any other provision of law to the contrary, except for requests from government agencies or persons acting on behalf of government agencies, the commissioner shall not furnish to any person copies of photographs or imaged likenesses of persons to whom licenses, permits, or nondriver identification cards have been issued without the written consent of the person depicted in the photograph or imaged likeness.

(c) If there is a request by any governmental agency for the entire database or the substantial database of any class of documents containing a photograph or imaged likeness of a person or any class of documents containing any other personal information, the department of motor vehicles shall notify the speaker of the house, the president pro tempore of the senate, and the attorney general.

(d) Any photographs or imaged likenesses furnished to an authorized recipient shall not be made available or redisclosed to any succeeding person or entity, except for use by a law enforcement agency, a court or tribunal, a state's attorney, the office of the attorney general, or the office of the United States' Attorney in carrying out its official business or in response to any court order. The commissioner of motor vehicles shall so condition any release of the information and require that the recipient subject itself to the jurisdiction of the Washington superior court in the event that the condition is violated.

(e) A person who violates subsection (b), (c), or (d) of this section shall be subject to a civil penalty of up to \$10,000.00 per occurrence. A civil action to assess a civil penalty may, in the

discretion of the attorney general, be commenced by the attorney general in Washington superior court. (Amended 1969, No. 259 (Adj. Sess.), § 3; 1977, No. 174 (Adj. Sess.), § 2, eff. March 31, 1978; 1979, No. 187 (Adj. Sess.), § 1; 1983, No. 212 (Adj. Sess.), § 9; No. 252 (Adj. Sess.), § 4; 1985, No. 85, § 2; 1987, No. 112, § 4; 1989, No. 127 (Adj. Sess.), § 3, eff. March 15, 1990; 1991, No. 165 (Adj. Sess.), § 2; 2001, No. 75 (Adj. Sess.), § 1; 2003, No. 154 (Adj. Sess.), § 1.)

G. 23 V.S.A. § 707—motor vehicle training schools

§ 707. RECORDS REQUIRED; MAINTENANCE OF VEHICLES

Every driver's training school licensee shall keep a record on such forms as the commissioner may prescribe showing the name and address of each instructor, the instruction license number of such instructor, the particular type of instruction given and how much time was given to each type of instruction and such other information as the commissioner may require. **Such record shall be open to the inspection of the department at all reasonable times but shall be for the confidential use of the department.** Every driver's training school licensee shall maintain all vehicles used in driver training in safe mechanical condition at all times. (1959, No. 153, § 7, eff. Jan. 1, 1960.)

III. Agriculture

A. 6 V.S.A. § 61—agricultural statistics

§ 61. INFORMATION COLLECTION AND CONFIDENTIALITY

The secretary may collect information on subjects within the jurisdiction of the agency, including data obtained from questionnaires, surveys, physical samples, and laboratory analyses conducted by the agency. Such information shall be available upon request to the public, provided that it is presented in a form which does not disclose the identity of individual persons, households, or businesses from whom the information was obtained, or whose characteristics, activities, or products the information is about. (Amended 1993, No. 125 (Adj. Sess.), § 1; 1995, No. 128 (Adj. Sess.), § 3; 2003, No. 42, § 2, eff. May 27, 2003.)

B. 6 V.S.A. § 484—records of maple products, dealers

§ 484. RECORDS; INSPECTION

(a) The secretary may, by rule, require all licensed dealers or processors to maintain specific records for the purchase and sale of maple products. Those records shall be kept in a full and accurate manner and shall be made available to the secretary or his inspector upon request. **The secretary shall use those records only for purposes of administering this chapter, or for other law enforcement purposes, and shall otherwise keep them confidential.**

(b) The secretary or his or her inspector may enter upon the premises of a licensed dealer or processor, at reasonable times, for purposes of inspecting the premises, records, equipment, and inventory in a reasonable manner to determine whether the provisions of this chapter and the rules adopted hereunder are being observed. If entry is refused, the secretary may apply to a superior court judge for an administrative search warrant. (Added 1981, No. 235 (Adj. Sess.), § 1; amended 1991, No. 79, § 2; 2003, No. 42, § 2, eff. May 27, 2003; 2009, No. 154 (Adj. Sess.), § 58.)

