

No. 27. An act relating to professions and occupations regulated by the Office of Professional Regulation.

(H.205)

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

* * * General Provisions * * *

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

§ 123. DUTIES OF OFFICE

(a) The ~~office~~ Office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The administrative services provided by the ~~office~~ Office shall include:

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(b) The ~~director~~ Director shall consult with each board and prepare a consolidated budget for the ~~office~~ Office. ~~This budget shall be prepared after consideration of the budgets submitted by the boards to the director.~~ The consolidated budget shall also contain funds deemed to be required by the ~~director~~ Director for the administration of this chapter. The ~~director~~ Director shall submit the consolidated budget to the ~~secretary of state~~ Secretary of State.

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* * * Chiropractors * * *

Sec. 2. 26 V.S.A. § 521(3) is amended to read:

(3) “The practice of chiropractic” means the diagnosis of human ailments and diseases related to subluxations, joint dysfunctions, and neuromuscular and skeletal disorders for the purpose of their detection, correction, or referral in order to restore and maintain health, including pain

relief, without providing drugs or performing surgery; the use of physical and clinical examinations, conventional radiologic procedures and interpretation, as well as the use of diagnostic imaging read and interpreted by a person so licensed and clinical laboratory procedures to determine the propriety of a regimen of chiropractic care; adjunctive therapies approved by the ~~board~~ Board, by rule, to be used in conjunction with chiropractic treatment; and treatment by adjustment or manipulation of the spine or other joints and connected neuromusculoskeletal tissues and bodily articulations.

* * * Dental Hygienists * * *

Sec. 3. 26 V.S.A. § 624 is amended to read:

§ 624. PRACTICE

(a) A dental hygienist may perform duties for which the dental hygienist has been qualified by successful completion of the normal curriculum offered by programs of dental hygiene accredited by the American Dental Association or in continuing education courses approved by the ~~board~~ Board. A dental hygienist may perform tasks in the office of any licensed dentist consistent with the rules adopted by the ~~board~~ Board.

(b) In public or private schools or institutions, a dental hygienist with no less than three years of experience may perform tasks under the general supervision of a licensed dentist with no less than three years of experience as prescribed in guidelines adopted by the ~~board~~ Board by rule.

(c)(1) A dental hygienist, when authorized by the ~~board~~ Board by rule, may administer ~~for dental hygiene purposes~~ local anesthetics under the direct supervision and by the prescription of a licensed dentist.

(2) The license of a dental hygienist authorized by ~~board~~ Board rule to administer local anesthetics shall have a special endorsement to that effect.

* * * Professional Engineers * * *

Sec. 4. 26 V.S.A. § 1161 is amended to read:

§ 1161. DEFINITIONS

As used in this chapter:

(1) “Board” means the ~~board of professional engineering~~ Board of Professional Engineering.

(2) “Professional engineering ~~services~~” means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, insofar as the service or work involves safeguarding life, health, or property. This includes consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land, air, and water and accomplishing engineering surveys and studies. ~~Such services or work may be either for, any of which embraces such services or work, either public or private purposes,~~

~~and may be performed~~ in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, control systems, fire protection systems, communication systems, transportation systems, projects, and equipment systems of a mechanical, electrical, hydraulic, pneumatic, chemical, or thermal nature, ~~insofar as they involve safeguarding life, health, or property.~~

(3) “Financial interest” means being:

(A) a licensed professional engineer; or

(B) a person who deals in goods and services which are uniquely related to the practice of engineering; or

(C) a person who has invested anything of value in a business which provides engineering services.

(4) “Instruments of service” means project deliverables such as reports, specifications, drawings, plans, construction documents, or engineering surveys, which have been prepared under the licensee’s responsible charge.

(5) “Practice of professional engineering” means providing, attempting to provide, or offering to provide professional engineering services ~~for a fee or other consideration.~~

~~(5)~~(6) A professional engineer in “private practice” means a professional engineer who owns, operates, or is employed by a business entity which derives a substantial part of its income from providing professional engineering services to the public.

~~(6)~~(7) “Professional engineer” means a person licensed under this chapter.

(8) “Responsible charge” means direct control and personal supervision of engineering work.

(9) “Specialty discipline” means that area of professional engineering recognized by the Board as the area of expertise and practice for which a license is granted.

~~(7)~~(10) “State” includes the United States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

~~(8)~~(11) “Unauthorized practice” means conduct prohibited by section 1162 of this ~~title~~ chapter and not exempted by section 1163 of this ~~title~~ chapter.

Sec. 5. 26 V.S.A. § 1162 is amended to read:

§ 1162. PROHIBITION; ENFORCEMENT

(a) No person shall engage in the practice of professional engineering in this State unless the person is licensed under or exempt from this chapter.

(b) No person shall use, in connection with the person’s name any letters, words, or insignia, including “Professional Engineer,” “P.E.,” “PE,” or “P.Eng.,” indicating that the person is a professional engineer unless the person is licensed in accordance with this chapter. ~~A person found guilty of violating this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).~~

(c) A person found guilty of violating this section shall be subject to penalties provided in 3 V.S.A. § 127(c). In addition to the power of criminal

enforcement, the ~~attorney general~~ Attorney General, a state's attorney, or a prosecuting attorney from the ~~office of professional regulation~~ Office of Professional Regulation may bring a civil action to restrain continuing violations of this section.

Sec. 6. 26 V.S.A. § 1163 is amended to read:

§ 1163. EXEMPTIONS

(a) Persons exempt. Section 1162 of this ~~title~~ chapter does not prohibit acts constituting the practice of engineering performed as a necessary part of the duties of:

- (1) ~~An~~ an officer or employee of the federal government;
- (2) ~~An~~ an officer or a full-time employee of the ~~state~~. State;
- (3) ~~An~~ an officer or full-time employee of a municipality;
- (4) ~~Certain~~ certain classes of licensed potable water supply and wastewater system designers, as designated by rule of the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources, who design supplies or systems with a design flow of up to 1,350 gallons per day and who are licensed under 10 V.S.A. chapter 64;
- (5) ~~An~~ an officer or employee of a corporation in interstate communications as defined in the act of Congress entitled "Communications Act of 1934" or of a telephone company under the supervision and regulation of the ~~department of public service~~. Public Service Board;

(6) ~~An~~ an employee or subordinate of a professional engineer, provided the engineering work is done under the responsible charge of, and verified by, the professional engineer; or

(7) ~~Students~~ students of engineering acting under the supervision of a professional engineer.

(b) Other professions. Section 1162 of this ~~title~~ chapter does not prohibit acts constituting the practice of any other legally recognized profession or occupation.

