

# OCCUPATIONAL LICENSURE FOR PET DOG TRAINERS: DOGS ARE NOT THE ONLY ONES WHO SHOULD BE LICENSED

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ABSTRACT

In the United States, anyone can work as a dog trainer, regardless of the person’s qualifications. Scientific research in animal behavior and canine ethology indicate how to humanely train dogs, but nothing in the law requires that dog trainers apply these proven methods in practice. Dog trainers may use training techniques that bring harm to dogs and deceive consumers as to its efficacy. The onus is on consumers to educate themselves to these dangers when selecting a “qualified” dog trainer. In this article, the author calls for a new approach to the profession of dog training in which state and local governments protect consumers and their cherished animal companions from “hacks” through an occupational licensure requirement. The author provides a model statute that can be used to protect the well-being of dogs undergoing training, as well as providing much needed consumer protection.

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## I. INTRODUCTION

“Behavioral problems are complex and can have many causes; and it takes a concerted effort under the guidance of a trained professional to bring about change.”<sup>1</sup>

A Chicago dog trainer allegedly strapped electric training collars around the groin-area of two dogs and shocked the dogs when they exhibited an incorrect behavior.<sup>2</sup> Witnesses said that the trainer’s use of an electronic collar caused the large dog to "cry out in pain, pant in distress and scratch at the collar in an attempt to stop the shocking sensation."<sup>3</sup> The dog trainer claimed that she used the training collar to "give a little tickle to make the dog[s] sit."<sup>4</sup> The self-proclaimed ‘Dog Whisperer’<sup>5</sup> of Chicago was charged with animal cruelty and was later acquitted.<sup>6</sup> This story is a cautionary tale for dog owners seeking dog-training services. In the United States, anything goes in the pet dog-training arena where no state or municipal licensure requirements exist to protect consumers from dog trainers that lack the qualifications necessary to humanely and effectively train dogs and resolve dog behavior problems.<sup>7</sup> Dogs are part of the American-family household with 70 million dogs living in over 43 million homes across the nation.<sup>8</sup> People take their dogs to work with them.<sup>9</sup> Dogs are found in

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<sup>1</sup> *FAQs*, AMERICAN COLLEGE OF VETERINARY BEHAVIORISTS <http://www.dacvb.org/about/faqs/>.

<sup>2</sup> Tasneem Paghdwala, *Who Should You Trust to Train Your Dog?*, CHI. READER, Apr. 5, 2007, available at <http://www.chicagoreader.com/chicago/who-should-you-trust-to-train-your-dog/Content?oid=924681> [hereinafter *Who Should You Trust to Train Your Dog?*]

<sup>3</sup> Tasneem Paghdwala, *The Dog Whisperer Walks*, CHI. READER, Dec. 13, 2007, available at <http://www.chicagoreader.com/chicago/the-dog-whisperer-walks/Content?oid=999930> [hereinafter *The Dog Whisperer Walks*].

<sup>4</sup> *Id.*

<sup>5</sup> The term ‘Dog Whisperer’ has no formal definition, but it is understood to describe a dog “trainer who adapts theories about pack dynamics to communicate to the dog in a language it can instinctively understand.” *Who Should You Trust to Train Your Dog?*, *supra* note 2.

<sup>6</sup> *New Charges for ‘Dog Whisperer’*, CHIC. TRIBUNE, Nov. 1 2006, available at [http://articles.chicagotribune.com/2006-1101/news/0611010353\\_1\\_voting-machines-ipod-robberies-sequoia-voting-systems;The Dog Whisperer Walks](http://articles.chicagotribune.com/2006-1101/news/0611010353_1_voting-machines-ipod-robberies-sequoia-voting-systems;The%20Dog%20Whisperer%20Walks), *supra* note 3. Moore was acquitted because the judge said he faced "a lack of information as to what exactly is transmitted [by the collar] and to what degree." *Id.* The article raises the issue that Illinois lacks an occupational licensure requirement for dog trainers to practice in the state. *Id.*

<sup>7</sup> See generally *Trainer Certifications*, APDT.COM, <https://apdt.com/pet-owners/choosing-a-trainer/certifications/> (last visited Oct. 18, 2014) (asserting that no licensing requirement is needed to become a professional dog trainer); *Who Should You Trust to Train Your Dog?*, *supra* note 2; see *Behavior Consultations*, SFSPCA.ORG, <https://www.sfspca.org/behavior-training/behavior-consultations> (last visited Oct. 18, 2014) (stating a warning from the American Veterinary Society of Animal Behavior that “[a]t present, there are no licensing or experience requirements to use the terms trainer, pet behavior counselor or behaviorist”).

<sup>8</sup> See *U.S. Pet Ownership Statistics*, AMVA.ORG, <https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-pet-ownership.aspx> (last visited Oct. 3, 2014) (citing the 2012 U.S. Pet Ownership & Demographics Sourcebook).

elementary school classrooms.<sup>10</sup> They may act as emotional support for people in stressful settings<sup>11</sup> and may be found dining al fresco on a café's outdoor patio.<sup>12</sup> Yet annually over 1.2 million dogs are euthanized in animal shelters, due in part to reported behavior problems.<sup>13</sup> While *caveat emptor* may be the mantra for consumers in general<sup>14</sup>, it is not acceptable to allow consumers to be misled and for dogs to be mistreated by unqualified dog trainers using outdated practices.<sup>15</sup>

This Comment proposes that a solution is needed to protect consumers in Illinois from receiving dog training services from unqualified dog trainers.<sup>16</sup> Part II of this Comment looks at the evolution of dog training in the United States and the occupation it has become. Next in Part II, it provides an overview of occupational licensure: its origins, its purpose, constitutionality and agency structure. Then occupational licensure is distinguished from other forms of occupational regulations. Finally, Part II looks at related areas of dog training that have been regulated<sup>17</sup> and efforts to require licensure for dog trainers in America<sup>18</sup> and the United Kingdom.<sup>19</sup> In Part III, this Comment analyzes the use of occupational licensure as a mechanism for consumer protection, as well as analyzes the problems specifically faced by consumers employing unregulated

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<sup>9</sup> See Rachel Chason, *Friday is 'Take Your Dog to Work Day'*, USA TODAY (June 19, 2014), <http://www.usatoday.com/story/money/business/2014/06/18/friday-take-your-dog-to-work-day/10592435/> (reporting on the 16<sup>th</sup> anniversary of 'take your dog to work day').

<sup>10</sup> *SitStayRead Mission Statement*, SITSTAYREAD, <http://sitstayread.org/about/mission/> (last visited Oct. 3, 2014).

<sup>11</sup> See Casey Holder, Comment, *All Dogs go to Court: The Impact of Court Facility Dogs as Comfort for Child Witnesses on a Defendant's Right to a Fair Trial*, 50 HOUS. L. REV. 1155, 1156 & 1158 (2013) (stating that "court facility dog enables a child witness to speak without added stress or tension").

<sup>12</sup> See Patrick May, *New California Law Allows Dogs to Dine on Restaurant Patios*, SAN JOSE MERCURY NEWS, Aug. 22, 2014, [http://www.mercurynews.com/business/ci\\_26389391/new-law-allows-dogs-dine-restaurant-patios](http://www.mercurynews.com/business/ci_26389391/new-law-allows-dogs-dine-restaurant-patios) (reporting on a new state law that makes it legal for dogs to dine at the discretion of individual restaurant owners).

<sup>13</sup> See *Pet Statistics*, ASPCA.ORG, <http://www.aspc.org/about-us/faq/pet-statistics> (last visited Oct. 3, 2014)(reporting that ten percent of dogs are relinquished to animal shelters due to dog behavior problems).

<sup>14</sup> BLACK'S LAW DICTIONARY 252 (9th ed. 2009), [Latin 'let the buyer beware']; *Who Should You Trust to Train Your Dog?*, *supra* note 2.

<sup>15</sup> See generally THE REGULATION OF COMPANION ANIMAL SERVICES IN RELATION TO TRAINING AND BEHAVIOR MODIFICATION IN DOGS 5 (COMPANION ANIMAL WELFARE COUNCIL, July 2008), available at <http://www.cawc.org.uk/080603.pdf> (alerting readers that dog trainers that do not have a thorough understanding of the science of dog training and behavior modification techniques are not qualified to train dogs) [hereinafter CAWC]; accord James Johnson, *History of Dog Training*, K9DENSOLUTIONS.COM, [https://k9densolutions.com/History\\_of\\_Dog\\_Training.html](https://k9densolutions.com/History_of_Dog_Training.html) (last visited Oct. 3, 2014). "There are a large number of individuals, often loosely termed as trainers or behaviourists delivering . . . services for commercial reward." CAWC at 8.

<sup>16</sup> A pet dog trainer for purposes of this Comment is limited to those persons that charge consumers a fee for dog training services and does not include dog training hobbyists or guard dog trainers.

<sup>17</sup> State Board of Guide Dogs for the Blind, 16 CA ADC §§ 2250-2295.3 (2013), available at <http://www.guidedogboard.ca.gov/about/lawsregs/ccr.pdf>.

<sup>18</sup> S. 166, 209th Cong. (N.J. 2000) available at [ftp://www.njleg.state.nj.us/20002001/S0500/166\\_11.HTM](ftp://www.njleg.state.nj.us/20002001/S0500/166_11.HTM); S. 4425, 211th Cong. (N.J. 2005) available at [http://www.njleg.state.nj.us/2004/Bills/A3500/4425\\_11.HTM](http://www.njleg.state.nj.us/2004/Bills/A3500/4425_11.HTM).

<sup>19</sup> See generally CAWC, *supra* note 15, at 5 (stating that without an "accepted benchmark for qualification and skill . . . there can be no assurance of quality).

dog trainers. Lastly, Part IV provides a solution to the consumer protection problem faced by Illinois consumers seeking to hire dog trainers.

## II. BACKGROUND

This Part provides an overview of dog training in America, including the influence that recent scientific evidence has had on the practice of dog training.<sup>20</sup> Next, it describes the services a dog trainer provides, followed by a discussion on the emergence of dog trainer certification programs and associations in America. Lastly, this Part introduces the topic of occupational regulations, state occupational licensure and the purpose and constitutionality of occupational licensure acts.

### A. Dog Training Basics

There are two predominant training methods used in dog training.<sup>21</sup> One approach is referred to as dominance training.<sup>22</sup> The other approach is known as positive reinforcement training.<sup>23</sup> Both approaches apply the basic law of learning theory.<sup>24</sup> For purposes of this Comment, learning is said to involve a change in behavior that lasts.<sup>25</sup>

Scientists now know that dogs descended from an extinct variety of wolf.<sup>26</sup> It is theorized that dogs self-domesticated, coinciding with the first human settlements.<sup>27</sup> These scientific discoveries resulted in many dog trainers that were using the dominance-based approach to rethink their methodology and to adopt the other method.<sup>28</sup> Much of dominance training model is based on two

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<sup>20</sup> See generally RAYMOND COPPINGER & LORNA COPPINGER, *DOGS: A STARTLING NEW UNDERSTANDING OF CANINE ORIGIN, BEHAVIOR & EVOLUTION* 21-36 (Scribner, 2001) (summarizing recent scientific findings on dog evolution). As a species, dogs, i.e. *Canis lupus familiaris*, may have actually first appeared 135,000 years ago. *Id.* at 21. See also *Dominance and Dog Training* 1, ADPT.COM, <https://apdt.com/pet-owners/choosing-a-trainer/dominance/> (noting the now debunked theory that dogs are like wolves) [hereinafter *Dominance and Dog Training*].

<sup>21</sup> Johnson, *supra* note 15.

<sup>22</sup> *Dominance and Dog Training*, *supra* note 20, at 3, 5.

<sup>23</sup> See *id.* at 3 (describing the trainers role as a dog's leader rather than as a dog's dominator).

<sup>24</sup> PAMELA J. REID, *EXCEL-ERATED LEARNING: EXPLAINING IN PLAIN ENGLISH HOW DOGS LEARN AND HOW BEST TO TEACH THEM* 3 (James & Kenneth Publishers, 1st ed. 1996). Dog training methods can be furthered distinguished into categories such as: clicker training, "lure-reward training, jerk and praise training, motivational/drive training, [and] shock collar training." *Id.* At the core of these methods are the basic learning theory principles discovered by B.F. Skinner. See discussion *infra* Part II.A.2.

<sup>25</sup> REID, *supra* note 24, at 5.