C. 6 V.S.A. § 1039—pesticide/pest survey, trade secrets

§ 1039. CONFIDENTIALITY OF TRADE SECRETS

The secretary may not make information public which contains or relates to trade secrets, commercial, or financial information obtained from a person which is privileged or confidential. However, when the information is necessary to carry out the provisions of this chapter, or any of the rules adopted under this chapter, this information may be revealed, subject to a protective order, to any federal or state agency, or may be revealed, subject to a protective order, at a closed hearing or in findings of fact issued by the secretary. (Added 1995, No. 68 (Adj. Sess.), § 2; amended 2003, No. 42, § 2, eff. May 27, 2003.)

D. 6 V.S.A. § 1815—northeast dairy compact; milk business records

§ 1815. RECORDS, REPORTS, ACCESS TO PREMISES

(a) The commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business, and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000.00 or to imprisonment for not more than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney. (Added 1993, No. 57, § 1, eff. June 3, 1993.)

E. 6 V.S.A. § 2766—rbST inspection information

§ 2766. CONFIDENTIALITY

Any identifying information contained in any reports, records, or other record of information regardless of format in which it is created and maintained, obtained by the secretary, the attorney general, or a handler pursuant to this subchapter shall be kept confidential and shall not be disclosed to any person, except:

(1) as necessary to enable enforcement of this subchapter;

(2) as provided by section 2765 of this title [*see below*]; and

(3) to enable the secretary to perform his or her duties under this subchapter, which may include preparation of public information and public reports on the provisions of this subchapter and its implementation, provided that such information and reports are presented in a form which does not disclose the identity of individual persons or individual milk producers whose activities or products are the subject of the information. (Added 1997, No. 154 (Adj. Sess.), § 1, eff. April 29, 1998; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 2765. MILK PURCHASE REFUSAL

If the attorney general commences an enforcement action against a milk producer for a false affirmation, claim, or affidavit pursuant to this subchapter, the charge shall be a matter of public record, and a handler purchasing milk from the producer may immediately refuse to purchase and accept milk from that producer, notwithstanding the provisions of section 2752 of this title.

F. 6 V.S.A. § 2936(b)—milk handler reports

§ 2936. REPORTS FROM MILK HANDLERS; RELEASE OF INFORMATION BY HANDLERS

(a) In order that the commission has adequate information available to proceed under this chapter, as a condition of a handler's license, the commission may require from a handler:

(1) information on a time schedule established by the secretary from handlers showing the prices paid to purchase various forms of milk from Vermont producers, the costs of production, processing, transporting, distributing, and marketing milk, together with any other information deemed necessary and relevant by the commission; and

(2) that each milk handler licensed pursuant to section 2721 of this title execute a release with the federal market order administrator authorizing the secretary and the commission to obtain all production data which in the discretion of the secretary and commission is deemed relevant and necessary.

(b) **The commission shall keep information received under this section confidential except as necessary for the adoption of rules or enforcement actions.** (Added 1991, No. 17, § 7, eff. April 4, 1991; amended 2003, No. 42, § 2, eff. May 27, 2003.)

IV. Professions and Occupations/Labor

A. 21 V.S.A. § 710(c)—identifying information of person who has alleged to the department of labor that an employer made a false statement or misclassified an employee

§ 710. UNLAWFUL DISCRIMINATION

(a) No person, firm or corporation shall refuse to employ any applicant for employment because such applicant asserted a claim for workers' compensation benefits under this chapter or under the law of any state or of the United States. Nothing in this section shall require a person to employ an applicant who does not meet the qualifications of the position sought.

