

## **INTRODUCTION AND SYNOPSIS:**

We, the members of the Animal Cruelty Investigations Advisory Board, are grateful for the attention given to our recommendations on how to improve the oversight and execution of animal welfare responsibilities within the state. Per the March 2019 request of the House Agriculture committee we present a “blue sky” vision of how we see animal welfare responsibilities best addressed.

This question has been considered and debated within the state’s animal welfare community and state government for many years. Members of this Board (and member of the Task Force that created it in 2015) were personally involved in efforts that date back as far as 2004.

We believe that part of the reason these issues are never resolved is that there is no structure underneath the efforts. We feel that addressing questions of animal welfare and animal cruelty response is like fixing a window in a house that has no foundation. The scope of interrelated questions becomes paralyzing to any persons or organizations that attempt to resolve one or more of them. There is no all-inclusive home for these issues.

A second reason we think addressing animal welfare concerns often results in gridlock is because there are two facets to them: one issue is institutional neglect that can lead to animal suffering and the other is private cruelty that causes animal suffering. A model of response that deals with private cruelty to animals is not appropriate for a model that prevents and addresses institutional neglect. Certainly the two models will overlap and we have proposed redefining the role of “humane officer” to create a category of trained professionals that can bridge the two.

Ideally, we believe the state should establish a Division of Animal Welfare within an existing department of state government. The costs of addressing animal welfare concerns and resolving it when it falls apart privately or institutionally is now being borne by the non-profit private sector. We believe animal welfare deserves state funding to be directed to it. Our environment, our children, our safety, our education, and our health are supported by the state. According to the American Veterinary Medical Association, 70% of Vermont households owned pets and we rank 4<sup>th</sup> in the country for highest level of pet ownership. Clearly, this is a state that cares about animals.

We understand that a “blue sky” vision is an ideal and will take time to manifest and therefore we ask that legislators focus specifically on two areas this year:

- Establish mechanism for identifying individuals and groups engaged in animal rescue work and create a licensing/regulation system for identified animal rescues
- Redefine humane officer in statute

## **IDEAL: A DIVISION OF ANIMAL WELFARE WITHIN STATE GOVERNMENT**

The Division of Animal Welfare would be responsible for regulating and providing oversight to shelters, rescues, foster networks, breeders, pet dealers, and all persons or entities engaging in transporting and re-homing animals and would connect to law enforcement when necessary. We see this relationship as very similar to the one that currently exists

between DCF and Vermont State Police in that DCF currently inspects, registers, and provides oversight for in-home and out-of-home daycare facilities. DCF's inspectors are assigned facilities within a certain jurisdiction and are responsible for conducting on-site inspections of these facilities. DCF inspectors are equipped to issue warnings or citations for deviations from DCF regulations and provide a mechanism to correct and re-inspect those deviations to insure compliance. If gross deviations of safety and security (amongst other violations) are noted, DCF notifies VSP who then responds in conjunction with DCF and determines if criminal violations are present. If criminal violations are observed, VSP looks to DCF to aid them in the investigation but will themselves be the agency bringing formal criminal charges against the offending facility.

The Department of Liquor Control (DLC) also provides an additional model. DLC currently inspects sellers, wholesalers, distributors, and alcohol making facilities for compliance and/or violations. DLC's inspectors investigate both criminal and regulatory cases and take appropriate enforcement action. They issue warnings or citations for regulatory violations and issue criminal citations or arrest for criminal violations.

We have considered the pros and cons of various departments and recommend looking into the Department of Health, Department of Children and Families, Department of Public Safety and Agency of Agriculture as possible homes. Any state agency or department that is tasked with the development and maintenance of a new program of this scope must also be provided the *additional* personnel and funding to do it successfully. The aforementioned state entities are unlikely to be able to absorb this program into existing personnel infrastructure and budgets. Here is a list of states that have already established such regulatory bodies.

Massachusetts (exists within the Department of Agricultural Resources):  
<https://www.mass.gov/service-details/division-of-animal-health>

New Hampshire (exists within the Department of Agricultural Markets & Food)  
<https://www.agriculture.nh.gov/divisions/animal-industry/index.htm>

Maine (exists within the Department of Agriculture, Conservation, and Forestry)  
[https://www.maine.gov/dacf/ahw/animal\\_welfare/](https://www.maine.gov/dacf/ahw/animal_welfare/)

New Jersey (exist as part of the state's Community and Wellness Division)  
<https://www.state.nj.us/nj/community/animal/>

Delaware (exists within the Division of Public Health)  
<https://dhss.delaware.gov/dhss/dph/oaw/oawhome.html>

North Carolina (exists within the Division of Agriculture and Consumer Services)  
<https://www.ncagr.gov/vet/aws/>

Missouri (exists within the Department of Agriculture)  
<https://agriculture.mo.gov/animals/ACFA/>

## **FIRST STEPS: ESTABLISH MECHANISM FOR IDENTIFYING INDIVIDUALS AND GROUPS ENGAGED IN ANIMAL RESCUE WORK AND CREATE A SYSTEM FOR LICENSING OR REGULATION FOR IDENTIFIED ANIMAL RESCUES**

In addition to the functions established above, within Vermont there are numerous examples of the Secretary of State's Office of Professional Regulation establishing oversight. We believe this could be a good first step toward getting a handle of the scope of individuals and organizations performing animal transport, shelter, and rehoming. There are currently 47 professions regulated by the Office of Professional Regulation, which is created within the Office of the Secretary of State.

Each profession is overseen by either a board model or an advisor model. Each of these boards and advisors are charged with the mission of public protection. For those professions governed by a board model of oversight, the board's range of powers include developing administrative rules, issuing warnings or reprimands, holding disciplinary hearings, making decisions regarding licenses, etc. The OPR provides services to the boards, such as administrative, secretarial, financial, investigatory, inspection, and legal. For those professions governed by an advisor model of oversight, the Director of the Office of Professional Regulation is responsible for providing general information to applicants for licensure, receiving applications and issuing licenses, administering fees, referring disciplinary matters to an administrative law officer and adopt rules. The Director seeks the advice of the advisors in carrying out the provisions of the statute.

There is a statutory fee for licensing, registration, recertification or renewal. All revenues from these fees are deposited in a fund, and credited to the appropriate board or profession, to be used solely for the purpose of professional regulation. By statute the cost of regulating a profession shall be borne by the profession, and not subsidized by another profession.

There are fifteen (15) professions that adhere to a "board" oversight model. These boards generally range in size between five (5) and seven (7) board members with the exception of two boards that have eleven (11) members (Dental Examiners and Nursing).

There are thirty-two (32) professions governed by an advisor model. Four (4) professions that recently transitioned from a board oversight model to an advisor oversight model (Barbers and Cosmetologists, Funeral Service, Radiologic Technology, and Real Estate Appraisers). Within the last few years four new professions have been added to the OPR oversight system under the advisor system: Foresters (2016), Pollution Abatement Facility Operators (2017), Wastewater/Water System Designers (2017) and Notaries Public (2018). A majority of the thirty-two (32) professions governed by an advisor model utilize between two (2) and three (3) advisors with the exception of the four professions that recently transitioned from a board oversight model to an advisor oversight model. These four professions utilize either four (4) or six (6) advisors. There are twenty-one (21) professions with two (2) advisors and seven (7) professions with three (3) advisors.

