

Senate Calendar

WEDNESDAY, MARCH 18, 2015

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ORDERS OF THE DAY

ACTION CALENDAR

NEW BUSINESS

Third Reading

S. 41.

An act relating to developing a strategy for evaluating the effectiveness of individual tax expenditures.

S. 73.

An act relating to State regulation of rent-to-own agreements for merchandise.

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An act relating to disclosure of lobbying advertisements.

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An act relating to expungement of convictions based on conduct that is no longer criminal.

Committee Bill for Second Reading

S. 122.

An act relating to miscellaneous changes to laws related to motor vehicles, motorboats, and other vehicles.

By the Committee on Finance. (Senator Flory for the committee.)

Reported favorably by Senator Westman for the Committee on Finance.

(Committee vote: 4-1-2)

Second Reading

Favorable with Recommendation of Amendment

S. 29.

An act relating to election day registration.

Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.

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. 17 V.S.A. § 2142 is amended to read:

§ 2142. REVISION OF CHECKLIST

(a) The town clerk shall call such meetings of the board of civil authority as may be necessary before an election or at other times for revision of the checklist. ~~At least one meeting shall take place after the deadline for filing applications and before the day of an election, unless no applications have been filed which could take effect before that election.~~

(b) Notice of a meeting, along with a copy of the most recent checklist and a separate list of names which have been challenged and may be removed, shall be posted in two or more public places within each voting district and in the town clerk's office.

(c) A quorum of the board of civil authority shall be as provided in subdivision 2103(5) of this title, and written notice shall be provided to each member as established in 24 V.S.A. § 801.

Sec. 2. 17 V.S.A. § 2144 is amended to read:

§ 2144. ~~DEADLINE FOR~~ SUBMITTING APPLICATIONS

(a) ~~The town clerk shall not accept applications for persons' names to be placed on the checklist after 5:00 p.m. on the Wednesday preceding the day of the election. The town clerk's office shall be kept open on the Wednesday preceding the day of the election from no later than 3:00 p.m. until 5:00 p.m., for the purpose of receiving applications for addition to the checklist. For purposes of this subsection, a mail application or an application submitted to the department of motor vehicles in connection with a motor vehicle driver's license or an application accepted by a voter registration agency shall be considered to have met the filing deadline established by this subsection if the application is postmarked, submitted, or accepted by 5:00 p.m. of the Wednesday preceding the day of the election.~~ On any day other than the day of an election, the town clerk shall accept a person's application for his or her name to be placed on the checklist at the town clerk's office during all normal business hours.

(b) ~~If a person is not eligible to register prior to the voter registration deadline, but expects to be eligible on or before election day, he or she may file with the town clerk a written notice of intention to apply for addition of his or her name to the checklist. The notice shall be filed prior to the voter registration deadline, and the town clerk shall then accept the person's application at any time before the close of the polls on election day, and act upon the application forthwith.~~ On the day of an election:

(1) A person may submit an application for addition to the checklist to the presiding officer at the polling place of the town in which the person seeks to register during the hours of voting established by the board of civil authority for that polling place. In towns with more than one polling place, the polling place shall be that which covers the area in which the person resides.

(2) The presiding officer shall review all applications submitted at the polling place and shall approve those applications that meet the requirements of this chapter. Upon approval, the applicant's name shall be added to the checklist at the polling place, and the applicant shall be provided with the opportunity to vote in the election. The town clerk shall add the information in the application to the statewide voter checklist within three days of the day of the election.

(3) If the presiding officer cannot determine from an application submitted on election day that an applicant meets the requirements of section 2121 of this chapter, the presiding officer shall immediately refer the application to any members of the board of civil authority present at the polling place who shall meet immediately and proceed under section 2146 of this chapter to determine whether the applicant meets the requirements of section 2121 of this chapter. For purposes of adding applicant's names to the checklist under this subdivision (3), a quorum shall consist of three members of the board of civil authority. If the board rejects an applicant, it shall notify him or her at the polling place.

