

# Senate Calendar

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WEDNESDAY, FEBRUARY 13, 2013

SENATE CONVENES AT: 1:30 P.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**CONSIDERATION POSTPONED**

**S. 77.**

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

**Pending Question:** Shall the bill be read the third time?

**AMENDMENT TO S. 77 TO BE OFFERED BY SENATOR ASHE**

Senator Ashe moves to amend the bill as follows

First: In Sec. 2, 18 V.S.A. § 5281, in subdivision (8)(B), following the word “prognosis”, by inserting , 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.

Second: In Sec. 2, 18 V.S.A. § 5281, in subdivision (12), following the word “who”, by inserting is physically capable of self-administrating medication and who

Third: In Sec. 2, 18 V.S.A. § 5283, in subdivision (a)(3), following the word “person”, by inserting , verbally and, and by inserting a comma following the word “writing”

Fourth: In Sec. 2, 18 V.S.A. § 5283, in subdivision (a)(8), by striking out “at the end of the 15-day waiting period” and inserting in lieu thereof after the patient’s second oral request

Fifth: In Sec. 2, 18 V.S.A. § 5283, by striking out subsection (b) in its entirety and inserting a new subsection (b) to read:

(b) The patient’s death certificate shall list the underlying terminal disease as the cause of the death and shall list the manner of death as natural.

Sixth: In Sec. 2, 18 V.S.A. § 5291, in subsection (b), by striking out the word “have” following “patients who” and by inserting before the period during the previous year

Seventh: In Sec. 2, 18 V.S.A. § 5294, in subsection (b), by striking out “professional organization or association or” preceding “health care provider”, by striking out “censure,” preceding “discipline”, and by striking out “loss of membership,” preceding “or other penalty”

**AMENDMENT TO S. 77 TO BE OFFERED BY SENATOR SEARS**

Senator Sears moves that the bill be amended by adding a new Sec. 4 to read as follows:

Sec. 4. 13 V.S.A. § 2313 is added to read:

§ 2313. ASSISTING IN SUICIDE; MANSLAUGHTER

(a) A person who intentionally causes or assists another person to commit suicide shall be guilty of manslaughter.

(b) This section shall not apply to a person who has complied with the requirements of 18 V.S.A. chapter 113.

And by renumbering the remaining sections to be numerically correct

**AMENDMENT TO S. 77 TO BE OFFERED BY SENATORS  
GALBRAITH AND HARTWELL**

Senators Galbraith and Hartwell move 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 113 is added to read:

CHAPTER 113. IMMUNITY FOR DOUBLE EFFECT LETHAL  
MEDICATION

§ 5281. TERMINALLY ILL PATIENTS; DOUBLE EFFECT LETHAL  
MEDICATION; IMMUNITY FOR PRESCRIBING OR BEING  
PRESENT WHEN INGESTED

(a) As used in this section:

(1) “Double effect medication” means medication prescribed to relieve pain which also has the effect of hastening death or substantially increasing the risk of death.

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

(b) A physician who prescribes a lethal dosage of a double effect medication to a terminally ill person shall not be subject to criminal or civil liability or professional disciplinary action if the physician warns the person about the effects of ingesting 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 ingests a lethal dose of medication that has been prescribed by a physician.

(d) The Board of Medical Practice shall adopt a rule listing the drugs that may permissibly be used for purposes of this section.

**AMENDMENT TO S. 77 TO BE OFFERED BY SENATORS  
HARTWELL, MACDONALD, AND SNELLING**

Senators Hartwell, MacDonald, and Snelling move that the bill be amended as follows:

First: In Sec. 2, by striking out 18 V.S.A. § 5292 in its entirety and inserting in lieu thereof a new 18 V.S.A. § 5292 to read as follows:

§ 5292. 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. §§ 836–844. The Department subsequently may revise these rules in accordance with the Vermont Administrative Procedure Act.

Second: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

**Sec. 5. EFFECTIVE DATES**

This act shall take effect on September 1, 2013, except for 18 V.S.A. § 5292 (rules for safe disposal of unused medications), which 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. § 5292, are in effect on or before September 1, 2013.

**NEW BUSINESS**

**Second Reading**

**Favorable**

**J.R.S. 14.**

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 favorably by Senator McAllister for the Committee on Agriculture.**

(Committee vote: 5-0-0)

**Favorable with Recommendation of Amendment**

**S. 4.**

An act relating to concussions and school athletic activities.

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the Centers for Disease Control and Prevention:

(A) Each year, emergency departments (EDs) in the United States treat an estimated 173,285 persons 19 years old and younger for sports and recreation-related traumatic brain injuries (TBI), including concussions, 70% of which were suffered by young people 10–19 years of age.

(B) From 2001 to 2009, the number of annual sports and recreation-related ED visits for TBI among persons 19 years old and younger increased 62%, from 153,375 per year to 248,418 per year.

(C) For males 10–19 years of age, TBIs most commonly occur while playing football. For females 10–19 years of age, TBIs most commonly occur while playing soccer or bicycling.