<sup>26</sup> Stephanie Pappas, *Dogs' Closest Wolf Ancestors Went Extinct, Study Suggests*, LIVESCIENCE.COM (Jan. 16, 2014), <http://www.livescience.com/42649-dogs-closest-wolf-ancestors-extinct.html>.

<sup>27</sup> Brian Hare & Vanessa Woods, *We Didn't Domesticate Dogs They Domesticated Us*, NAT'L GEOGRAPHIC NEWS (Mar. 3, 2013), <http://news.nationalgeographic.com/news/2013/03/130302-dog-domestic-evolution-science-wolf-wolves-human/>.

<sup>28</sup> See generally *Dominance and Dog Training*, *supra* note 20 (highlighting the misconceptions of dog behavior that legitimized dominance-based training stems from a misunderstanding of wolf behavior). "While

erroneous beliefs.<sup>29</sup> The first is that wolf social structure is hierarchical, consisting of an “alpha” member that dominates the rest of the pack.<sup>30</sup> To the contrary, wolves are a highly cooperative species.<sup>31</sup> The second erroneous belief is that dogs are domesticated wolves and thus, by extension, dog social structure is hierarchical.<sup>32</sup> Modern reinforcement training is based in behavioral science, not based on trainers’ personal beliefs of what dogs are, how dogs learn, or on wolf behavior.<sup>33</sup>

## 1. Military-style dog training reaches the American Family

Initially, a large number of America’s dog trainers were retired “war-dog trainers.”<sup>34</sup> The soldiers were taught how to train dogs for combat using the dominance-based model.<sup>35</sup> Once the war ended two things happened that launched these dog trainers into their careers as dog trainers.<sup>36</sup> First came the baby boom and then came an influx of dogs being added as members of the American family.<sup>37</sup> Soldiers who had trained military dogs returned home from war and opened dog-training businesses using the military-style training approach.<sup>38</sup> For instance, William Koehler, who had trained dogs for the military, published a correction-based training book entitled *THE KOEHLER METHOD OF DOG TRAINING*.<sup>39</sup>

Then, in the 1980’s, those that sought help in training their dogs looked to the Monks of New Skete to teach them “The Art of Puppy Raising.”<sup>40</sup> They, too,

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sharing some traits with their wolf cousins,[dogs] have many more significant differences.” *Id.* “As a result, the idea that dog behavior can be explained through the application of wolf behavior models is no more relevant than suggesting that chimpanzee behavior can be used to explain human behavior.” *Id.* A crossover trainer is name used to identify an animal trainer that has transitioned or is transitioning to positive reinforcement-based dog training. *See generally* THE CROSSOVER TRAINER BLOG, available at <http://www.thecrossovertrainer.com>. (stating that “Anyone who’s been around for a while started with compulsion training . . . [t]hen a lot of [dog trainers] started studying learning theory, studying the science behind the way animals learn.”) *Who Should You Trust to Train Your Dog?*, *supra* note 2.

<sup>29</sup> *Dominance and Dog Training*, *supra* note 20, at 1.

<sup>30</sup> *Id.*

<sup>31</sup> Virginia Morrell, *Wolves cooperate but dogs submit, study suggests*, *SCI.*, Aug. 19, 2014, available at <http://news.sciencemag.org/brain-behavior/2014/08/wolves-cooperate-dogs-submit-study-suggests>.

<sup>32</sup> *Dominance and Dog Training*, *supra* note 20; *contra* Morrell, *supra* note 31 (asserting that “[D]ogs, in contrast, formed strict, linear dominance hierarchies that demand obedience from subordinates”).

<sup>33</sup> *See* KAREN PRYOR, *DON’T SHOOT THE DOG! THE NEW ART OF TEACHING AND TRAINING* *Foreword* xi (Bantam Books, rev. ed. 2002).

<sup>34</sup> Jean Donaldson, Address at The S.F. Soc’y for the Prevention of Cruelty to Animals Acad. for Dog Trainers (Jan. 29, 2001)[hereinafter SF/SPCAADT] (PowerPoint slides on file with author).

<sup>35</sup> *See id.* (describing that more than 250,000 dogs were used in both WWI and WWII). The training methods used on the dogs were harsh to prepare the dogs for combat conditions and to exclude “soft dogs” from the program. *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Who Should You Trust to Train Your Dog?*, *supra* note 2.

endorsed the use of the dominance-based training model.<sup>41</sup> The dominance-model approach advocates the use of techniques such as alpha rolls, helicoptering, kicking the dog, and pinching the dog's ear to establish the human as the "alpha."<sup>42</sup> Countless families were instructed to forbid their dogs to sleep on their "master's" bed.<sup>43</sup> They were told to eat before their dogs eat and to go through doorways before their dogs go through doorways.<sup>44</sup> Koehler's book, and others like it, condoned grabbing, pinching and kicking a dog in order to establish one's dominance over the dog.<sup>45</sup>

Most recently, the National Geographic Channel ("NGC") introduced the world to "Cesar's Way," on their program, Dog Whisperer. The show features self-taught dog trainer, Cesar Millan.<sup>46</sup> Millan teaches his audience a training method that is largely based in the dominance model.<sup>47</sup> Cesar Milan is one of the most recognized dog trainers the world over.<sup>48</sup> Millan has both a large public following and a large group of critics.<sup>49</sup> Numerous individuals, associations and organizations have spoken out against Millan's use of punishment in dog training and have demanded that NGC cancel the program.<sup>50</sup> The criticism of Millan's teaching method embodies the divide that exists among dog trainers between the two training approaches.

## 2. Reward-based dog training takes root

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<sup>40</sup> See generally MONKS OF NEW SKETE, *THE ART OF RAISING A PUPPY* (Little Brown & Co., Rev. Ed. 2011) (detailing that more than 600,000 copies of the book have been sold).

<sup>41</sup> See *id.* at 201-206 (describing the human-dog relationship as one of dominance by the human over the dog).

<sup>42</sup> "Alpha rolling is the physical act of forcibly rolling a dog over on his side or back, pinning him there until he is forced to submit. The objective is to assert "who's boss", and for the dog to reach what popular media has dubbed "calm submission". Norske Artikler, *What "Alpha Rolling" Is Really Doing To Your Dog*, RESPECTYOURDOG.COM, <http://respectyourdog.com/read/what-alpha-rolling-is-really-doing-to-your-dog>. The technique of helicoptering a dog involves "hoist[ing] a dog off the ground by a choke chain and leash, then spin[ning]" the dog overhead. Steven Overly, *Tampa Dog Academy, Animal Services at Odds*, TAMPA BAY TIMES (July 26, 2009), available at <http://www.tampabay.com/news/humaninterest/tampa-dog-academy-animal-services-at-odds/1021836>.

<sup>43</sup> There is no scientifically validated data to uphold the belief that you must eat before your dog, or keep them from sleeping on your bed, or walking in front of you, and owners should not be led to believe this and live in a state of fear and anxiety over their dog's possible takeover of their home. *Dominance and Dog Training*, *supra* note 20, at 3.

<sup>44</sup> *Id.*

<sup>45</sup> *Who Should You Trust to Train Your Dog?*, *supra* note 2.

<sup>46</sup> See generally *Cesar Millan- Bio*, CESARSWAY.COM, <http://www.cesarway.com/bio> (displaying a list of his credentials which does not include a formal dog training education or apprenticeship); *Dog Whisperer*, NATIONALGEOGRAPHIC.COM, <http://channel.nationalgeographic.com/wild/dog-whisperer/>.

<sup>47</sup> Janet Tobiassen, DVM, *Veterinarian Behaviorists Take a Stand Against Cesar Millan*, ABOUT.COM, <http://vetmedicine.about.com/b/2009/07/07/veterinary-behaviorists-take-a-stand-against-cesar-millan.htm>.

<sup>48</sup> See generally Ricardo Lopez, "Dog Whisperer" Cesar Millan Grooms his Canine-Training Empire, L.A. TIMES (Mar. 18, 2012), <http://articles.latimes.com/2012/mar/18/business/la-fi-himi-millan-20120318> (describing Millan's "humble beginnings" and his rise to fame as the authority on dog training).

<sup>49</sup> Tobiassen, *supra* note 47.

<sup>50</sup> *Id.*

Around the same time as dogs were being trained in the military by army soldiers, behavioral scientist B.F. Skinner developed a new theory on learning.<sup>51</sup> Skinner's theory is called operant conditioning.<sup>52</sup> Skinner used his theory to understand the process of learning in animals.<sup>53</sup> He argued that it was unnecessary to know what was going on inside an animal's head to understand animal behavior.<sup>54</sup> Animals learn that a particular behavior has a particular consequence and one of two things will occur: the behavior will either increase in frequency or it will decrease in frequency.<sup>55</sup> Behaviors that are reinforced<sup>56</sup> increase in frequency, while behaviors that are punished<sup>57</sup> decrease in frequency.<sup>58</sup> Skinner's work focused not on the inside workings of the animal mind, but instead on observable behavior.<sup>59</sup>

It was Skinner's research that led to a general understanding that animal behavior responds to reinforcement and punishment.<sup>60</sup> The approach of rewarding "good" behavior and punishing "bad" behavior to control behavior is used on humans, dogs and across all other animal species.<sup>61</sup> Just like a dog may

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<sup>51</sup> REID, *supra* note 24, at 15. Skinner's theory on learning was influenced both by Edward Thorndike's law of effect and by the law of parsimony. *Id.* The law of effect is the principle that "if a consequence is pleasant, the preceding behavior becomes more likely" and where a consequence is unpleasant, "the preceding behavior becomes less likely." *Id.* at 14, 26. The law of parsimony is a proposition in science that "unless there is evidence to the contrary, you must account for a phenomenon with the simplest explanation available." *Id.* at 14, 26.

<sup>52</sup> SF/SPCAADT, *supra* note 34. Operant conditioning is also referred to as Skinnerian conditioning and instrumental learning. REID, *supra* note 24, at 25.

<sup>53</sup> *Id.* at 24, 14-15.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 25. Skinner used a device he developed called a 'Skinner box' to conduct his animal experiments. *Id.* Skinner put a hungry mouse in the box and the mouse would either receive a food pellet if it pressed the lever or it would receive an electric shock. *Id.* The mouse's behavior of pressing the lever increased in frequency when it was receiving the food pellet and decreased in frequency when it received the electric shock. Saul McLeod, *Skinner - Operant Conditioning*, SIMPLYPSYCHOLOGY.ORG (updated 2014), <http://www.simplypsychology.org/operant-conditioning.html>.

<sup>56</sup> REID, *supra* note 24, at 27-29. Behavior is reinforced by the addition a pleasant/desired stimuli, known as positive reinforcement ("R+") or by the removal of some painful/undesired stimuli, known as negative reinforcement ("R-"). A positive reinforcer can be anything that the subject likes or would like more of. For instance, a dog gets a cookie for sitting when asked to. A negative reinforcer can be anything the subject likes and would not like to lose. For instance, a dog is enjoying being in the living room with a person, but if the dog jumps on the sofa the dog is escorted into another room to be alone. *Id.*

<sup>57</sup> *See id.* (showing how behavior is punished by the addition of some painful/undesired stimuli, known as positive punishment ("P+") or with the removal of some pleasant/desired stimuli, known as negative punishment ("P-")). A positive punisher can be anything that the subject does not like and would like to avoid. For instance, a dog gets kicked in the ribs (and does not like it) when the dog jumps up on the person. A negative punisher can be anything that the subject likes or would like more, but that the subject will lose access to if an unwanted behavior is performed. If a dog stops being petted by the person when the dog jumps up on the person. *Id.*

<sup>58</sup> *See id.* (explaining the "four possibilities" that operant conditioning takes – two increase the likelihood of a behavior (R+ and R-) and two decrease the likelihood of a behavior (P+ and P-)).

<sup>59</sup> *Id.* at 15-16.

<sup>60</sup> JEAN DONALDSON, *THE CULTURE CLASH: A REVOLUTIONARY NEW WAY TO UNDERSTANDING THE RELATIONSHIP BETWEEN HUMANS AND DOMESTIC DOGS* 11, 14, (James & Kenneth Publishers, New 2d. ed. 2005).