~~(c) If a person is not eligible to register prior to the voter registration deadline, and has submitted a written notice of intent to apply in accord with subsection (b) of this section, the clerk shall, upon application, allow the applicant to vote absentee. If the application is approved and the name added to the checklist prior to the close of the polls on election day, the early or absentee ballots cast by that voter shall be treated as other valid early or absentee ballots. [Repealed.]~~

~~(d) In the case of annual meetings and towns that start their annual meetings on any day preceding the first Tuesday in March as authorized in subsection 2640(b) of this title, the "day of election" shall be the first Tuesday in March. [Repealed.]~~

Sec. 3. 17 V.S.A. § 2144a is amended to read:

§ 2144a. REGISTRATION

A person who desires to register to vote may apply in any of the following ways:

(1) Simultaneously with his or her application for, or renewal of, a motor vehicle driver's license as provided in section 2145a of this ~~title~~ chapter.

(2) By completing a voter registration application at a voter registration agency.

(3) By delivering, during regular hours, or mailing a completed application form to the office of the clerk of the town in which the applicant claims to be a resident.

(4) By completing a voter registration application and delivering it to the presiding officer before the close of the polls at the polling place of the town in which the person seeks to register. In towns with more than one polling place, the polling place shall be that which covers the area in which the person resides.

Sec. 4. 17 V.S.A. § 2145a is amended to read:

§ 2145a. REGISTRATIONS AT THE DEPARTMENT OF MOTOR VEHICLES

(a) An application for, or renewal of, a motor vehicle driver's license shall serve as a simultaneous application to register to vote unless the applicant declines to sign the voter registration portion of the application.

(b) The voter registration portion of the motor vehicle driver's license application shall provide and request the information required to be provided under section 2145 of this ~~title~~ chapter and shall be in the form approved by the Secretary of State.

(c) An application for voter registration under this section shall update any previous voter registration by the applicant. Any change of address form submitted to the Department of Motor Vehicles in connection with an application for a motor vehicle driver's license shall serve to update voter registration information previously provided by the voter, unless the voter states on the form that the change of address is not for voter registration purposes.

(d) The Department of Motor Vehicles shall transmit voter registration applications received under this section to the Secretary of State not later than five days after the date the application was accepted by the Department, or before the ~~close of the checklist for a~~ date of any primary or general election, whichever is sooner.

(e) The Secretary shall promptly transmit applications received under this section to the clerks of the appropriate municipalities.

Sec. 5. 17 V.S.A. § 2145b is amended to read:

§ 2145b. VOTER REGISTRATION AGENCIES

(a) Each voter registration agency shall:

(1) ~~Distribute~~ distribute voter registration application forms approved under section 2145 of this title;

(2) ~~Assist~~ assist applicants in completing voter registration application forms, unless the applicant refuses such assistance; and

(3) ~~Accept~~ accept completed voter registration applications and transmit completed applications to the Secretary of State not later than 10 days after the date of acceptance, or before the ~~close of the checklist for a~~ date of any primary or general election, whichever is sooner.

(b) The Secretary shall promptly transmit applications received under this section to the clerks of the appropriate municipalities.

* * *

Sec. 6. 17 V.S.A. § 2145c is amended to read:

§ 2145c. SUBMISSION OF VOTER REGISTRATION FORMS BY OTHER PERSONS OR ORGANIZATIONS

Any person or any organization other than a voter registration agency that accepts a completed voter registration form on behalf of an applicant shall submit that form to the town clerk of the town of that applicant not later than seven days after the date of acceptance, or before the ~~close of the checklist for a~~ date of any primary or general election, whichever is sooner.

