

Journal of the Senate

THURSDAY, FEBRUARY 14, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Lisa Ramson of Barre.

Message from the House No. 16

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 15. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 104.

By Senators Pollina, Ashe, Fox, Lyons and Zuckerman,

An act relating to expedited partner therapy.

To the Committee on Health and Welfare.

S. 105.

By Senators Lyons, Campbell, McCormack, Pollina and Zuckerman,

An act relating to regional planning for renewable electric energy.

To the Committee on Natural Resources and Energy.

S. 106.

By Senator Lyons,

An act relating to low-interest loans for electric vehicle charging stations.

To the Committee on Natural Resources and Energy.

S. 107.

By Senator Sears,

An act relating to branding the titles of flooded motor vehicles.

To the Committee on Transportation.

S. 108.

By Senators Pollina, Ayer, Fox and Lyons,

An act relating to health insurance coverage for persons who are transgender.

To the Committee on Finance.

S. 109.

By Senator Sears,

An act relating to docking the tail of a horse or bovine.

To the Committee on Agriculture.

Third Reading Ordered**J.R.S. 14.**

Senator McAllister, for the Committee on Agriculture, to which was referred joint Senate resolution entitled:

Joint resolution supporting the Agency of Agriculture, Food and Markets' proposal to adopt an administrative rule to implement international maple grading standards in Vermont.

Reported that the joint resolution ought to be adopted.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and third reading of the joint resolution was ordered.

Recommendation of Amendment; Consideration Interrupted by Recess**S. 77.**

Senate bill entitled:

An act relating to patient choice and control at end of life.

Was taken up.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 112 is added to read:

CHAPTER 112. IMMUNITY FOR DOUBLE EFFECT LETHAL
MEDICATION

§ 5271. TERMINALLY ILL PATIENTS; DOUBLE EFFECT LETHAL
MEDICATION; IMMUNITY FOR PRESCRIBING OR BEING PRESENT
WHEN TAKEN

(a) As used in this section:

(1) “Bona fide physician-patient relationship” means a treating or consulting relationship in the course of which a physician has completed a full assessment of the patient’s medical history and current medical condition, including a personal physical examination.

(2) “Double effect medication” means medication prescribed to relieve pain or suffering, or both, which also may have the effect of hastening death or substantially increasing the risk of death.

(3) “Physician” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33.

(4) “Terminal condition” means an incurable and irreversible disease which would, within reasonable medical judgment, result in a death within six months.

(5) “Terminally ill person” means a person with a terminal condition.

(b) A physician who has a bona fide physician-patient relationship with a terminally ill person and who prescribes a double effect medication to that terminally ill person, which, if not taken as prescribed, would be lethal, shall not be subject to criminal or civil liability or professional disciplinary action if the physician warns the person about the effects of taking the medication and the person self-administers the medication and dies as a result.

(c) A person shall not be subject to criminal or civil liability solely for being present when a person with a terminal condition self-administers a lethal dose of a medication that has been prescribed by a physician.

Sec. 2. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. RIGHTS OF QUALIFIED PATIENTS SUFFERING A
TERMINAL CONDITION

§ 5281. DEFINITIONS

As used in this chapter:

(1) “Attending physician” means the physician whom the patient has designated to have primary responsibility for the care of the patient and who is willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(2) “Capable” means that in the opinion of a court or in the opinion of the patient’s attending physician, consulting physician, psychiatrist, psychologist, or clinical social worker, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient’s manner of communicating if those persons are available.

(3) “Consulting physician” means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient’s illness and who is willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(4) “Counseling” means a consultation between a psychiatrist, psychologist, or clinical social worker licensed in Vermont and a patient for the purpose of confirming that the patient:

(A) is capable; and

(B) is not suffering from a mental disorder or disease, including depression, that causes the patient to have impaired judgment.

(5) “Dispense” means to prepare and deliver pursuant to a lawful order of a physician a prescription drug in a suitable container appropriately labeled for subsequent use by a patient entitled to receive the prescription drug. The term shall not include the actual administration of a prescription drug to the patient.

