

H. 645	House	Senate
<p>Sec. 1. 21 V.S.A. § 632 COMPENSATION TO DEPENDENTS; DEATH BENEFITS BURIAL AND FUNERAL EXPENSES</p>	<p>If death results from the injury, the employer shall pay to the persons entitled to compensation or, if there is none, then to the personal representative of the deceased employee, the actual <u>burial and funeral expenses in the amount of \$5,500.00 not to exceed \$10,000.00</u> and the actual <u>expenses for out-of-state transportation of the decedent to the place of burial not to exceed \$1,000.00 \$5,000.00</u>. Every two years, the Commissioner of Labor shall <u>evaluate the average burial and funeral expenses in the State and make a recommendation to the House Committee on Commerce and Economic Development and the Senate Committee on Finance as to whether an adjustment in compensation is warranted</u>. The employer shall also pay to or for the benefit of the following persons, for the periods prescribed in section 635 of this title, a weekly compensation equal to the following percentages of the deceased employee's average weekly wages. The weekly compensation payment herein allowed shall not exceed the maximum weekly compensation or be lower than the minimum weekly compensation:</p>	<p>No Change</p>
<p>Sec. 2. 21 V.S.A. § 639 DEATH, PAYMENT TO DEPENDENTS</p>	<p>In cases of the death of a person from any cause other than the accident during the period of payments for disability or for the permanent injury, the remaining payments for disability then due or for the permanent injury shall be made to the person's dependents according to the provisions of sections 635 and 636 of this title, or if there are none, the remaining amount due, but not exceeding <u>\$5,500.00 for burial and funeral expenses no more than the actual burial and funeral expenses not to exceed \$10,000.00</u> and the actual <u>expenses for out-of-state transportation of the decedent to the place of burial not to exceed \$1,000.00 \$5,000.00</u>, shall be paid in a lump sum to the proper person. <u>Every two years, the Commissioner of Labor shall evaluate the average burial and funeral expenses in the State and make a recommendation to the House Committee on Commerce and Economic Development and the Senate Committee on Finance as to whether an adjustment in compensation is warranted</u>.</p>	<p>No Change</p>

<p>Sec. 3. 21 V.S.A. § 640c OPIOID USAGE DETERRENCE</p>	<p><u>(a) In support of the State’s fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to protect employees from the dangers of prescription drug abuse while maintaining a balance between the employee’s health and the employee’s expedient return to work.</u></p> <p><u>(b) As it pertains to workers’ compensation claims, the Commissioner of Labor, in consultation with the Department of Health, the State Pharmacologist, the Vermont Board of Medical Practice, and the Vermont Medical Society, shall adopt rules, consistent with the best practices, governing the prescription of opioids, including patient screening and drug screening for patients prescribed opioids for chronic pain. In adopting rules, the Commissioner shall consider guidelines and standards published by the American College of Occupational and Environmental Medicine and other medical authorities with expertise in the treatment of chronic pain. The rules shall be consistent with the standards and guidelines provided under 18 V.S.A. § 4289 and any rules adopted by the Department of Health pursuant to 18 V.S.A § 4289.</u></p>	<p><u>(a) In support of the State’s fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to protect employees from the dangers of prescription drug abuse while maintaining a balance between the employee’s health and the employee’s expedient return to work.</u></p> <p><u>(b) As it pertains to workers’ compensation claims, the Commissioner of Labor, in consultation with the Department of Health, the State Pharmacologist, the Vermont Board of Medical Practice, and the Vermont Medical Society, shall adopt rules consistent with the best practices governing the prescription of opioids, including patient screening, drug screening, and claim adjudication for patients prescribed opioids for chronic pain. In adopting rules, the Commissioner shall consider guidelines and standards such as the Occupational Medicine Practice Guidelines published by the American College of Occupational and Environmental Medicine and other medical authorities with expertise in the treatment of chronic pain. The rules shall be consistent with the standards and guidelines provided under 18 V.S.A. § 4289 and any rules adopted by the Department of Health pursuant to 18 V.S.A § 4289.</u></p>
<p>Sec. 4. 21 V.S.A. § 641 VOCATIONAL REHABILITATION</p>	<p><u>(e)(1) In support of the State’s fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly that, following a workplace accident, an employee returns to work as soon as possible but remains cognizant of the limitations imposed by his or her medical condition.</u></p> <p><u>(2) The Commissioner shall adopt rules promoting development and implementation of cost-effective, early return-to-work programs.</u></p>	<p>No Change</p>
<p>Sec. 5. 21 V.S.A. § 643a DISCONTINUANCE OF BENEFITS</p>	<p>Unless an injured worker has successfully returned to work, an employer shall notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification</p>	<p>Unless an injured worker has successfully returned to work, an employer shall notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification</p>