Sec. 7. 17 V.S.A. § 2147 is amended to read:

§ 2147. ALTERATION OF CHECKLIST

(a) Pursuant to section 2150 of this title, the board of civil authority or, upon request of the board, the town clerk shall add to the checklist ~~posted in the town clerk's office~~ the names of the voters added and the names omitted by mistake and shall strike the names of persons not entitled to vote. The list so corrected shall not be altered except by:

* * *

(3) adding the names of persons who present a copy of a valid application for addition to the checklist of that town ~~that was submitted before the deadline for applications~~ and who otherwise are qualified to be added to the checklist;

(4) ~~adding, at the polling place, the names of persons who sign a sworn affidavit prepared by the Secretary of State that they completed and submitted~~

~~a valid application for addition to the checklist of that town before the deadline for applications and who otherwise are qualified to be added to the checklist; [Repealed.]~~

* * *

(6) adding the names of persons who previously submitted an incomplete application ~~before the deadline for application~~ and who provide that information on or before election day.

(b) Any correction or transfer may be accomplished at any time until the closing of the polls on election day. Each voter has primary responsibility to ascertain that his or her name is properly added to and retained on the checklist.

Sec. 8. 17 V.S.A. § 2563 is amended to read:

§ 2563. ADMITTING VOTER

Before a person may be admitted to vote, he or she shall announce his or her name and if requested, his or her place of residence in a clear and audible tone of voice, or present his or her name in writing, or otherwise identify himself or herself by appropriate documentation. The election officials attending the entrance of the polling place shall then verify that the person's name appears on the checklist for the polling place.

(1) If the name does appear, and if no one immediately challenges the person's right to vote on grounds of identity or having previously voted in the same election, the election officials shall repeat the name of the person and:

~~(A)~~(i) If the checklist indicates that the person is a first-time voter in the municipality who registered by mail and who has not provided required identification before the opening of the polls, require the person to present any one of the following: a valid photo identification; a copy of a current utility bill; a copy of a current bank statement; or a copy of a government check, paycheck, or any other government document that shows the current name and address of the voter.

(ii) If the person is unable to produce the required information, the person shall be afforded the opportunity to ~~cast a provisional ballot, as provided in subchapter 6A of this chapter~~ complete a new application for addition to the checklist in accordance with section 2144 of this title.

(iii) The elections official shall note upon the checklist a first-time voter in the municipality who has registered by mail and who produces the required information, and place a mark next to the voter's name on the checklist and allow the voter to proceed to the voting booth for the purpose of voting.

~~(2)(B)~~ If the voter is not a first-time voter in the municipality, no identification shall be required, ~~the~~. The clerk shall place a check next to the voter's name on the checklist and allow the voter to proceed to the voting booth for the purpose of voting.

(2) If the name does not appear, the person shall be afforded the opportunity to complete an application for addition to the checklist in accordance with section 2144 of this title.

Sec. 9. SECRETARY OF STATE REPORT

The Secretary of State shall consult with town clerks and report on or before January 15, 2016 to the Senate and House Committees on Government Operations regarding the feasibility of:

(1) permitting a town clerk to deposit in a vote tabulator on the day before an election any early voter absentee ballots he or she has received, while still complying with other provisions of election law; and

(2) ensuring that all towns have Internet access at each polling place on the day of an election.

Sec. 10. EFFECTIVE DATES

This act shall take effect on April 1, 2016, except for Sec. 9 (Secretary of State report), which shall take effect on passage.

(Committee vote: 3-2-0)

S. 44.

An act relating to creating flexibility in early college enrollment numbers.

Reported favorably by Senator Doyle for the Committee on Education.

(Committee vote: 6-0-0)

Reported favorably with recommendation of amendment by Senator Starr for the Committee on Appropriations.

The Committee recommends that the bill be amended in Sec. 1, 2013 Acts and Resolves No. 77, Section 11 subsection (a) subdivision (3) by adding at the end of the subdivision the following: The Chancellor of the Vermont State Colleges, in consultation with the Presidents of Johnson State College, Lyndon State College, and Castleton State College, shall develop a system to divide the annual number of students enrolled in early college programs fairly among those three colleges and within the total maximum enrollment of 54.