**Appendix A** provides an in-depth analysis of the forty-seven (47) types professions currently regulated by the Office of Professional Regulation.

## FIRST STEPS: REDEFINING HUMANE OFFICER IN STATUTE

Structured oversight is at the heart of preventing animal cruelty. We recommend bringing animal welfare-related statutes/regulations under the auspices of a Division of Animal Welfare and update and modernize language to cover the current activity surrounding animal transport, adoption, etc. We believe the state of Colorado has, in its Pet Care and Facilities Act, nicely updated statutory language that could be used as a template. <https://www.colorado.gov/pacific/aginspection/pacfa>. Of particular importance in updating Vermont's statutory language is to clarify definitions, especially definitions of who bears responsibility for investigation cases of actual animal cruelty. Since the formation of our Board, we have believed this responsibility lies with law enforcement but we recognize that there is still a role for "auxiliary" support, or humane officers. These recommendations would also serve to provide accountability for law enforcement when engaging with an animal welfare group to provide assistance to them in bona fide cruelty cases where animals are seized. To this end, we made recommendations for updating the definition of a "humane officer".

**Appendix B** outlines each statute that refers to a "humane officer." We include this appendix as a reference and to convey that a humane officer as currently defined is granted overly broad powers under current law.

"Humane officer" or "officer" is currently defined in 13 V.S.A. § 351(4) as any of the following:

- Law enforcement officer as defined in 23 V.S.A. § 411
- Auxiliary State police officers
- Deputy game wardens
- **Humane society** officer, employee, or agent
- Animal control officer appointed by the legislative body of a municipality
- **Local board of health** officer or agent
- Any officer authorized to serve criminal process

"**Humane society**" is currently defined in 13 V.S.A. § 351(5) as "the Vermont Humane Federation, Inc., or its successor, or any incorporated humane society that, through its agents, has the lawful authority to interfere with acts of cruelty to animals."

"**Local board of health**" is currently defined in 13 V.S.A. § 351(6) as "the town or city health officer and the selectboard members or alderman."

The definition of "humane officer" or "officer" is overbroad. First, a "law enforcement officer as defined in 23 V.S.A. § 4(11)" includes: persons certified pursuant to 20 V.S.A. § 2358 including sheriffs, deputy sheriffs, constables whose authority has not been limited under 24 V.S.A. § 1936a, police officers, State's Attorneys, Capitol Police officers, motor vehicle inspectors, liquor investigators, State game wardens, and State Police.<sup>1</sup> Under this

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<sup>1</sup> There is an additional definition of a "law enforcement officer" found in 20 V.S.A. § 2351a and is defined as "a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor Control who exercises law enforcement powers; an investigator employed by the Secretary of

definition, it is our opinion that there is no need for the additional enumeration in 13 V.S.A. § 351(4) for Auxiliary State police officers, Deputy game wardens, and any officer authorized to serve criminal process. It should be sufficient to define a “humane officer” as a “law enforcement officer” as defined in 23 V.S.A. § 4(11).

Second, the definitions around officers, employees or agents of an incorporated humane society organization is problematic. Under the current definition, there is no basis to determine whether an organization, other than the Vermont Humane Federation, is an incorporated humane society. In addition, the definition is circular and meaningless because it authorizes officers, employees and agents of an incorporated humane society to enforce animal cruelty laws and also defines a “humane society” as an “any incorporated humane society that, through its agents, has the lawful authority to interfere with acts of cruelty to animals.” Nowhere in the statutory definition does it outline where this lawful authority comes from. And, as previously outlined, there is no regulation of who can call themselves an incorporated humane society.

Lastly, defining “humane officer” to encompassing a “local board of health” officer or agent authorized a “health officer, selectboard member or alderman” and allowing those individuals to enforce criminal animal cruelty laws is extremely problematic because it grants an alderman to have the same powers to enforce animal cruelty laws as a certified law enforcement officer for example.

Given this broad definition of “humane officer” we recommend that the 13 V.S.A. § 351(4) be amended to read as follows:

(4) “Humane officer” or “officer” means any law enforcement officer as defined in 23 V.S.A. § 4(11) or 20 V.S.A. § 2351a; an investigator of the Criminal Division of the Attorney General’s office or investigator of a State’s Attorney’s office; humane special agent certified under 13 V.S.A. § 356(b) to investigate acts of cruelty to animals; or certified animal control officer appointed by the legislative body of a municipality.

To address our previous recommendations regarding licensing and oversight of animal welfare and rescue organizations, we would further recommend that 13 V.S.A. § 351(5) be amended to read as follows:

(5) “Incorporated humane society” means a private, nonprofit animal care agency registered and in good standing with the Secretary of State’s Office<sup>2</sup>.

Currently the statute mentions that there be some training for humane officers. The statutory language only requires that a humane officer “complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board.” See 13 V.S.A. § 356. However, the statute is wholly lacking

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State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State’s Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or a police officer appointed to the University of Vermont’s Department of Police Services.”

<sup>2</sup> Or whatever agency is designated to house these issues.

in any oversight after the initial certification (a 4-hour course), no continuing education requirement, no registration, and no process for decertification of unfit investigators. To that end and following the direction of other states with more stringent humane officer definitions, we recommend that the Legislature amend § 356 as follows:

§ 356. Humane officer required certification; training

(a) All humane officers as defined in subdivision 351(4) of this title shall complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) and administered by the Vermont Criminal Justice Training Council. All certified humane officers shall complete periodic training to maintain certification as developed and approved by the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) and administered by the Vermont Criminal Justice Training Council.<sup>3</sup>

(b) At the request of an incorporated humane society, the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) shall certify a designated employee of the humane society as a humane special agent if:

- (1) The employee attends and successfully completes the certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) and administered by the Vermont Criminal Justice Training Council;
- (2) The Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) determines that the employee is fit and qualified to perform the duties of a humane special agent;
- (3) The incorporated humane society agrees in writing to save harmless and indemnify the State of Vermont and its officers, employees and agents from and against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission of the employee or the incorporated humane society, that relates to or results from the authority granted by the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues); and
- (d) The incorporated humane society furnishes to the Chair of the Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) a copy of an insurance policy, purchased and maintained by the incorporated humane society, that the Chair determines is sufficient to satisfy any tort claim or demand described in paragraph (c) of this subsection.

(c) Before granting a certification under this section, the Chair may require the employee to take and subscribe to an oath of office to support the Constitution and laws of the United States and of the State of Vermont, and to honestly and faithfully perform the duties of a humane special agent.

(d) The Chair shall suspend or revoke a certification granted under this section if the Chair determines that:

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<sup>3</sup> Per our charge, the Animal Cruelty Investigations Advisory Board is required to “develop and identify funding sources for an animal cruelty investigation program for humane officers in accordance with 13 V.S.A. § 356, and develop a standard by which a person who has been actively engaged in this State as a humane officer conducting animal cruelty investigations for at least five years preceding July 1, 2017 may become certified without completion of the certification program requirements. 24 V.S.A. § 1943(c)(9). It follows that we should be able to develop and propose certification requirements and continuing education requirements for continued certification.