(6) “Good faith” means objective good faith.

(7) “Health care facility” shall have the same meaning as in section 9432 of this title.

(8) “Health care provider” means a person, partnership, corporation, facility, or institution, licensed or certified or authorized by law to administer

health care or dispense medication in the ordinary course of business or practice of a profession.

(9) “Informed decision” means a decision by a patient to request and obtain a prescription for medication to be self-administered to hasten his or her death based on the patient’s understanding and appreciation of the relevant facts and that was made after the patient was fully informed by the attending physician of all the following:

(A) The patient’s medical diagnosis.

(B) The patient’s prognosis, including an acknowledgement that the physician’s prediction of the patient’s life expectancy is an estimate based on the physician’s best medical judgment and is not a guarantee of the actual time remaining in the patient’s life, and that the patient may live longer than the time predicted.

(C) the range of treatment options appropriate for the patient;

(D) the range of possible results, including potential risks associated with taking the medication to be prescribed;

(E) the probable result of taking the medication to be prescribed; and

(F) all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(10) “Palliative care” shall have the same meaning as in section 2 of this title.

(11) “Patient” means a person who is 18 years of age or older, a resident of Vermont, and under the care of a physician.

(12) “Physician” means a physician licensed pursuant to 26 V.S.A. chapters 23 and 33.

(13) “Qualified patient” means a patient who is capable, who is physically able to self-administer medication, and who has satisfied the requirements of this chapter in order to obtain a prescription for medication to hasten his or her death. An individual shall not qualify under the provisions of this chapter solely because of age or disability.

(14) “Terminal condition” means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

§ 5282. REQUESTS FOR MEDICATION

(a) In order to qualify under this chapter:

(1) A patient who is capable, who has been determined by the attending physician and consulting physician to be suffering from a terminal condition, and who has voluntarily expressed a wish to hasten the dying process may request medication to be self-administered for the purpose of hastening his or her death in accordance with this chapter.

(2) A patient shall have made an oral request and a written request and shall have reaffirmed the oral request to his or her attending physician not less than 15 days after the initial oral request. At the time the patient makes the second oral request, the attending physician shall offer the patient an opportunity to rescind the request.

(b) Oral requests for medication by the patient under this chapter shall be made in the presence of the attending physician.

(c) A written request for medication shall be signed and dated by the patient and witnessed by at least two persons, at least 18 years of age, who, in the presence of the patient, sign and affirm that the patient appeared to understand the nature of the document and to be free from duress or undue influence at the time the request was signed. Neither witness shall be any of the following persons:

(1) the patient's attending physician, consulting physician, or any person who has provided counseling for the patient pursuant to section 5285 of this title;

(2) a person who knows that he or she is a relative of the patient by blood, marriage, civil union, or adoption;

(3) a person who at the time the request is signed knows that he or she would be entitled upon the patient's death to any portion of the estate or assets of the patient under any will or trust, by operation of law, or by contract; or

(4) an owner, operator, or employee of a health care facility, nursing home, or residential care facility where the patient is receiving medical treatment or is a resident.

(d) A person who knowingly fails to comply with the requirements in subsection (c) of this section is subject to prosecution under 13 V.S.A. § 2004.

(e) The written request shall be completed only after the patient has been examined by a consulting physician as required under section 5284 of this title.

(f)(1) Under no circumstances shall a guardian or conservator be permitted to act on behalf of a ward for purposes of this chapter.

(2) Under no circumstances shall an agent under an advance directive be permitted to act on behalf of a principal for purposes of this chapter.