(Committee vote: 6-0-1)

S. 62.

An act relating to surrogate decision making for do-not-resuscitate orders and clinician orders for life-sustaining treatment.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health & Welfare.

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. 18 V.S.A. chapter 231 is amended to read:

CHAPTER 231. ADVANCE DIRECTIVES FOR
HEALTH CARE ~~AND~~ DISPOSITION OF REMAINS,
AND SURROGATE DECISION MAKING

§ 9700. PURPOSE AND POLICY

The ~~state~~ State of Vermont recognizes the fundamental right of an adult to determine the extent of health care the individual will receive, including treatment provided during periods of incapacity and at the end of life. This chapter enables adults to retain control over their own health care through the use of advance directives, including appointment of an agent and directions regarding health care and disposition of remains. During periods of incapacity, the decisions by the agent shall be based on the express instructions, wishes, or beliefs of the individual, to the extent those can be determined. This chapter also allows, in limited circumstances in which a patient without capacity has neither an agent nor a guardian, for a surrogate to provide or withhold consent on the patient's behalf for a do-not-resuscitate order or clinician order for life-sustaining treatment.

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(17) "Informed consent" means the consent given voluntarily by an individual with capacity, on his or her own behalf or on behalf of another in the role of an agent, guardian, or surrogate, after being fully informed of the nature, benefits, risks, and consequences of the proposed health care, alternative health care, and no health care.

(18) "Interested individual" means:

(A) the principal's or patient's spouse, adult child, parent, adult sibling, adult grandchild, ~~reciprocal beneficiary,~~ or clergy person; or

(B) any adult who has exhibited special care and concern for the principal or patient and who is personally familiar with the principal's or patient's values.

(19) "Life sustaining treatment" means any medical intervention, including nutrition and hydration administered by medical means and antibiotics, which is intended to extend life and without which the principal or patient is likely to die.

* * *

(31) "DNR/COLST" means a do-not-resuscitate order (DNR) or a clinician order for life-sustaining treatment (COLST), or both.

(32) "Surrogate" means an interested individual who provides or withholds, pursuant to subchapter 2 of this chapter, informed consent for a do-not-resuscitate order or a clinician order for life-sustaining treatment.

(33) "Suspend" means to terminate the applicability of all or part of an advance directive for a specific period of time or while a specific condition exists.

~~(32)~~(34) "Patient representative" means the mental health patient representative established by section 7253 of this title.

Subchapter 1. Advance Directives and Disposition of Remains

§ 9702. ADVANCE DIRECTIVE

(a) An adult may do any or all of the following in an advance directive:

* * *

§ 9708. AUTHORITY AND OBLIGATIONS OF HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL CARE FACILITIES REGARDING ~~DO NOT RESUSCITATE DNR ORDERS AND CLINICIAN ORDERS FOR LIFE SUSTAINING TREATMENT~~ COLST

(a) ~~As used in this section, "DNR/COLST" shall mean a do not resuscitate order ("DNR") and a clinician order for life-sustaining treatment ("COLST") as defined in section 9701 of this title. [Repealed.]~~

* * *

(d) A DNR order must:

(1) be signed by the patient's clinician;

(2) certify that the clinician has consulted, or made an effort to consult, with the patient, and the patient's agent or guardian, if there is an appointed agent or guardian;

(3) include either:

(A) the name of the patient; agent; guardian, in accordance with 14 V.S.A. § 3075(g); or ~~other individual~~ surrogate giving informed consent for the DNR and the individual's relationship to the patient; or

(B) certification that the patient's clinician and one other named clinician have determined that resuscitation would not prevent the imminent death of the patient, should the patient experience cardiopulmonary arrest; and

(4) if the patient is in a health care facility or a residential care facility, certify that the requirements of the facility's DNR protocol required by section 9709 of this title have been met.

(e) A COLST must:

(1) be signed by the patient's clinician; and

(2) include the name of the patient; agent; guardian, in accordance with 14 V.S.A. § 3075(g); or ~~other individual~~ surrogate giving informed consent for the COLST and the individual's relationship to the patient.