<sup>61</sup> *See* PRYOR, *supra* note 33, at 65-66 (summarizing the application of operant conditioning across different professions from dolphin trainers to school teachers and business professionals).

get a piece of cheese for sitting on command, society rewards “good” behaviors with reinforcement.<sup>62</sup>

For example, humans are rewarded with reinforcements such as gold stars for receiving an A+ on an exam, thumbs up for a job well done, and salary bonuses for exceeding one’s quota.<sup>63</sup> Just the same, society punishes “bad” behaviors with punishments.<sup>64</sup> However, Skinner’s ultimate conclusion on learning was that punishment was an ineffective and inferior way to control behavior.<sup>65</sup> According to Skinner, to get lasting behavior change only positive reinforcement should be used.<sup>66</sup>

### 3. Certificates, certifications, and associations

Dog training certificate programs have emerged across the country and online.<sup>67</sup> These programs are designed to give people interested in becoming dog trainers the know how to train dogs and to give existing dog trainers advanced training skills.<sup>68</sup> Certificate programs last in duration anywhere from two weeks to years in a Ph.D. program.<sup>69</sup> Certificate programs run the gamut as to materials covered and methodologies taught.<sup>70</sup> Programs may or may not include an apprenticeship and students may or may not be required to become certified.<sup>71</sup> Programs deemed reputable provide students with a curriculum and

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<sup>62</sup> Reinforcement is defined as “anything that increases the likelihood a behavior will occur again.” *Punishment Position Statement*, AM. VETERINARY SOC’Y OF ANIMAL BEHAVIOR 3, available at [http://avsabonline.org/uploads/position\\_statements/Punishment\\_Position\\_Statement-download\\_-\\_10-6-14.pdf](http://avsabonline.org/uploads/position_statements/Punishment_Position_Statement-download_-_10-6-14.pdf) [hereinafter *Punishment Position Statement*]. See *supra* text accompanying note 56 (defining what reinforcement is and how it operates).

<sup>63</sup> See Kendra Cherry, *Introduction to Operant Conditioning: How Reinforcement and Punishment Modify Behavior*, ABOUT.COM, <http://psychology.about.com/od/behavioralpsychology/a/introopcond.htm> (stating, “[w]e can find examples of operant conditioning at work all around us. Consider the case of children completing homework to earn a reward from a parent or teacher, or employees finishing projects to receive praise or promotions”).

<sup>64</sup> *Id.* Punishment is defined as “anything that decreases the likelihood a behavior will occur again.” *Punishment Position Statement*, *supra* note 62, at 3.

<sup>65</sup> B.F. SKINNER, WALDEN TWO 244 (Hackett Publ’g, reprinted 2005); *Famous Psychologists – B.F. Skinner*, PSYCHOLOGISTSANYTIMEANYWHERE.COM, [http://www.psychologistanywhereanytime.com/famous\\_psychologist\\_and\\_psychologists/psychologist\\_famous\\_b\\_f\\_skinner.htm](http://www.psychologistanywhereanytime.com/famous_psychologist_and_psychologists/psychologist_famous_b_f_skinner.htm) (last visited Oct. 18, 2014). Skinner found that punishment did not lead to long-term behavior change. *Id.* After years of studying operant conditioning in a laboratory setting, Skinner started an animal training company called Animal Behavior conditioning in a laboratory-setting and started an animal training company called Animal Behavior Enterprises. *Id.* There he trained animals for television, films, amusement parks and fairs. REID, *supra* note 24, at 31.

<sup>66</sup> *Id.* To know that learning has occurred a change in behavior must be lasting. *Id.* Therefore, if punishment does not result in lasting behavior change, then the desired learning has not occurred. *Id.*

<sup>67</sup> See generally *Trainer Certifications*, *supra* note 7 (listing more than fifty recognized dog trainer certification programs).

<sup>68</sup> *Id.*

<sup>69</sup> *Trainer Certifications*, *supra* note 7. The ADPT cite cautions readers in red print to “Be aware that not all certifications are the same.” *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*



education that includes: the history of dog training; animal learning fundamentals; dog behavior development and ethology; and client counseling skills.<sup>72</sup>

Beyond certificate programs, some dog trainers attempt to increase their credibility among the public by gaining certification through one of a handful of independent certifying entities. The federal government defines “certification” as a voluntary process by a private, non-governmental, organization “for the purpose of providing the public information on those individuals who have successfully completed the certification process.”<sup>73</sup> The first of these organizations is the Certification Council for Professional Dog Trainers (“CCPDT”).<sup>74</sup> The CCPDT is the first and only independent dog trainer certification program in America.<sup>75</sup> The CCPDT, established in 2001, certifies dog trainers as “Certified Pet Dog Trainer – Knowledge Assessed” (“CPDT-KA”) and “Certified Pet Dog Trainer – Knowledge and Skills Assessed” (“CPDT-KSA”).<sup>76</sup> As of 2012, more than 3,500 candidates have taken the knowledge-assessed examination, with a passage rate of eighty-six percent.<sup>77</sup> People seeking a dog trainer that is recognized to be minimally qualified by the CCPDT to train dogs may use the CCPDT website to locate nearby CPDT-KAs and CPDT-KSAs.<sup>78</sup>

In addition, candidates for both KA and KSA must possess a minimum of 300 hours of trainer experience and provide a recommendation from a veterinarian, a client, and a colleague.<sup>79</sup> Candidates must also pass a 250-question multiple-choice exam to become a CPDT-KA and an additional skills assessment exam to become a CPDT-KSA.<sup>80</sup> Upon successfully passing of either exam, a person may hold him or herself out to the public as a certified dog

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<sup>72</sup> *So You Want to be a Dog Trainer!*, APDT.COM, <https://apdt.com/trainers/career/>

<sup>73</sup> *Certification v. Licensure*, NATIONAL REGISTRY OF EMERGENCY MEDICAL TECHNICIANS, ([https://www.nremt.org/nremt/about/Legal\\_Opinion.asp](https://www.nremt.org/nremt/about/Legal_Opinion.asp) (citing to the U.S. Dep’t of Health, Educ., & Welfare, *Report on Licensure and Related Health Personnel Credentialing* (June, 1971))).

<sup>74</sup> *History of CCPDT*, Certification Council for Pet Dog Trainers, CCPDT.ORG, [http://www.ccpdt.org/index.php?option=com\\_content&view=article&id=5&Itemid=115](http://www.ccpdt.org/index.php?option=com_content&view=article&id=5&Itemid=115).

<sup>75</sup> *Id.*

<sup>76</sup> *Trainer FAQ*, CCPDT.ORG, [http://www.ccpdt.org/index.php?option=com\\_content&view=article&id=16&Itemid=145](http://www.ccpdt.org/index.php?option=com_content&view=article&id=16&Itemid=145) (last visited Oct. 3, 2014). Knowledge assessed means that the dog trainer has taken the 250-question exam and passed the exam. *Id.* Knowledge and Skills assessed means that in addition to taking and passing the 250-question examination, the dog trainer has passed a skills assessment. *Id.* The applicant submits a videotape of the applicant training a dog to do behaviors that the CCPDT instructs them to do. *Id.*

<sup>77</sup> Providing the pass rate of exam takers of KA and KSA exams. *Id.*

<sup>78</sup> *Search for Professionals*, CCPDT.ORG, [http://www.ccpdt.org/index.php?option=com\\_certificants&Itemid=102](http://www.ccpdt.org/index.php?option=com_certificants&Itemid=102).

<sup>79</sup> *The Importance of Certification*, CCPDT.ORG available at <http://www.ccpdt.org/phocadownload/Certification%20Brochure.pdf>.

<sup>80</sup> *See id.* (listing the passage score for the CPDT-KA & CPDT-KSA exam is 188 of 250 questions). The exam is an “independent, psychometrically sound and science-based exam” it is used “to demonstrate knowledge in Instruction Skills, Animal Husbandry, Ethology, Learning Theory, Equipment, Business Practices & Ethics.” *Id.*

trainer.<sup>81</sup> Renewal of either certification is required every three years.<sup>82</sup> KA renewals must complete thirty-six continuing education units (“CEUs”) and KSA renewals must complete forty-eight CEUs.<sup>83</sup>

In contrast to the criteria required of dog trainers to become certified through certificate or certification programs, membership in a dog trainer association is open to almost anyone.<sup>84</sup> An eligible member need only share in the association’s common goals, meet the membership requirement and abide by association bylaws.<sup>85</sup> A number of dog training associations are in existence.<sup>86</sup> The largest is the Association of Professional Dog Trainers, (“APDT”).<sup>87</sup> The organization was founded in 1993.<sup>88</sup> Since that time the organization has grown to include approximately 5,000 U.S. dog trainers.<sup>89</sup> The organization holds an annual conference and trade show where leading dog trainers present their research on dog training.<sup>90</sup> APDT is a network for dog trainers and the web site provides dog owners with a search tool for finding APDT member trainers.<sup>91</sup>

## B. *Governmental Regulations of Occupations*

### 1. Registrations, certifications and licensures

Generally, the regulation of occupations consists of three categories: registration, certification, and licensure.<sup>92</sup> Registration is viewed as the least restrictive of these regulations, whereby applicants are required to complete a form with a government agency before commencing their occupation.<sup>93</sup> A

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<sup>81</sup> Certification, CERTIFICATION COUNCIL FOR PROFESSIONAL DOG TRAINERS, *available at* <http://www.ccpdt.org/phocadownload/Certification%20Brochure.pdf>.

<sup>82</sup> *Recertification*, CERTIFICATION COUNCIL FOR PROFESSIONAL DOG TRAINERS, [http://www.ccpdt.org/index.php?option=com\\_content&view=article&id=14&Itemid=144](http://www.ccpdt.org/index.php?option=com_content&view=article&id=14&Itemid=144).

<sup>83</sup> *CPDT-KA, CPDT-KSA & CBCC-KA Continuing Education Units Policy*, CERTIFICATION COUNCIL FOR PROFESSIONAL DOG TRAINERS, *available at* <http://www.ccpdt.org/phocadownload/governing-documents/Policies/ccpdt%20ceu%20policy%20approved%2007102014%20final.pdf>.

<sup>84</sup> *See generally Articles of Incorporation and Bylaws of the International Association of Canine Professionals*, CANINEPROFESSIONALS.COM 3, 17-21, <http://www.canineprofessionals.com/assets/docs/articlesincorporationbylawsjuly2012.pdf> (last visited on Oct. 18, 2014) (explaining the requirements of being a member of the association).

<sup>85</sup> *Id.*

<sup>86</sup> NAT’L ASSOC. OF DOG OBEDIENCE INSTRUCTORS, <http://www.nadoi.org> (last visited Oct. 24, 2014); INT’L POSITIVE DOG TRAINING ASSOC., <http://www.ipdta.org> (last visited Oct. 24, 2014); INT’L ASSOC. OF ANIMAL BEHAVIOR CONSULTANTS, <https://iaabc.org> (last visited Oct. 24, 2014).

<sup>87</sup> *Fact Sheet*, APDT.COM, <https://apdt.com/docs/apdt/apdt-fact-sheet.pdf> (last visited on Oct. 18, 2014).

<sup>88</sup> *History of the APDT*, APDT.COM, <https://apdt.com/about/history/> (last visited on Oct. 3, 2014). Dr. Ian Dunbar is the founder of the APDT. *Id.* Prior to that, Dunbar was veterinarian in the England. *Id.* He later moved to California where he did research at the University of California Berkeley on dog behavior. *Id.*

<sup>89</sup> E-mail from MJ Glasby, Admin. Coordinator, Ass’n of Pet Dog Trainers, to author (Sept. 25, 2014, 11:20 PDT) (on file with author).

<sup>90</sup> *History of the APDT*, *supra* note 88.

<sup>91</sup> *Information for Pet Owners*, APDT.COM, <https://apdt.com/pet-owners/> (last visited on Oct. 18, 2014).