§ 5283. ATTENDING PHYSICIAN; DUTIES

The attending physician shall perform all the following:

- (1) make the initial determination of whether a patient:
 - (A) is suffering a terminal condition;
 - (B) is capable; and
 - (C) has made a voluntary request for medication to hasten his or her death;
- (2) require proof of Vermont residency, which may be shown by:
 - (A) a Vermont driver's license or photo identification card;
 - (B) proof of Vermont voter's registration;
 - (C) evidence of property ownership or a lease of residential premises in Vermont; or
 - (D) a Vermont personal income tax return for the most recent tax year;
- (3) inform the patient in person, verbally and in writing, of all the following:
 - (A) the patient's medical diagnosis;
 - (B) the patient's prognosis;
 - (C) the range of treatment options appropriate for the patient;
 - (D) the range of possible results, including potential risks associated with taking the medication to be prescribed;
 - (E) the probable result of taking the medication to be prescribed; and
 - (F) all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;
- (4) refer the patient to a consulting physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient is capable and is acting voluntarily;
- (5) refer the patient for counseling, if applicable, under section 5285 of this chapter;
- (6) refer the patient for a palliative care consultation, if applicable, under section 5286 of this chapter;
- (7) with the patient's consent, consult with the patient's primary care physician, if the patient has one;

(8) recommend that the patient notify the next of kin or someone with whom the patient has a significant relationship and advise the patient of the physician's duty to notify the patient's next of kin if the patient does not do so;

(9) counsel the patient about the importance of ensuring that another individual is present when the patient takes the medication prescribed pursuant to this chapter and the importance of not taking the medication in a public place;

(10) inform the patient that the patient has an opportunity to rescind the request at any time and in any manner and offer the patient an opportunity to rescind after the patient's second oral request;

(11) verify, immediately prior to writing the prescription for medication under this chapter, that the patient is making an informed decision;

(12) fulfill the medical record documentation requirements of section 5291 of this title;

(13) ensure that all required steps are carried out in accordance with this chapter prior to writing a prescription for medication to hasten death; and

(14)(A) dispense medication directly, including ancillary medication intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is licensed to dispense medication in Vermont, has a current Drug Enforcement Administration certificate, and complies with any applicable administrative rules; or

(B) with the patient's written consent:

(i) contact a pharmacist and inform the pharmacist of the prescription; and

(ii) deliver the written prescription personally or by mail or facsimile to the pharmacist, who will dispense the medication to the patient, the attending physician, or an expressly identified agent of the patient.

§ 5284. MEDICAL CONSULTATION REQUIRED

Before a patient is qualified in accordance with this chapter, a consulting physician shall physically examine the patient, review the patient's relevant medical records, and confirm in writing the attending physician's diagnosis that the patient is suffering from a terminal condition and verify that the patient is capable, is acting voluntarily, and has made an informed decision.

§ 5285. COUNSELING REFERRAL

If, in the opinion of the attending physician or the consulting physician, a patient may be suffering from a mental disorder or disease, including depression, causing impaired judgment, either physician shall refer the patient

for counseling. A medication to end the patient's life shall not be prescribed until the person performing the counseling determines that the patient is not suffering from a mental disorder or disease, including depression, that causes the patient to have impaired judgment.

§ 5286. PALLIATIVE CARE CONSULTATION

If a patient is not receiving palliative care or hospice services at the time the written request for medication is made pursuant to this chapter, the patient's attending physician shall refer the patient to a qualified health care provider for a palliative care consultation and shall attest to its completion pursuant to subdivision 5291(a)(5) of this title. For purposes of the palliative care consultation, a qualified health care provider shall be a health care provider with specialized training in hospice or palliative care, as determined by the Department of Health in consultation with the Hospice and Palliative Care Council of Vermont, the Vermont Board of Medical Practice, and the Vermont State Board of Nursing.

§ 5287. INFORMED DECISION

A person shall not receive a prescription for medication to hasten his or her death unless the patient has made an informed decision. Immediately prior to writing a prescription for medication in accordance with this chapter, the attending physician shall verify that the patient is making an informed decision.

§ 5288. REQUIRED NOTIFICATION

(a) The attending physician shall recommend that the patient notify the patient's next of kin or someone with whom the patient has a significant relationship of the patient's request for medication in accordance with this chapter.

(b) If the patient does not notify his or her next of kin, the attending physician shall, with the patient's consent, make reasonable and good faith efforts to notify the patient's next of kin of the patient's request for medication in accordance with this chapter.