~~(f) The Department of Health shall adopt by rule on or before July 1, 2016, criteria for individuals who are not the patient, agent, or guardian, but who are giving informed consent for a DNR/COLST order. The rules shall include the following:~~

~~(1) other individuals permitted to give informed consent for a DNR/COLST order who shall be a family member of the patient or a person with a known close relationship to the patient; and~~

~~(2) parameters for how decisions should be made, which shall include at a minimum the protection of a patient's own wishes in the same manner as in section 9711 of this title. [Repealed.]~~

(g) A patient's clinician issuing a DNR/COLST order shall:

(1) place a copy of the completed DNR/COLST order in the patient's medical record; and

(2) provide instructions to the patient as to the appropriate means of displaying the DNR/COLST order.

(h) A clinician who issues a DNR order shall authorize issuance of a DNR identification to the patient. Uniform minimum requirements for DNR

identification shall be determined ~~by rule~~ by the Department of Health by rule no later than ~~July 1, 2014~~ January 1, 2016.

* * *

§ 9713. IMMUNITY

(a) No individual acting as an agent ~~or~~, guardian, or surrogate shall be subjected to criminal or civil liability for making a decision in good faith pursuant to the terms of an advance directive, or DNR order, or COLST order and the provisions of this chapter.

(b)(1) No health care provider, health care facility, residential care facility, or any other person acting for or under such person's control shall, if the provider or facility has complied with the provisions of this chapter, be subject to civil or criminal liability for:

(A) providing or withholding treatment or services in good faith pursuant to the direction of a principal or patient, the provisions of an advance directive, a DNR order, a COLST order, a DNR identification, the consent of a principal or patient with capacity or of the principal's or patient's agent ~~or~~, guardian, or surrogate, or a decision or objection of a principal or patient; or

(B) relying in good faith on a suspended or revoked advance directive, suspended or revoked DNR order, or suspended or revoked COLST order, unless the provider or facility knew or should have known of the suspension, or revocation.

(2) ~~No~~ A funeral director, crematory operator, cemetery official, procurement organization, or any other person acting for or under such person's control, shall, if the director, operator, official, or organization has complied with the provisions of this chapter, not be subject to civil or criminal liability for providing or withholding its services in good faith pursuant to the provisions of an advance directive, whether or not the advance directive has been suspended or revoked.

(3) Nothing in this subsection shall be construed to establish immunity for the failure to follow standards of professional conduct and to exercise due care in the provision of services.

(c) No employee shall be subjected to an adverse employment decision or evaluation for:

(1) ~~providing~~ Providing or withholding treatment or services in good faith pursuant to the direction of a principal or patient, the provisions of an advance directive, a DNR order, a COLST order, a DNR identification, the consent of the principal or patient with capacity or principal's or patient's agent ~~or~~, guardian, or surrogate, a decision or objection of a principal or

patient, or the provisions of this chapter. This subdivision shall not be construed to establish a defense for the failure to follow standards of professional conduct and to exercise due care in the provision of services;

(2) ~~relying~~ Relying on an amended, suspended, or revoked advance directive, unless the employee knew or should have known of the amendment, suspension, or revocation;~~or.~~

(3) ~~providing~~ Providing notice to the employer of a moral or other conflict pursuant to subdivision 9707(b)(3) of this title, so long as the employee has provided ongoing health care until a new employee or provider has been found to provide the services.

* * *

Subchapter 2. Surrogate Consent

§ 9731. INFORMED CONSENT BY SURROGATE FOR DNR/COLST ORDER

(a)(1) One or more interested individuals may be eligible to act as the surrogate for an adult without capacity in order to provide or withhold informed consent for a do-not-resuscitate order or clinician order for life-sustaining treatment pursuant to this subchapter. Only one surrogate may act at a time.