	<p>that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice shall be provided to the injured worker. With the notice of discontinuance, <u>the employer shall file only evidence relevant to the discontinuance, including evidence that does not support the discontinuance, with the Commissioner.</u> The liability for the payments shall continue for seven days after the notice is received by the commissioner <u>Commissioner</u> and the employee. <u>If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the seven-day limit. The Commissioner may grant an extension up to seven days. The request for an extension shall be specific as to the reason for the extension and must be received by the Commissioner prior to the end of the seven-day limit. A copy of the request for an extension shall be provided to the employer at the time the request is made to the Commissioner.</u> Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that</p>	<p>that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice shall be provided to the injured worker. With the notice of discontinuance, <u>the employer shall file only evidence relevant to the discontinuance, including evidence that does not support the discontinuance, with the Commissioner.</u> The liability for the payments shall continue for seven <u>14</u>-days after the notice is received by the commissioner <u>Commissioner</u> and the employee. <u>If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the 14-day limit. The Commissioner may grant an extension up to 21 days. The request for an extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the 14-day limit. A copy of the request for an extension shall be provided to the employer at the time the request is made to the Commissioner.</u> Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that</p>
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	the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.	the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.
Sec. 6. 21 V.S.A. § 691a POSTING OF SAFETY RECORDS	<p><u>(a) In support of the State’s fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to improve the safety experience in the workplace.</u></p> <p><u>(b) An employer subject to the provisions of this chapter shall post a notice in the employer’s place of business to advise employees of where they may review the employer’s record of workplace safety, including workplace injury and illness data, in accordance with rules adopted by the Commissioner. The employer’s record of workplace safety, including workplace injury and illness data, shall be available for review by employees at the employer’s place of business and the Commissioner, but shall not otherwise be public information. The posting shall be in a format approved by the Commissioner. The posting may be in a format provided by the Commissioner.</u></p>	Struck in its entirety
Sec. 7. 21 V.S.A. § 696 CANCELLATION OF INSURANCE CONTRACTS	<p>A policy or contract shall not be cancelled within the time limited specified in the policy or contract for its expiration, until at least 45 days after a notice of intention to cancel the policy or contract, on a date specified in the notice, has been filed in the office of the commissioner <u>Commissioner</u> and provided to the employer. The notice shall be filed <u>with the Commissioner in accordance with rules adopted by the Commissioner</u> and provided to the employer by certified mail or certificate of mailing. The cancellation shall not affect the liability of an insurance carrier on account of an injury occurring prior to cancellation.</p>	No Change
Sec. 8. 21 V.S.A. § 697 NOTICE OF INTENT NOT TO RENEW POLICY	<p>An insurance carrier who does not intend to renew a <u>workers’ compensation insurance policy of workers’ compensation insurance</u> or guarantee contract covering the liability of an employer under the provisions of this chapter, 45 days prior to the expiration of the policy or contract, shall give notice of the its intention to the commissioner of labor <u>Commissioner</u> and to the covered <u>employer at least 45 days prior to the expiration date stated in the policy or contract</u>. The notice shall be given <u>to the employer</u> by certified mail or certificate of mailing. An insurance carrier</p>	No Change