(c) A patient who does not notify his or her next of kin and does not consent to allow the attending physician to notify the next of kin on the patient's behalf shall not be prescribed medication in accordance with this chapter; provided, however, that nothing in this section shall be construed to prohibit a patient with no surviving next of kin from being prescribed medication in accordance with this chapter.

§ 5289. RIGHT TO RESCIND

A patient may rescind the request for medication in accordance with this chapter at any time and in any manner regardless of the patient's mental state. A prescription for medication under this chapter shall not be written without the attending physician's offering the patient an opportunity to rescind the request.

§ 5290. WAITING PERIOD

The attending physician shall write a prescription no less than 48 hours after the last to occur of the following events:

- (1) the patient's written request for medication to hasten his or her death;
- (2) the patient's second oral request; or
- (3) the attending physician's offering the patient an opportunity to rescind the request.

§ 5291. MEDICAL RECORD DOCUMENTATION

(a) The following shall be documented and filed in the patient's medical record:

- (1) the date, time, and wording of all oral requests of the patient for medication to hasten his or her death;
- (2) all written requests by a patient for medication to hasten his or her death;
- (3) the attending physician's diagnosis, prognosis, and basis for the determination that the patient is capable, is acting voluntarily, and has made an informed decision;
- (4) the consulting physician's diagnosis, prognosis, and verification, pursuant to section 5284 of this title, that the patient is capable, is acting voluntarily, and has made an informed decision;
- (5) if the patient was not receiving palliative care or hospice services at the time of the written request for medication, the attending physician's attestation that the patient received a palliative care consultation;
- (6) a report of the outcome and determinations made during any counseling which the patient may have received;
- (7) the date, time, and wording of the attending physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request; and

(8) a note by the attending physician indicating that all requirements under this chapter have been satisfied and describing all of the steps taken to carry out the request, including a notation of the medication prescribed.

(b) Medical records compiled pursuant to this chapter shall be subject to discovery only if the court finds that the records are:

(1) necessary to resolve issues of compliance with or limitations on actions under this chapter; or

(2) essential to proving individual cases of civil or criminal liability and are otherwise unavailable.

§ 5292. REPORTING REQUIREMENT

(a) The Department of Health shall require:

(1) that any physician who writes a prescription pursuant to this chapter file a report with the Department covering all the prerequisites for writing a prescription under this chapter; and

(2) physicians to report on an annual basis the number of written requests for medication received pursuant to this chapter, regardless of whether a prescription was actually written in each instance.

(b) The Department shall review annually the medical records of qualified patients who hastened their deaths in accordance with this chapter during the previous year.

(c) The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 to facilitate the collection of information regarding compliance with this chapter. Individually identifiable health information collected under this chapter, as well as reports filed pursuant to subdivision (a)(1) of this section, are confidential and are exempt from public inspection and copying under the Public Records Act.

(d) The Department shall generate and make available to the public an annual statistical report of information collected under subsections (a) and (b) of this section. The report shall include the number of instances in which medication was taken by a qualified patient to hasten death but failed to have the intended effect.

§ 5293. SAFE DISPOSAL OF UNUSED MEDICATIONS

The Department of Health shall adopt rules providing for the safe disposal of unused medications prescribed under this chapter.

(1) The Department initially shall adopt rules under this section as emergency rules pursuant to 3 V.S.A. § 844. The General Assembly

determines that adoption of emergency rules pursuant to this subdivision is necessary to address an imminent peril to public health and safety.

(2) Contemporaneously with the initial adoption of emergency rules under subdivision (1) of this section, the Department shall propose permanent rules under this section for adoption pursuant to 3 V.S.A. §§ 836–843. The Department subsequently may revise these rules in accordance with the Vermont Administrative Procedure Act.

§ 5294. PROHIBITIONS; CONTRACT CONSTRUCTION

(a) A provision in a contract, will, trust, or other agreement, whether written or oral, shall not be valid to the extent the provision would affect whether a person may make or rescind a request for medication to hasten his or her death in accordance with this chapter.