- (1) The certification of the employee lapsed and has not been reissued under 13 V.S.A. § 356(a);
- (2) The employee has been separated from employment with the incorporated humane society;
- (3) The employee has abused the certification.

(e) An employee of an incorporated humane society certified under this section holds the certification at the pleasure of the Chair. The Chair may suspend or revoke a commission granted under this section at any time for good cause, as determined by the Chair. If the Chair revokes a commission granted under this section, the employee of the incorporated humane society is entitled only to an informal opportunity to be heard by the Chair, for the purposes of explaining any factual circumstances related to the revocation and attempting to persuade the Chair to reverse the decision to revoke the certification.

(f) Humane special agents certified under this section serve at the sole expense of the incorporated humane society employing the agent.

(g) The Animal Cruelty Investigation Advisory Board (or whatever agency is designated to house these issues) may adopt rules to carry out the provisions of this section.

## **FUNDING CONSIDERATIONS:**

Potential funding streams to cover administrative costs of operating a Division of Animal Welfare or providing funding for the Office of Professional Regulation: Diverted tax income from companion animal food is one option. Pet food is subject to the 6% sales tax in Vermont and, as of July 1, 2018, 100% of sales tax goes into the education fund. Sales tax receipts are regularly measured and forecasted and help determine the education property tax rates every year. The Department does not collect data on sales of pet food in Vermont, however, it is estimated by the American Pet Products Association that \$75.38 billion of pet food will be sold in the United States in 2019 and Vermont is approximately .2% of the United States market. This means you can estimate that Vermonters spend about \$150,760,000 on pet food annually or roughly \$242 per person. This would result in \$9,045,600 of sales tax (excluding local options taxes for simplicity). Additionally, data from a variety of sources (U.S. Bureau of Labor Statistics, U.S. Census Bureau, Chmura Economics, IBIS World) detail the economic impacts of the Vermont Pet Industry as well. According to this data, \$22,248,000 is spent annually on pet products such as leashes, cages, toys and \$23,335,000 is spent annually on pet services such as grooming and boarding. (SOURCE: <http://cra.gmu.edu/wp-content/uploads/2017/02/Economic-Impacts-of-the-Pet-Industry-2015-Final.pdf>)

Another option is increasing the \$1.00 add-on fee for dog licenses and diverting the 10% of this fee to fund animal welfare regulation. Currently, municipal clerks assess a \$1.00 fee for each license sold. The clerks forward the fees collected to the State Treasurer three times yearly together with an accounting of the licenses sold. The funds collected are to be used for rabies control programs. Three times a year the State Treasurer disburses the funds collected to the Fish and Wildlife Fund (45%), the Commissioner of Health (45%), and the Secretary of Agriculture, Food and Markets (10%). See 20 V.S.A. § 3581.

Additional sources of revenue might be found through increasing dog licensing fees, vanity plate license plate revenue, redirecting cruelty case restitution funds, an income tax form

check off (there is a private organization, the Vermont Humane Federation, that is willing to underwrite the costs of assessing public interest in this via a question on the UVM Center for Rural Studies Annual Poll), and instituting cat licensing. The City of South Burlington already licenses cats and generates approximately \$2,200 for the city alone ([http://www.southburlingtonvt.gov/departments/city\\_clerk/dog\\_and\\_cat\\_licenses.php](http://www.southburlingtonvt.gov/departments/city_clerk/dog_and_cat_licenses.php)).

## **CONCLUSION:**

The ACIAB's "blue sky" vision requires a structure underneath the efforts to improve animal welfare in the State. The lack of foundation results in disjointed efforts to address organizational oversight of purported animal welfare organizations and unclear expectations on animal cruelty investigations.

First, the State must establish a mechanism for identifying individuals and groups who are engaged in animal rescue work. Without this, institutional neglect is present and will likely continue. This includes creating a licensing and regulation system for those individuals and groups who are engaged in rescue work. Second, the State must clearly define who is best suited to investigate animal neglect and cruelty and provide those designated individuals with the training and oversight necessary to reduce animal suffering and respond appropriately. The ACIAB believes that establishing and funding a Division of Animal Welfare within an existing department of state government will provide this underlying structure. These steps will ensure that our environment, our families, our safety, our public health and our animals are supported by the state.

## APPENDIX A

### 1. Accountancy

- a. The Board of Public Accountancy is a five-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. At least one member of the board shall be a member of the public who has no pecuniary interest in accounting other than as a consumer or possible consumer of its services. The member shall have no pecuniary interest personally or through a spouse, parent, child, brother, or sister; At least three members of the board shall be licensed certified public accountants; Board members shall be appointed for five-year terms by the governor in accordance with 3 V.S.A. § 129b.
- b. 26 V.S.A. §§ 13-82 <https://legislature.vermont.gov/statutes/fullchapter/26/001>

### 2. Acupuncturists

- a. Acupuncturists in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. Two licensed members of the profession are appointed by the secretary of state to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. Appointees shall have at least three years' experience as an acupuncturist immediately preceding appointment and shall be actively engaged in the practice of acupuncture in Vermont during incumbency. The director shall seek the advice of the acupuncturist advisors in carrying out the provisions of this chapter. They shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for that purpose.
- b. 26 V.S.A. § 3404 <https://legislature.vermont.gov/statutes/fullchapter/26/075>

### 3. Alcohol & Drug Abuse Counselors

- a. Alcohol and Drug Abuse Counselors in the state of Vermont are governed by the “advisor” model of regulation. This profession is in a period of transition because “[i]n response to Executive Order No. 02-17 and the Governor’s call to review existing State mental health and drug and alcohol addiction laws and regulations, the Office of Professional Regulation has adopted emergency administrative rules for Apprentice Addiction Professionals (AAPs), Alcohol & Drug Counselors (ADCs), and Licensed Alcohol and Drug Counselors (LADCs). The Emergency Rules took effect on October 13, 2017.” The Secretary of State shall appoint three individuals licensed under this chapter to serve as advisors in matters relating to alcohol and drug abuse counselors. Advisors shall be appointed as set forth in 3 V.S.A. § 129b. Two of the initial appointments may be for less than a full term. Appointees shall not have less than three years' licensed experience as an alcohol and drug abuse counselor in Vermont. The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this chapter.
- b. 26 V.S.A. § 3235a <https://legislature.vermont.gov/statutes/fullchapter/26/062>

### 4. Allied Mental Health

- a. The Board of Allied Mental Health is a six-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The Board of Allied Mental Health governs (1) clinical mental health counselors, (2) certified marriage

and family therapists, and (3) non-licensed and noncertified psychotherapists. Two members shall be licensed clinical mental health counselors; one member shall be a licensed marriage and family therapist; one member shall, at the time of appointment, be a non-licensed and noncertified psychotherapist entered on the roster; and two members shall be public members. The public members shall have no direct financial interest personally or through a spouse, parent, child, brother, or sister in clinical mental health counseling, marriage and family therapy, or psychotherapy. The professional members shall have at least three years of professional experience as a clinical mental health counselor, marriage and family therapist, or psychotherapist and shall be actively engaged in one of these professions during incumbency.