<sup>92</sup> Morris M. Kleiner & Alan Krueger, *Analyzing the Extent and Influence of Occupational Licensing on the Labor Market 2* (Nat’l Bureau of Econ. Research, Working Paper No. 14979, May 2009).

certification does not require the permission of a governmental agency to practice the occupation.<sup>94</sup> Instead, the government or an agency administers an examination and certifies that the applicant has a minimal level of skill and knowledge in a given area.<sup>95</sup> Unlike either registration or certification, occupational licensure requires state approval to practice in the given licensed occupation.<sup>96</sup>

Occupational licensure is a state or local government's regulation over certain professions.<sup>97</sup> The regulations ensure that those professionals have a requisite level of skill and knowledge to perform "important occupational activities safely and effectively".<sup>98</sup> The regulations are in place to protect consumers and to provide for the public's safety.<sup>99</sup> Licensure regulations achieve their goal by limiting entry into an occupation to those persons able to demonstrate a level of competency in the profession.<sup>100</sup> Governmental permission is required to engage in the licensed profession.<sup>101</sup> It is unlawful for an unlicensed person to practice in a licensed profession.<sup>102</sup>

America's occupational licensure system stems from the medieval guild systems of Western Europe and England.<sup>103</sup> Physicians were the first group of professionals to be licensed in the U.S.<sup>104</sup> Every state had enacted licensing laws for physicians by the year 1900.<sup>105</sup> By 1950, five percent of the entire U.S. workforce was licensed.<sup>106</sup> Since such regulations began, the numbers have not

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<sup>93</sup> *Id.* (describing that the licensure-seeking applicant need only provide the agency with the applicant's name, address and qualifications). Additionally, the applicant may be required to pay a filing fee and/or post a bond. *Id.*

<sup>94</sup> Morris M. Kleiner, *Occupational Licensing*, 14 J. ECON. PERSP. 189, 191 (Fall 2000), available at <http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.14.4.189> [hereinafter *Occupational Licensing*].

<sup>95</sup> Kleiner & Krueger, *supra* note 92, at 2.

<sup>96</sup> *Id.* (stating that occupational licensing has been described as 'the right to practice').

<sup>97</sup> *Validity for Licensing Tests: A Brief Orientation 2*, ETS.ORG, (quoting the *1999 Standards for Educational and Psychological Testing* by the Am. Educ. Research Ass'n), available at <https://www.ets.org/s/praxis/pdf/validity.pdf>.

<sup>98</sup> *Id.*

<sup>99</sup> See Daniel J. Gilman & Julie Fairman, *Antitrust and the Future of Nursing: Federal Competition Policy and the Scope of Practice*, 24 HEALTH MATRIX 143, 166 (2014) (discussing licensure of physicians and nurses); see also Jennessa Calvo-Friedman, Note, *The Uncertain Terrain of State Occupational Licensing Laws for Noncitizens: A Preemption Analysis*, 102 GEO. L.J. 1597, 1605 (June 2014)[hereinafter *The Uncertain Terrain of State Occupational Licensing Laws for Noncitizens: A Preemption Analysis*] (explaining that occupational licensing is an area of traditional state police power that exists to protect the public's health, safety, and welfare).

<sup>100</sup> *Occupational Licensing*, *supra* note 94, at 191.

<sup>101</sup> *Id.*

<sup>102</sup> See Kleiner & Krueger, *supra* note 92, at 2 (stating that working for pay without a license is illegal).

<sup>103</sup> N. SCOTT ARNOLD, *IMPOSING VALUES: AN ESSAY ON LIBERALISM AND REGULATION* 102 (Oxford Univ. Press, 2009).

<sup>104</sup> See *id.* (explaining that the *American Medical Association* lobbied to get the states to require occupational licensure for physicians). It was their pressure to regulate the profession that served as a catalyst for licensing laws in the United States. *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> Aaron Edlin & Rebecca Haw, *Cartels by Another Name: Should Licensed Occupations Face Antitrust Scrutiny?*, 162 U. PA. L. REV. 1093, 1096. (Apr. 2014).

dwindled and state-level occupational licensing is on the rise.<sup>107</sup>

Approximately one third of workers in the U.S. are licensed.<sup>108</sup> There are more than 800 occupations that require licensure.<sup>109</sup> On average, states require licensure for ninety-two occupations.<sup>110</sup> Economists attribute the increase in occupational licensing to the decline of unions.<sup>111</sup> The U.S. economy shifted from one of manufacturing to one of services that require highly skilled workers being the case.<sup>112</sup>

## 2. Rationale for regulation of occupations

Initial efforts to regulate a particular occupation usually begin with a trade association lobbying for the regulation.<sup>113</sup> However, states and municipalities are the government entities that pass occupational licensure regulations.<sup>114</sup> They are authorized by the United States Supreme Court to enact these regulations.<sup>115</sup> The federal government recognizes the legitimate state concern for public health and safety and our occupational licensures are upheld as constitutional.<sup>116</sup> A state shall only enact an occupational licensing regulation that *conceivably* achieves a legitimate state interest.<sup>117</sup> As long as the licensure

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<sup>107</sup> *Id.* at 1096, 1102; *Occupational Licensing*, *supra* note 94, at 198; *see contra* S. David Young, *Occupational Licensing*, THE CONCISE ENCYCLOPEDIA OF ECON. (1st ed.), LIBRARY OF ECON. & LIBERTY, <http://www.econlib.org/library/Enc1/OccupationalLicensing.html#abouttheauthor> (reporting that the public questions the benefits of occupational licensing and that has resulted in a slow down in the rate of licensing regulations).

<sup>108</sup> *See* Edlin & Haw, *supra* note 106, at 1102 (describing the growth in occupational licensing has centered around service sector jobs including locksmiths, beekeepers, interior designers and cosmetologists).

<sup>109</sup> *See Occupational Licensing*, *supra* note 94, at 190 (citing to a report released from the *Council of State Governments*, 1994).

<sup>110</sup> Adam B. Summers, *Occupational Licensing: Ranking the States and Exploring Alternatives* Executive Summary, at 41, app.A (Aug. 2007), REASON, available at <http://reason.org/files/762c8fe96431b6fa5e27ca64eaa1818b.pdf> (noting that California had the highest licensed occupations with 177 licensures). Typically, the Midwest and Eastern states regulate more than the Western states. *Id.* at 5.

<sup>111</sup> Felix Salmon, *The Silver Lining to Occupational Licensing*, REUTERS.COM (Feb. 8, 2011), <http://blogs.reuters.com/felix-salmon/2011/02/08/the-silver-lining-to-occupational-licensing/> (quoting his editor that “state licensing is part of what a post-industrial economy looks like is . . . more highly skilled . . . [T]hat requires a different regulatory apparatus than an economy that largely takes place on a factory floor”).

<sup>112</sup> *Id.*

<sup>113</sup> Amy P. Meek, *Street Vendors, Taxicabs, and Exclusion Zones: The Impact of Collateral Consequences of Criminal Convictions at the Local Level*, 75 OHIO ST. L.J. 1, 16 (2014).

<sup>114</sup> *Id.*

<sup>115</sup> *Gade v. National Solid Waste Management Ass’n*, 505 U.S. 88, 108 (1992) (quoting *Goldfarb v. Virginia State Bar*, 421 U.S. 773, 792)

We recognize that ‘the States have a compelling interest in their practice of professions within their boundaries, and that as part of their power to protect the public health, safety and other valid interests they have broad power to establish standards for licensing practitioners and regulating the practice of professions’.

*Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *See National Ass’n for the Advancement of Psychoanalysis v. California Bd. of Psychology*, 228 F.3d 1043, 1051 (9th Cir. Cal. 2000) (quoting *Lupert v. California State Bar*, 761 F.2d 1325, 1328 (9th Cir. 1985)).

regulation is reasonable, and not arbitrary, the state or municipality may establish licensing requirements.<sup>118</sup>

Once a state or municipality enacts a licensing regulation for a given occupation, it creates a nongovernmental licensing board.<sup>119</sup> Board members are appointed to monitor the regulated profession.<sup>120</sup> The board is responsible for prosecuting unlicensed practitioners and for disciplining licensees.<sup>121</sup> Members include political appointees, members of the occupation and public members.<sup>122</sup> The agency collects fees and registration charges for members of the licensed occupation.<sup>123</sup>

Typically, an occupational licensing regulation requires an applicant to (1) have obtained formal schooling, (2) have experience in the specific industry, (3) to be a citizen and/or resident of the state or municipality, and (4) to have passed the licensing examination.<sup>124</sup> On average 42.8% of the educational licensing requirements require applicants to have a college degree.<sup>125</sup> Exams are used to provide consumers with “a dependable mechanism for identifying practitioners who have met particular standards.”<sup>126</sup>

### C. *Efforts to License Dog Trainers in America and Abroad*

Currently, no federal or state regulation of pet dog trainers exists.<sup>127</sup> The closest thing to a state dog trainer licensing regulation is California’s Blind Guide Dog Trainer license.<sup>128</sup> The requirements are completion of a three-year apprenticeship with a licensed instructor at a certified guide dog school; successfully passing several administered exams; and once licensed, licensee must take continuing education courses to maintain a valid license.<sup>129</sup> Although Illinois requires a license for canine handlers of certain working dogs, it does not

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Where a licensing scheme is challenged as unconstitutional, the court uses the rational basis scrutiny standard of review. *Id.* “Under the rational basis test, a law will be upheld if it is *rationaly related to a legitimate government purpose.*” ERWIN CHERMERINSKY, *CONSTITUTIONAL LAW PRINCIPLES & POLICIES* 552 (Wolters Kluwer, 4th ed. 2011).

<sup>118</sup> See *The Uncertain Terrain of State Occupational Licensing Laws for Noncitizens: A Preemption Analysis*, *supra* note 99, at 1606 (reporting that courts hold that “an individual’s interest in practicing a profession or occupation has been held to be subservient to state’s power and authority to regulate professional licenses”).

<sup>119</sup> See *Occupational Licensing*, *supra* note 94, at 191 (describing the formation of state licensing boards).

<sup>120</sup> *Id.*

<sup>121</sup> Young, *supra* note 107.

<sup>122</sup> *Occupational Licensing*, *supra* note 94, at 191.

<sup>123</sup> *Id.*

<sup>124</sup> Young, *supra* note 107.

<sup>125</sup> Kleiner & Krueger, *supra* note 92, at 27 tbl.3.

<sup>126</sup> *Validity for Licensing Tests*, *supra* note 97; see *contra* Young, *supra* note 107 (arguing that exams include irrelevant questions).

<sup>127</sup> *Trainer Certification*, *supra* note 7.

<sup>128</sup> Cal. Bus. & Prof. Code §§ 7200-7217, available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=07001-08000&file=7200-7217>.

<sup>129</sup> *Frequently Asked Questions About the Guide Dog Board*, CA.GOV, <http://www.guidedogboard.ca.gov/about/faq/faq.shtml>.

apply to other areas of dog training.<sup>130</sup> The Illinois statute, 225 ILCS 447 § 35(a) states that: “No person shall perform duties that include the use or handling of a canine to protect persons or property or to conduct investigations without having been issued a valid canine handler authorization card by the Department.”<sup>131</sup> Texas also requires a dog trainer’s license for training guard dogs.<sup>132</sup> However, these two examples of state occupational licensure apply to a very narrow area of dog training.

Yet, efforts to regulate pet dog trainers in other states have either not been fully realized or have been cut short. For instance, New Jersey’s state legislature proposed a dog trainer’s licensing act in both 2000 and 2005, but neither bill advanced.<sup>133</sup> The city of Albuquerque, New Mexico had a licensing requirement for dog trainers at one time, but it no longer exists.<sup>134</sup> Besides those few events in recent history, no federal or state licensure regulations for dog trainers have been enacted.<sup>135</sup>

Similarly, in other parts of the world, the licensing of dog trainers has not yet occurred.<sup>136</sup> Animal rights organizations in the United Kingdom have lobbied for government regulation of pet dog trainers.<sup>137</sup> The Companion Animal Welfare Council (“CAWC”) filed a report<sup>138</sup> in the United Kingdom that stated, “problems may arise since there is no nationally accepted benchmark for qualification and skill in training or behavior modification . . . [w]ith no minimum standard there can be no assurance of quality”.<sup>139</sup> Like in the United States, efforts to regulate dog training in the United Kingdom are also in their infancy.<sup>140</sup>

### III. ANALYSIS

Americans love their dogs. Dogs are no longer relegated to the doghouse, but enjoy the status of a family member and sleep indoors on monogrammed

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<sup>130</sup> 225 ILCS § 447/35-41; *see Canine Handler*, IDFPR.COM, <http://www.idfpr.com/profs/info/Canine.asp> (providing information about the canine handler license). This regulation applies to persons that train dogs as guard dogs for security companies. *Id.*

<sup>131</sup> 225 ILCS § 447/35(a).

<sup>132</sup> See generally TX. CODE ANN. tit. 10, § 1702, § 1702.221 b.1.G (1999) (providing the requirements for licensure of a person who trains dog for a guard dog company).

<sup>133</sup> S. 166, *supra* note 18; S. 4425 *supra* note 18; *see* discussion *infra* Part IV.B and note 250.