(b) The sale, procurement, or issue of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request by a person for medication to hasten his or her death in accordance with this chapter or the act by a qualified patient to hasten his or her death pursuant to this chapter. Neither shall a qualified patient's act of ingesting medication to hasten his or her death have an effect on a life, health, or accident insurance or annuity policy.

§ 5295. LIMITATIONS ON ACTIONS

(a) A person shall not be subject to civil or criminal liability or professional disciplinary action for actions taken in good faith reliance on the provisions of this chapter. This includes being present when a qualified patient takes the prescribed medication to hasten his or her death in accordance with this chapter.

(b) A health care provider shall not subject a person to discipline, suspension, loss of license, loss of privileges, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(c) The provision by an attending physician of medication in good faith reliance on the provisions of this chapter shall not constitute patient neglect for any purpose of law.

(d) A request by a patient for medication under this chapter shall not provide the sole basis for the appointment of a guardian or conservator.

(e) A health care provider shall not be under any duty, whether by contract, by statute, or by any other legal requirement, to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with

this chapter. If a health care provider is unable or unwilling to carry out a patient's request in accordance with this chapter and the patient transfers his or her care to a new health care provider, the previous health care provider, upon request, shall transfer a copy of the patient's relevant medical records to the new health care provider. A decision by a health care provider not to participate in the provision of medication to a qualified patient shall not constitute the abandonment of the patient or unprofessional conduct under 26 V.S.A. § 1354.

§ 5296. HEALTH CARE FACILITY EXCEPTION

Notwithstanding any other provision of law to the contrary, a health care facility may prohibit an attending physician from writing a prescription for medication under this chapter for a patient who is a resident in its facility and intends to use the medication on the facility's premises, provided the facility has notified the attending physician in writing of its policy with regard to the prescriptions. Notwithstanding subsection 5295(b) of this title, any health care provider who violates a policy established by a health care facility under this section may be subject to sanctions otherwise allowable under law or contract.

§ 5297. LIABILITIES AND PENALTIES

(a) With the exception of the limitations on actions established by section 5295 of this title and with the exception of the provisions of section 5299 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

(b) With the exception of the limitations on actions established by section 5295 of this title and with the exception of the provisions of section 5299 of this title, nothing in this chapter or in 13 V.S.A. § 2312 shall be construed to limit criminal prosecution under any other provision of law.

(c) A health care provider is subject to review and disciplinary action by the appropriate licensing entity for failing to act in accordance with this chapter, provided such failure is not in good faith.

§ 5298. FORM OF THE WRITTEN REQUEST

A written request for medication as authorized by this chapter shall be substantially in the following form:

REQUEST FOR MEDICATION TO HASTEN MY DEATH

I, _____, am an adult of sound mind.

I am suffering from _____, which my attending physician has determined is a terminal disease and which has been confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control.

I request that my attending physician prescribe medication that will hasten my death.

INITIAL ONE:

_____ I have informed my family or others with whom I have a significant relationship of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family or others with whom I have a significant relationship of my decision.

_____ I have no family or others with whom I have a significant relationship to inform of my decision.

I understand that I have the right to change my mind at any time.

I understand the full import of this request, and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer, and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: _____ Dated: _____

AFFIRMATION OF WITNESSES

We affirm that, to the best of our knowledge and belief:

(1) the person signing this request:

(A) is personally known to us or has provided proof of identity;

(B) signed this request in our presence;

(C) appears to understand the nature of the document and to be free from duress or undue influence at the time the request was signed; and

(2) that neither of us:

(A) is under 18 years of age;

(B) is a relative (by blood, marriage, civil union, or adoption) of the person signing this request;

(C) is the patient's attending physician, consulting physician, or a person who has provided counseling for the patient pursuant to 18 V.S.A. § 5285;

(D) is entitled to any portion of the person's assets or estate upon death; or

(E) owns, operates, or is employed at a health care facility where the person is a patient or resident.

Witness 1/Date _____

Witness 2/Date _____

NOTE: A knowingly false affirmation by a witness may result in criminal penalties.

§ 5299. STATUTORY CONSTRUCTION

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law.