(c) Purposes exempt. Section 1162 of this ~~title~~ chapter does not prohibit any person from performing acts constituting the practice of engineering for the purpose of:

(1) ~~Designing or fabricating~~ engineering of a manufactured product;

(2) ~~Designing or constructing~~ engineering of a building which is not a public building as defined in ~~Title 18, 20 V.S.A. § 2730;~~

(3) ~~Designing or constructing~~ engineering a building which contains only one, two, or three dwelling units ~~or accessory~~ and any outbuildings; accessory to those units;

(4) ~~Construction of public works by a municipality.~~ [Repealed.]

(5) ~~Designing or constructing~~ engineering of recreational trails and trail-related structures by a ~~not for profit~~ nonprofit organization whose trails have been recognized by the ~~agency of natural resources~~ Agency of Natural Resources as part of the Vermont trails system; provided such organization

purchases and maintains liability insurance in the amount required by law or under a contract with the ~~state~~ State of Vermont, but in no event in an amount that is less than \$100,000.00.

(d), (e) [Repealed.]

Sec. 7. 26 V.S.A. § 1171 is amended to read:

§ 1171. BOARD OF PROFESSIONAL ENGINEERING

(a) A ~~board of professional engineering~~ Board of Professional Engineering is created, consisting of ~~five~~ six members who are residents of this ~~state~~ State. The ~~board~~ Board shall be attached to the ~~office of professional regulation~~ Office of Professional Regulation.

(b) One member of the ~~board~~ 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. ~~Board members shall be appointed by the governor in accordance with 3 V.S.A. §§ 129b and 2004.~~

(c) ~~Four~~ Five members of the ~~board~~ Board shall be licensed professional engineers:

(1) Membership under this subsection shall ~~be rotated to the extent practicable among the professional specialties recognized by the board~~ 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.

(2) Membership under this subsection shall include at least ~~one engineer~~ three engineers in private practice.

(3) Of the ~~four~~ 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, ~~at least five of which have been in responsible charge of important engineering work.~~

(d) Board members shall be appointed by the Governor in accordance with 3 V.S.A. §§ 129b and 2004. The ~~governor~~ 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.

Sec. 8. 26 V.S.A. § 1172 is amended to read:

§ 1172. POWERS AND DUTIES

(a) The ~~board~~ Board shall adopt rules necessary for the performance of its duties, including:

- (1) ~~A a~~ a list of recognized engineering ~~specialties.~~ specialty disciplines;
- (2) ~~Qualifications~~ qualifications for obtaining licensure, interpreting sections ~~1181 and 1182~~ 1182a and 1182b of this ~~title.~~ chapter;
- (3) ~~Explanations~~ explanations of appeal and other significant rights given to licensees, applicants, and the public; and
- (4) ~~Procedures~~ procedures for disciplinary and reinstatement cases.

(b) The ~~board~~ Board shall:

(1) ~~If applications for licensure by examination are pending,~~ offer examinations ~~at least twice each year and pass upon the qualifications of~~ to qualified applicants for licensing;

(2) ~~Utilize~~ use administrative services provided by the ~~office of professional regulation~~ Office of Professional Regulation under 3 V.S.A. chapter 5;

(3) ~~Investigate~~ investigate suspected unprofessional conduct; and

(4) ~~Have~~ have general responsibility for ensuring that professional engineering services available in this ~~state~~ State are of uniformly good quality, and take suitable action, within the scope of its powers, to solve or bring public and professional attention to any problem which it finds in this area.

(c) The ~~board~~ Board may:

(1) ~~Establish~~ establish or approve continuing education programs or other methods of allowing licensees to maintain continued competency;

(2) ~~Conduct~~ conduct hearings;

(3) ~~Administer~~ administer oaths, and at the request of any party issue subpoenas;

(4) ~~Issue~~ issue orders relating to discovery in the same manner as a judge under the Vermont Rules of Civil Procedure, which may be enforced under ~~section 1175 of this title.~~ 3 V.S.A. § 809b;

(5) ~~Adopt~~ adopt rules relating to the procedures to be followed in hearings held under this chapter;

(6) ~~Receive~~ receive assistance from and refer suspected unauthorized practice to the ~~attorney general~~. Attorney General; and

(7) ~~Request~~ request the ~~attorney general~~ Attorney General to obtain injunctions to restrain unprofessional conduct.

Sec. 9. 26 V.S.A. § 1176 is amended to read:

§ 1176. FEES

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

- | | |
|--|----------|
| (1) Application for engineering license <u>or application to add additional specialty discipline</u> | \$ 80.00 |
| (2) Application for engineer intern certificate | \$ 50.00 |
| (3) Biennial <u>license</u> renewal | \$ 80.00 |
| (4) [Deleted.] | |

Sec. 10. 26 V.S.A. § 1181a is added to read:

§ 1181a. ENGINEER INTERNS

(a) An engineer intern certification shall be issued by the Board to recognize those persons who have completed preliminary steps toward becoming licensed as a professional engineer. Engineer interns are not authorized to practice professional engineering.

(b) The minimum qualifications for certification by the Board as an engineer intern are as follows:

(1) a bachelor's degree in engineering or in engineering technology or six years or more of progressive engineering experience of a grade and character acceptable to the Board; and

(2) a passing score set by Board rule on a fundamentals of engineering examination recognized by Board rule and taken in the State of Vermont.

(c) Upon satisfaction of the minimum qualifications set forth in subsection (b) of this section, the Board shall issue a certificate as an engineer intern. The certificate shall have no expiration date and no renewal fees.

(d) The use of the titles "Engineer Intern" and "E.I." in Vermont is restricted to those persons certified as engineer interns by the Board or by an equivalent board in another state. An engineer intern certified by an equivalent board in another state shall be recognized as an engineer intern by the Board without further application or examination.

Sec. 11. 26 V.S.A. § 1182a is added to read:

§ 1182a. LICENSING STANDARDS

(a) Licensing standards and procedures adopted or used by the Board shall be fair and reasonable. The standards and procedures shall be designed and implemented to ensure that all qualified 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. Licensing

standards shall not be designed or implemented for the purpose of limiting the number of licensees.

(b) The Board recognizes the following routes to licensure:

(1) Individuals with a bachelor's degree in engineering. A professional engineering license shall be issued to a person who:

(A) satisfactorily completes a bachelor's level engineering curriculum accredited by the Accreditation Board for Engineering and Technology ("ABET");

(B) attains a passing score set by Board rule on a fundamentals of engineering examination recognized by Board rule;

(C) completes four years or more of progressive engineering experience after graduation of a grade and character which indicate to the Board that the applicant may be competent to practice engineering, at least two years of which shall be in the specialty discipline for which the license is sought. A master's degree in engineering may be counted as one year of experience;

(D) attains a passing score on a specialized examination recognized by Board rule testing the principles and practices of engineering in the specialty discipline sought; and

(E) satisfies all requirements set forth in the Board's rules.