- b. 26 V.S.A. § 3262a <https://legislature.vermont.gov/statutes/fullchapter/26/065> (Clinical Mental Health Counselors)
  - c. 26 V.S.A. § § 4034 <https://legislature.vermont.gov/statutes/fullchapter/26/076> (Marriage and Family Therapists)
  - d. 26 V.S.A. § 4091 <https://legislature.vermont.gov/statutes/fullchapter/26/078> (Psychotherapists Who Are Nonlicensed And Noncertified)
5. Applied Behavior Analysis
- a. Applied Behavior Analysts and Assistant Behavior Analysts are governed by the “advisor” model of regulation. The Secretary of State has appointed two members of the profession and one parent of an individual with autism or a developmental disorder to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. Two of these appointees shall be applied behavior analysts. An applied behavior analyst advisor appointee shall have not less than three years' experience as an applied behavior analyst immediately preceding appointment, shall be licensed as an applied behavior analyst in Vermont, and shall be actively engaged in the practice of applied behavior analysis in this State during incumbency. Not more than one of these appointees may be employed by a designated agency. One of these appointees shall be the parent of an individual with autism or a developmental disorder who is a recipient of applied behavior analysis services. This appointee shall not have a child or other family member who is receiving applied behavior analysis services from one of the advisor appointees appointed.
  - b. 26 V.S.A. § 4912 <https://legislature.vermont.gov/statutes/fullchapter/26/095>
6. Architects
- a. The Board of Architects is a seven-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The board shall consist of seven members appointed by the governor as follows: five architects and two public members. All members shall be Vermont residents. The architect members shall have been in active practice in Vermont for not less than three years and shall be in active practice during their incumbency. The public members shall be persons who have no financial interest personally or through a spouse, parent, child, brother, or sister in the activities regulated under this chapter, other than as consumers or possible consumers of its services.
  - b. 26 V.S.A. § 161 <https://legislature.vermont.gov/statutes/fullchapter/26/003>
7. Athletic Trainers

- a. Athletic trainers in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. Two licensed members of the profession are appointed by the secretary of state to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. One of the initial appointments may be for less than a four-year term. Appointees shall have not less than three years' experience as an athletic trainer immediately preceding appointment and shall be actively engaged in the practice of athletic training in this state during incumbency. The director shall seek the advice of the athletic trainer advisors in carrying out provisions of this chapter.
  - b. 26 V.S.A § 4155 <https://legislature.vermont.gov/statutes/fullchapter/26/083>
8. Auctioneers
- a. Auctioneers in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. Two licensed members of the profession are appointed by the secretary of state to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. The secretary of state shall appoint two licensed auctioneers for five-year terms to serve as advisors in matters relating to auctioneers. One of the initial appointments may be for less than a five-year term. Appointees shall not have less than three years' experience as an auctioneer immediately preceding appointment, and shall be actively engaged in practice as an auctioneer in Vermont during incumbency. The director shall seek the advice of the auctioneer advisors in carrying out the provisions of this chapter. The advisors shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.
  - b. 26 V.S.A. § 4605 <https://legislature.vermont.gov/statutes/fullchapter/26/089>
9. Audiologist
- a. Effective September 1, 2015 the Legislature has transferred primary responsibility for licensing audiologists from the Agency of Education (AOE) to the Secretary of State’s Office of Professional Regulation. However, audiologists employed in Vermont schools as educators remain subject to the jurisdiction of the Vermont Standards Board for Professional Educators and AOE requirements pertaining to Endorsement AUDA. Audiologists are regulated by a four member “advisor” model of oversight. The Secretary of State shall appoint one otolaryngologist, one audiologist, one hearing aid dispenser who is neither an otolaryngologist nor an audiologist, and one member of the public to serve as advisors in matters related to audiologists and hearing aid dispensers. The public member shall be an individual with significant hearing impairment who uses a hearing aid regularly. The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this chapter. Such members shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for this purpose.
  - b. 26 V.S.A. § 3287 <https://legislature.vermont.gov/statutes/fullchapter/26/067>
10. Barbers & Cosmetologists
- a. In January 2019, following the enactment of Act 144, the barber, cosmetologist, esthetician, and nail technician professions transitioned from board to advisor-based regulation. The Secretary of State shall appoint one

barber, one cosmetologist, one esthetician, and one nail technician for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to barbering and cosmetology. At least one of the initial appointments shall be for less than a five-year term. An appointee shall have not less than three years' experience as a barber or cosmetologist immediately preceding appointment; shall be licensed as a barber or cosmetologist in Vermont; and shall be actively engaged in the practice of barbering or cosmetology in this State during incumbency. The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

- b. 26 V.S.A. § 276a <https://legislature.vermont.gov/statutes/fullchapter/26/006>

#### 11. Boxing Control Board

- a. Professional boxing in the state of Vermont is governed by the “advisor” model of regulation, created by the legislature. The Secretary of State shall appoint two persons to serve as advisors in matters related to boxing. One advisor shall be a person with at least three years' experience with boxing, and one shall be a medical doctor. The advisor appointees shall be appointed for staggered five-year terms and shall serve at the pleasure of the Secretary. The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this chapter. The advisors shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for this purpose. For purposes of the federal Professional Boxing Safety Act of 1995, as amended, the Director and the advisor appointees shall be deemed to be the Vermont State Boxing Commission.

- b. 26 V.S.A. § 1103 <https://legislature.vermont.gov/statutes/fullchapter/31/021>

#### 12. Chiropractic

- a. The Board of Chiropractic is a five-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The board shall consist of five members. Board members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. Three members of the board shall be chiropractors licensed and in good standing in this state who are graduates of an accredited school of chiropractic and who reside and have resided and actively practiced chiropractic in this state during the two years immediately preceding their appointments. Two members shall be members of the public. A public member shall not be a member of any health-related licensing board or profession or have a financial interest personally or through a spouse, parent, or sibling in the activities regulated under this chapter, other than as consumers or possible consumers of chiropractic services.

- b. 26 V.S.A. § 527 <https://legislature.vermont.gov/statutes/fullchapter/26/010>

#### 13. Dental Examiners

- a. The Board of Dental Examiners is an eleven-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The State Board of Dental Examiners is created and shall consist of six licensed dentists in good standing who have practiced in this State for a period of five years or more and are in active practice; two licensed dental hygienists who have practiced in this State for a period of at least three years immediately preceding the

appointment and are in active practice; one registered dental assistant who has practiced in this State for a period of at least three years immediately preceding the appointment and is in active practice; and two members of the public who are not associated with the practice of dentistry. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004. A member of the Board shall not be an officer or serve on a committee of his or her respective state or local professional dental, dental therapy, dental hygiene, or dental assisting organization.