(b) No person shall discharge or discriminate against an employee from employment because such employee asserted a claim for benefits under this chapter or under the law of any state or under the United States.

(c) The department shall not include in any publication or public report the name or contact information of any individual who has alleged that an employer has made a false statement or misclassified any employees, unless it is required by law or necessary to enable enforcement of this chapter.

(d) An employer shall not retaliate or take any other negative action against an individual because the employer knows or suspects that the individual has filed a complaint with the department or other authority, or reported a violation of this chapter, or cooperated in an investigation of misclassification, discrimination, or other violation of this chapter.

(e) The attorney general or a state's attorney may enforce the provisions of this section by restraining prohibited acts, seeking civil penalties, obtaining assurance and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though discrimination under this section were an unfair act in commerce. (Added 1985, No. 194 (Adj. Sess.), § 9; amended 2009, No. 142 (Adj. Sess.), § 8, eff. June 1, 2010.)

B. 21 V.S.A. § 1035(c)—employee leasing companies' financial information

§ 1035. FINANCIAL RESPONSIBILITY

(a) Evidence of financial responsibility shall include an audited financial statement, prepared in accordance with generally accepted accounting principles, that demonstrates that the applicant has an adjusted net worth of at least \$100,000.00 or five percent of liabilities, whichever is greater. The statement shall have been prepared within six months of the date of application by an independent certified public accountant licensed in this state.

(b) The commissioner may audit a licensee's financial condition if the commissioner determines that the licensee's financial responsibility is in question. The commissioner may contract for the audit and charge the licensee a fee that shall not exceed the actual cost of performing the audit.

(c) Financial information submitted to the commissioner by an applicant or licensee shall be confidential and shall not be available for public inspection. Nothing in this section shall be construed to restrict the commissioner from sharing this information with the attorney general, the department of financial regulation, the department of labor, the department of taxes, the secretary of state or the U.S. Internal Revenue Service. (Added 1995, No. 173 (Adj. Sess.), § 1; amended 1995, No. 180 (Adj. Sess.), § 38(a); 2005, No. 103 (Adj. Sess.), § 3, eff. April 5, 2006; 2011, No. 78 (Adj. Sess.), § 2, eff. April 2, 2012.)

C. 21 V.S.A. § 1314—unemployment compensation

§ 1314. REPORTS AND RECORDS; SEPARATION INFORMATION; DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT EMPLOYMENT INFORMATION; DISCLOSURE OF INFORMATION TO OTHER STATE AGENCIES TO INVESTIGATE MISCLASSIFICATION OR MISCODING

(a) The commissioner may require any employing unit to keep such true and accurate records and make such reports covering persons employed by it respecting employment, wages, hours, unemployment and related matters as the commissioner deems reasonably necessary for the effective administration of this chapter. Such records shall be open to inspection and subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary.

(b) On request of the commissioner, an employing unit shall report, within 10 days of the mailing or personal delivery of the request, employment and separation information with respect to a claimant and the wages paid to a claimant.

(c) If an employing unit fails to comply with the provisions of subsection (b) of this section and section 1314a of this title, the commissioner shall determine the benefit rights of a claimant upon such information as is available. Prompt notice in writing of the determination shall be given to the employing unit. The determination shall be final with respect to a noncomplying employer as to any charges against its experience-rating record for benefits paid to the claimant before the week following the receipt of the employing unit's reply. The employing unit's experience rating record shall not be relieved of these charges, notwithstanding any other provision of this chapter, unless the amount of benefits is recovered from the claimant, or unless the commissioner determines that failure to comply was due to unavoidable accident or mistake.

(d)(1) Except as otherwise provided in this chapter, information obtained from any employing unit or individual in the administration of this chapter, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or open to public inspection in any manner revealing the individual's or employing unit's identity, nor be admissible in evidence in any action or proceeding other than one arising out of this chapter, or to support or facilitate an investigation by a public agency identified in subdivision (e)(1) of this section.