<sup>134</sup> ALBUQUERQUE JOURNAL *from Albuquerque, NM* 12 (Mar. 16, 1976), NEWSPAPERS.COM, <http://www.newspapers.com/newspage/69867683/>.

<sup>135</sup> See discussion *supra* text accompanying note 7.

<sup>136</sup> See *infra* text accompanying note 19.

<sup>137</sup> *Id.* The CAWC is dedicated to making “available information and research data which it has obtained, in order to enable Parliamentary legislation on companion animal welfare issues to be drafted and debated on an informal basis.” *Aims and Objectives*, CAWC.ORG, <http://www.cawc.org.uk/aims-objectives>.

<sup>138</sup> CAWC, *supra* note 15.

<sup>139</sup> See *id.* (speaking in regards to the role that government can play in the regulation of dog trainers in training and behavior modification of pet dogs).

<sup>140</sup> See generally *id.* (establishing that no standard for dog trainers exists in the United Kingdom).

beds made of memory-foam.<sup>141</sup> Nonetheless, it is recognized that dogs are capable of highly destructive behaviors<sup>142</sup>, including acts that result in the loss of human life.<sup>143</sup> At the same time, dogs are smaller and weaker than most humans and humans that are unskilled in dog training can easily injure dogs.<sup>144</sup> This Part will analyze the advantages and disadvantages of occupational licensure of professions and then apply the analysis to the profession of dog training.<sup>145</sup>

#### A. *The Benefits of Occupational Licensure*

Society benefits from the existence of occupational licensure regulations because of the improved quality of services the consumer receives.<sup>146</sup> The public is protected from service providers that are “incompetents, charlatans, and quacks.”<sup>147</sup> This is achieved by requiring applicants to meet a set of minimum standards.<sup>148</sup> Examinations are given to identify those practitioners who meet a particular set of standards to further ensure the public’s safety.<sup>149</sup> The practice of regulating occupations reduces “consumer uncertainty over the quality of the licensed service and increase[s] the [ ] demand.”<sup>150</sup>

Furthermore, due to the higher requirements needed to obtain licensure in a given profession, there are fewer “number of less qualified or unmotivated individuals who [can] enter the occupation.”<sup>151</sup> This results in an increase the average quality of workers in the licensed occupation.<sup>152</sup> Occupational

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<sup>141</sup> *Personalized Dog Beds*, Orvis, <http://www.orvis.com/personalized-dog-beds>.

<sup>142</sup> See generally Kelli Wynn, *Expert says all dogs can be dangerous*, DAYTON DAILY NEWS (Sept. 12, 2013), <http://www.daytondailynews.com/news/news/expert-says-all-dogs-can-be-dangerous/nR99H/?federated=1> (reporting on the capability of dogs to cause massive damage, including deadly bite wounds to humans).

<sup>143</sup> See *People v. Noel*, 128 Cal. App. 4th 1391 (1st App. Dist. CA) May 6, 2005. (summarizing the brutal death of Diane Whipple caused by an attack by a Presa Canario dog). An unprovoked dog, belonging to Whipple’s next-door neighbors, attacked Ms. Whipple in the hallway of her apartment building. *Id.*

<sup>144</sup> See *‘Dog Whisperer’ sued by his TV producer*, TODAY.COM (May 9, 2006), [http://www.today.com/id/12648003/ns/today-today\\_entertainment/t/dog-whisperer-sued-his-tv-producer/#.VEWbcd6YWEJ](http://www.today.com/id/12648003/ns/today-today_entertainment/t/dog-whisperer-sued-his-tv-producer/#.VEWbcd6YWEJ) (detailing how a dog being trained in Millan’s training facility was “choked by a collar and forced to run on a treadmill,” resulted in the damage to the dog’s esophagus and cost the owner \$25,000 in medical bills).

<sup>145</sup> See discussion *infra* Part III.A. & III.B.

<sup>146</sup> *Occupational Licensing*, *supra* note 94, at 191.

<sup>147</sup> Young, *supra* note 107; see *contra* Young, *supra* note 107 (noting that advances in fields have come people that could be considered “quacks” from the standpoint of professionals in the field, such as inventor Thomas Edison who had no formal education and would not qualify for licensure under today’s guidelines).

<sup>148</sup> *Validity for Licensing Tests*, *supra* note 97, at 2.

<sup>149</sup> *Id.*

<sup>150</sup> *Occupational Licensing*, *supra* note 94, at 192. Occupational licensure provides a benefit to society by ensuring a minimal level of training. *Id.* For example, Kleiner illustrates how a furnace that is incorrectly installed may result in a building to catch fire or a doctor that gives a wrong diagnosis may cause a public health epidemic. *Id.*

<sup>151</sup> See Kleiner & Krueger, *supra* note 92, at 5 (discussing the benefits of occupational licensure requirements since the requirements acts as a disincentive for those that do not have enough skills to do the job).

<sup>152</sup> *Id.*

licensure create an incentive for people “to invest in more occupation-specific human capital” since they are more likely to be able to recoup the initial costs involved in qualifying for licensure, as no substitute services exist.<sup>153</sup> Regulated professionals also benefit from occupational licensure, as research shows that wages increase by fourteen percent once an occupation is regulated.<sup>154</sup>

Arguably, there are examples of occupational licensure requirements that seem to confer little benefit to consumers like those required for licensed florists.<sup>155</sup> There are states that require occupational licensures for low-skill work, like hair braiding, which may seem unjustified or outrageous to some.<sup>156</sup> Nonetheless, occupational licensure is needed in certain fields of work.<sup>157</sup> Specifically, licensure is needed in professions that involve health and safety.<sup>158</sup> Occupational licensure is also beneficial in cases when there are “information asymmetries between professional and consumers.”<sup>159</sup> The same is true when the professional plays a dual role as both a diagnostician and treatment provider.<sup>160</sup>

## B. *Criticisms of Occupational Licensure Regulations*

Those opposed to occupational licensure are opposed to government regulation in general and instead support a free market economy approach.<sup>161</sup> Opponents argue that such regulation restricts access into licensed professions.<sup>162</sup> Consumer prices tend to increase for the licensed services by fifteen percent.<sup>163</sup> Licensure also limits consumer choice and limits a

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<sup>153</sup> *Occupational Licensing*, *supra* note 94, at 191.

<sup>154</sup> See Kleiner & Krueger, *supra* 92, at 2 (describing that regulations by state government are associated with higher wages than regulations by municipalities). Regulations that require higher levels of education and lengthy internships are “positively associated with [higher] wages.” *Id.*

<sup>155</sup> See generally Salmon, *supra* note 111 (detailing some questionable licensing laws like florists who need to be licensed in Louisiana); *Freeing Louisiana Florists: Licensing Law is Blooming Nonsense*, Institute for Justice <http://www.ij.org/freeing-louisiana-florists-licensing-law-is-blooming-nonsense>; Summers, *supra* note 110, at 43, app.C. Summers provides a list of job categories that he opines to be “The Nation’s Most Outrageous Licensing Laws.” *Id.*

<sup>156</sup> Alden Abbott, *Occupational Licensing, Competition, and the Constitution: Prospects for Reform?*, TRUTHONTHEMARKET.COM <http://truthonthemarket.com/2014/07/18/occupational-licensing-competition-and-the-constitution-prospects-for-reform/> (July 18, 2014) [hereinafter *Occupational Licensing, Competition, and the Constitution: Prospects for Reform?*]; see Summers, *supra* note 110, at 43, app. C. (listing job categories the author opines to be “The Nation’s Most Outrageous Licensing Laws”).

<sup>157</sup> See *Occupational Licensing, Competition, and the Constitution: Prospects for Reform?*, *supra* note 156 (conceding that not all licensing is to be avoided).

<sup>158</sup> See discussion *infra* Part II.C; see *Occupational Licensing, Competition, and the Constitution: Prospects for Reform?*, *supra* note 156 (stating that some occupational licensing does relate to legitimate health and safety concerns).

<sup>159</sup> Gilman & Fairman, *supra* note 99, at 164.

<sup>160</sup> *Id.*

<sup>161</sup> See generally Summers, *supra* note 110 (describing libertarian principles).

<sup>162</sup> Gilman & Fairman, *supra* note 99, at 163.

<sup>163</sup> Edlin & Haw, *supra* note 106, at 1102.



practitioner's mobility.<sup>164</sup> One empirical finding by labor economists suggests that licensing requirements "cannot necessarily be relied upon to raise the quality of service".<sup>165</sup> Licensing boards have been accused of abusing their power to prevent access to a given profession to reduce overall competition.<sup>166</sup> Furthermore, consumers may be less able to access the regulated service, making it difficult to receive the service that is sought.<sup>167</sup>

Critics of occupational licensure argue that not all occupations ought to be regulated.<sup>168</sup> While people may agree there is a benefit to requiring that physicians and lawyers be licensed to practice, this is not true of all licensed professions.<sup>169</sup> "Excessive licensing confers unwarranted benefits on fortunate incumbents, while effectively barring large numbers of capable individuals from the workforce."<sup>170</sup>

For instance, the regulation of African hair braiders by states has been highly criticized.<sup>171</sup> The regulation made it illegal to provide hair-braiding services in Utah without having a cosmetology license.<sup>172</sup> The barriers for hair braiders in Utah to gain entry into the profession include a two-year training program and \$16,000 in tuition costs.<sup>173</sup> On average, it takes cosmetologists 372 days to fulfill the training and educational requirement, while emergency medical technicians that deal with life and death situations on a regular basis take 33 days to meet their licensing requirements.<sup>174</sup> There is also the criticism that licensing laws that contain "grandfather clauses" allow existing members of the occupation to bypass the new entry requirements altogether.<sup>175</sup>

### C. *Training Dogs and What is at Stake*

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<sup>164</sup> Young, *supra* note 107.

<sup>165</sup> Edlin & Haw, *supra* note 106, at 1098 & n.23.

<sup>166</sup> *Id.* at 1096; *see also Occupational Licensing, supra* note 94, at 192 (noting that once an occupation is regulated, members can enact statutes that make entrance into the occupation tougher on new applicants).

<sup>167</sup> Kleiner & Krueger, *supra* note 92, at 5.

<sup>168</sup> See Bryon Schlomach, *Six Reforms to Occupational Licensing Laws to Increase Jobs and Lower Costs*, Goldwater Inst. Pol'y Rep., No. 247 (July 10, 2012), available at <http://goldwaterinstitute.org/article/six-reforms-occupational-licensing-laws-increase-jobs-and-lower-costs> (arguing that while some occupations justify licensure, other occupations do not).

<sup>169</sup> *Id.*

<sup>170</sup> *Occupational Licensing, Competition, and the Constitution: Prospects for Reform?*, *supra* note 156.

<sup>171</sup> *Id.*

<sup>172</sup> Jacob Goldstein, *So You Think You Can Be a Hair Braider?*, N.Y. TIMES, June 12, 2012, available at [http://www.nytimes.com/2012/06/17/magazine/so-you-think-you-can-be-a-hair-braider.html?\\_r=2&ref=magazine&pagewanted=all](http://www.nytimes.com/2012/06/17/magazine/so-you-think-you-can-be-a-hair-braider.html?_r=2&ref=magazine&pagewanted=all). "[S]tate governments want[] to protect their citizens and create standards not just for lawyers and doctors but also for basic services." *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> Dick Carpenter & Lisa Knepper, *Do Barbers Really Need a License?*, WALL ST. J., May 10, 2012, available at <http://online.wsj.com/articles/SB10001424052702304451104577389691765508790>.

<sup>175</sup> Young, *supra* note 107.