	<p>who fails to give notice shall continue the policy or contract in force beyond its expiration date for 45 days from the day the notice is received by the commissioner <u>Commissioner and the employer</u>. However, this latter provision shall not apply if, prior to such expiration date, <u>on or before the expiration of the existing insurance or guarantee contract</u> the insurance carrier has, <u>by delivery of a renewal contract or otherwise</u>, offered to continue the insurance beyond the date by delivery of a renewal contract or otherwise, or if the employer notifies the insurance carrier <u>in writing</u> that the employer does not wish the insurance continued beyond the expiration date, or if the employer complies with the provisions of section 687 of this title, on or before the expiration of the existing insurance or guarantee contract then the policy will expire upon notice to the Commissioner.</p>	
<p>Sec. 9. ROBERT H. WOOD CRIMINAL JUSTICE AND FIRE SERVICE TRAINING CENTER STUDY</p>	<p><u>The Department of Labor and the Office of Risk Management, in consultation with the Vermont League of Cities and Towns and any other interested parties, shall conduct a study, to be submitted to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before January 15, 2015, to:</u> <u>(1) analyze existing and frequently occurring injuries suffered by individuals while attending the Robert H. Wood Criminal Justice and Fire Service Training Center;</u> <u>(2) analyze preventive measures to avoid injuries;</u> <u>(3) recommend who should bear the financial burden of the workers' compensation premiums; and</u> <u>(4) recommend preventive measures necessary to reduce injuries.</u></p>	<p>Struck in its entirety</p>
<p>Sec. 10. WORKPLACE SAFETY RANKING STUDY</p>	<p><u>The Department of Labor and the Department of Financial Regulation, in consultation with the National Council on Compensation Insurance, shall study whether information may be made available to employers to allow an employer to compare its workplace safety and workers' compensation experience with that of employers in similar industries or North American Industry Classification System codes.</u></p>	<p>Struck in its entirety</p>
<p>Sec. 11. 2013 Acts and Resolves No. 75, Sec. 14 is amended as follows Sec. 14. UNIFIED PAIN</p>	<p>(b) The Unified Pain Management System Advisory Council shall consist of the following members: * * * (4) the Commissioner of Labor or designee;</p>	<p>(b) The Unified Pain Management System Advisory Council shall consist of the following members: * * * (4) the Commissioner of Labor or designee;</p>

<p>MANAGEMENT SYSTEM ADVISORY COUNCIL</p>	<p>(5) the Director of the Blueprint for Health or designee; (5)(6) the Chair of the Board of Medical Practice or designee, who shall be a clinician; (6)(7) a representative of the Vermont State Dental Society, who shall be a dentist; (7)(8) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist; (8)(9) a faculty member of the academic detailing program at the University of Vermont's College of Medicine; (9)(10) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management; (10)(11)-a representative of the Vermont Medical Society, who shall be a primary care clinician; (11)(12) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician; (12)(13) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath; (13)(14) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association; (14)(15) a representative of the Vermont Ethics Network; (15)(16) a representative of the Hospice and Palliative Care Council of Vermont; (16)(17) a representative of the Office of the Health Care Ombudsman; (17)(18) the Medical Director for the Department of Vermont Health Access; (18)(19) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals; (19)(20) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse; (20)(21) a representative from the Vermont Assembly of Home Health and Hospice Agencies; (21)(22) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to</p>	<p>(5) the Director of the Blueprint for Health or designee; (5)(6) the Chair of the Board of Medical Practice or designee, who shall be a clinician; (6)(7) a representative of the Vermont State Dental Society, who shall be a dentist; (7)(8) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist; (8)(9) a faculty member of the academic detailing program at the University of Vermont's College of Medicine; (9)(10) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management; (10)(11)-a representative of the Vermont Medical Society, who shall be a primary care clinician; (11)(12) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician; (12)(13) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath; (13)(14) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association; (14)(15) a representative of the Vermont Ethics Network; (15)(16) a representative of the Hospice and Palliative Care Council of Vermont; (16)(17) a representative of the Office of the Health Care Ombudsman; (17)(18) the Medical Director for the Department of Vermont Health Access; (18)(19) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals; (19)(20) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse; (20)(21) a representative from the Vermont Assembly of Home Health and Hospice Agencies; (21)(22) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to</p>
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	<p>be selected by the Board of Psychological Examiners; (22)<u>(23)</u> a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;</p> <p>(23)<u>(24)</u> a retail pharmacist, to be selected by the Vermont Pharmacists Association;</p> <p>(24)<u>(25)</u>-an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; and</p> <p>(25)<u>(26)</u> a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain;</p> <p><u>(27) a clinician who specializes in occupational medicine or physical medicine and rehabilitation; and</u></p> <p><u>(28) a consumer representative who is or has been an injured worker and has been prescribed opioids.</u></p>	<p>be selected by the Board of Psychological Examiners; (22)<u>(23)</u> a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;</p> <p>(23)<u>(24)</u> a retail pharmacist, to be selected by the Vermont Pharmacists Association;</p> <p>(24)<u>(25)</u>-an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; and</p> <p>(25)<u>(26)</u> a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain;</p> <p><u>(27) a clinician who specializes in occupational medicine or physical medicine and rehabilitation; and</u></p> <p><u>(28) a consumer representative who is or has been an injured worker and has been prescribed opioids.</u></p> <p><u>(29) a consumer representative who is or has been an injured worker and has been prescribed opioids.</u></p>
<p>Sec. 12. EFFECTIVE DATES</p>	<p>(a) This section and Secs. 3, 4, 9, 10, and 11 shall take effect on passage.</p> <p>(b) Secs. 1, 2, and 5–8 shall take effect on July 1, 2014.</p>	
<p>(Senate) Sec. 9 21 V.S.A. § 678 § 678. COSTS; ATTORNEY FEES</p>		<p>(a) Necessary costs of proceedings under this chapter, <u>including deposition expenses, subpoena fees, and expert witness fees</u>, shall be assessed by the commissioner <u>Commissioner</u> against the employer or its workers' compensation carrier when the claimant prevails. The commissioner <u>Commissioner</u> may allow the claimant to recover reasonable attorney <u>attorney's</u> fees when the claimant prevails. Costs shall not be taxed or allowed either party except as provided in this section.</p> <p>(b) In appeals to the superior or supreme courts <u>Superior or Supreme Court</u>, if the claimant prevails, he or she shall be entitled to reasonable attorney <u>attorney's</u> fees as approved by the court <u>Court</u>, <u>necessary costs, including deposition expenses, subpoena fees, and expert witness fees</u>, and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested. Interest shall be computed from the date of the award of the</p>