(2) An individual or his or her duly authorized agent may be supplied with information from those records to the extent necessary for the proper presentation of his or her claims for

benefits or to inform him or her of his or her existing or prospective rights to benefits; an employing unit may be furnished with such information as may be deemed proper, within the discretion of the commissioner, to enable it to fully discharge its obligations and safeguard its rights under this chapter.

(3) Automatic data processing services and systems and programming services within the department of labor shall be the responsibility and under the direct control of the commissioner in the administration of this chapter and chapter 15 of this title.

(4) Notwithstanding the provisions in subdivision (3) of this section, the department of labor shall, at the request of the agency of administration, perform such services for other departments and agencies of the state as are within the capacity of its data processing equipment and personnel, provided that such services can be accomplished without undue interference with the designated work of the department of labor.

(e)(1) Subject to such restrictions as the board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The commissioner may also make information available to colleges, universities, and public agencies of the state for use in connection with research projects of a public service nature, and to the Vermont economic progress council with regard to the administration of 32 V.S.A. chapter 151, subchapter 11E; but no person associated with those institutions or agencies may disclose that information in any manner which would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commissioner.

(A) The department of labor shall participate in the income and eligibility verification procedures under Federal Public Law 98-369 (The Deficit Reduction Act of 1984) which provides for the exchange of information among state agencies administering federally assisted programs for AFDC, Medicaid, Food Stamps, SSI, Unemployment Compensation and any other state program under a plan approved under Title I, X, XIV, or XVI of the Social Security Act.

(B) The department of labor is designated as the Vermont agency for the collection of wage records on workers covered under this chapter, as required by PL 98-369.

(2)(A)(i) The department of labor shall disclose, upon request, to officers or employees of any state or local child support enforcement agency, any wage information or other information material to the location of an individual, the individual's assets, or the individual's place of employment or other source of income contained in the department's unemployment compensation claim records with respect to an identified individual which is contained in those records.

(ii) The term "state or local child support enforcement agency" means any agency of a state or political subdivision thereof operating pursuant to a plan described in section 454 of the Social Security Act, which has been approved by the Secretary of Health and Human Services under part D, Title IV of the Social Security Act.

(B) The requesting agency shall agree that information provided under this subsection is to be used only for the following purposes:

(i) establishing and collecting child support obligations from, and locating, individuals owing such obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D, Title IV of the Social Security Act; and

(ii) establishing parentage and expediting procedures relating to establishing parentage pursuant to section 466(c)(1) of the Social Security Act as added by section 325(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193).

(3)(A) The department of labor shall disclose, upon request, to officers and employees of the U.S. Department of Agriculture and any state food stamp agency, with respect to an identified individual, any of the following information which is contained in its records:

(i) wage information;

(ii) whether the individual is receiving, has received, or has made application for unemployment compensation and the amount of any compensation being received or to be received by such individual;

(iii) the current or most recent home address of the individual; and

(iv) whether the individual has refused an offer of employment, and if so, a description of the employment offered and the terms, conditions and rate of pay therefor.

(B) The term "state food stamp agency" means any agency described in section (3)(n)(1) of the Food Stamp Act of 1977 which administers the food stamp program established under such act.

(C) The requesting agency shall agree that such information shall be used only for purposes of determining the applicant's eligibility for benefits, or the amount of benefits, under the food stamp program established under the Food Stamp Act of 1977.

(D) The information shall not be released unless the requesting agency agrees to reimburse the costs involved for furnishing such information.

(E) In addition to the requirements of this subdivision, all other requirements with respect to confidentiality of information obtained in the administration of this chapter and the sanctions imposed for improper disclosure of information obtained in the administration of this chapter shall apply to the use of such information by the officers and employees of any food stamp agency or the U.S. Department of Agriculture.