- b. 26 V.S.A. § 581 <https://legislature.vermont.gov/statutes/fullchapter/26/012>

#### 14. Dietitians

- a. Dietitians in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. Two licensed members of the profession are appointed by the secretary of state to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. The secretary of state shall appoint two certified dietitians to serve as advisors in matters relating to dietitians. The advisors shall be appointed as set forth in 3 V.S.A. § 129b and serve at the pleasure of the secretary. One of the initial appointments may be for less than a full term. Appointees shall not have less than three years' experience as a dietitian immediately preceding appointment and shall be actively engaged in the practice of dietetics in Vermont during incumbency. The director shall seek the advice of the dietitian advisors in carrying out the provisions of this chapter. Such advisor appointees shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

- b. 26 V.S.A. § 3384 <https://legislature.vermont.gov/statutes/fullchapter/26/073>

#### 15. Electrologists

- a. Electrologists in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. Two licensed members of the profession are appointed by the secretary of state to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. The secretary of state shall appoint two licensed electrologists for five-year terms to serve as advisors in matters relating to electrologists. One of the initial appointments may be for less than a five-year term. Appointees shall not have less than three years' experience as an electrologist immediately preceding appointment and shall be actively engaged in the practice of electrology in Vermont during incumbency. The director shall seek the advice of the electrologist advisors in carrying out the provisions of this chapter. Such advisor appointees shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

- b. 26 V.S.A. § 4405 <https://legislature.vermont.gov/statutes/fullchapter/26/086>

#### 16. Engineering

- a. The Board of Professional Engineering is a six-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. One member of the Board shall be a member of the public who has no financial interest in engineering other than as a consumer or possible consumer of its services. The member shall have no financial interest personally or through a spouse. Five members

of the Board shall be licensed professional engineers: Membership under this subsection shall include one civil engineer, one mechanical engineer, one structural engineer, one electrical engineer, and one engineer from among all specialty disciplines licensed by the Board. Membership under this subsection shall include at least three engineers in private practice. Of the five professional members appointed under this subsection, at the time of appointment, three persons shall have been engaged in the practice of professional engineering for at least 12 years. Board members shall be appointed by the Governor in accordance with 3 V.S.A. §§ 129b and 2004. The Governor shall request nominations from the various State engineering societies and may request nominations from other sources, but shall not be bound to select members from among the persons nominated.

- b. 26 V.S.A. § 1171 <https://legislature.vermont.gov/statutes/fullchapter/26/020>

#### 17. Foresters

- a. Forester licensure became required by law on July 1, 2016. The Secretary of State shall appoint three foresters for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to forestry. One of the initial appointments shall be for less than a five-year term. An appointee shall have not less than ten years' experience as a forester immediately preceding appointment; shall be licensed as a forester in Vermont; and shall be actively engaged in the practice of forestry in this State during incumbency. The Director shall seek the advice of the forestry advisor appointees in carrying out the provisions of this chapter.

- b. 26 V.S.A. § 5212 <https://legislature.vermont.gov/statutes/fullchapter/26/101>

#### 18. Funeral Service

- a. In January 2019, following the enactment of Act 144, the funeral service profession transitioned from board to advisor-based regulation, allowing for more efficient and flexible regulation. The Secretary of State shall appoint four persons for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to funeral service. Three of the initial appointments shall be for four-, three-, and two-year terms. Appointees shall include three licensed funeral directors, one of whom is a licensed embalmer and one of whom has training or experience in the operation of crematoria. One appointee shall be a public member. The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

- b. 26 V.S.A. § 1212 <https://legislature.vermont.gov/statutes/fullchapter/26/021>

#### 19. Hearing Aid Dispensers

- a. Hearing aid dispensers in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. Three licensed members of the profession are appointed by the secretary of state to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. The Secretary shall appoint one otolaryngologist, one audiologist, one hearing aid dispenser who is neither an otolaryngologist nor an audiologist, and one member of the public to serve as advisors in matters related to audiologists and hearing aid dispensers. The public member shall be an individual with significant hearing impairment who uses a hearing aid regularly. The members shall be appointed as set forth in 3 V.S.A. § 129b and shall serve at the pleasure of the Secretary. The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this

chapter. Such members shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for this purpose.

- b. 26 V.S.A. § 3287 <https://legislature.vermont.gov/statutes/fullchapter/26/067>

#### 20. Land Surveyors

- a. The Board of Land Surveying is a seven-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The board shall consist of five licensed land surveyors and two members of the public who have no financial interest in the activities regulated under this chapter, other than as consumers or possible consumers of its services. Public members shall have no financial interest personally or through a spouse, parent, child, brother, or sister. "Financial interest" means dealing in goods or services which are uniquely related to activities regulated under this chapter, or investing anything of value in a business licensed under this chapter. Board members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. One member shall have been licensed under this chapter after written examination taken within the five years immediately preceding the date of appointment.

- b. 26 V.S.A. § 2541 <https://legislature.vermont.gov/statutes/fullchapter/26/045>

#### 21. Landscape Architects

- a. Landscape architects in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The secretary of state shall appoint two landscape architects for five-year staggered terms to serve at the secretary's pleasure as advisors in matters relating to landscape architecture. One of the initial appointments may be for less than a five-year term. An appointee shall have not less than three years' experience as a landscape architect immediately preceding appointment, shall be licensed as a landscape architect in Vermont or be in the process of applying for licensure, and shall be actively engaged in the practice of landscape architecture in this state during incumbency. The director shall seek the advice of the landscape architect advisors in carrying out the provisions of this chapter.

- b. 26 V.S.A. § 2622 <https://legislature.vermont.gov/statutes/fullchapter/26/046>

#### 22. Midwives

- a. Licensed midwives in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The secretary of state shall appoint two licensed midwives and one physician, licensed under chapter 23 of this title and who has professional experience with home births, to serve as advisors in matters relating to licensed midwives. They shall be appointed for staggered five-year terms and shall serve at the pleasure of the secretary. One of the initial appointments may be for less than five years. The midwife appointees shall not have less than three years' experience as midwives qualified to be licensed under this chapter during the period immediately preceding appointment and shall be actively engaged in midwifery during their incumbency. The office of professional regulation shall investigate complaints regarding licensed midwives or applicants for licensing or renewal and, when appropriate, refer them to an administrative law officer established under 3 V.S.A. § 129(j). The director shall seek the advice of the persons appointed under this section in carrying out the provisions of this

chapter. Such appointees shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

- b. 26 V.S.A. § 4186 <https://legislature.vermont.gov/statutes/fullchapter/26/085>

#### 23. Motor Vehicle Racing

- a. Motor vehicle racing in the state of Vermont is governed by the “advisor” model of regulation, created by the legislature. The secretary of state shall appoint three advisors for five-year terms to serve at the secretary's pleasure in matters relating to motor vehicle racing. The director shall seek the advice of the advisors in carrying out the provisions of this chapter.

- b. 26 V.S.A. § 4804 <https://legislature.vermont.gov/statutes/fullchapter/26/093>

#### 24. Naturopathic Physicians

- a. Naturopathic physicians in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The secretary of state shall appoint two naturopathic physicians licensed under this chapter to serve as advisors to the director in matters relating to naturopathic physicians. They shall be appointed as set forth in 3 V.S.A. § 129b and serve at the pleasure of the secretary. One of the initial appointments shall be for less than a full term. Appointees shall have at least three years of experience as a naturopathic physician during the period immediately preceding appointment and shall be actively practicing naturopathic medicine in Vermont and remain in good standing during incumbency. The director shall seek the advice of the advisor appointees under this section in carrying out the provisions of this chapter. The advisor appointees shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for attendance at any meetings called by the director for this purpose. Notwithstanding 3 V.S.A. § 129(j), when an advisor appointee is unable to serve as an administrative law officer by reason of disqualification or necessary absence, the secretary of state may appoint a suitable person to serve as the administrative law officer in lieu of the advisor appointee.

