

No. 103. An act relating to the regulation of professions and occupations.

(H.562)

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

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

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

§ 123. DUTIES OF OFFICE

* * *

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

~~(g) [Deleted.]~~

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

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

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

(1) Application for registration, \$75.00.

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

(3) Optician trainee registration, \$50.00.

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

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

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

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

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

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

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

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

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

* * *

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

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

* * *

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

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

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

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

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

* * *

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

§ 4606. BRAND CERTIFICATION

~~If the prescriber does not wish substitution to take place, he or she shall write "brand necessary" or "no substitution" in his or her own handwriting on the prescription blank, together with a written statement that the generic~~

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

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

pharmacist that the brand-name drug is necessary and substitution is not allowed and the pharmacist shall not substitute the generic equivalent.

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

§ 4607. INFORMATION; LABELING

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

* * *

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

Sec. 6. [DELETED]

* * * Chiropractors * * *

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

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

* * *

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

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

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

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

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

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

~~(3) has practiced chiropractic at least 500 hours during the two years immediately preceding the date of application of the United States or Canada with standards and qualifications required for licensure of chiropractors that~~

are deemed by the board to be substantially equivalent to those required by this chapter.

Sec. 8a. 26 V.S.A. § 805(b) is amended to read:

(b) Notwithstanding the provisions of subsection (a) of this section and any other provision of law, a dentist or dental hygienist who holds an unrestricted license in all jurisdictions in which the dentist or dental hygienist is currently licensed, who certifies to the Vermont board of dental examiners that he or she will limit his or her practice in Vermont to providing pro bono services at a free or reduced fee clinic in Vermont and who meets the criteria of the board, shall be licensed by the board within 60 days of the licensee's certification without further examination, interview, fee or any other requirement for board licensure. The dentist or dental hygienist shall file with the board, on forms provided by the board and based on criteria developed by the board, information on dental qualifications, professional discipline, criminal record, malpractice claims or any other such information as the board may require. A license granted under this subsection shall authorize the licensee to practice dentistry or dental hygiene on a voluntary basis in Vermont.

Sec. 8b. 26 V.S.A. § 761 is amended to read:

§ 761. STATE BOARD OF DENTAL EXAMINERS; CREATION;
QUALIFICATIONS

The state board of dental examiners is created and shall consist of ~~five~~ six dental practitioners of good standing, who have practiced in this state for a period of five years or more, are in active practice, and are legal residents of the state of Vermont, two registered dental hygienists certified pursuant to subchapter 4 of this chapter, who have practiced in the state of Vermont for a period of three years immediately preceding the appointment, are in active practice and are legal residents of the state of Vermont, one dental assistant registered pursuant to section 863 of this title who has practiced in the state of Vermont for a period of three years immediately preceding the appointment, is in active practice, and is a legal resident of the state of Vermont, and two members of the public not associated with the practice of dentistry. Board members shall be appointed by the governor pursuant to sections 129b and 2004 of Title 3. No member of the board may be an officer or serve on a committee of his or her respective state or local professional dental or dental hygienist organization nor shall any member of the board be on the faculty of a school of dentistry or dental hygiene.

* * * Dentists * * *

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

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

* * * Nurses * * *

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

§ 1574. POWERS AND DUTIES

The board shall:

* * *

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

* * * Optometrists * * *

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

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

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

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

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

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

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

* * *

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

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

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

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

§ 1729. ENDORSEMENTS AND REQUIREMENTS

(a) Upon application, the board shall certify eligible licensees to use and prescribe therapeutic drugs and to perform those procedures as authorized by subdivision 1728(a)(2) of this title, if the applicant meets the requirements of section 1715 of this chapter for licensure by examination or meets the requirements of section 1716 of this chapter for licensure by endorsement, and

is authorized under the license of another jurisdiction to use therapeutic pharmaceutical agents.

* * *

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

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

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

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

~~(e)~~(d) A licensee certified to use therapeutic pharmaceutical agents shall, as part of required continuing education, receive not less than 50 percent of his or her continuing education in the use of pharmaceuticals, including treating possible complications arising from their use, and the treatment of glaucoma.