(2)(A) A patient's health care provider shall not be considered an interested individual and shall not serve as a patient's surrogate to provide or withhold informed consent for a DNR/COLST order pursuant to this chapter unless related to the patient by blood, marriage, civil union, or adoption.

(B) The owner, operator, employee, agent, or contractor of a residential care facility, health care facility, or correctional facility in which the patient resides at the time the DNR/COLST order is written shall not be considered an interested individual and shall not act as the patient's surrogate to provide or withhold consent for a DNR/COLST order pursuant to this chapter unless related to the patient by blood, marriage, civil union, or adoption.

(b) A surrogate may provide or withhold informed consent only if all of the following conditions are met:

(1) the patient's clinician determines that the patient lacks capacity to provide informed consent;

(2) the patient has not appointed an agent through an advance directive;

(3) the patient has not indicated in an advance directive that the interested individual or individuals seeking to serve as surrogate should not be

consulted on health care decisions or otherwise provided instructions in an advance directive contrary to allowing such individual or individuals to serve as surrogate;

(4) the patient does not have a guardian who is authorized to make health care decisions; and

(5) the patient does not object to the surrogate providing or withholding consent for a DNR/COLST order, even if the patient lacks capacity.

(c)(1) A surrogate shall be an interested individual who is designated by the patient by personally informing the patient's clinician. If the patient designates a surrogate to the clinician orally, the clinician shall document the designation in the patient's medical record at the time the designation is made.

(2) If the patient has not designated a surrogate pursuant to subdivision (1) of this subsection, or if the surrogate designated by the patient is not reasonably available or is unwilling to serve, then a surrogate shall be an interested individual who is:

(A) willing to provide or withhold informed consent for a DNR/COLST order for the patient in accordance with the patient's wishes and values, if known; and

(B) willing and available to consult with the patient's clinician.

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, an individual shall not serve as a surrogate over the patient's objection, even if the patient lacks capacity.

(d) The patient's clinician, health care provider, or residential care provider may rely on the decision of a surrogate identified pursuant to this section as long as the clinician or provider documents in the patient's medical record that the surrogate has confirmed that one of the following circumstances applies:

(1)(A) All interested individuals agree on the decision to provide or withhold consent for a DNR/COLST order, in which case they shall designate one surrogate, as well as an alternate, if available, who is authorized to provide or withhold consent and whose name will be identified on the DNR/COLST form and in the patient's medical record.

(B) All interested individuals agree that a specific interested individual may make the decision regarding whether to provide or withhold consent for a DNR/COLST order, in which case they shall designate the individual as the surrogate, as well as an alternate, if available, who is authorized to provide or withhold consent and whose name will be identified on the DNR/COLST form and in the patient's medical record.

(C) The surrogate or alternate, if applicable, is not reasonably available, in which case the clinician shall consult the interested individuals to request designation of another surrogate and alternate.

(2) If at any time the interested individuals are unable to agree on the designation of a surrogate, any interested individual may file a petition for guardianship in the Probate Division of the Superior Court.

(e) A surrogate providing informed consent for a DNR/COLST order shall use substituted judgment consistent with the patient's wishes and values and consistent with the parameters described in subsection 9711(d) of this title. The surrogate shall consult with the patient to the extent possible, and with the patient's clinician and any other appropriate health care providers and shall provide or withhold informed consent for a DNR/COLST order by attempting to determine what the patient would have wanted under the circumstances.

(f) The patient's clinician shall make reasonable efforts to inform the patient of any proposed treatment, or of any proposal to withhold or withdraw treatment, based on the decisions made by the surrogate.

(g) If the patient's clinician determines that the patient no longer lacks capacity and the DNR/COLST order was based on informed consent provided by a surrogate, the clinician shall seek the informed consent of the patient for any DNR/COLST order, which shall supersede the surrogate's consent.