The work of a dog trainer entails more than teaching dogs to respond to commands on cue.<sup>176</sup> A trainer's job also involves teaching people how to get their own dogs to respond to them on command in the absence of a dog trainer.<sup>177</sup> Dog trainers counsel their clients about the best ways to treat and manage the client's dog behavior problems.<sup>178</sup> A dog trainer assesses the danger involved in keeping a dog that has bitten a person in the client's home.<sup>179</sup> The trainer considers the client's ability to follow the prescribed management program to prevent future bites and the tailored treatment plan.<sup>180</sup> Dog trainers advise their clients on the best ways to socialize a puppy to people, to other dogs, and to a puppy's general living environment.<sup>181</sup> Dog trainers need an in-depth understanding of dog behavior, dog ethology, learning theories, and counseling skills.<sup>182</sup>

Even a simple exercise of teaching a dog to sit on cue requires the trainer to have skills in timing and reinforcement in order for effective and lasting learning to occur.<sup>183</sup> Timing is a mechanical skill that requires practice.<sup>184</sup> A

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<sup>176</sup> See *Career Opportunity: Dog Trainer*, S.F. SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS (Oct. 2014), <https://www.sfspca.org/career-opportunity-dog-trainer> (providing a job description for a dog trainer). Dog trainers need "good communication, strong animal handling skills and ability to read animal body language, a love for working with animals and their guardians, patience, ability to adapt quickly and make decisions, [and] physical fitness." *Animal Behavior and Training Careers*, MASS. SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, <http://www.mspca.org/programs/humane-education/careers-with-animals/career-descriptions/animal-behavior-and-training.html>. A dog trainer "works with pet guardians to help establish positive behaviors in animals." *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> Valerie Pollard, *What is a Dog Behavior Counselor?*, DOGSTARDAILY.COM BLOG (Feb. 3, 2014, 10:29 PM), <http://www.dogstardaily.com/blogs/valerie-pollard/what-dog-behavior-counselor>.

<sup>179</sup> See generally *Assessing Shelter Dogs and Temperament Testing*, THE PARTNERSHIP FOR ANIMAL WELFARE, [http://www.paw-rescue.org/PAW/PETTIPS/DogTip\\_Temperament.php](http://www.paw-rescue.org/PAW/PETTIPS/DogTip_Temperament.php). "[T]rainers [] use temperament testing as a way to assess the temperament of an individual dog as a candidate for adoption, therapy or assistance animal work, search and rescue, or other purposes." "Temperament tests [] serve as a predictive tool for getting an idea of how the dog might act and react in various situations and in response to various stimuli." *Id.*

<sup>180</sup> *What to Expect When Working with a Trainer or Attending a Group Class*, APDT.COM, <https://apdt.com/pet-owners/choosing-a-trainer/class/>. "[A dog] trainer should provide an 'action plan' of what [] will [be] cover[ed] at each session." *Id.*

<sup>181</sup> See generally *What are Some of the Common Myths About Dog Training?*, APDT.COM, <https://apdt.com/pet-owners/choosing-a-trainer/myths/> (listing numerous dog training myths). "Bite inhibition *must* be established in puppyhood, before eighteen weeks of age, since it is difficult to instill bite inhibition in an adolescent or adult dog." IAN DUNBAR, *AFTER YOU GET YOUR PUPPY* 8 (James & Kenneth Publishers 2001). "The most *urgent* priority is to socialize your puppy to a wide variety of people, especially children, men, and strangers, before he is twelve weeks old. Well-socialized puppies grow up to be wonderful companions, whereas antisocial dogs are difficult, time-consuming, and potentially dangerous." *Id.* at 6.

<sup>182</sup> *So You Want to be a Dog Trainer!*, *supra* note 72. Reid describes the need for a dog trainer to know "a lot" to do a good job. REID, *supra* note 24, at 2. She writes that a dog trainer must "know how to handle dogs, know how to observe and interpret their behavior, how to communicate with them, how to live with them, how to care for them, how to play with them, and how to teach them." *Id.*

<sup>183</sup> *Career Opportunity: Dog Trainer*, *supra* note 176; Janet Velenovsky, *Clickin' Chickens: How Training Chickens Helped Me Become Leader of the Peck*, CLICKERTRAINING.COM (Sept. 1, 2010), <http://www.clickertraining.com/node/2996> (last visited Oct. 3, 2014). Some dog trainers attend seminars called, "Chicken Camp," to improve their dog training skills by training chickens. *Id.* Chickens offer certain behaviors, like pecking at a faster rate than dogs offer behaviors. *Chicken Camp*, DOGGONE DIABETES BLOG (Aug. 4, 2013), <http://www.doggonediabetes.com/?p=585>. "Chickens make frequent, fast movements of their head." *Id.* A trainer improves his or her timing (speed at which a behavior is reinforced) and shaping skills. *Id.* The technique of

dog's behavior will respond to reinforcement that is given within a limited timeframe.<sup>185</sup> The reinforcer is required to inform the dog exactly what behavior the trainer liked.<sup>186</sup> Reinforcement that comes too early or too late will not result in a dog learning the desired behavior.<sup>187</sup> For instance, "if you have your dog sit[,] but reward him after he's stood back up, he'll think he's being rewarded for standing up."<sup>188</sup> Consumers should receive their monies worth when hiring a trainer and should not be on the receiving end of bad dog training instruction.<sup>189</sup> The role of dog trainer is broader than achieving a "sit" on cue.<sup>190</sup> Dog trainers are certifying dogs to be used as therapy in hospitals and to guide blind persons.<sup>191</sup> Dog trainers are certifying dogs to be in classrooms sitting beside children on blankets.<sup>192</sup> Dog trainers make recommendations as to whether or not to euthanize a dog due to dog behavior problems.<sup>193</sup> They act as experts in dog bite cases and give their opinion on whether or not a dog is dangerous.<sup>194</sup> Dog trainers are called upon to resolve severe dog behavior problems like separation anxiety and dog-dog aggression.<sup>195</sup>

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shaping is "breaking down a behavior into tiny increments, and reinforcing the dog at each incremental step until [the full behavior [is achieved]." Pat Miller, *Fun Training Techniques for Your Dog Using Shaping*, WHOLE DOG J. (Mar. 2006), available at [http://www.whole-dog-journal.com/issues/9\\_3/features/Training-Your-Dog-Using-Shaping\\_15792-1.html](http://www.whole-dog-journal.com/issues/9_3/features/Training-Your-Dog-Using-Shaping_15792-1.html).

<sup>184</sup> *Clicker Training Terms*, KAREN PRYOR CLICKER TRAINING, <http://www.clickertraining.com/glossary/17#term257>.

<sup>185</sup> PRYOR, *supra* note 33, at 7-10. "The timing of the arrival of the reinforcer is information. It tells the learner exactly what it is [they did correct]." *Id.* at 7.

<sup>186</sup> *Id.* at 7-10.

<sup>187</sup> *Id.*; *Dogs: Positive Reinforcement Training*, THE HUMANE SOC'Y OF THE US, [http://www.humanesociety.org/animals/dogs/tips/dog\\_training\\_positive\\_reinforcement.html](http://www.humanesociety.org/animals/dogs/tips/dog_training_positive_reinforcement.html).

<sup>188</sup> *Id.*

<sup>189</sup> The average cost of in-home dog training is between \$75 to \$125, per hour. *See generally How Much Does In-Home Dog Training Cost?*, VETINFO, <http://www.vetinfo.com/how-much-does-in-home-dog-training-cost.html#b>.

<sup>190</sup> *Career Opportunity: Dog Trainer*, *supra* note 176.

Give reliable, objective, effective, quality behavior advice to adopters and the public . . . Teach public group classes related to dog obedience, behavior modification, and dog sports . . . Develop and update curriculum as needed to fit the skills and evolving needs of the clients and program . . . Present training curriculum in an engaging, effective and informative manner . . . Implement behavior modification plans.

*Id.*

<sup>191</sup> Dogs are used in therapy and rehabilitation settings, such as in physical therapy and nursing homes. *Chenny Troupe*, REHABILITATION INSTITUTE OF CHICAGO, [http://www.ric.org/services/educational-services-support-groups/chenny\\_troupe/](http://www.ric.org/services/educational-services-support-groups/chenny_troupe/); SITSTAYREAD, *supra* note 10.

<sup>192</sup> *Id.* Dogs are used in classrooms to help promote children's reading literacy in elementary schools across Chicago. *Id.*

<sup>193</sup> *Euthanasia Criteria*, SAMTHEDOGTRAINER, <http://samthedogtrainer.com/articles/euthanasia-criteria/> (last visited Oct. 24, 2014).

<sup>194</sup> Ron Berman, *Expert Witness and Consultant for Litigation*, DOGBITE-EXPERT.COM, <http://www.dogbite-expert.com>.

<sup>195</sup> *Separation Anxiety*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.aspc.org/pet-care/virtual-pet-behaviorist/dog-behavior/separation-anxiety>; Malena DeMartini, *The Expert on Helping Dogs with Separation Anxiety*, MALENADEMARTINI.COM, <http://malenademartini.com>; Jeff Millman, *Dog Aggression*, CHICAGOPAWS.COM, <http://www.chicagopaws.com/training-topics/aggression.html>.

Of particular concern to consumers are dog trainers that promote the use of physical punishment in training.<sup>196</sup> The risks associated with the use of physical punishment on a dog's welfare are well established.<sup>197</sup> Research shows that the use of punishment can damage a dog both physically and emotionally.<sup>198</sup> Dog trainers that use physical punishers, like the electronic shock collar used by the Chicago dog trainer, put a dog at risk for injury.<sup>199</sup> Instead large numbers of dog trainers are shunning the use of these harmful methods entirely and employing positive reinforcement training methods instead.<sup>200</sup>

An electric shock collar is a training device that delivers a shock to the dog.<sup>201</sup> The pain from the shock is used to suppress an unwanted behavior.<sup>202</sup> Dog trainers that are unaware of the harmful effects of punishment on dogs may recommend its use to clients.<sup>203</sup> Parts of Canada and the United Kingdom have prohibited the use of electronic shock collars.<sup>204</sup> The U.S. has not adopted this practice.<sup>205</sup> It is not surprising that the public remains confused as to whether or not physical punishment should be used on dogs in training and whether it, physical punishment, is by definition cruelty to animals.<sup>206</sup> While the legal issue concerning cruelty to animals is beyond the scope of this Comment, the trend in dog training is to exclude all use of physical corrections on dogs for this very reason.<sup>207</sup> Positive reinforcement training is the safest training method available

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<sup>196</sup> *Dominance and Dog Training*, *supra* note 20; *Punishment Position Statement*, *supra* note 62, at 1, 2, 4.

<sup>197</sup> *Punishment Position Statement*, *supra* note 62, at 4. As a result, organizations have gone on record to advise that punishment not be used “as a first-line or early-use treatment for behavior problems”. *Id.* at 2. The use of punishment can lead to increasing levels of stress on the dog, increased aggression and fear responses. *Id.* at 4. Punishment, when applied properly (at the right time and intensity) is thought to merely interrupt behavior and “does not teach more appropriate behaviors”. *Id.* The animal temporarily ceases the behavior, however, the unwanted behavior later returns. *Id.*

<sup>198</sup> Debate surges over dog shock collar use. CBSNEWS.COM (Sept. 11, 2014) <http://www.cbsnews.com/news/debate-surges-over-dog-shock-collar-use/> [hereinafter Debate surges over dog shock collar use].

<sup>199</sup> See discussion *supra* Part I.

<sup>200</sup> See THE PET PROFESSIONAL GUILD, <http://www.petprofessionalguild.com> (indicating that pet professionals are opting for “science based force-free training”). The organization is committed to force-free training, practices, and methods. *Id.* The organization defines “Force-Free” to mean: “No Shock, No Pain, No Choke, No Fear, No Physical Force, No physical Molding, No Compulsion Based Methods are employed to train or care for a pet.” *Id.*

<sup>201</sup> See Emily Blackwell & Rachel Casey, *The Use of Shock Collars and Their Impact on the Welfare of Dogs: A Review of the Current Literature*, U. BRISTOL, SCHOOL OF VETERINARY SCI. 2 (2006) (detailing what shock collars are and how they are used in dog training).

<sup>202</sup> *Id.*

<sup>203</sup> See generally *How to Choose a Dog Trainer*, APDT.COM, <https://apdt.com/pet-owners/choosing-a-trainer/> [hereinafter *How to Choose a Dog Trainer*] (describing how confusing it can be for consumers to make informed decisions on which dog trainers to hire).

<sup>204</sup> *Id.*; Debate surges over dog shock collar use in training. Blackwell & Casey, *supra* note 201.