* * * Osteopathic Physicians * * *

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

§ 1831. QUALIFICATIONS FOR LICENSURE

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

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

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

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

* * *

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

§ 1832. EXAMINATION

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

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

* * * Pharmacists * * *

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

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

* * * Land Surveyors * * *

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

§ 2592. QUALIFICATIONS

* * *

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

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

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

(A) within six months of commencing work;

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

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

* * *

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

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

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

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

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

Sec. 19a. 26 V.S.A. chapter 52 is added to read:

CHAPTER 52. RADIOLOGIST ASSISTANTS

§ 2851. DEFINITIONS

As used in this chapter:

(1) “ARRT” means the American Registry of Radiologic Technologists or its successor, as recognized by the board.

(2) “Board” means the state board of medical practice established under chapter 23 of this title.

(3) “Contract” means a legally binding written agreement containing the terms of employment of a radiologist assistant.

(4) “Disciplinary action” means any action taken by the board against a certified radiologist assistant or an applicant or an appeal of that action when that action suspends, revokes, limits, or conditions certification in any way or when it results in a reprimand of the person.

(5) “Protocol” means a detailed description of the duties and scope of practice delegated by a radiologist to a radiologist assistant.

(6) “Radiologist” means a person licensed to practice medicine or osteopathy under chapter 23 or 33 of this title and who is certified by or eligible for certification by the American Board of Radiology or the American Osteopathic Board of Radiology or their predecessors or successors or who is credentialed by a hospital to practice radiology and engages in the practice of radiology at that hospital full-time.

(7) “Radiologist assistant” means a person certified by the state of Vermont under this chapter who is qualified by education, training, experience, and personal character to provide medical services under the direction and

supervision of a radiologist.

(8) "Supervision" means the direction and review by a supervising radiologist, as determined to be appropriate by the board, of the medical services provided by the radiologist assistant. At a minimum, supervision shall mean that a radiologist is readily available for consultation and intervention. A radiologist assistant may provide services under the direction and review of more than one supervising radiologist during the course of his or her employment, subject to the limitations on his or her scope of practice as set forth in this chapter and the protocol filed under subsection 2853(b) of this title.

§ 2852. CERTIFICATION AND RULEMAKING

The board shall certify radiologist assistants, and the commissioner of health shall adopt rules regarding the training, practice, supervision, qualification, scope of practice, places of practice, and protocols for radiologist assistants and regarding patient notification and consent.

§ 2853. APPLICATION

(a) An application for certification shall be accompanied by an application by the proposed primary supervising radiologist that shall contain a statement that the radiologist shall be responsible for all professional activities of the radiologist assistant.

(b) An application for certification shall be accompanied by a protocol

signed by one proposed supervising radiologist and proof of employment of the radiologist assistant by that radiologist or by the hospital at which the radiologist practices. The supervising radiologist who signs the protocol shall be deemed the primary supervisor of the radiologist assistant for the purposes of this chapter.

(c) The applicant shall submit to the board any other information the board considers necessary to evaluate the applicant's qualifications.

§ 2854. ELIGIBILITY

To be eligible for certification as a radiologist assistant, an applicant shall:

(1) have obtained a degree from a radiologist assistant educational program that is recognized by the ARRT under its "Recognition Criteria for Radiologist Assistant Educational Programs" adopted on July 1, 2005, as periodically revised and updated;

(2) have satisfactorily completed the radiologist assistant certification examination given by the ARRT and be currently certified by the ARRT;

(3) be certified as a radiologic technologist in radiography by the ARRT; and

(4) be licensed as a radiologic technologist in radiography in this state under chapter 51 of this title.

§ 2855. TEMPORARY CERTIFICATION

(a) The board may issue a temporary certification to a person who applies

for certification for the first time in this state and meets the educational requirements under subsection 2854 of this title.