- b. 26 V.S.A. § 4126 <https://legislature.vermont.gov/statutes/fullchapter/26/081>

#### 25. Notaries Public

- a. Effective December 1, 2018, Notaries Public became part of OPR and is governed by an “advisor” model of oversight. The Secretary of State shall appoint two notaries public to serve as advisors in matters relating to notarial acts. One of the advisors shall be an attorney selected from a list of at least three licensed attorneys provided by the Vermont Bar Association. The advisors shall be appointed for staggered five-year terms and serve at the pleasure of the Secretary. One of the initial appointments shall be for less than a five-year term. Each appointee shall have at least three years of experience as a notary public during the period immediately preceding appointment and shall be actively commissioned in Vermont and remain in good standing during incumbency. The Office shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The appointees shall be entitled to compensation and reimbursement of expenses as set forth in 32 V.S.A. § 1010 for attendance at any meeting called by the Office for this purpose.

- b. 26 V.S.A. § 5322 <https://legislature.vermont.gov/statutes/fullchapter/26/103>

#### 26. Nursing

- a. The Board of Nursing is an eleven-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The Vermont State Board of Nursing consisting of six registered nurses, including at least two licensed as advanced practice registered nurses; two practical nurses; one nursing assistant; and two public members. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004. Appointments of registered and licensed practical nurse members shall be made in a manner designed to be representative of the various types of nursing education programs and nursing services. Each member of the Board shall be a citizen of the United States and a resident of this State. The licensed members shall have the following in their respective categories of licensure: (A) An active license to practice in Vermont; (B) At least five years' licensed experience. Three of these five years shall have been immediately preceding appointment. (2) The public members shall not be members of any other health-related licensing boards, licensees of any health-occupation boards, or employees of any health agencies or facilities, and shall not derive primary livelihood from the provision of health services at any level of responsibility.
  - b. 26 V.S.A. § 1573 <https://legislature.vermont.gov/statutes/fullchapter/26/028>
27. Nursing Home Administrators
- a. Nursing home administrators in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The Secretary of State shall appoint two advisors as set forth in 3 V.S.A. § 129b. One of the initial appointments may be for less than a five-year term. One of the appointees shall have not less than three years' experience as a nursing home administrator immediately preceding appointment and shall be actively engaged in nursing home administration in Vermont during incumbency. The other appointee shall have not less than three years' experience as a licensed health care provider engaged in the care of the chronically ill. The Director shall seek the advice of the advisors in carrying out the provisions of this chapter. Advisor appointees shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for this purpose.
  - b. 26 V.S.A. § 2052 <https://legislature.vermont.gov/statutes/fullchapter/18/046>
28. Occupational Therapy
- a. Occupational therapists and occupational therapy assistants in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The secretary shall appoint two occupational therapists or an occupational therapist and an occupational therapy assistant to serve as advisors in matters relating to occupational therapists and occupational therapy assistants. They shall be appointed as set forth in 3 V.S.A. § 129b and serve at the pleasure of the secretary. One of the initial appointments shall be for less than a three-year term. Appointees shall have at least three years of experience as an occupational therapist during the period immediately preceding appointment and shall be actively practicing occupational therapy in Vermont and remain in good standing during incumbency. The director shall seek the advice of the occupational therapists appointed under this section in carrying out the provisions of this chapter. These members shall be entitled to compensation and necessary expenses in

the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

- b. 26 V.S.A. § 3354 <https://legislature.vermont.gov/statutes/fullchapter/26/071>

#### 29. Opticians

- a. Opticians in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The secretary of state shall appoint two licensed opticians as set forth in 3 V.S.A. § 129b. One of the initial appointments may be for less than a five-year term. Appointees shall have not less than three years' experience as an optician immediately preceding appointment and shall be actively engaged in optician practice in Vermont during incumbency. The director shall seek the advice of the optician advisors in carrying out the provisions of this chapter. Advisor appointees shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

- b. 26 V.S.A. § 2662 <https://legislature.vermont.gov/statutes/fullchapter/26/047>

#### 30. Optometry

- a. The Board of Optometry is a five-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The board shall consist of five members, three of whom shall be residents of the state, have had at least five years' experience in the practice of optometry in the state, and are in the active practice of optometry at the time of their appointment; and two members who shall be representatives of the public, who shall be residents of the state for five years and who shall have no financial interest in the profession other than as a consumer or potential consumer of its services. Board members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004.

- b. 26 V.S.A. § 1707 <https://legislature.vermont.gov/statutes/fullchapter/26/030>

#### 31. Osteopathic Physicians

- a. The Board of Osteopathic Physicians and Surgeons is a five-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The Board shall consist of five members. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004. Three members of the Board shall be osteopathic physicians licensed and in good standing in this State who are graduates of an accredited school of osteopathic medicine and who reside and have resided and actively practiced osteopathic medicine in this State during the two years immediately preceding their appointments. Two members shall be public members. A public member shall not have a financial interest personally or through a spouse, parent, child, brother, or sister in the activities regulated under this chapter, other than as a consumer or possible consumer of osteopathic medical services. A majority of the members of the Board shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

- b. 26 V.S.A. § 1791 <https://legislature.vermont.gov/statutes/fullchapter/26/033>

#### 32. Pharmacy

- a. The Board of Pharmacy is a seven-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The Board shall consist of seven members,

five of whom shall be pharmacists licensed under this chapter with five years of experience in the practice of pharmacy in this State. Two members shall be members of the public having no financial interest in the practice of pharmacy. Members of the Board shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.

- b. 26 V.S.A. § 2031 <https://legislature.vermont.gov/statutes/fullchapter/26/036>

### 33. Physical Therapists

- a. Physical therapists and physical therapist assistants in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. Two licensed members of the profession are appointed by the secretary of state to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. The secretary of state shall appoint two physical therapists to serve as advisors in matters relating to physical therapy. They shall be appointed for staggered five-year terms and shall serve at the pleasure of the secretary. One of the initial appointments may be for less than a full term. Appointees shall have not less than three years' experience as a physical therapist immediately preceding appointment and shall be actively engaged in the practice of physical therapy in Vermont during incumbency. The director shall refer complaints and disciplinary matters to an administrative law officer established under 3 V.S.A. § 129(j). The director shall seek the advice of the physical therapists appointed under this section in carrying out the provisions of this chapter.

- b. 26 V.S.A. § 2092 <https://legislature.vermont.gov/statutes/fullchapter/26/038>

### 34. Pollution Abatement Facility Operators

- a. Effective January 1, 2017 pollution abatement facility operators are licensed by the Secretary of State’s Office of Professional Regulation (OPR) under an “advisor” model of oversight. The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be pollution abatement facility operators and one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to operation. Two of the initial appointments may be for a term of fewer than five years. A pollution abatement facility operator appointee shall have not fewer than five years' experience as a pollution abatement facility operator immediately preceding appointment, shall be licensed as a pollution abatement facility operator in Vermont, and shall be actively engaged in the practice of pollution abatement facility operation in this State during incumbency. An appointee representing the Agency of Natural Resources shall be involved in the administration of the permitting program established under 10 V.S.A. § 1263. The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

- b. 26 V.S.A. § 5112 <https://legislature.vermont.gov/statutes/fullchapter/26/099>

### 35. Private Investigative & Security Services

- a. The Board of Private Investigative and Security Services is a five-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The board shall consist of five members appointed by the governor: one shall be a provider of private 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 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 3 V.S.A. §§ 129b and 2004.