<sup>205</sup> *Id.*

<sup>206</sup> Animal cruelty laws do not ban the use of physical punishment in dog training. See generally David Favre, *Living Property: A New Status for Animals Within the Legal System*, 93 MARQ. L.REV 1021, 1064 n.131 (2010)(defining the acts as torture to animals under an Indiana court). The docking of a dog's tail or cropping of a dog's ears without administering anesthesia has been held as cruelty to an animal. *Id.*

and it promotes the most reliable results.<sup>208</sup>

Inadequate dog training may have severe consequences for the dog owner.<sup>209</sup> The dog owner may be held liable in cases of injury to another person by a poorly trained dog.<sup>210</sup> The dog owner may suffer damage to his own property, including damage to the owner's dog.<sup>211</sup> For instance, for a dog that has a chewing problem, the dog's own life is at stake.<sup>212</sup> The dog chews and ingests everything from shoes to crown moulding to TV remote controls.<sup>213</sup> A dog trainer that fails to recommend that the dog be placed in a dog crate whenever the dog is unsupervised, does so at great risk to both the dog and to the owner's other property. When the owner leaves the house to go to work and leaves his dog uncrated, the dog shreds the leather sofa with the dog's paws and ingests a rubber ball the dog found on the coffee table. The sofa is destroyed and must be replaced at a significant cost to the owner. Further, the dog may require surgery to remove the ball, if it does not pass on its own and causes a blockage.<sup>214</sup> The event is entirely preventable with adequate guidance from a dog trainer on how to deal with such a problem behavior.<sup>215</sup>

More troubling is the case where a dog owner that is unable to get satisfactory results from training is unable to keep the dog.<sup>216</sup> The dog owner

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<sup>207</sup> Favre discusses in his article on animal rights in the legal system, the "legislature has recognized that a balancing of the interests of animals against the interests of humans will have to be judged by the jury or judge to determine what is acceptable within their." *Id.*

<sup>208</sup> See Dog: Training Philosophy, S.F. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, available at [https://www.sfspca.org/sites/default/files/dog\\_training-philosophy.pdf](https://www.sfspca.org/sites/default/files/dog_training-philosophy.pdf) (indicating that punishment has "no place in dog training").

<sup>209</sup> See generally *People v. Noel*, 128 Cal. App. 4th 1391 (1st App. Dist. CA) (May 6, 2005).

<sup>210</sup> *Animal Control Act*, 510 ILCS 5/16:

If a dog or other animal, without provocation, attacks, attempts to attack, or injures any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, the owner of such dog or other animal is liable in civil damages to such person for the full amount of the injury proximately caused thereby.

*Id.*

<sup>211</sup> *'Dog Whisperer' sued by his TV producer*, supra note 144. A trainer that uses physical punishment to treat behavior problems may worsen a dog's condition. *Punishment Position Statement*, supra note 62, at 4. Veterinarians are encouraged to advise owners about risks associated with the use of confrontational training techniques, such as "alpha rolls" and yelling "no." Meghan E. Herron, Frances S. Shofer, et al., *Survey of the Use and Outcome of Confrontational and Non-Confrontational Training Methods in Client-Owned Dogs Showing Undesired Behaviors*, 117 APPLIED ANIMAL BEHAVIOUR SCI. 47 (2009), available at <https://vet.osu.edu/assets/pdf/hospital/behavior/trainingArticle.pdf>.

<sup>212</sup> See generally *Pica (Eating Things that Aren't Food)*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.asPCA.org/pet-care/virtual-pet-behaviorist/dog-behavior/pica-eating-things-arent-food>. Pica is the name given for a disorder whereby a dog eats non-food items.

<sup>213</sup> *Id.*

<sup>214</sup> January W. Payne, *Pica-Proof Your Pet*, WA POST, Oct. 2, 2005, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/29/AR2005092902646.html>.

<sup>215</sup> See generally *Pica (Eating Things that Aren't Food)*.

<sup>216</sup> Sixty-five per cent of relinquishing owners said that a dog's behavior problem was a contributing factor in a relinquishment to an animal shelter. Forty-eight percent said that a dog's behavior problem was a strong influence for relinquishment of a dog. Jennifer Y. Kwan & Melissa J. Bain, *Owner Attachment and Problem*

may then have to relinquish the dog to a shelter, which may lead to the dog's premature death by euthanasia.<sup>217</sup> The dog owner in such a case loses the value of the dog plus the costs of the inadequate training.<sup>218</sup> The financial loss alone can be substantial.<sup>219</sup> For instance, a purebred dog may have cost the owner \$1,500 and training could be \$800-\$2,000.<sup>220</sup> The emotional costs to the owner in this scenario are also significant, but are beyond the scope of this Comment. At present, consumers must rely on the efforts of dog trainers, animal humane organizations, veterinarians, veterinary behaviorists and the media to protect consumers from unqualified dog trainers by raising consumer awareness to the unregulated profession.<sup>221</sup> The American Veterinary Society of Animal Behavior has a marketing campaign to help people choose a dog trainer wisely. The warning reads:

Pet owners should use caution when seeking someone to train a pet or treat a behavior problem. At present, there are no licensing or experience requirements to use the terms trainer, pet behavior counselor or behaviorist. Many commonly used training techniques can worsen a problem and cause harm to a pet. We recommend speaking with your veterinarian or a board-certified veterinary behaviorist to diagnose and treat behavior problems. For more information, please refer to "How to Hire a Dog Trainer," published by the American College of Veterinary Behaviorists.<sup>222</sup>

Similarly, the Academy for Dog Trainers<sup>223</sup> has a marketing campaign on Facebook to raise consumer awareness.<sup>224</sup> Position statements on the use of

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*Behaviors Related to Relinquishment and Training Techniques of Dogs*, 16 J. APPLIED ANIMAL WELFARE SCI. 168, 168. Dog behavior has a "considerable impact on the welfare of canine[s]." *Id.* at 169.

<sup>217</sup> *Id.*

<sup>218</sup> See generally *Cost or Market Value of the Dog*, DOG BITE LAW, <http://dogbitelaw.com/compensation-for-injury/cost-or-market-value-of-the-dog.html>.

<sup>219</sup> See *infra* text accompanying note 220 and see also discussion *supra* Part III.C.

<sup>220</sup> Allen St. John, *How Much Is That Doggie In The Window? The Surprising Economics Of Purchasing A Purebred Puppy*, FORBES, Feb. 17, 2012, <http://www.forbes.com/sites/allenstjohn/2012/02/17/how-much-is-that-doggie-in-the-window-the-surprising-economics-of-purchasing-a-purebred-puppy/>. "[P]uppies ranged in price from around \$500 for a dog from a backyard breeder or a pet store to upwards of \$3,000 for a show quality pup from a top breeder." *Id.*

<sup>221</sup> See Herron & Shofer, et al., *supra* note 211; see discussion *id*; *Behavior Consultations*, *supra* note 7.

<sup>222</sup> *Behavior Consultations*, *supra* note 7. This warning appears on the San Francisco SPCA's web site.

<sup>223</sup> Jean Donaldson is the founder and former director of the San Francisco SPCA Academy for Dog Trainer. She opened a new Academy for Dog Trainers that trains students to train dogs via on-line lectures and by training demonstrations on CD, as well as with self-assessment tools and the use of virtual classrooms. Students of the program work at their own pace, with their own dogs and in their own homes. The graduation requirements consist of an on-line exam and submission of a student video that demonstrates specific mastery of specific training skills. See generally ACADEMY FOR DOG TRAINERS, <https://www.academyfordogtrainers.com> (last visited Oct. 24, 2014).

<sup>224</sup> In an email discussion with the Academy for Dog Trainers founder, Jean Donaldson, Donaldson writes about the organizations efforts to raise consumer awareness to the issue of trainer competence and ethics through Facebook postings on the organization's page. E-mail from Jean Donaldson, Dir., Acad. for Dog Trainers (Sept. 20, 2014, 17:58 PDT) (on file with author).

punishment in dog training and warnings about unqualified dog trainers are prevalent.<sup>225</sup> Unfortunately, the gallant efforts of these organizations are not enough to protect unwitting consumers. Something more is needed to protect consumers and the public's safety from unqualified dog trainers.

#### IV. PROPOSAL

Any person in Illinois can claim to be qualified to work as a dog trainer.<sup>226</sup> Under this proposal individual dog owners and hobbyists may train their own dogs without the need of a dog training license. The licensure would only apply to persons engaging in the occupation of dog training as a business. A person seeking to become a dog trainer may love dogs, may have trained a dog or two and have read a couple of books on dog training, but this should not be where the qualifications end.<sup>227</sup>

This Part proposes that an occupation licensure act for dog trainers is needed in Illinois to ensure that dog trainers practicing in Illinois have the necessary skills to adequately help consumers and to ensure public safety.<sup>228</sup> The statute would borrow some of its language and structure from the proposed New Jersey statute, The California Guide Dogs Act, and the CCPDT examination. It would recommend the use of positive reinforcement training methods as best practices. The statute would mandate that any licensed dog trainers that use physical punishment in training must provide consumers with a disclosure on the risks associated with the use of punishment (developed by the licensure board) in their marketing materials, on their websites and in their client contracts.

##### A. *Overcoming Barriers to Licensure*

At present, anyone can "hang up the phone [], call him or herself a [dog] trainer, and be in business tomorrow."<sup>229</sup> There is a popular saying among dog trainers that goes, "ask ten dog trainers the same training related question and

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<sup>225</sup> See generally *Punishment Position Statement*, *supra* note 62; *How to Choose a Dog Trainer*, *supra* note 203; see *Finding Professional Help*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.aspc.org/pet-care/virtual-pet-behaviorist/finding-professional-help> (explaining to readers what to look for in a qualified dog trainer).

<sup>226</sup> *Trainer Certifications*, *supra* note 7; see discussion *supra* Part I.

<sup>227</sup> *Training Programs*, ASSISTANCE DOG INT'L, <http://www.assistedoginternational.org/standards/training-programs/>. "Most dog trainers love dogs and training dogs. This is only the beginning." *Id.* "It is a commonly lamented fact that anyone, at any time, can hang out a shingle declaring him- or herself a dog trainer, with nothing more invested in their services than a business card — and even that isn't essential." Kay Elliott, *How to Become a Dog Trainer Following Your Passion into a Profession*, THE BARK 62 (Nov/Dec 2010) available at <http://www.thebark.com/content/how-become-dog-trainer>.

<sup>228</sup> See Meek, *supra* note 113, at 16 (stating the reason for occupational licensing laws is to protect the public).

<sup>229</sup> See generally *Who Should You Trust to Train Your Dog?*, *supra* note 2.

there is a good chance you will get ten different answers.”<sup>230</sup> How is the consumer to know which answers are best and which dog trainer to hire? Although the observation is made in jest, the truth it speaks is no laughing matter.<sup>231</sup>

It is a problem for consumers looking to find a dog trainer they can trust to hire.<sup>232</sup> A consumer does not encounter such wide variation when contacting a licensed roofer to make a roof repair.<sup>233</sup> Standardized practices of dog trainers would provide consumers with some assurance that the dog trainer they hire is qualified to do the job.<sup>234</sup>

We can no longer throw our hands up in the air and say it is too hard to license dog trainers.<sup>235</sup> If Illinois dog trainers had a strong lobbying group, such a licensure would likely already be in place.<sup>236</sup> Critics of occupational licensure are correct that grandfather clauses that permit existing members of occupations to bypass examination requirements do not serve the public interest.<sup>237</sup> Licensing boards that do not contain public representation can become self-serving.<sup>238</sup> Licensure of dog trainers does face certain obstacles, but those obstacles can be overcome with careful action on the part of the legislature. In the absence of a powerful lobbying group, consumers must rely on the Illinois state legislature to advocate on their behalf for protection from unqualified dog trainers.<sup>239</sup> The legislature should take it upon itself to promote and enact an occupation licensure regulation for dog trainers.<sup>240</sup>

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<sup>230</sup> *Training Lesson Overview*, DOGISIMO.COM, <http://dogisimo.com/dog-training-lesson-overview/>.

<sup>231</sup> “There’s little wonder they become confused. They could ask 10 different trainers how to deal with a particular problem and probably get 10 different answers.” Ranny Green, *Margolis: Little Wonder Our Dogs Are Confused*, SEATTLE TIMES, Dec. 12, 1993, available at <http://community.seattletimes.nwsouce.com/archive/?date=19931212&slug=1736583>.

<sup>232</sup> See text accompanying *supra* note 229.

<sup>233</sup> *Who Should You Trust to Train Your Dog?*, *supra* note 2.

<sup>234</sup> In Illinois, roofing contractors are licensed by the Illinois Department of Financial and Professional Regulation. *Roofing Contractor*, ILL. DEPT. OF FIN. & PROF’L REGULATION, <http://www.idfpr.com/profs/info/roof.asp>.

<sup>235</sup> “The main benefits that are suggested for occupational licensing involve improving quality for those persons receiving the service.” *Occupational Licensing*, *supra* note 94, at 191.