(b) Temporary certification may be issued only for the purpose of allowing an otherwise qualified applicant to practice as a radiologist assistant until the applicant takes and passes the next ARRT certification examination and a determination is made that he or she is qualified to practice in this state.

(c) Temporary certification shall be issued upon payment of the specified fee for a fixed period of time to be determined by the board and shall only be renewed by the board if the applicant demonstrates proof of an exceptional cause.

§ 2856. RENEWAL OF CERTIFICATION

(a) Certifications shall be renewable every two years upon payment of the required fee and submission of proof of current, active ARRT certification, including compliance with continuing education requirements.

(b) A certification that has lapsed may be reinstated on payment of a renewal fee and a late renewal fee. The applicant shall not be required to pay back renewal fees for the periods when certification was lapsed. However, if certification remains lapsed for a period of three years, the board may, after notice and an opportunity for hearing, require reexamination as a condition of renewal.

§ 2857. SUPERVISION AND SCOPE OF PRACTICE

(a) The number of radiologist assistants permitted to practice under the direction and supervision of a radiologist shall be determined by the board after review of the system of care delivery in which the supervising radiologist and radiologist assistants propose to practice. Scope of practice and levels of supervision shall be consistent with guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the ARRT. The authority of a radiologist assistant to practice shall terminate immediately upon termination of the radiologist assistant's employment, and the primary supervising radiologist shall immediately notify the board and the commissioner of the department of health of the termination. The radiologist assistant's authority to practice shall not resume until he or she provides proof of other employment and a protocol as required under this chapter.

(b) Subject to the limitations set forth in subsection (a) of this section , the radiologist assistant's scope of practice shall be limited to that delegated to the radiologist assistant by the primary supervising radiologist and for which the radiologist assistant is qualified by education, training, and experience. At no time shall the practice of the radiologist assistant exceed the normal scope of the supervising radiologist's practice. A radiologist assistant may not interpret images, make diagnoses, or prescribe medications or therapies.

§ 2858. UNPROFESSIONAL CONDUCT

(a) The following conduct by a certified radiologist assistant constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of certification:

(1) fraudulent procuring or use of certification;

(2) occupational advertising that is intended or has a tendency to deceive the public;

(3) exercising undue influence on or taking improper advantage of a person using the radiologist assistant's services or promoting the sale of professional goods or services in a manner that exploits a person for the financial gain of the radiologist assistant or of a third party;

(4) failing to comply with provisions of federal or state law governing the profession;

(5) conviction of a crime related to the profession or conviction of a felony, whether or not related to the practice of the profession;

(6) conduct that evidences unfitness to practice in the profession;

(7) making or filing false professional reports or records, impeding or obstructing the proper making or filing of professional reports or records, or failing to file the proper professional report or record;

(8) practicing the profession when mentally or physically unfit to do so;

(9) professional negligence;

(10) accepting and performing responsibilities that the person knows or has reason to know that he or she is not competent to perform;

(11) making any material misrepresentation in the practice of the profession, whether by commission or omission;

(12) holding one's self out as or permitting one's self to be represented as a licensed physician;

(13) performing otherwise than at the direction and under the supervision of a radiologist licensed by the board;

(14) accepting the delegation of or performing or offering to perform a task or tasks beyond the person's scope of practice as defined by the board;

(15) administering, dispensing, or prescribing any controlled substance other than as authorized by law;

(16) failing to comply with an order of the board or violating any term or condition of a certification restricted by the board;

(17) delegating professional responsibilities to a person whom the certified professional knows or has reason to know is not qualified by training, experience, education, or licensing credentials to perform;

(18) in the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions that degree of care, skill, and proficiency that is commonly exercised by the

ordinary skillful, careful, and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred; or

(19) revocation of certification to practice as a radiologist assistant in another jurisdiction on one or more of the grounds specified in subdivisions (1)–(18) of this subsection.

(b) A person aggrieved by a final order of the board may, within 30 days of the order, appeal that order to the Vermont supreme court on the basis of the record created before the board.