(2) Individuals with a master's degree in engineering. A professional engineering license shall be issued to a person who:

(A) satisfactorily completes a bachelor's level curriculum in a technical field related to engineering and master's level engineering curriculum accredited by ABET;

(B) attains a passing score on a fundamentals of engineering examination recognized by Board rule;

(C) completes four years or more of progressive engineering experience after graduation from the master's degree program of a grade and character which indicate to the Board that the applicant may be competent to practice engineering, at least two years of which shall be in the specialty discipline for which the license is sought;

(D) attains a passing score on a specialized examination recognized by Board rule testing the principles and practices of engineering in the specialty discipline sought; and

(E) satisfies all requirements set forth in the Board's rules.

(3) Individuals with a bachelor's degree in engineering technology. A professional engineering license shall be issued to a person who:

(A) satisfactorily completes a bachelor's level engineering technology curriculum accredited by ABET;

(B) attains a passing score on a fundamentals of engineering examination recognized by Board rule;

(C) completes eight years or more of progressive engineering experience after graduation of a grade and character which indicate to the

Board that the applicant may be competent to practice engineering, at least four years of which shall be in the specialty discipline for which the license is sought;

(D) attains a passing score on a specialized examination recognized by Board rule testing the principles and practices of engineering in the specialty discipline sought; and

(E) satisfies all requirements set forth in the Board's rules.

(4) Twelve years of engineering experience. A professional engineering license shall be issued to a person who:

(A) attains a passing score on a fundamentals of engineering examination recognized by Board rule;

(B) completes 12 years or more of progressive engineering experience of a grade and character which indicate to the Board that the applicant may be competent to practice engineering, at least six years of which shall be in the specialty discipline for which the license is sought;

(C) attains a passing score on a specialized examination recognized by Board rule testing the principles and practices of engineering in the specialty discipline sought; and

(D) satisfies all requirements set forth in the Board's rules.

(5) Sixteen years of engineering experience. A professional engineering license shall be issued to a person who:

(A) completes 16 years or more of progressive engineering experience of a grade and character which indicate to the Board that the applicant may be competent to practice engineering, at least eight years of which shall be in the specialty discipline for which the license is sought;

(B) attains a passing score on a specialized examination recognized by Board rule testing the principles and practices of engineering in the specialty discipline sought; and

(C) satisfies all requirements set forth in the Board's rules.

(6) Alternate route to licensure. A professional engineering license may be issued to a person who:

(A) attains a passing score on a fundamentals of engineering examination recognized by Board rule;

(B) completes education and experience that, in the judgment of the Board, demonstrates a substantially equivalent level of preparation for engineering practice as required by subdivision (b)(1), (b)(2), or (b)(3) of this section;

(C) attains a passing score on a specialized examination recognized by Board rule testing the principles and practices of engineering in the specialty discipline sought; and

(D) satisfies all requirements set forth in the Board's rules.

Sec. 12. 26 V.S.A. § 1182b is added to read:

§ 1182b. LICENSE AND SPECIALTY DISCIPLINES

(a) Upon determining that an applicant is qualified for licensure in one or more specialty disciplines under section 1182a of this subchapter, the Board shall issue a license indicating the specialty discipline or disciplines.

(b) Upon determining that an existing licensee is qualified by application in an additional specialty discipline under section 1182a of this subchapter, the Board shall issue a license to the licensee indicating all specialty disciplines.

(c) Licenses issued under this chapter shall be renewed biennially.

Sec. 13. 26 V.S.A. § 1183 is amended to read:

§ 1183. ~~RIGHT TO~~ LICENSE RENEWAL

(a) ~~Specialty certificates~~ Licenses shall be renewed every two years without examination and on payment of the required fees. However, by rule, the ~~board~~ Board may establish a continuing education requirement. If the ~~board~~ Board establishes a continuing education requirement, and a licensee fails to demonstrate compliance with that requirement, it may deny or condition renewal, after opportunity for hearing.

(b) Following expiration of a ~~specialty certificate~~ license, it may be reinstated upon payment of a renewal fee and a late renewal penalty. A licensee shall not be required to pay renewal fees during periods when the license was expired.

~~(c) Notwithstanding subsection (b) of this section, if a specialty certificate remains expired for a period of five years, the board shall send notice under this section to the former licensee at his or her last known address. Thirty days after the notice is sent, the right to renew the certificate without examination is suspended. After the right to renew is suspended, it may be reinstated only by decision of the board acting on petition of the former licensee. During that proceeding, the board may impose reasonable requirements, including reexamination, and may require completion of a practical or academic reentry program. The board may also require payment of a renewal fee, a late renewal penalty, and a license reinstatement fee. [Repealed.]~~

Sec. 14. 26 V.S.A. § 1188 is amended to read:

§ 1188. SEAL

(a) Each licensee shall obtain a seal of a design ~~authorized or approved by the board~~ Board by rule. ~~The seal shall bear the licensee's name and the title "professional engineer."~~

(b) Plans, specifications, ~~plats, and reports,~~ and other instruments of service issued by a licensee shall be ~~stamped with his or her seal and shall also be~~ signed and sealed by the licensee.

(c) A person who affixes to a plan or other document the seal of ~~another person~~ a licensee without the licensee's authorization shall be fined not more than \$1,000.00 ~~and~~ or imprisoned not more than 30 days, or both.

Sec. 15. 26 V.S.A. § 1191 is amended to read:

§ 1191. ~~GROUND FOR DENIAL, REFUSAL;~~ UNPROFESSIONAL
CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section, by 3 V.S.A. § 129a₁ or by other statutes relating to engineering.

(b) ~~Conduct by a professional engineer which evidences dishonesty or an unwillingness to protect the trust of engineering clients constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license.~~

[Repealed.]