(h) A surrogate shall have the same rights as a patient with capacity would have to the following, to the extent that it is related to providing or withholding informed consent for a DNR/COLST order:

(1) request, receive, review, and copy any oral or written information regarding the patient's physical or mental health, including medical and hospital records;

(2) participate in any meetings, discussions, or conferences concerning health care decisions related to the patient;

(3) consent to the disclosure of health care information; and

(4) file a complaint on behalf of the patient regarding a health care provider, health care facility, or residential care facility.

Sec. 2. 33 V.S.A. § 7306 is amended to read:

§ 7306. RESIDENT'S REPRESENTATIVE

(a) The Except as provided in subsection (b) of this section, the rights and obligations established under this chapter shall devolve to a resident's reciprocal beneficiary, guardian, next of kin, sponsoring agency, or

representative payee (except when the facility itself is a representative payee) if the resident:

(1) has been adjudicated incompetent;

(2) has been found by his or her physician to be medically incapable of understanding or exercising the rights granted under this chapter; or

(3) exhibits a communication barrier.

(b) Notwithstanding the provisions of subsection (a) of this section, consent for a do-not-resuscitate order or a clinician order for life-sustaining treatment shall be provided or withheld only by the resident, by the resident's guardian or agent, or by a surrogate designated pursuant to 18 V.S.A. chapter 231, subchapter 2.

(c)(1) A resident's representative identified in subsections (a) and (b) of this section shall make decisions for the resident by attempting to determine what the resident would have wanted under the circumstances. In making the determination, the resident's representative shall consider the following:

(A) the resident's specific instructions or wishes as expressed to a spouse, adult child, parent, adult sibling, adult grandchild, clergy person, health care provider, or any other adult who has exhibited specific care or concern for the resident; and

(B) the representative's knowledge of the resident's personal preferences, values, or religious or moral beliefs.

(2) If the resident's representative cannot determine what the resident would have wanted under the circumstances, the representative shall make a determination through an assessment of the resident's best interests. When making a decision for the resident on this basis, the representative shall not authorize the provision or withholding of health care on the basis of the resident's economic status or a preexisting, long-term mental or physical disability.

(3) When making a determination under this section, representatives shall not consider their own interests, wishes, values, or beliefs.

(d) Notwithstanding the provisions of subsection (a) of this section, the facility shall make every reasonable effort to communicate the rights and obligations established under this chapter directly to the resident.

Sec. 3. RULEMAKING

The Department of Disabilities, Aging, and Independent Living shall amend its nursing home rules to comply with 33 V.S.A. § 7306 as amended by this act.

Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2016.

(Committee vote: 5-0-0)

S. 66.

An act relating to persons who are deaf or hard of hearing.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.

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 that:

(1) Development of early and effective language and communication is fundamental to the educational growth of all children. Language and communication skills are essential to literacy, academic success, workforce productivity, and civic contribution.

(2) Nationally, an academic achievement gap persists between children who are deaf, DeafBlind, or hard of hearing and their peers who are not deaf, DeafBlind, or hard of hearing.

(3) Although children who are deaf, DeafBlind, or hard of hearing represent approximately one percent of U.S. students with disabilities, and a smaller percentage of U.S. children overall, the needs of children who are deaf, DeafBlind, or hard of hearing are unique and diverse, as evidenced by the following:

(A) Children who are deaf, DeafBlind, or hard of hearing have varying degrees of hearing loss and may be identified at birth or much later.

(B) Children who are deaf, DeafBlind, or hard of hearing use a variety of communication and language modes alone or in combination. The preferred mode or modes of a given child do not necessarily correspond with his or her degree of hearing loss, and family decisions about communication for a child may be fluid during the course of the child's development.

(C) Children who are deaf, DeafBlind, or hard of hearing may be at risk of social isolation both at school and in their communities. Most children who are deaf, DeafBlind, or hard of hearing in the United States are born to parents who are not deaf, DeafBlind, or hard of hearing. Because of the small number of children who are deaf, DeafBlind, or hard of hearing, a child may be the only child who is deaf, DeafBlind, or hard of hearing at his or her school.