<p>(Senate) Sec. 10. 21 V.S.A. § 655 PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING</p>		<p>commissioner <u>Commissioner</u>.</p> <p>After an injury and during the period of disability, if so requested by his or her employer, or ordered by the Commissioner, the employee shall submit to examination, at reasonable times and places <u>within a 50-mile radius of the residence of the injured employee</u>, by a duly licensed physician or surgeon designated and paid by the employer. <u>The Commissioner may in his or her discretion permit an examination outside the 50-mile radius if it is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury.</u> The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues.</p>
<p>(Senate) Sec. 11. 21 V.S.A. § 624 DUAL LIABILITY; CLAIMS, SETTLEMENT PROCEDURE</p>		<p>(e)(1) In an action to enforce the liability of a third party, the injured employee may recover any amount which the employee or the employee's personal representative would be entitled to recover in a civil action. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the employer or its workers' compensation insurance carrier for any amounts paid or payable under this chapter to date of recovery, and the balance shall forthwith be paid to the employee or the employee's dependents or personal representative and shall be treated as an advance payment by the employer on account of any future payment of compensation benefits. Reimbursement</p>

		<p>required under this subsection, except to prevent double recovery, shall not reduce the employee's recovery of any benefit or payment provided by a plan or policy that was privately purchased by the injured employee, including uninsured-under insured motorist coverage, or any other first party insurance payments or benefits.</p> <p><u>(2) In an instance where the recovery amount is less than the full value of the claim for personal injuries or death, the employer or its workers' compensation insurance carrier shall be reimbursed less than the amount paid or payable under this chapter. Reimbursement shall be limited to the proportion which the recovery allowed in the previous subsection bears to the total recovery for all damages. In determining the full value of the claim for personal injuries or death, the Commissioner shall make that administrative determination by considering the same evidence that a Superior Court would consider in determining damages in a personal injury or wrongful death action, or the Commissioner may order that the valuation of the claim be determined by a single arbitrator, which shall be adopted as a decision of the Commissioner. An appeal from the Commissioner's decision shall be made pursuant to section 670 of this title, except that the action shall be tried to the presiding judge of the Superior Court.</u></p>
<p>(Senate) Sec. 12. 21 V.S.A. § 663b FRAUD</p>		<p><u>(a) Claims of fraud submitted by an employer or insurance carrier shall be investigated by the Commissioner, and the Commissioner shall make a decision on the claim within 30 days of receipt of the claim. A party may appeal the decision of the Commissioner.</u></p> <p><u>(b) An employee found to have committed fraud in order to receive compensation under this chapter shall be ordered to repay all compensation received. The employer shall not be charged for these payments when the employer's experience rating is determined.</u></p>
<p>(Senate) Sec. 13. EFFECTIVE DATES</p>		<p><u>(a) This section and Secs. 3, 4, and 9–12 shall take effect on passage.</u></p> <p><u>(b) Secs. 1, 2, and 5–8 shall take effect on July 1, 2014.</u></p>