(4)(A)(i) The department of labor shall disclose, upon request, to officers or employees of any state or local agency charged with administering AFDC, any wage information with respect to an identified individual which is contained in its records, which is necessary for the purpose of determining an individual's eligibility for aid or services or the amount of such aid or services to needy families with children.

(ii) The term "state or local agency charged with administering AFDC" means any such agency administering a plan approved under part A of Title IV of the Social Security Act.

(B) The information requested shall not be released unless the requesting AFDC agency agrees to reimburse the department of labor for the costs involved in furnishing such information.

(C) The requesting agency shall agree that the requested information shall be used only for the purposes authorized in subdivision (e)(4)(A) of this section.

(5)(A) The department of labor shall disclose to officers or employees of the Federal Parent Locator Service (FPLS) or National New Hire Directory any employment, wage and unemployment compensation claim information contained in its claim records which may be

useful in locating an absent parent or the parent's employer solely for purposes of administering the child support enforcement provisions of Title IV of the Social Security Act.

(B) The requesting Federal Parent Locator Service shall agree that the requested information shall be used only for purposes authorized in section 303(h)(1) of the Social Security Act.

(C) The information requested shall not be released unless the requesting Federal Parent Locator Service agrees to reimburse the department of labor for the costs involved in furnishing the requested information.

(6)(A) The department of labor shall disclose, upon request, to officers or employees of the Department of Housing and Urban Development HUD and to representatives of a public housing agency any wage information and unemployment compensation benefit information which is contained in its records with respect to an identified individual applying for or participating in any housing assistance program administered by HUD which is necessary for the purposes of determining the individual's eligibility for benefits or the amount of benefits under a HUD housing assistance program. For the purposes of this subdivision, the term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937 which is authorized to engage in or assist in the development or operation of low income housing.

(B) HUD or the requesting public housing agency shall agree that the requested information shall be used only for purposes of determining individual's eligibility for benefits or the amount of benefits under a HUD housing assistance program and that it will comply with the provisions of 20 C.F.R. section 603.7 and the limitations on the use of the information set forth in section 904(c)(2) of P.L. 100-628.

(C) The information requested shall not be released unless the individual about whom the requested information relates has signed a consent form, approved by the secretary of HUD, which permits the release of the requested information.

(D) The information requested shall not be released unless HUD or the requested public housing agency agrees to reimburse the department of labor for the costs involved in furnishing the requested information.

(7)(A) The department of labor shall disclose, upon request, to officers and employees of the Vermont center for crime victim services, with respect to an identified individual, the name and address of the individual's employer.

(B) The center and the department shall develop an agreement that complies with 20 C.F.R. § 603.6, and the center shall comply with the confidentiality requirements of 20 C.F.R. § 603.7.

(f) Nothing contained in this section shall be deemed to interfere with the disclosure of certain information obtained under this chapter as provided in sections 1315, 1316, and 1317 of this title or to interfere with disclosure to the internal revenue service of the United States department of the treasury or to any state for purposes of the Federal Unemployment Tax Act or for the purposes of taxation of unemployment compensation benefits paid to individuals by this department. Information may be exchanged with the Vermont department of taxes for the purpose of establishing liability of employers for unemployment compensation purposes or identifying employers affected by Vermont tax laws. Information reported to the department of labor may be provided to the Vermont department of taxes for the purposes of assessment and collection of Vermont taxes, including but not limited to identifying nonfilers of the state tax, locating and identifying persons in debt to the department of taxes; and verifying eligibility for tax credits, tax adjustments, or other tax benefits.

(g) All written, or oral reports, or other communications, from an employer or his or her workers to each other, or to the commissioner or any of his or her agents, representatives, or employees, made in connection with the requirements and administration of this chapter or the regulations thereunder, shall be absolutely privileged and shall not be made the subject matter or basis for any suit for slander or libel in any court of this state, unless they are false in fact and malicious in intent.