<sup>236</sup> *The Dog Whisperer Walks*, *supra* note 3. *Contra id.* The argument that it is too hard to regulate dog trainers does not hold water and should not deter people from taking action.

<sup>237</sup> “Many licensing regulations were passed after significant lobbying by trade associations [].” Meek, *supra* note 113, at 16; see Charles J. Wheelan, *Politics or Public Interest? Licensing and the Case of Respiratory Therapists*, (2005) (describing factors that determine licensure are linked to an association’s budget). The larger an association’s budget, the greater probability of licensure. Associations with a \$250,000 budget had a twenty-three percent probability of licensure, while associations with a budget of \$750,000 had about a fifty percent probability. *Id.*

<sup>238</sup> Grandfather clauses have been used to permit “existing members of the occupations . . . to bypass the new entry requirements.” Young, *supra* note 107.

<sup>239</sup> “Generally, members of the occupation dominate the licensing board.” *Occupational Licensing*, *supra* note 94, at 191. Licensure has been used “by incumbent professionals to insulate themselves from competition.” Gilman & Fairman, *supra* note 99, at 165.

<sup>240</sup> See discussion *supra* note 235.

<sup>240</sup> The goal of a dog trainer licensure regulations is that the “[p]rotection of the public shall be the highest priority . . . the protection of the public shall be paramount.” Cal Bus & Prof Code § 7200.1



## B. *Developing a Sound Licensure Act*

Illinois consumers need the state to intervene on their behalf to identify those dog trainers who know the trade sufficiently enough to practice.<sup>241</sup> Licensure for dog trainers is far from being an “outrageous” profession to regulate, unlike licensing florists and hair braiders.<sup>242</sup> On the contrary, such licensure is a good fit. Consumers need protection from unqualified dog trainers that endanger the public through insufficient training practices.<sup>243</sup> Additionally, the licensing of Illinois dog trainers would take the guesswork and worry out of hiring a dog trainer.<sup>244</sup> It would give the public access to all persons qualified to install and modify behaviors in dogs using best practices.<sup>245</sup>

Moreover, licensure would hold dog trainers accountable for their conduct.<sup>246</sup> If a licensed dog trainer’s service fell below industry standards, a complaint could be filed with the licensing board and reviewed.<sup>247</sup> Licensees may have their licenses revoked for serious violations of the Act’s code of professional conduct.<sup>248</sup> To guard against bias from the dog trainer industry members, the board should include members from the public to represent the public interest.<sup>249</sup> Like the 2005 New Jersey bill, the Illinois dog trainer licensing board should contain two public members, one member from a department in the Executive Branch, four members that are licensed dog trainers, one member that is a veterinarian licensed in this State, and one member from an animal protection group.<sup>250</sup> Appointed board members shall serve a four-year term.<sup>251</sup> No person shall serve more than two consecutive terms.<sup>252</sup>

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<sup>241</sup> See discussion *supra* Part III.C.

<sup>242</sup> Summers, *supra* note 110.

<sup>243</sup> See discussion *supra* Part III.C.

<sup>244</sup> See *How to Choose a Dog Trainer*, *supra* note 203 (including 10 articles that advise consumers how to find a dog trainer and a webinar). For the average consumer looking to hire a dog trainer, they must be made aware that there are risks to hiring a dog trainer that does not meet the criteria for hiring a qualified dog trainer. *Id.*

<sup>245</sup> See generally Kleiner & Krueger, *supra* note 92, at 5 (following Kleiner and Krueger’s reasoning, those dog trainers that are under-skilled or under-motivated would be eliminated from the practice of dog training thereby giving consumers access to qualified practitioners).

<sup>246</sup> Young, *supra* note 107. “Public representation on licensing boards has also become a popular way of improving accountability.” *Id.*

<sup>247</sup> See *Labor, Licensing & Regulation*, S.C. DEPT. OF LABOR, <http://www.llr.state.sc.us/pol/contractors/index.asp?file=complaint.htm> (summarizing the role of a licensing board in regards to filed complaints).

<sup>248</sup> See S. 4425, *supra* note 18 (mandating that the licensure board shall “take disciplinary action . . . against any licensed dog trainer who violates [] provisions of [the] act”); see *contra* Young, *supra* note 107 (stating that boards may fail to discipline licensees due to a “reluctance of professionals to turn in one of their own”).

<sup>249</sup> Young, *supra* note 107. “Public representation on licensing boards has become a popular way of improving accountability.” *Id.*

<sup>250</sup> S. 4425, *supra* note 18.

<sup>251</sup> See generally *id.*

<sup>252</sup> *Id.*

In developing the requirements for licensure, the Institute for Justice recommends that policymakers “should carefully determine how much of the burden placed on applicants is truly needed to ensure public health and safety.”<sup>253</sup> It would need to be researched what the examination would consist of to ensure the goals of licensure are met.<sup>254</sup> The CCPDT examination used to certify CCDPT-KAs and CCDPT-KSAs could be used as a model to develop a sound licensure examination.<sup>255</sup> The Act should not include a grandfather clause for the examination requirement.<sup>256</sup> The New Jersey bill allows certain eligible applicants who have “engaged in the practice of dog training . . . for at least one year prior to the effective date of [the] act,” and who within 180 days of the date the procedures are established.<sup>257</sup> Such a grandfather clause does not protect the public’s safety; instead, such a clause protects the existing market participant’s interests.<sup>258</sup> Therefore all market participants, including any existing CPDT-KAs and CPDT-KSAs, should be required to sit for the examination.<sup>259</sup> These steps are recommended for protecting the public’s interest over that of the licensed dog trainers’ interests.

The amount of education and experience required for eligible applicants must be determined. In general, the education requirements for applicants seeking licensure to have a college degree accounts for almost forty-three percent.<sup>260</sup> A high level of knowledge in dog behavior, psychology and counseling skills are needed for dog trainers to provide an adequate level of service.<sup>261</sup> The New Jersey bill only required eligible applicants to “be at least 18 years of age; [] be of good moral character; [] have successfully completed an approved general education course of study through the twelfth grade, or the equivalent []; and [] pass an examination.”<sup>262</sup> The New Jersey bill’s education requirement does not guarantee the public’s safety where it requires a minimum education level of the twelfth grade.<sup>263</sup> At a minimum, applicants should be required to have obtained an Associate’s degree in a related field, such as psychology or education. The amount of applied science techniques used in dog

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<sup>253</sup> Greg Abbott, *Occupational Licensing*, GREGABBOTT.COM 1, available at <http://www.gregabbott.com/wp-content/uploads/2014/08/Occupational-Licensing.pdf> [hereinafter Abbott]. “Forcing would-be workers to take unnecessary classes, engage in lengthy apprenticeships, pass irrelevant exams or clear other needless hurdles does nothing to ensure the public’s safety.” *Id.*

<sup>254</sup> See generally *Who Should You Trust to Train Your Dog?*, *supra* note 2 (quoting a dog trainer’s opinion on licensing dog trainers).

<sup>255</sup> *Handbook for Candidates*, CCPDT.ORG 3, available at <http://www.ccpdt.org/phocadownload/candidates/cpdt-ka%20handbook%20-%202014%203.pdf>.

<sup>256</sup> Young, *supra* note 107; see *supra* text accompanying note 237.

<sup>257</sup> S. 4425, *supra* note 18.

<sup>258</sup> Young, *supra* note 107.

<sup>259</sup> Abbott, *supra* note 253, at 8.

<sup>260</sup> Kleiner & Krueger, *supra* note 92, at 27 tbl.3.

<sup>261</sup> See discussion *supra* Part II.A.3; *So You Want to be a Dog Trainer!*, *supra* note 72.

<sup>262</sup> S. 4425, *supra* note 18. The Bill required eligible applicants to be eighteen years of age. *Id.*

<sup>263</sup> See generally *id.*

training and counseling skills needed to work with clients make the education requirement relevant to a sound licensure bill.

Among some of its other requirements, the California Guide Dogs Act requires eligible applicants to have had at least three years of dog training experience.<sup>264</sup> This requirement is in place to ensure blind persons the utmost safety in using the trained guide dogs.<sup>265</sup> A three-year apprenticeship requirement may prove too much of a barrier to entry into the profession and should not be required of applicants. Perhaps, requiring 300 hours under a licensed dog trainer or certification from a reputable certification program would be better suited. This requirement would be similar to the CCPDT's requirement for eligibility to gain certification through their program.<sup>266</sup> An exception would need to be made initially for existing dog trainers applying for licensure who can demonstrate that they have been training dogs for at least one year prior to applying.

The Act should include disciplinary steps board members are to follow in the event of licensee conduct violations.<sup>267</sup> The California regulation provides, in part the following language:

The board may suspend or revoke a license issued under this chapter if it determines that the licensee or its manager or responsible directing officer has:

(a) Made any false statements or given any false information in connection with an application for a license or a renewal or reinstatement thereof.<sup>268</sup>

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<sup>264</sup> Cal. Bus. & Prof. Code, *supra* note 128.

<sup>265</sup> *Id.*

<sup>266</sup> "At least 300 hours experience in dog training within the last five [] years." *Handbook for Candidates*, *supra* note 255, at 3.

<sup>267</sup> Unscrupulous or incompetent licensees should be punished and they should not be allowed to continue their work. *See generally* Summers, *supra* note 110, at 11.

<sup>268</sup> Cal. Bus. & Prof. Code, *supra* note 128, at § 7211.9. The § 7211.9 of the California Code, in its entirety, reads:

The board may suspend or revoke a license issued under this chapter if it determines that the licensee or its manager or responsible directing officer has:

(a) Made any false statements or given any false information in connection with an application for a license or a renewal or reinstatement thereof

(b) Violated any provision of this chapter.

(c) Violated any rule of the board adopted pursuant to the authority contained in this chapter.

(d) Been convicted of a felony or of any crime involving moral turpitude, or has been convicted of any offense involving cruelty to animals. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(e) Committed any act which would be grounds for denial of a license.

*Id.*

The Act could and should incorporate these same grounds for taking disciplinary action against a licensed dog trainer in Illinois, including grounds for revocation of the license to practice.<sup>269</sup> With well-defined disciplinary procedures in place, board members would be able to do their job of disciplining licensees that violate provisions of the Act.<sup>270</sup>

## V. CONCLUSION

People love their dogs and want to keep them in their homes. Dogs with behavior problems pose a palpable danger to society.<sup>271</sup> News headlines demonstrate the ability of dogs to kill and seriously injure humans.<sup>272</sup> Well-trained dog trainers are needed to help resolve these problems and to identify when a dog is too dangerous to remain in household or community.<sup>273</sup> Consumers need to know which dog trainers have the necessary skills to do the job.<sup>274</sup> Consumers should not have to run the risk of hiring an unqualified dog trainer.<sup>275</sup>

Illinois consumers have gone too long without protection from unskilled dog trainers.<sup>276</sup> The Illinois Dog Trainers Licensure Act would provide much needed consumer protection in this area of business. Consumers need the dog trainers they hire to meet objective standards of competence in the training profession. Additionally, the Act would serve as a model for other states and municipalities to adapt into their own dog trainer licensing regulations. Illinois has a unique opportunity to be an innovator in the dog training industry.

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<sup>269</sup> The professional conduct standards proposed would give the licensing board objective measures for taking disciplinary action against licensees that violate any part of the Act. *See generally* Summers, *supra* note 110, at 11.

<sup>270</sup> *Id.*

<sup>271</sup> People v. Noel, 128 Cal. App. 4th 1391 Crt. of Appeals (First App Dist. CA) May 6, 2005; Aggression in Dogs, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.asPCA.org/pet-care/virtual-pet-behaviorist/dog-behavior/aggression-dogs>.

<sup>272</sup> A 2011 study showed thirty-two dog bite-related fatalities in America. *Dog Bite-Related Fatalities*, NAT'L CANINE RESEARCH COUNCIL, <http://nationalcanineresearchcouncil.com/dogbites/dog-bite-related-fatalities/>.

<sup>273</sup> *See generally* Pollard, *supra* note 178 (detailing the work of a dog trainer and the necessary skills to perform the job of dog trainer).

<sup>274</sup> *See generally* *Trainer Certifications*, *supra* note 7 (listing existing certifications a dog trainer may have whereby a consumer might find a skilled trainer).

<sup>275</sup> *Id.*

<sup>276</sup> Along with all other states in the United States, Illinois has never had a licensure for dog trainers. *See* discussion *supra* Part I.