§ 2859. DISPOSITION OF COMPLAINTS

(a) Complaints and allegations of unprofessional conduct shall be processed in accordance with the rules of procedure of the board.

(b) The board shall accept complaints from a member of the public, a physician, a hospital, a radiologist assistant, a state or federal agency, or the attorney general. The board shall initiate an investigation of a radiologist assistant when a complaint is received or may act on its own initiative without having received a complaint.

(c) If the board determines that the action of a radiologist assistant that is the subject of a complaint falls entirely within the scope of practice of a radiologic technologist in radiography, the board shall refer the complaint to the board of radiologic technology for review under chapter 51 of this title.

(d) After giving opportunity for hearing, the board shall take disciplinary action against a radiologist assistant or applicant found guilty of unprofessional conduct.

(e) The board may approve a negotiated agreement between the parties when it is in the best interest of the public health, safety, or welfare to do so. That agreement may include any of the following conditions or restrictions which may be in addition to or in lieu of suspension:

(1) a requirement that the person submit to care or counseling;

(2) a restriction that the person practice only under supervision of a named person or a person with specified credentials;

(3) a requirement that the person participate in continuing education in order to overcome specified practical deficiencies;

(4) a requirement that the scope of practice permitted be restricted to a specified extent.

(f) Upon application, the board may modify the terms of an order under this section and, if certification has been revoked or suspended, order reinstatement on terms and conditions it deems proper.

§ 2860. USE OF TITLE

Any person who is certified to practice as a radiologist assistant in this state shall have the right to use the title “radiologist assistant” or “registered radiologist assistant” and the abbreviation “R.A.” or “R.R.A.” No other person

may assume that title or use that abbreviation or any other words, letters, signs, or devices to indicate that the person using them is a radiologist assistant. A radiologist assistant shall not so represent himself or herself unless there is currently in existence a valid employment arrangement between the radiologist assistant and his or her employer or primary supervising radiologist and unless the protocol under which the radiologist assistant's duties are delegated is on file with and has been approved by the board.

§ 2861. LEGAL LIABILITY

(a) The primary supervising radiologist delegating activities to a radiologist assistant shall be legally liable for the activities of the radiologist assistant, and the radiologist assistant shall in this relationship be the radiologist's agent.

(b) Nothing contained in this chapter shall be construed to apply to nurses acting pursuant to chapter 28 of this title.

§ 2862. FEES

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

- | | |
|---|------------------|
| <u>(1)(A)(i) Original application for certification</u> | <u>\$115.00;</u> |
| <u>(ii) Each additional application</u> | <u>\$50.00;</u> |

(B) The board shall use at least \$10.00 of these fees to support the costs of the creation and maintenance of a Vermont practitioner recovery network which will monitor recovering chemically dependent licensees for the

protection of the public.

(2)(A)(i) Biennial renewal \$115.00;

(ii) Each additional renewal \$50.00;

(B) The board shall use at least \$10.00 of these fees to support the costs of the creation and maintenance of a Vermont practitioner recovery network that will monitor recovering chemically dependent licensees for the protection of the public. In addition to the fee, an applicant for certification renewal shall submit evidence in a manner acceptable to the board that he or she continues to meet the certification requirements of the ARRT and is licensed as a radiologic technologist under chapter 51 of this title.

(3) Transfer of certification \$15.00.

§ 2863. NOTICE OF USE OF RADIOLOGIST ASSISTANTS

A radiologist who uses the services of a radiologist assistant shall post a notice to that effect in an appropriate place and include language in the patient consent form that the radiologist uses a radiologist assistant.

§ 2864. PENALTY

(a) A person who, not being certified, holds himself or herself out to the public as being certified under this chapter shall be liable for a fine of not more than \$1,000.00.

(b) In addition to the penalty provided in subsection (a) of this section, the attorney general or a state's attorney may bring a civil action to restrain

continuing violations of this section.

Sec. 19b. 26 V.S.A. § 1842(b)(12) is added to read:

(12) Use of the services of a radiologist assistant in a manner that is inconsistent with the provisions of chapter 52 of this title.