Sec. 3. 13 V.S.A. § 2312 is added to read:

§ 2312. VIOLATION OF PATIENT CHOICE AND CONTROL AT END OF LIFE ACT

A person who violates 18 V.S.A. chapter 113 with the intent to cause the death of a patient as defined in subdivision 5281(11) of that title may be prosecuted under chapter 53 of this title (homicide).

Sec. 4. 13 V.S.A. § 2004 is added to read:

§ 2004. FALSE WITNESSING

A person who knowingly violates the requirements of 18 V.S.A. § 5282(c) shall be imprisoned for not more than 10 years or fined not more than \$2,000.00, or both.

Sec. 5. QUALIFIED HEALTH CARE PROVIDERS

On or before September 1, 2013, the Department of Health shall publish on its website a list of the specific categories of health care providers qualified to provide palliative care consultations in accordance with 18 V.S.A. § 5286.

Sec. 6. EFFECTIVE DATES

This act shall take effect on September 1, 2013, except:

(1) 18 V.S.A. § 5293 (rules for safe disposal of unused medications) of this act shall take effect on passage. The Department of Health shall ensure that emergency rules adopted under Sec. 2 of this act, 18 V.S.A. § 5293, are in effect on or before September 1, 2013.

(2) Sec. 5 (qualified health care providers) of this act shall take effect on passage.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Rodgers?, Senator Sears raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Rodgers was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order.

Recess

On motion of Senator Baruth the Senate recessed until 2:40 P.M.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Bill Amended; Bill Passed**S. 77.**

Consideration was resumed on Senate bill entitled:

An act relating to patient choice and control at end of life.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Rodgers?, Senator Cummings moved to substitute as follows:

Sec. 1. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. IMMUNITY FOR TERMINALLY ILL PATIENT'S USE
OF PRESCRIPTION MEDICATION

§ 5281. TERMINALLY ILL PATIENTS; IMMUNITY FOR PRESCRIBING
OR BEING PRESENT WHEN MEDICATION IS TAKEN

(a) As used in this section:

(1) "Bona fide health care professional-patient relationship" means a treating or consulting relationship in the course of which a health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination.

(2) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33.

(3) "Terminal condition" means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

(b) A health care professional who has a bona fide health care professional-patient relationship with a patient with a terminal condition and who prescribes medication to that patient for the relief of symptoms associated with or caused by the terminal condition shall not be subject to criminal or civil liability or professional disciplinary action if the patient self-administers more than a prescribed dosage of the medication and dies as a result.

(c) A person shall not be subject to criminal or civil liability solely for being present when a patient self-administers a lethal dose of a medication that has been prescribed for that patient by a health care professional.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Which was agreed to on a roll call, Yeas 16, Nays 15.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Benning, Campbell, Cummings, Doyle, Flory, Galbraith, Hartwell, Kitchel, Mazza, McAllister, Mullin, Nitka, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Bray, Collins, Fox, French, Lyons, MacDonald, McCormack, Pollina, Rodgers, Snelling, White, Zuckerman.

There being a tie, the Secretary took the casting vote of the President, who voted "Yea".

Thereupon the question, Shall the bill be amended as moved by Senator Rodgers, as substituted?, was agreed to.

Thereupon, the bill was read the third time and passed, on a roll call, Yeas 22, Nays 8.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, *Lyons, Mazza, McAllister, McCormack, Mullin, Nitka, Sears, Starr, Westman.

Those Senators who voted in the negative were: Baruth, Fox, MacDonald, Pollina, Rodgers, Snelling, White, Zuckerman.

*Senator Lyons explained her vote as follows:

“As I indicated previously I don’t believe that this bill offers reassurance or protection for terminally ill patients with six months to live when they choose to hasten their deaths. I voted “Yes” to move the bill forward and look for improvements to be made.”

Message from the House No. 17

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 67. An act relating to the transport of election ballots by town clerks after a recount.

H. 131. An act relating to harvesting guidelines and procurement standards.

In the passage of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Campbell, the Senate adjourned until eleven o’clock and thirty minutes in the morning.