(h) Any employing unit that fails to report employment and separation information with respect to a claimant and wages paid to a claimant required under subsection (b) of this section shall be subject to a penalty of \$100.00 for each report not received by the prescribed due date, which penalty shall be collected in the manner provided for the collection of contributions in section 1329 of this title and shall be paid into the contingent fund provided in section 1365 of this title. If the employing unit demonstrates that its failure was due to a reasonable cause, the commissioner may waive the penalty.

D. 26 V.S.A. § 82—public accountants; confidential communications

§ 82. CONFIDENTIAL COMMUNICATIONS

(a) No firm or any of its employees or other public accountants engaged by the firm, shall disclose any confidential information obtained in the course of a professional engagement except with the consent of the client or former client or as disclosure may be required by law, legal process, or the standards of the profession.

(b) This section does not limit the authority of this state or of the United States to subpoena and use information in connection with any investigation, or proceedings. This section does not prohibit a public accountant whose professional competence has been challenged in a court or before an administrative agency from disclosing confidential information as a part of a defense.

(c) Nothing in this chapter prohibits a firm or any of its employees, from disclosing any data to other public accountants, peer review teams, or partnerships or corporations of public accountants engaged in conducting peer reviews under the auspices of a recognized professional association, or any of their employees, in connection with peer reviews of the accountant's accounting and auditing practice.

(d) Nothing contained in this chapter prohibits a firm or any of its employees, from disclosing any data in confidence to any representative of a recognized professional association or to the board in connection with a professional ethics investigation or in the course of a peer review. (Added 1981, No. 161 (Adj. Sess.), § 2; amended 1991, No. 167 (Adj. Sess.), § 16; 2001, No. 129 (Adj. Sess.), § 19, eff. June 13, 2002; 2007, No. 29, § 15.)

E. 26 V.S.A. § 1318—medical practice board

§ 1318. ACCESSIBILITY AND CONFIDENTIALITY OF DISCIPLINARY MATTERS

(a) It is the purpose of this section both to protect the reputation of licensees from public disclosure of unwarranted complaints against them and to fulfill the public's right to know of any action taken against a licensee when that action is based on a determination of unprofessional conduct.

(b) All meetings and hearings of the board shall be open to the public, except in accord with 1 V.S.A. § 313.

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

(1) with respect to all complaints, the following information:

(A) the date and the nature of the complaint, but not including the identity of the licensee; and

(B) a summary of the completed investigation; and

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

(A) the name and business addresses of the licensee and complainant;

(B) formal charges, provided they have been served or a reasonable effort to serve them has been made;

(C) the findings, conclusions and order of the board;

(D) the transcript of the hearing, if one has been made, and exhibits admitted at the hearing;

(E) stipulations presented to the board at a public meeting; and

(F) final disposition of the matter by the appellate officer or the courts.

(d) The commissioner shall not make public any information regarding disciplinary complaints, proceedings, or records, except the information required to be released under this section.

(e) A licensee or applicant shall have the right to inspect and copy all information in the possession of the department of health pertaining to the licensee or applicant, except

investigatory files which have not resulted in charges of unprofessional conduct and attorney work product.

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

(g) Nothing in this section shall prohibit the disclosure of information by the commissioner regarding disciplinary complaints to Vermont or other state or federal law enforcement or regulatory agencies in the execution of its duties authorized by statute or regulation, including the department of disabilities, aging, and independent living or the department of financial regulation in the course of its investigations about an identified licensee, provided the agency or department agrees to maintain the confidentiality and privileged status of the information as provided in subsection (d) of this section.

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

(i) Neither the commissioner nor any person who received documents, material, or information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, material, or information. (Added 2001, No. 132 (Adj. Sess.), § 4, eff. June 13, 2002; amended 2003, No. 34, § 5, eff. May 23, 2003; 2011, No. 61, § 2, eff. June 2, 2011; 2011, No. 78 (Adj. Sess.), § 2, eff. April 2, 2012.)