Sec. 19c. 26 V.S.A. § 1354(a) is amended to read:

(a) The board shall find that any one of the following, or any combination of the following, whether or not the conduct at issue was committed within or outside the state, constitutes unprofessional conduct:

* * *

(31) use of the services of an anesthesiologist assistant by an anesthesiologist in a manner that is inconsistent with the provisions of chapter 29 of this title;

(32) use of the services of a radiologist assistant by a radiologist in a manner that is inconsistent with the provisions of chapter 52 of this title.

Sec. 19d. 26 V.S.A. § 1351(e) is amended to read:

(e) The commissioner of health shall adopt, amend, and repeal rules of the board which the commissioner determines necessary to carry out the provisions of this chapter and chapters 7, 29, ~~and 31,~~ and 52 of this title.

Sec. 19e. 26 V.S.A. § 1352(a) is amended to read:

(a) The commissioner of health shall issue annually a report to the secretary of human services and the secretary of the Vermont medical society which shall contain:

(1) a separate record of the name, residence, college, and date of graduation of each individual licensed or certified by the board;

(2) a list of all physicians, physician's assistants, podiatrists, radiologist assistants, and anesthesiologist assistants practicing in the state;

(3) a summary of all disciplinary actions undertaken by the board during the year of the report; and

(4) an accounting of all fees and fines received by the board and all expenditures and costs of the board for such year. A sufficient number of copies shall be printed to supply the needs of the board and the state library.

* * * Psychologists * * *

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

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

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

§ 3004. EXCEPTIONS

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

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

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

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

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

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

~~(a)(1) of this section shall register with the board and be subject to regulation by the board.~~

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

§ 3010. FEES; LICENSES

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

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

* * * Private Investigative and Security Services * * *

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

§ 3151. DEFINITIONS

As used in this chapter:

* * *

(3) ~~“Private detective” or “private investigator”~~ means any person who, for a consideration engages in or solicits business ~~or~~ accepts employment ~~to furnish, or agrees to make or makes any investigation to obtain, information with reference to any of the following or provides, or offers to provide, security of persons incident to any of the following~~ or holds himself or herself

out to the public as someone who will investigate, obtain information, or provide security of persons incident to, but not limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) “Qualifying agent” means a licensed private ~~detective~~ investigator who is responsible for a private investigative services agency or combination agency, or a licensed security guard who ~~shall be the licensed holder for an~~

~~agency under section 3176 of this title, and who, in the case of a corporation is an officer or an individual in a management capacity, and who in the case of a partnership is a general or unlimited partner~~ is responsible for a private security services agency or combination agency. A sole proprietor shall be the qualifying agent of his or her agency and shall meet all qualifying agent licensure requirements.

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

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

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

* * *

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

* * *

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

§ 3161. STATE BOARD

The state board of private investigative and security services is created. The board shall consist of five members appointed by the governor: one shall be a provider of private ~~detective~~ investigative services; one shall be a provider of private security services; two shall be members of the public with no financial

interest in either service other than as a consumer or potential consumer. The remaining member shall be a provider of private ~~detective~~ investigative services or a provider of private security services, or a provider of both types of services. Board members shall be appointed by the governor pursuant to sections 129b and 2004 of Title 3.

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

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

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

§ 3172. LICENSES

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

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

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

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

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

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

(b) The board may inquire of the Vermont criminal information center for any information on criminal records of the applicant, and the center shall provide such information to the board. The board, through the Vermont criminal information center, may also inquire of the appropriate state criminal record repositories in all states in which it has reason to believe an applicant has resided or been employed, and it may also inquire of the Federal Bureau of Investigation, for any information on criminal records of the applicant. ~~When~~

~~fingerprinting is required, the~~ The applicant shall bear the costs associated with ~~the return and resubmission of illegible fingerprint cards~~ fingerprinting. The board may also make ~~such~~ additional inquiries it deems necessary into the character, integrity and reputation of the applicant.