- b. 26 V.S.A. § 3161 <https://legislature.vermont.gov/statutes/fullchapter/26/059>

### 36. Property Inspectors

- a. Property inspectors are governed by the “advisor” model of regulation, created by the Legislature. The Secretary of State shall appoint two property inspectors for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to property inspection. One of the initial appointments may be for less than a five-year term. An appointee shall have not less than five years' experience as a property inspector immediately preceding appointment, shall be licensed as a property inspector in Vermont, and shall be actively engaged in the practice of property inspecting in this State during incumbency. The Director shall seek the advice of the property inspector advisors in carrying out the provisions of this chapter.

- b. 26 V.S.A. § 1072 <https://legislature.vermont.gov/statutes/fullchapter/26/019>

### 37. Psychoanalysts

- a. Psychoanalysts in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The secretary of state shall appoint two certified psychoanalysts to serve as advisors in matters relating to psychoanalysts. They shall be appointed as set forth in 3 V.S.A. § 129b and serve at the pleasure of the secretary. One of the initial appointments shall be for less than a full term. Appointees shall have at least five years of experience as psychoanalysts during the period immediately preceding appointment and shall be actively practicing certified psychoanalysts in Vermont and remain in good standing during incumbency. The director shall seek the advice of the certified psychoanalysts appointed under this section in carrying out the provisions of this chapter. These members shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

- b. 26 V.S.A. § 4055 <https://legislature.vermont.gov/statutes/fullchapter/26/077>

### 38. Psychological Examiners

- a. The Board of Psychological Examiners is a five-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The board shall be composed of three licensed psychologists and two other persons who are consumers but neither of whom are psychologists. Consumer members shall have no financial interest in the practice of psychology, either personally or through a spouse, parent, child, brother, or sister. At least one but not more than two of the psychologists shall represent the practice of psychology within the agency of human services or a community mental health center. All members of the board shall have been residents of the state of Vermont for at least two years prior to their appointment to the board. When a person who is an employee of or under contract with a community mental health center is subject to disciplinary action and the agency of human services member or the community mental health center member has a conflict of interest, the

secretary of state shall appoint a psychologist who is an employee of another community mental health center to serve as an ad hoc member of the board.

- b. 26 V.S.A. § 3006 <https://legislature.vermont.gov/statutes/fullchapter/26/055>

#### 39. Radiologic Technology

- a. On July 1, 2019 the Board of Radiologic Technology converted from a six-member board to the advisor model. Six advisors are appointed by the Secretary of State to advise the Director in matters concerning radiologic technology, radiologic safety, and the optimal administration of the statute. The Secretary of State shall appoint six persons of suitable qualifications in accordance with this section to advise the Director in matters concerning radiologic technology, radiologic safety, and the optimal administration of the statute. The Secretary shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms. The Director shall consult the appointed advisors prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter. One advisor shall be a member of the public who has no financial interest in radiologic technology other than as a consumer or possible consumer of its services. The public member shall have no financial interest personally or through a spouse. One advisor shall be a radiologist certified by the American Board of Radiology. Three advisors shall be licensed under this chapter, one representing each of the three following primary modalities: radiography; nuclear medicine technology; and radiation therapy. One advisor shall be a representative from the radiological health program of the Vermont Department of Health.

- b. 26 V.S.A. § 2811 <https://legislature.vermont.gov/statutes/fullchapter/26/051>

#### 40. Real Estate Appraisers

- a. On July 1, 2019 the Board of Real Estate Appraisers converted from a six-member board to the advisor model. Six advisors are appointed by the Secretary of State to advise the Director in matters concerning real estate appraisal and the optimal administration of the statute. The Secretary of State shall appoint six persons of suitable qualifications in accordance with this section to advise the Director in matters concerning real estate appraisal. The Secretary shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms. The Director shall consult the appointed advisors prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter. Three advisors 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 advisors 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 advisor 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.

- b. 26 V.S.A. § 3313 <https://legislature.vermont.gov/statutes/fullchapter/26/069>

#### 41. Real Estate Brokers and Salespersons

- a. The Real Estate Commission is a seven-member board, created by the Legislature, whose members are appointed by the Governor to administer the laws respecting real estate brokerage. One member of the commission shall be an attorney at law. Two shall be members of the public who have no financial interest in the activities regulated under this chapter, other than as consumers or possible consumers of its services. These persons shall have no financial interest personally or through a spouse, parent, child, brother, or sister. "Financial interest" means dealing in goods or services which are uniquely related to activities regulated under this chapter, or investing anything of value in a business licensed under this chapter. Three members of the commission shall be licensed real estate brokers whose vocations shall have been that of real estate broker for at least four years. At least one of the broker members shall not be a member of a professional real estate association at the time of appointment or at any time during tenure as a member. One of the commission members shall be a licensed salesperson. If a salesperson becomes a broker while serving on the commission, that salesperson shall become ineligible to continue to serve as the salesperson member of the commission. Commission members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. To the extent possible, appointments shall be geographically representative.

- b. 26 V.S.A. § 2251 <https://legislature.vermont.gov/statutes/fullchapter/26/041>

#### 42. Respiratory Care Practitioners

- a. Respiratory care practitioners in the state of Vermont are governed by the "advisor" model of regulation, created by the legislature. The secretary of state shall appoint two respiratory care practitioners to serve as advisors in matters relating to respiratory care. They shall be appointed for staggered five-year terms and serve at the pleasure of the secretary. One of the initial appointments shall be for less than a five-year term. Each appointee shall have at least three years of experience as a respiratory care practitioner during the period immediately preceding appointment and shall be actively practicing respiratory care in Vermont and remain in good standing during incumbency. The director shall seek the advice of the respiratory care practitioners appointed under this section in carrying out the provisions of this chapter. These appointees shall be entitled to compensation and necessary expenses in the amounts provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

- b. 26 V.S.A. § 4705 <https://legislature.vermont.gov/statutes/fullchapter/26/091>

#### 43. Social Workers

- a. Social workers in the state of Vermont are governed by the "advisor" model of regulation, created by the legislature. Two licensed members of the profession are appointed by the secretary of state to advise the director of the Office of Professional Regulation (OPR) on matters relating to the profession. The Secretary of State shall appoint two individuals licensed under this chapter to serve as advisors in matters relating to licensed social workers. They shall be appointed as set forth in 3 V.S.A. § 129b and shall serve at the pleasure of the Secretary. One of the initial appointments may be for less than a full term. Appointees shall not have less than three years' licensed experience as a social worker and be in active practice in Vermont during

incumbency. The Director shall refer complaints and disciplinary matters to an administrative law officer established under 3 V.S.A. § 129(j). The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this chapter. Such members shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for this purpose.