(c) Unprofessional conduct includes any of the following actions by a licensee:

(1) failing to make available, upon the timely request of a person using engineering services, copies of ~~documents~~ instruments of service in the possession or under the control of the licensee, when those ~~documents~~ instruments of service have been prepared for and ~~purchased~~ paid for by the user of services;

(2) signing or ~~stamping a design or plan with~~ sealing instruments of service for which the engineer is not familiar in responsible charge, or negligently allowing use of the engineer's professional stamp on such a ~~design or plan~~ an instrument;

(3) ~~failing to publicly display in the principal place of business a current license and renewal certificate; [Repealed.]~~

(4) accepting and performing engineering responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;

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

(6) agreeing with any other person or organization, or subscribing to any code of ethics or organizational bylaws, when the intent or primary effect of that agreement, code, or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the ~~board~~ Board;

(7) failing to ~~adequately~~ supervise adequately employees and subordinates under the licensee's responsible charge who are engaged in the practice of professional engineering; ~~or~~

(8) accepting and performing engineering responsibilities which are outside the scope of engineering specialties held by the licensee;

(9) failing to protect the trust of engineering clients;

(10) failing to hold public health and safety above all other considerations in the practice of professional engineering;

(11) engaging in dishonorable or unethical conduct in the practice of professional engineering of a character likely to deceive, defraud, or harm the public; or

(12) failing to report to the Board knowledge of a perceived violation of this statute or the Board's rule by another professional engineer licensed in this State.

Sec. 16. REPEAL

26 V.S.A. §§ 1173 (functioning of the Board); 1174 (hearings); 1175 (enforcement or modification of a subpoena or order of the Board); 1181 (license and specialty certificates); 1182 (licensing standards); 1184 (procedure for denial of license; refusal to renew); 1185 (engineer intern); 1186 (corporations; limited liability companies); 1192 (discipline of licensees); and 1193 (fees; witnesses and sheriffs) are repealed.

* * * Nurses and Nursing Assistants * * *

Sec. 17. 26 V.S.A. § 1576 is amended to read:

§ 1576. REGISTERED NURSE AND PRACTICAL NURSE

REGISTRATION AND LICENSURE

(a) Qualifications of applicants. An applicant for registration and a license to practice registered or practical nursing shall submit to the ~~board~~ Board evidence deemed satisfactory to it that the applicant has completed all requirements in an approved nursing education program preparing individuals for the practice of either registered or practical nursing.

(b) Registration and licensure by examination.

(1) The applicant shall be required to pass an examination in such subjects as the ~~board~~ Board considers necessary to determine the ability of the applicant to practice registered or practical nursing.

(2) Upon passing the required examination, the ~~board~~ Board shall register and issue to the applicant a current license to practice as a registered nurse (R.N.) or a licensed practical nurse (L.P.N.).

(3) The ~~board~~ Board shall hold at least one examination annually for registered nurse candidates and one for practical nurse candidates at such place and at such time as the ~~board~~ Board shall determine.

(4) Any qualified applicant shall be entitled to reexaminations.

(c) Registration and licensure by endorsement. The ~~board~~ Board shall register and issue a current license to practice registered or practical nursing to an applicant who has been duly licensed by examination as a registered nurse or a practical nurse under the laws of another state, territory, or foreign country if the applicant meets the qualifications required in this ~~state~~ State and has previously achieved passing scores on the licensing examination required in this ~~state~~ State or its equivalent as determined by the ~~board~~ Board, and has ~~practiced nursing within the past five years~~ met active practice requirements established by the Board by rule.

(d) Temporary licenses. The ~~board~~ Board may issue a temporary license to practice nursing for a period not to exceed 90 days to a registered nurse or licensed practical nurse currently licensed in another jurisdiction of the United

States and who has applied for licensure by endorsement in ~~accord~~ accordance with the rules of the ~~board~~ Board.

(e) Notwithstanding the provisions of this section and any other provision of law, a nurse who holds an unrestricted license in all jurisdictions in which the nurse is currently licensed, who certifies to the Vermont ~~board of nursing~~ Board of Nursing 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~~ Board, shall be licensed by the ~~board~~ Board within 60 days of the licensee's certification without further examination, interview, fee, or any other requirement for ~~board~~ Board licensure. The nurse shall file with the ~~board~~ Board, on forms provided by the ~~board~~ Board and based on criteria developed by the ~~board~~ Board, information on nursing qualifications, professional discipline, criminal record, malpractice claims, or any other such information as the ~~board~~ Board may require. A license granted under this subsection shall authorize the licensee to practice nursing on a voluntary basis in Vermont.

Sec. 18. 26 V.S.A. § 1593 is amended to read:

§ 1593. ELIGIBILITY

A person who meets the requirements of this section shall be listed on the registry and licensed as a nursing assistant.

- (1) An applicant shall be no less than 16 years of age and have:

(A) completed an approved nursing assistant education and competency evaluation program or met requirements prescribed by the ~~board~~ Board and completed a competency evaluation program; and

(B) committed no acts or omissions which are grounds for disciplinary action unless the ~~board~~ Board has found that sufficient restitution or rehabilitation has been made.

(2) An applicant may be licensed by showing a current listing on the nursing assistant registry of another state whose requirements are substantially equivalent to those of Vermont.

* * * Osteopathic Physicians * * *

Sec. 19. 26 V.S.A. § 1753(a)(2) is amended to read:

(2) A person licensed to practice chiropractic medicine under chapter 9 10 of this title.

Sec. 20. 26 V.S.A. § 1836 is amended to read:

§ 1836. BIENNIAL RENEWAL OF LICENSE; CONTINUING
EDUCATION

(a) Licenses shall be renewed every two years.

(b) Biennially, the ~~board~~ Board shall forward a renewal form to each licensee. Upon receipt of the completed form, evidence of compliance with the provisions of subsection (c) of this section, and the renewal fee, the ~~board~~ Board shall issue a new license.

(c) As a condition of renewal a licensee shall complete a minimum of 30 hours of continuing medical education, approved by the ~~board~~ Board by rule, during the preceding two-year period. At least 40 percent of these hours must be osteopathic medical education.

(d) ~~Failure to comply with the provisions of this section shall result in the suspension of all privileges granted by the license beginning 14 days after the expiration date of the license.~~ A lapsed license shall be reinstated upon payment of the biennial renewal fee, the late renewal penalty, and compliance with the other provisions of this section.

Sec. 21. 26 V.S.A. § 1856 is amended to read:

§ 1856. FEES

Applicants and persons regulated under this subchapter shall be subject to the application fee established in subdivision ~~1794(1)(B)~~ of this title and the renewal fee established in subdivision ~~1794(3)~~ fees set forth in section 1794 of this ~~title~~ chapter.

* * * Pharmacists * * *

Sec. 22. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(3) “Board of ~~pharmacy~~ Pharmacy” or “~~board~~” “Board” means the Vermont ~~state board of pharmacy~~ State Board of Pharmacy.

* * *

(5) “Dispense” or “dispensing” ~~shall mean~~ means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

* * *

(6) “Drug” means:

* * *

(B) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in ~~man~~ humans;

(C) Articles (other than food) intended to affect the structure or any function of the body of ~~man~~ humans; and

* * *

(7) “Drug outlet” ~~shall mean~~ means all pharmacies, nursing homes, convalescent homes, extended care facilities, drug abuse treatment centers, penal institutions, family planning clinics, retail stores, hospitals, wholesalers, manufacturers, any authorized treatment centers, and mail order vendors which are engaged in dispensing, delivery, or distribution of prescription drugs.