* * *

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

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

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

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

required by section 3175 of this title.

(b) The board may inquire of the Vermont criminal information center for any information on criminal records of the applicant, and the center shall

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

* * *

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

§ 3175. EXAMINATIONS

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

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

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

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

~~(b)~~ The board shall license firearms training course instructors of ~~such training courses~~ private investigators and security guards licensed under this chapter and shall adopt rules governing the licensure of instructors and the approval of firearms and guard dog training programs.

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

* * *

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

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

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

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

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

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

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

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

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

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

§ 3175b. GUARD DOG TRAINING INSTRUCTOR LICENSE

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

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

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

approved by the board.

- (6) A federal background check.

§ 3175c. FIREARMS TRAINING AND CERTIFICATION

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

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

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

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

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

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

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

§ 3176a. TRANSITORY PRACTICE

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

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

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

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

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

§ 3178. RENEWALS AND REINSTATEMENT

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

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

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

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

§ 3178a. FEES

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

(1) Application for agency license:

- | | |
|--|-------------------------------------|
| (A) Detective <u>Investigative</u> agency | \$250.00 <u>\$270.00</u> |
| (B) Security agency | \$250.00 <u>\$270.00</u> |

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

§ 3179. PENALTIES

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

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

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

§ 3181. UNPROFESSIONAL CONDUCT

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

(b) Unprofessional conduct means any of the following:

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

* * *

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

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

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

(A) with the client's permission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

* * * Real Estate Appraisers * * *

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

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

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

§ 3312. PROHIBITIONS; PENALTY; EXEMPTION

* * *

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

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

§ 3313. BOARD OF REAL ESTATE APPRAISERS

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

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

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

* * *

(4) Register appraisal management companies.

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

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

§ 3316. LICENSING AND REGISTRATION FEES

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

* * *

(8) Appraisal management company registration application \$125.00

(9) Appraisal management company registration renewal \$500.00

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

§ 3320a. APPRAISAL MANAGEMENT COMPANIES

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

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

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

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

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

(b) An appraisal management company does not include:

(1) a government agency;

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

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

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

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

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

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

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

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

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

§ 3322. USE OF LICENSE NUMBER

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

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

§ 3323. UNPROFESSIONAL CONDUCT

* * *

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

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

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

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

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

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

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

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

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

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

(4) Requiring an independent appraiser to enter into an agreement requiring the independent appraiser to defend, to indemnify, or to hold harmless the registrant or other third party for the development, use, or contents of a real estate appraisal. This subdivision shall not affect a licensee's or a registrant's professional liability to consumers or to other licensees or registrants.

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

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

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

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

(1) suspending or conditioning a license or registration;

* * *

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

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

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

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

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

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

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

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

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

* * * Dieticians * * *

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

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

* * *

* * * Electrologists * * *

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

§ 4402. DEFINITIONS

As used in this chapter:

* * *

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

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

* * *

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

* * * Motor Vehicle Racing * * *

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

§ 4806. FEES; DISPOSITIONS

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

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

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

~~(2) Biennial renewal:~~

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

(2) Unlimited event permit applications:

- ~~(C)~~(A) Single auto Auto racing ~~permit~~ \$ 1,250.00;
- ~~(D) Single go-cart or motorcycle racing permit \$ 500.00;~~

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

* * *

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

Sec. 53. REPEAL

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

Sec. 54. DEPARTMENT OF HEALTH

The department of health shall evaluate its procedures for application for licensure for under 18 V.S.A. § 1395(c). On or before March 15, 2011 the department shall report to the house and senate committees on government operations its findings regarding facilitating the granting of licenses to qualified physicians who will limit their practice in Vermont to providing pro bono services at a free or reduced fee health care clinic in Vermont while assuring that these physicians meet all the standards required of physicians fully licensed to practice in Vermont.

Sec. 55. EFFECTIVE DATE

This section and Secs. 19a, 19b, 19c, 19d, and 19e of this act shall take effect upon passage.

Approved: May 12, 2010