F. 26 V.S.A. § 1353(6)—medical practice board; examination of licensees

§ 1353. POWERS AND DUTIES OF THE BOARD

The board shall have the following powers and duties to:

- (1) License and certify health professionals pursuant to this title.
- (2) Investigate all complaints and charges of unprofessional conduct against any holder of a license or certificate, or any medical practitioner practicing pursuant to section 1313 of this title, and to hold hearings to determine whether such charges are substantiated or unsubstantiated.
- (3) Issue subpoenas and administer oaths in connection with any investigations, hearings, or disciplinary proceedings held under this chapter.
- (4) Take or cause depositions to be taken as needed in any investigation, hearing or proceeding.
- (5) Undertake any such other actions and procedures specified in, or required or appropriate to carry out, the provisions of this chapter and chapters 7, 29, 31, and 52 of this title.
- (6) Require a licensee or applicant to submit to a mental or physical examination, and an evaluation of medical knowledge and skill by individuals or entities designated by the board if the board has a reasonable basis to believe a licensee or applicant may be incompetent or unable to practice medicine with reasonable skill and safety. The results of the examination or evaluation shall be admissible in any hearing before the board. **The results of an examination or evaluation obtained under this subsection and any information directly or indirectly derived from such examination or evaluation shall not be used for any purpose, including impeachment or cross-examination against the licensee or applicant in any criminal or civil case, except a prosecution for perjury or giving a false statement.** The board shall bear the cost of any examination or evaluation ordered and conducted pursuant to this subdivision in whole or in part if the licensee demonstrates financial hardship or other good cause. The licensee or applicant, at his or her expense, shall have the right to present the results or reports of independent examinations and evaluations for the board's due consideration. An order by the board that a licensee or applicant submit to an examination, test, or evaluation shall be treated as a discovery order for the purposes of enforcement under 3 V.S.A. §§ 809a and 809b. **The results of an examination or evaluation obtained under this subdivision shall be confidential except as provided in this subdivision.**

(7) Investigate all complaints of illegal practice of medicine and refer any substantiated illegal practice of medicine to the office of the attorney general or the state's attorney in the county in which the violation occurred.

(8) Obtain, at the board's discretion, from the Vermont criminal information center a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation, for any applicant, licensee, or holder of certification. The board may also inquire of Interpol for any information on criminal history records of an applicant, licensee, or holder of certification. Each applicant, licensee, or holder of certification shall consent to the release of criminal history records to the board on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c. When the board obtains a criminal history record, it shall promptly provide a copy of the record to the applicant, licensee, or holder of certification and inform him or her of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont criminal information center. When fingerprinting is required pursuant to this subdivision, the applicant, licensee, or holder of certification shall bear all costs associated with fingerprinting. **The board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.** For purposes of this subdivision, "criminal history record" is as defined in 20 V.S.A. § 2056a.

(9) Inquire, at the board's discretion, of the Vermont department for children and families or of the Vermont department of disabilities, aging, and independent living to determine whether any applicant, licensee, or holder of certification who may provide care or treatment to a child or a vulnerable adult is listed on the child protection registry or the vulnerable adult abuse, neglect, and exploitation registry. (Amended 1975, No. 249 (Adj. Sess.), § 2; 1989, No. 250 (Adj. Sess.), § 38; 1991 No. 167 (Adj. Sess.), § 30; 1993, No. 108 (Adj. Sess.), §§ 24, 25, eff. Feb. 16, 1994; 1995, No. 188 (Adj. Sess.), §§ 1, 8, 9; 1999, No. 14, § 2; 2001, No. 132 (Adj. Sess.), § 7, eff. June 13, 2002; 2003, No. 34, § 8, eff. May 23, 2003; 2011, No. 61, § 2, eff. June 2, 2011.)