* * *

(11) “Nonprescription drugs” ~~shall mean~~ means nonnarcotic medicines or drugs which may be sold without a prescription and which are prepackaged

for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this ~~state~~ State and the federal government.

(12) “Pharmacist” ~~shall mean~~ means an individual licensed under this chapter.

(13) ~~A “pharmacy~~ “Pharmacy technician” is means an individual who performs tasks relative to dispensing only while assisting, and under the supervision and control of, a licensed pharmacist.

(14) “Practice of pharmacy” ~~shall mean~~ means the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and legend devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and legend devices); the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and legend devices and the maintenance of proper records therefor; the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and legend devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. ~~No~~ A rule shall not be adopted by the ~~board~~ Board under this chapter that shall require the sale and distribution of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise interfere with the sale and distribution of such medicines.

(15) "Practitioner" ~~shall mean~~ means an individual authorized by the laws of the United States or its jurisdictions or 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.

* * *

Sec. 23. 26 V.S.A. § 2032 is amended to read:

§ 2032. POWERS, DUTIES, LIMITATIONS

(a) The ~~board~~ Board shall adopt rules necessary for the performance of its duties, including:

- (1) scope of the practice of pharmacy;
- (2) qualifications for obtaining licensure;
- (3) explanations of appeal and other rights given to licensees, applicants, and the public; and
- (4) rules regulating pharmacy technicians.

(b) The ~~board of pharmacy~~ Board of Pharmacy shall supervise the practice of pharmacy in this ~~state~~ State, including the following:

- (1) ~~The~~ the determination and issuance of standards for recognition and approval of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this ~~state~~ State, and the specification and enforcement of requirements for practical training;

(2) ~~The~~ the enforcement of those provisions of this chapter relating to the conduct or competence of pharmacists practicing in this ~~state~~ State, and the suspension, revocation, or restriction of licenses to engage in the practice of pharmacy; and

(3) ~~The board shall establish~~ an internship program which shall have the following elements ~~by July 1, 1983, or an internship shall no longer be required:~~

(A) ~~A~~ a curriculum governing the internship which requires an intern to spend at least 50 percent of the internship on compounding, dispensing, or inventorying prescription drugs under the direct supervision of a licensed pharmacist~~s~~, and maintaining required records;

(B) ~~The~~ the establishment of a referral function administered by the ~~office of professional regulation~~ Office of Professional Regulation whereby the ~~board~~ Board collects information on available internships and disseminates this information to prospective interns; and

(C) ~~Allowance~~ allowance of up to 1,240 hours of the program to be “concurrent time” or internship time served under the supervision of, concurrent with, or part of an educational course requirement leading to a pharmacy degree, as defined by ~~board~~ Board rule, or by equivalent service in any branch of the ~~United States armed forces~~ U.S. Armed Forces, as defined by ~~board~~ Board rule.

(c) The ~~board of pharmacy~~ Board of Pharmacy shall also have the following responsibilities in regard to medications, drugs, legend devices, and other materials used in this ~~state~~ State in the diagnosis, mitigation, and treatment or prevention of injury, illness, and disease:

(1) The regulation of the sale at retail and the dispensing of medications, drugs, legend devices, and other materials, including the right to seize any such drugs, legend devices, and other materials found to be detrimental to the public health and welfare by the ~~board~~ Board pursuant to an appropriate hearing as required under the Administrative Procedure Act;

(2) The specifications of minimum professional and technical equipment, environment, supplies, and procedures for the compounding or dispensing of such medications, drugs, legend devices, and other materials within the practice of pharmacy;

(3) The control of the purity and quality of such medications, drugs, legend devices, and other materials within the practice of pharmacy;

(4) The issuance of certificates of registration and licenses of drug outlets; and

(5) The development of criteria for a standardized tamper-resistant prescription pad that can be used by all health care providers who prescribe drugs. Such criteria shall be developed in consultation with pharmacists, hospitals, nursing homes, physicians and other prescribers, and other affected parties.

(d) The ~~board~~ Board:

(1) shall make examinations available at least twice each year and pass upon the qualifications of applicants for licensing; and

(2) may enact rules for continuing education requirements and approve continuing education programs.

(e) With the approval of the ~~board~~ Board, the ~~director of the office of professional regulation~~ Director of the Office of Professional Regulation may employ or contract with persons as may be necessary to carry out the duties of the ~~board~~ Board.

(f) The ~~board~~ Board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this chapter or of the rules and regulations of the ~~board~~ Board. The ~~board~~ Board may take testimony under oath and may compel the attendance of witnesses and the production of tangible evidence by serving a subpoena.

(g)(1) The ~~board~~ Board may ~~develop procedures to permit it to oversee, at no more than three locations and for no more than four years each in duration, pilot experiments for remote pharmacies. In addition, the board may develop a pilot experiment, for no more than four years in duration, to use telepharmacy to dispense prescriptions from secure automatic dispensing units at locations in Vermont recognized as a covered entity under Section 340B of the Public~~

~~Health Service Act~~ by rule adopt standards for creating, licensing, and operating remote pharmacies and automatic dispensing units in Vermont.

~~(2) On December 1 of each year, the board shall report to the house committee on health care and senate committee on health and welfare its findings with regard to pilot experiments initiated in the previous calendar year. If the board determines that the pilot experiments should be extended statewide, the board shall include in its final report proposed rules governing remote pharmacy and telepharmacy practice.~~

(h) It shall be lawful for a drug outlet licensed under this chapter to sell and distribute nonprescription drugs. Drug outlets engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. ~~No~~ A rule or regulation ~~will~~ shall not be adopted by the ~~board~~ Board under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise apply to or interfere with the sale and distribution of such medicines.

Sec. 24. 26 V.S.A. § 2042b is amended to read:

§ 2042b. PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS;
SUPERVISION

(a) Notwithstanding any other provision of law, a registered pharmacy technician may perform packaging or other nondiscretionary tasks only while assisting and under the supervision and control of a pharmacist.

(b) This section does not authorize a pharmacy technician to perform packaging or other nondiscretionary tasks without a pharmacist on duty, and without being under the supervision and control of a pharmacist.

(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.

(d) The ~~board~~ Board may adopt rules to specify tasks that a pharmacy technician may perform under the supervision and control of a pharmacist pursuant to subsection (a) of this section. A pharmacy or pharmacist that employs a pharmacy technician to perform tasks specified in subsection (a) shall do so in conformity with the rules adopted by the ~~board~~ Board pursuant to this section.