(2) According to a study in the American Journal of Sports Medicine, many high school athletes do not report when they suffer concussions despite the increased awareness of and focus on the seriousness of such injuries and the potential for catastrophic outcomes, particularly from multiple concussions.

(3) Without a clear action plan describing the steps a youth athlete must take in order to return to play after suffering a concussion, the youth is more likely to hide the concussion and continue to play without receiving the necessary treatment.

Sec. 2. 12 V.S.A. § 1043 is added to read:

§ 1043. LIABILITY FOR AND PREVENTION OF CONCUSSIONS AND  
OTHER HEAD INJURIES

(a) Definitions. As used in this subchapter:

(1) “Coach” means a person who instructs or trains students on a school athletic team.

(2) “Collision sport” means football, hockey, lacrosse, or wrestling.

(3) “Contact sport” means a sport, other than football, hockey, lacrosse, or wrestling, defined as a contact sport by the American Academy of Pediatrics.

(4) “Health care provider” means an athletic trainer or health care provider licensed pursuant to Title 26 who has within the preceding five years been specifically trained in the evaluation and management of concussions and other head injuries.

(5) “School athletic team” means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(6) “Youth athlete” means an elementary or secondary student who is a member of a school athletic team.

(b) Guidelines and other information. The Secretary of Education or designee, assisted by members of the Vermont Principals’ Association selected by that Association, shall develop statewide guidelines, forms, and other materials, and update them when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury;

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary;

(4) effective methods to reduce the risk of concussions from occurring during athletic activities; and

(5) protocols and standards for clearing a youth athlete to return to play following a concussion or other head injury, including treatment plans for such athletes.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the State, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training not less than every two years on how to recognize the symptoms of a concussion or other head injury, how to reduce the risk of concussions during athletic activities, and how to teach athletes the proper techniques for avoiding concussions; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school; and

(4) each referee of a contest involving a high school athletic team participating in a collision sport receive training not less than every two years on how to recognize concussions when they occur during athletic activities.

(d) Participation in athletic activity.

(1) A coach or health care provider shall not permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach or health care provider knows or should know that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) A coach or health care provider shall not permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this subsection to train or compete with a school athletic team until the athlete has been examined by and received written permission to participate in athletic activities from a health care provider.

(e) Action plan.

(1) The principal or headmaster of each public and approved independent school in the State, or a designee, shall ensure that each school has a concussion management action plan that describes the procedures the school will take when a student athlete suffers a concussion. The action plan shall include policies on:

(A) who makes the initial decision to remove a student athlete from play when it is suspected that the athlete has suffered a concussion;

(B) what steps the student athlete must take in order to return to any athletic or learning activity; and

(C) who makes the final decision that a student athlete may return to athletic activity.

(2) The action plan required by subdivision (1) of this subsection shall be provided annually to each youth athlete and the athlete's parents or guardians.

(3) Each youth athlete and a parent or guardian of the athlete shall annually sign a form acknowledging receipt of the information provided pursuant to subdivision (2) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team.

(f) Health care providers; presence at athletic events.

(1) The home team shall ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a collision sport. If an athlete on the visiting team suffers a serious injury during the athletic event, the health care provider shall notify the visiting team's athletic director within 48 hours after the injury occurs.

(2) Home teams are strongly encouraged to ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a contact sport.

Sec. 3. REPEAL

16 V.S.A. § 1431 (concussions and other head injuries) is repealed.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2013, except that 12 V.S.A. § 1043(f) (presence of health care provider at school sports activities) shall take effect on July 1, 2014.

(Committee vote: 5-0-0)



## **PUBLIC HEARINGS**

Wednesday, February 13, 2013 - Room 11 - 6:00 P.M. - 8:00 P.M. Re Town Energy Committee - by House and Senate Natural Resources and Energy Committees

## **REPORTS ON FILE**

### **Reports 2013**

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following reports is on file in the office of the Secretary of the Senate. Effective January 2010, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Legislative webpage.

1. Military Department Vermont National Guard Biennial Report. (January 2013)
2. Vermont Long Term Care Ombudsman Project. (January 2013)

## **NOTICE OF JOINT ASSEMBLY**

### **JOINT ASSEMBLY**

**Thursday, February 21, 2013 – 10:30 A.M. – House Chamber** –Election of a Sergeant at Arms, of an Adjutant and Inspector General, and of three (3) trustees for the University of Vermont, and Vermont and State Agricultural College.

Candidates for the positions of Sergeant at Arms and of Adjutant and Inspector General, and legislative candidates for UVM trustees must notify the Secretary of State **in writing** of their candidacies not later than Thursday, February 14, 2013, by 5:00 P.M., pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

**FOR INFORMATION ONLY**

**CROSSOVER DEADLINES**

The following bill reporting deadlines are established for the 2013 session:

(1) From the standing committee of last reference (excluding the Committees on Appropriations and Finance), all Senate bills must be reported out of committee on or before March 15, 2013.

(2) Senate bills referred pursuant to Senate Rule 31, must be reported out of the Committees on Appropriations and Finance on or before March 22, 2013.

(3) These deadlines may be waived for any bill or committee **only** by consent given by the Committee on Rules.