- b. 26 V.S.A. § 3204 <https://legislature.vermont.gov/statutes/fullchapter/26/061>
44. Speech-Language Pathologist
- a. Speech Language Pathologists in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The Secretary shall appoint two individuals to serve as advisors in matters related to speech-language pathology. Both advisors shall be licensed speech-language pathologists, shall have not less than three years' experience as speech-language pathologists immediately preceding appointment, and shall be actively engaged in the practice of speech-language pathology in Vermont during incumbency. The Director shall seek the advice of the individuals appointed under this section in carrying out the provisions of this chapter. The advisors shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for meetings called by the Director.
  - b. 26 V.S.A. § 4455 <https://legislature.vermont.gov/statutes/fullchapter/26/087>
45. Tattooists & Body Piercers
- a. Tattooists and body piercers in the state of Vermont are governed by the “advisor” model of regulation, created by the legislature. The Secretary of State shall appoint: a professional in the field of public health and medicine from a list of persons provided by the Commissioner of Health; and two licensed operators who have been practicing tattooing and body piercing for at least the three years immediately preceding appointment and who shall actively be engaged in the practice of tattooing and body piercing in Vermont during incumbency. The appointees shall be appointed to serve as advisors in matters relating to tattooing, permanent cosmetics, and body piercing. The appointees shall be appointed as set forth in 3 V.S.A. § 129b. The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The advisor appointees shall be entitled to compensation and necessary expenses as provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for that purpose.
  - b. 26 V.S.A. § 4104 <https://legislature.vermont.gov/statutes/fullchapter/26/079>
46. Veterinary Medicine
- a. The Board of Veterinary Medicine of is a six-member board created by the legislature whose members are appointed by the governor to administer the laws for this profession in the state of Vermont. The board shall consist of six members, four of whom are residents of the state and are graduates of a school of veterinary medicine, and who have had at least five years' experience in the state and are in the active practice of veterinary medicine at the time of their appointment; and two members who shall be representatives of the public who shall be residents of the state for five years and who shall have no financial interest in the profession other than as consumers or potential consumers of its services. They shall have no financial interest personally or through a spouse, parent, child, brother, or sister. The public members shall participate in all board functions with the exception of

drafting and grading examinations. Board members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004.

- b. 26 V.S.A. § 2411 <https://legislature.vermont.gov/statutes/fullchapter/26/044>

47. Wastewater/Water System Designers

- a. Effective January 1, 2017, wastewater system and potable water supply designers are licensed by the Secretary of State's Office of Professional Regulation (OPR) under an "advisor" model of oversight. The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be designers licensed under this chapter and one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to design. Two of the initial appointments may be for a term of fewer than five years. A designer appointee shall have not fewer than five years' experience as a licensed designer immediately preceding appointment; shall be licensed as a designer in Vermont; and shall be actively engaged in the practice of design in this State during incumbency. The Agency of Natural Resources appointee shall be involved in the permitting program established under 10 V.S.A. chapter 64. The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.
- b. 26 V.S.A. § 5012 <https://legislature.vermont.gov/statutes/fullchapter/26/097>

## APPENDIX B

“Humane officer” appears in Title 13, Chapter 8 (Humane and Proper Treatment of Animals) with the most frequency. It is first mentioned in the sentencing options upon conviction for cruelty to animals in 13 V.S.A. § 353(b) (5) which allow a judge to impose, in addition to any other sentence, a requirement that a defendant convicted of animal cruelty to “permit periodic unannounced visits for a period up to one year by a **humane officer** to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant.”

Next, “humane officer” appears most extensively in 13 V.S.A. § 354 as follows:

Any **humane officer** as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a **humane officer** may seize an animal being cruelly treated in violation of this chapter. See 13 V.S.A. § 354(b).

Voluntary surrender. A **humane officer** may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The **humane officer** shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the State of Vermont. *Id.* at § 354(b)(1).

Search and seizure using a search warrant. A **humane officer** having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Vermont Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the State when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the **humane officer** during the execution of the search warrant. *Id.* at § 354(b)(2).

Seizure without a search warrant. If the **humane officer** witnesses a situation in which the **humane officer** determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the **officer** may seize the animal without a warrant. The **humane officer** shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal. *Id.* at § 354(b)(3).

A **humane officer** shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A **humane officer** may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A **humane officer** may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care and provided with necessary medical care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining

the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals. *Id.* at § 354(c).

Affidavits of law enforcement officers, **humane officers**, animal control officers, veterinarians, or expert witnesses of either party shall be admissible evidence that may be rebutted by witnesses called by either party [at a civil forfeiture hearing]. The affidavits shall be delivered to the other party at least five business days prior to the hearing. Upon request of the other party or the court, the party offering an affidavit shall make the affiant available by telephone at the hearing. The court may allow any witness to testify by telephone in lieu of a personal appearance and shall adopt rules with respect to such testimony. *Id.* at § 354(f)(2).

It is unlawful for a person to interfere with a **humane officer** or the Secretary of Agriculture, Food and Markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title. *Id.* at § 354(j).

“Humane officer” is also present in 13 V.S.A. § 356 which states that “All **humane officers** as defined in subdivision 351(4) of this title shall complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board.

Next, the statute states that “notwithstanding any provision of law to the contrary, in addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or **humane officer** may seize [various contraband]. See 13 V.S.A. § 364(b)(1-3).

Finally, in Title 13, “any **humane officer** or member of a fire and rescue service may use reasonable force to remove any such animal from a motor vehicle. The **officer** so removing an animal shall deliver the animal to a humane society, veterinarian, or town or municipal pound. If the owner of the animal cannot be found, the **officer** shall place a written notice in the vehicle, bearing the name of the **officer** and the department and address where the animal may be claimed. . . The **officer** may not be held liable for criminal or civil liability for any damage resulting from actions taken under subsection (a) of this section. See 13 V.S.A. § 386(b).

“Humane officer” appears in two other sections of the Vermont Statutes. First, in Title Twenty-Four (Municipal and County Government). Part 2, Chapter 61, Subchapter 11 (miscellaneous regulatory powers of municipalities) outlines that “[f]or the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the . . . power. . . [t]o regulate, by means of a civil ordinance, . . . the welfare of animals in the municipality. Such ordinance may be enforced by **humane officers** as defined in 13 V.S.A. § 351, if authorized to do so by the municipality.” See 24 V.S.A. § 2291(21).

Lastly, “humane officer” is mentioned in Title Twenty-Six, Chapter 44, Subchapter 1 regarding the profession of veterinary medicine. 26 V.S.A. § 2404(a) states: “There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a veterinarian licensed to practice in this State who, in good faith and in the normal course

of practice, reports suspected cases of cruelty to animals, as defined in 13 V.S.A. §§ 352 and 352a, to any **humane officer** or **officer** as defined in 13 V.S.A. § 351(4) or local board of health officer or agent. It goes on to further state: “There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this State who accompanies a **humane officer** during the execution of a warrant pursuant to 13 V.S.A. § 354, or evaluates the health of and provides medical attention to, including a decision for euthanasia, an animal brought to that veterinarian for health assessment or necessary medical care, pursuant to 13 V.S.A. § 354.