~~(e) No person shall act as a pharmacy technician without first having submitted an application for registration with the board as set forth in section 2042a of this title. Pending approval for registration, an applicant who has submitted an application may act as a pharmacy technician for up to 30 days or until the board has made a final determination on the application, whichever occurs first. [Repealed.]~~

(f) A pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician. A pharmacist responsible for a pharmacy technician shall be on the premises at all times. A pharmacist shall verify a prescription before medication is provided to the patient.

Sec. 25. 26 V.S.A. § 2063 is amended to read:

§ 2063. NOTIFICATIONS

(a) All licensed drug outlets shall report to the ~~board of pharmacy~~ Board of Pharmacy within 48 hours; the occurrence of any of the following changes:

(1) ~~Permanent~~ permanent closing;

(2) ~~Change~~ change of ownership, management, location, or pharmacist manager; or

(3) ~~Any~~ any and all other matters and occurrences as the ~~board~~ Board may properly require by rules and regulations.

(b) Disasters, thefts, accidents, and emergencies which may affect the strength, purity, or labeling of drugs, medications, legend devices, or other materials used in the diagnosis or the treatment of injury, illness, and disease shall be immediately reported to the ~~board~~ Board.

Sec. 26. 26 V.S.A. § 2067 is amended to read:

§ 2067. WHOLESALE DRUG DISTRIBUTOR; LICENSURE REQUIRED

(a) A person who is not licensed under this subchapter shall not engage in wholesale drug distribution in this ~~state~~ State.

(b) ~~The board may grant a temporary license when a wholesale drug distributor first applies for a license. The temporary license shall remain valid until the board finds that the applicant meets or fails to meet the requirements for regular licensure, except that a temporary license shall not be valid for more than 90 days from the date of issuance. A temporary license issued under~~

~~this subsection shall be renewable for a similar period of time not to exceed 90 days in accordance with rules adopted by the board. [Repealed.]~~

(c) The ~~board~~ Board may require a separate license for each facility directly or indirectly owned or operated by the same business entity within this ~~state~~ State, or for a parent entity with divisions, subsidiaries, or affiliate companies within this ~~state~~ State when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

(d) An agent or employee of any licensed wholesale drug distributor shall not be required to obtain a license under this subchapter and may lawfully possess pharmaceutical drugs when that agent or employee is acting in the usual course of business or employment.

Sec. 27. REPEAL

26 V.S.A. § 2070 (licensure by endorsement) is repealed.

* * * Real Estate Brokers and Salespersons * * *

Sec. 28. 26 V.S.A. § 2255 is amended to read:

§ 2255. FEES

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

(1) Application

- (A) ~~broker~~ Broker license \$ 50.00
- (B) ~~salesperson~~ Salesperson license \$ 50.00
- (C) ~~brokerage~~ Brokerage firm registration

(i) Corporation or partnership	\$ 50.00
(ii) Sole proprietor	\$ 0.00
(D) branch <u>Branch</u> office registration	\$ 50.00
(2) Biennial renewal of broker or salesperson license	\$ 175.00
(3) Biennial registration renewal	
(A) Corporation or partnership	\$ 75.00
(B) Sole proprietor	\$ 0.00
(4) Temporary permit	\$ 25.00
(5) Transfer of license	\$ 10.00
(6) Transfer to inactive status	\$ 25.00

(b) A sole proprietor of a brokerage firm shall only pay the sole proprietor application and renewal fees pursuant to this section, provided the brokerage firm has no other persons licensed under this chapter providing professional services within the brokerage firm.

Sec. 29. 26 V.S.A. § 2296 is amended to read:

§ 2296. UNPROFESSIONAL CONDUCT; DISCIPLINE OF LICENSEE

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

- (1) makes a material misstatement in the application for his or her license;
- (2) uses dishonest or misleading advertising;

(3) demonstrates incompetency to act as a real estate broker or salesperson;

(4) is found by the ~~commission~~ Commission to be guilty of fraud or fraudulent practices; or is convicted for violating this chapter; or is convicted of forgery, embezzlement, obtaining money under false pretenses, or conspiring to defraud;

(5) commingles money or other property to which the licensee's clients or other persons are entitled with the licensee's own;

(6) fails to inform clients, establish trust and escrow accounts, maintain records, and otherwise act in accordance with the provisions of section 2214 of this ~~title~~ chapter with respect to all moneys received by the licensee as a real estate broker, or as escrow agent, or as the temporary custodian of the funds of others, in a real estate transaction;

(7) fails promptly to segregate any properties received which are to be held for the benefit of others;

(8) is found by the ~~commission~~ Commission to have engaged in any act or conduct, whether of the same or different character as that described ~~above~~ in this section, which contributes to or demonstrates incompetency or dishonest fraudulent dealings;

(9) fails to fully disclose to a buyer all material facts within the licensee's knowledge concerning the property being sold;

(10) fails to fully disclose to a buyer the existence of an agency relationship between the licensee and the seller.

* * *

* * * Veterinarians * * *

Sec. 30. REPEAL

26 V.S.A. § 2432 (appeal from decision of board) is repealed.

* * * Landscape Architects * * *

Sec. 31. 26 V.S.A. § 2621 is amended to read:

§ 2621. OFFICE OF PROFESSIONAL REGULATION

(a) The ~~director~~ Director shall:

(1) ~~Provide~~ provide general information to applicants for licensure as landscape architects;

(2) ~~Explain~~ explain appeal procedures to licensed landscape architects and applicants, and complaint procedures to the public;

(3) ~~Administer~~ administer fees as established by law;

(4) ~~Receive~~ receive applications for licensure; administer examinations; provide licenses to applicants qualified under this chapter; and renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(5) ~~Refer~~ refer all disciplinary matters to an administrative law officer.

(b) The ~~director~~ Director may adopt rules necessary to perform his or her duties under this section.

* * * Radiologic Technologists * * *

Sec. 32. 26 V.S.A. § 2812 is amended to read:

§ 2812. POWERS AND DUTIES

(a) The ~~board~~ Board shall adopt rules necessary for the performance of its duties, including:

* * *

(2) qualifications for obtaining licensure, interpreting ~~section 2821~~ sections 2821a and 2821b of this chapter;

* * *

* * * Psychologists * * *

Sec. 33. 26 V.S.A. § 3014 is amended to read:

§ 3014. LICENSURE BY ENDORSEMENT

(a) The ~~board~~ Board may at any time issue a license, upon payment of the required fee, if the applicant presents evidence that he or she:

(1) is licensed or certified to practice psychology in another jurisdiction in which the requirements for such licensing or certification are, in the judgment of the ~~board~~ Board, substantially equivalent to those required by this chapter and the rules of the ~~board~~ Board;

(2) is a diplomat in good standing of the American Board of Professional Psychology;

(3) holds evidence of professional qualification from an individual certification program acceptable to the ~~board~~ Board; and

(4) has taken and passed an examination on the Vermont laws and rules governing the practice of psychology.