G. 26 V.S.A. § 1443—health services peer review committee; proceedings

§ 1443. RECORDS IMMUNE FROM DISCOVERY

(a) The proceedings, reports, and records of committees defined in section 1441 of this title including information and evidence required to be reported pursuant to section 1317 of this title shall be confidential and privileged, and shall not be subject to discovery or introduction into evidence in any civil action against a provider of professional health services arising out of the matters which are subject to evaluation and review by such committee, and no person who was in attendance at a meeting of such committee shall be permitted or required to testify in any such civil action as to any findings, recommendations, evaluations, opinions, or other actions of such committees or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such action merely because they were presented during the proceedings of such committee, nor shall any person who testifies before such committee or who is a member of such committee be prevented from testifying as to matters within his or her knowledge, but such witness shall not be asked about his or her testimony before such committee or about opinions formed by him or her as a result of such committee hearings.

(b) Notwithstanding the provisions of subsection (a) of this section, a peer review committee shall provide a board with all supporting information and evidence pertaining to information required to be reported under section 1317 of this title and shall provide access to such information and evidence to the department of health as provided in and for the purpose of determining a hospital's compliance with 18 V.S.A. chapter 43a.

(c) Notwithstanding the provisions of section 1318 of this title, relating to accessibility and confidentiality of disciplinary matters, the proceedings, reports, records, reporting information, and evidence of a peer review committee provided by the committee to a board in accordance with the provisions of section 1317 of this title or to the department of health in accordance with 18 V.S.A. chapter 43a and subsection (b) of this section may be used by the board or by the commissioner of health or board of health for disciplinary and enforcement purposes but shall not be subject to public disclosure. (Added 1975, No. 249 (Adj. Sess.), § 4, eff. April 7, 1976; amended 1991, No. 167 (Adj. Sess.), § 34; 2001, No. 132 (Adj. Sess.), § 14, eff. June 13, 2002; 2005, No. 215 (Adj. Sess.), § 325.)

H. 26 V.S.A. § 4190(b)—written comments related to peer reviews required by rules governing licensed midwives (Act 35 of 2011)

§ 4190. WRITTEN PLAN FOR CONSULTATION, EMERGENCY TRANSFER, AND TRANSPORT

(a) Every licensed midwife shall develop a written plan for consultation with physicians licensed under chapter 23 of this title and other health care providers for emergency transfer, for transport of an infant to a newborn nursery or neonatal intensive care nursery, and for transport of a woman to an appropriate obstetrical department or patient care area. The written plan shall be submitted to the director on an approved form with the application required by section 4184 of this title and biennially thereafter with the renewal form required by section 4187 of this title. The written transport plan shall be reviewed and approved by the advisors appointed pursuant to section 4186 of this title and shall be provided to any health care facility or health care professional identified in the plan. The director, in consultation with the advisors, the commissioner of health, and other interested parties, shall develop a single, uniform form for use in all cases in which a transfer or transport occurs, which shall include the medical information needed by the facility or professional receiving the transferred or transported patient.

(b)(1) A licensed midwife shall, within 30 days of a birth or sentinel event, complete any peer review that is both required by rules governing licensed midwives and which is generated due to a death, significant morbidity to client or child, transfer to hospital, or to practice performed outside the standards for midwives as set forth in the rules governing licensed midwives. This peer review report shall be submitted to the office of professional regulation within 30 days of its completion.

(2) During the peer review process, other health care professionals engaged in the care or treatment of the client may provide written input to the peer review panel related to quality assurance and other matters within or related to the licensed midwife's scope of practice. The written comments shall be filed with the office of professional regulation and subject to the same confidentiality provisions as apply to other documents related to peer reviews. Upon completion of the peer review process, the director shall provide notice of the final disposition of the peer review to all health care professionals who submitted input pursuant to this

subdivision. (Added 1999, No. 133 (Adj. Sess.), § 44, eff. Jan. 1, 2001; amended 2007, No. 29, § 70; 2011, No. 35, § 6, eff. May 18, 2011.)