(b) The Board may at any time issue a license, upon payment of the required fee, to an applicant who is licensed as a psychologist at the doctoral level in another jurisdiction of the United States or Canada in which the requirements for licensure are not, in the judgment of the Board, substantially equivalent to those required by this chapter and the rules of the Board if the applicant:

(1) is in good standing with no pending charges as verified to the Board by the licensing authorities of all jurisdictions in which the applicant has held a license;

(2) has practiced as a licensed psychologist at the doctoral level for an average of at least 1,000 hours per year for a minimum of seven years. The seven years' licensed practice experience need not immediately precede the application so long as the applicant has remained licensed for five years preceding the application; and

(3) has had no disciplinary history resulting in a finding of unprofessional conduct in any jurisdiction.

Sec. 34. 26 V.S.A. § 3016 is amended to read:

§ 3016. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct listed in this section and in

3 V.S.A. § 129a:

* * *

(8) ~~Notwithstanding the provisions of 3 V.S.A. § 129a(a)(10), in~~ In the course of practice, failure to use and exercise that degree of care, skill, and proficiency which is commonly exercised by the ordinary skillful, careful, and prudent psychologist engaged in similar practice under the same or similar conditions, whether or not actual injury to a client or patient has occurred.

* * *

* * * Private Investigators and Security Guards * * *

Sec. 35. 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) Investigative agency \$ 340.00
- (B) Security agency \$ 340.00
- (C) Investigative/security agency \$ 400.00
- (D) Sole proprietor \$ 250.00

(2) Application for individual license:

- (A) Unarmed licensee \$ 150.00
- (B) Armed licensee \$ 200.00

(3) Application for employee registration:

- (A) Unarmed registrants \$ 60.00

(B) Armed registrants	\$ 120.00
(C) Transitory permits	\$ 60.00

(4) Biennial renewal:

(A) Investigative agency	\$ 300.00
(B) Security agency	\$ 300.00
(C) Investigative/security agency	\$ 300.00
(D) Unarmed licensee	\$ 120.00
(E) Armed licensee	\$ 180.00
(F) Unarmed registrants (agency employees)	\$ 80.00
(G) Armed registrants (agency employees)	\$ 130.00
(H) Sole proprietor	\$ 250.00

(5) Instructor licensure:

(A) Application for licensure	\$ 120.00
(B) Biennial renewal	\$ 180.00

(6) A sole proprietor of an investigative agency or security agency shall only pay the sole proprietor fees pursuant to this section, provided the agency has no other registered investigative or security employees.

Sec. 36. REPEAL

26 V.S.A. § 3183 (remedies) is repealed.

* * * Real Estate Appraisers * * *

Sec. 37. 26 V.S.A. § 3311 is amended to read:

§ 3311. DEFINITIONS

As used in this chapter:

(1) “Act” means the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, as amended ~~from time to time~~.

(2) “Appraisal” means an analysis, opinion, or conclusion relating to the value of specified interests in or aspects of identified real estate or identified real property.

(3) “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.

(4) “Appraiser” or “real estate appraiser” means a person licensed under this chapter.

(5) “AQB” means the Appraisal Qualifications Board of the Appraisal Foundation as referenced in the Act. Under the provisions of the Act, the AQB establishes the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification.

(6) “ASC” means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council created pursuant to the Act. The ASC

oversees the real estate appraisal process as it relates to federally related transactions as defined in the Act.

(7) “Board” means the ~~board of real estate appraisers~~ Board of Real Estate Appraisers established under this chapter.

~~(3)~~(8) “Disciplinary action” means any action taken by the ~~board~~ Board against a licensed real estate appraiser or applicant premised on a finding that the person has engaged in unprofessional conduct. The term includes all sanctions of any kind, including obtaining injunctions, refusing to grant or renew a license, suspending, revoking, or restricting a license, and issuing warnings.

~~(4) “Appraisal” means an analysis, opinion, or conclusion relating to the value of specified interests in or aspects of identified real estate or identified real property.~~

~~(5) “Appraiser” or “real estate appraiser” means a person licensed under this chapter.~~

~~(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. 38. 26 V.S.A. § 3314 is amended to read:

§ 3314. BOARD; POWERS AND DUTIES

(a) The ~~board~~ Board shall administer the provisions of this chapter in a manner that conforms in all respects with the requirements of the Act.

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

- (1) ~~Receive~~ receive and review applications;
- (2) ~~Collect~~ collect the registry fee as required by the Act and transmit that fee to the ~~Federal Financial Institutions Examination Council~~ ASC. The registry fee shall be in addition to state licensing and registration fees;
- (3) ~~Annually,~~ annually publish a roster of all licensees and transmit the roster to the ~~Federal Appraisal Subcommittee~~ ASC as required by the Act;
- (4) ~~Register~~ register appraisal management companies; and
- (5) ~~Perform~~ perform other functions and duties as may be necessary to carry out the provisions of this chapter.

Sec. 39. 26 V.S.A. § 3315 is amended to read:

§ 3315. RULES

- (a) The ~~board~~ Board may adopt rules necessary to implement the provisions of this chapter.
- (b) The ~~board~~ Board shall adopt rules relating to ~~the following~~:
 - (1) ~~Procedures~~ procedures for processing applications, issuing licenses, registering trainees, inspecting records, and instituting and conducting disciplinary proceedings.
 - (2) ~~Scope of practice for each category of licensure or certification.~~
 - (3) ~~Educational, experience, and continuing education requirements.~~

~~Requirements established by this subdivision for “certified general real estate~~

~~appraiser” and “certified residential real estate appraiser” shall meet, but not exceed, the minimum criteria established by the appraisal qualification board of the appraisal foundation, or of a federal financial institution regulatory agency or the Resolution Trust Corporation, if greater, according to the provisions of the Act. Requirements for “licensed real estate appraiser” shall be the minimum necessary to establish meaningful qualification standards acceptable to the Federal Financial Institutions Examination Council Appraisal Subcommittee.~~

~~(4) Examination specifications for the different categories of licensure.~~

~~(5) Standards of practice.~~

~~(6) Procedures for licensees under this chapter to perform a limited appraisal assignment or evaluation as defined by the board by rule.~~

Sec. 40. 26 V.S.A. § 3318 is amended to read:

§ 3318. EXAMINATION

(a) ~~The board~~ Board shall examine applicants for licensure using an AQB-approved qualifying examination for the credential sought by the applicant. ~~The examination may include the following subjects: influences on real estate value, legal considerations in appraisal, types of value, economic principles, real estate markets and analysis, valuation process, property description, highest and best use analysis, appraisal math and statistical concepts, sales comparison approach, site value, cost approach, income approach, valuation of partial interests, and appraisal standards and ethics.~~ ~~The~~

~~board may use a standardized examination. The board may require a practical demonstration of appraisal skills as part of the examination.~~

~~(b) Separate examinations shall be designed to test the competency in the different categories of licensure.~~

Sec. 41. 26 V.S.A. § 3319a is amended to read:

§ 3319a. APPRAISER TRAINEE REGISTRATION

(a) A person who has completed a course of instruction ~~as defined pursuant to rule adopted under subdivision 3315(b)(1) of this title~~ approved by the AQB may work as a ~~state licensed~~, certified residential, or certified general appraiser trainee provided the person is registered with the ~~board~~ Board. An appraiser trainee shall work under the direct supervision of an appraiser who holds either a certified residential or a certified general license in good standing and has held the certified residential or certified general license for at least ~~two years~~ the minimum number of years required by the AQB. An appraiser trainee may perform activities within the scope of practice of the license sought provided that the supervising appraiser reviews and signs all resulting appraisals. The supervising appraiser shall be professionally responsible for such activities performed by the trainee. ~~For the purposes of~~ As used in this section, “good standing” means that the appraiser supervisor holds a current, unrestricted license. ~~An appraiser who holds a restricted license may petition the board for permission to be a supervising appraiser, which may be granted by the board for good cause shown.~~

(b) To be credited toward the hourly experience requirement for licensure, the trainee shall inspect each property appraised with the trainee's supervisor.

(c) Notwithstanding subsection (b) of this section, the ~~board~~ Board may, in its discretion, give credit for training hours, not exceeding 10 percent of the total hourly experience requirement, for hours worked or training given that does not include or is unrelated to a site inspection.

Sec. 42. 26 V.S.A. § 3320 is amended to read:

§ 3320. LICENSURE BY ~~ENDORSEMENT~~ RECIPROcity

The ~~board may~~ Board shall waive ~~the examination requirement~~ all licensing requirements for an appraiser applicant holding a valid certification from another state if ~~the applicant is a real estate appraiser regulated under the laws of another state for the purpose of performing appraisals in federally related transactions for which a licensed or certified appraiser is required by the Act, who is in good standing to practice real estate appraisal in that state, and, in the opinion of the board, the standards and qualifications required for regulation of real estate appraisers in that state are currently at least equal to those required by this chapter:~~

(1) the appraiser licensing and certification program of the other state is in compliance with the provisions of the Act; and

(2) the appraiser applicant holds the valid certification from a state whose requirements for certification or licensing meet or exceed the licensure standards established by this chapter.

Sec. 43. 26 V.S.A. § 3320a is amended 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~~ Board prior to conducting business in this ~~state~~ State. An application shall include a registration fee and information required by the ~~board~~ 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. 44. 26 V.S.A. § 3321 is amended to read:

§ 3321. RENEWALS

(a) A license issued under this chapter shall be renewed biennially upon payment of the required fee and upon satisfactory completion of the minimum continuing education requirements established by AQB during the immediately preceding two-year period.

(b) If an individual fails to renew in a timely manner, he or she may renew the license within 30 days of the renewal date by satisfying all ~~the~~ requirements of AQB for ~~renewal~~ reactivation and payment of an additional late renewal penalty.

(c) The ~~board~~ Board may ~~renew~~ reactivate the license of an individual whose license has lapsed for more than 30 days upon payment of the renewal fee, the ~~reinstatement~~ reactivation fee, and the late renewal penalty, provided the individual has satisfied all ~~the~~ requirements of AQB for ~~renewal~~ reactivation. ~~The board shall ensure that an applicant for reinstatement under this subsection is professionally qualified.~~

(d) The ~~board~~ Board may require, by rule, as a condition of ~~renewal~~ reactivation, that an applicant undergo review of one or more aspects of the applicant's professional work in the practice of real estate appraising provided that the manner and performance results of the review be specified by the board. Such a review requirement shall:

(1) be adopted reasonably in advance of the time when it is first required to be met; and

(2) provide for compliance if the applicant shows that within the two years preceding renewal, the applicant underwent a satisfactory quality review for other purposes and that review was substantially equivalent to a review required under this section.

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

* * * Marriage and Family Therapists * * *

Sec. 45. 26 V.S.A. § 4040 is amended to read:

§ 4040. RENEWALS

* * *

(d) ~~The board may, after notice and an opportunity for a hearing, revoke a person's right to renew license if the license has lapsed for five or more years.~~

[Repealed.]

* * * Tattooists and Body Piercers * * *

Sec. 46. 26 V.S.A. § 4104 is amended to read:

§ 4104. ADVISORY APPOINTEES

(a)(1) ~~The secretary of state~~ Secretary of State shall appoint:

(A) a professional in the field of public health and medicine, from a list of persons provided by the ~~commissioner of health,~~ a Commissioner of Health; and

(B) ~~two~~ two registered ~~operator~~ operators who ~~has~~ 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, ~~and a member of the public.~~

(2) The appointees shall be appointed to serve as advisors in matters relating to tattooing and body piercing. The appointees shall be appointed as set forth in 3 V.S.A. § 129b.

(b) The ~~director~~ 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~~ Director for that purpose.

* * * Auctioneers * * *

Sec. 47. 26 V.S.A. § 4602 is amended to read:

§ 4602. DEFINITIONS

As used in this chapter:

* * *

(3) “Director” means the ~~director of the office of professional regulation~~ Director of the Office of Professional Regulation.

(4) “Disciplinary action” means any action taken by an administrative law officer established under 3 V.S.A. § 129(j) against a licensed auctioneer or an applicant. It includes all sanctions of any kind, including the denial of licensure; and the issuance of warnings, reprimands, conditions, suspensions, or revocations of licensure.

Sec. 47a. 26 V.S.A. § 4606 is amended to read:

§ 4606. APPLICATION

* * *

(b)(1) The ~~director~~ Director shall license otherwise qualified applicants who have obtained a license in another jurisdiction which has licensure requirements substantially equivalent to those in this ~~state~~ State.

(2) For experienced applicants from states without licensure, the Director may allow related education, training, or experience of the applicant on a case-by-case basis to be a substitute for all or part of the apprenticeship requirement.

* * * Effective Date * * *

Sec. 48. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Date the Governor signed the bill: May 13, 2013