(D) Many children who are deaf, DeafBlind, or hard of hearing have secondary or coexisting conditions that impact their educational needs.

(4) Although federal law requires that schools consider the language and communication needs of children who are deaf, DeafBlind, or hard of hearing who qualify for individualized education programs (IEPs), the states are generally responsible for ensuring that federal requirements are carried out and otherwise ensuring that the unique language and communication needs of children who are deaf, DeafBlind, or hard of hearing are met. States have addressed these concerns in a variety of ways, including by developing communication plans and state plans and by passing bills of rights for children who are deaf, DeafBlind, or hard of hearing.

(5) The Vermont Center for the Deaf and Hard of Hearing closed in September 2014. Prior to its closing, the Center provided comprehensive and statewide educational, social, and support services to children, youth, and adults who are deaf, DeafBlind, or hard of hearing. These services included the Austine School for the Deaf, which closed in June 2014; several regional classrooms; consultant services for mainstreamed students; a parent-infant program; a family mentoring program; adult services; and numerous other support options. While efforts are underway to replace at least some of the discontinued services, it remains unclear whether the educational needs of children and other persons in the State who are deaf, DeafBlind, or hard of hearing are currently being met.

Sec. 2. 33 V.S.A. chapter 16 is added to read:

CHAPTER 16. TASK FORCE ON PERSONS WHO ARE DEAF,
DEAFBLIND, OR HARD OF HEARING

§ 1601. DEFINITIONS

As used in this chapter:

(1) “Communication or language mode” means one or a combination of the following systems or methods of communication available to children who are deaf, DeafBlind, or hard of hearing: American Sign Language; English-based manual or sign systems; oral, aural, speech-based training; spoken and written English, including speech reading or lip reading; and communication with an assistive technology device to facilitate language and learning.

(2) “Deaf” means having a severe or complete absence of auditory sensitivity that impairs processing of linguistic information through hearing, with or without amplification.

(3) “DeafBlind” means having concomitant hearing and visual impairments.

(4) “Hard of hearing” means having some absence of auditory sensitivity with residual hearing, whether permanent or fluctuating.

§ 1602. TASK FORCE ON PERSONS WHO ARE DEAF, DEAFBLIND, OR HARD OF HEARING

(a) Creation; purpose. There is created a Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing to assess and make recommendations concerning educational services, resources, and opportunities for children within the State who are deaf, DeafBlind, or hard of hearing and their families and to provide advice and oversight on matters of policy and administration of programs for persons who deaf, DeafBlind, or hard of hearing.

(b) Membership. The Task Force shall consist of the following members:

(1) nine members of the public, appointed by the Governor in a manner that ensures geographically diverse membership while recognizing the concentration of persons who are deaf, DeafBlind, or hard of hearing residing near the former Vermont Center for the Deaf and Hard of Hearing, including:

(A) four members who are deaf, DeafBlind, or hard of hearing, provided that if a member represents an organization for persons who are deaf, DeafBlind, or hard of hearing, no other member on the Task Force shall also represent that organization;

(B) two members who are each a parent or guardian of a child who is deaf, DeafBlind, or hard of hearing;

(C) two members who serve persons who are deaf, DeafBlind, or hard of hearing in a professional capacity, provided that these members do not represent the same organization; and

(D) one member recommended by the Vermont Association for the Deaf;

(2) the Senior Counselor for the Deaf and Hard of Hearing in the Department of Disabilities, Aging and Independent Living’s Division of Vocational Rehabilitation or designee;

(3) the Secretary of Education or designee;

(4) the Secretary of Human Services or designee;

(5) a professional Deaf education specialist who understands all communication and language modes, appointed by the Governor;

(6) a superintendent, selected by the Vermont Superintendents Association; and

(7) a special education administrator, selected by the Vermont Council of Special Education Administrators.

(c) Powers and duties.

(1) The Task Force shall assess the educational services, resources, and opportunities for children in the State who are deaf, DeafBlind, or hard of hearing. It shall make recommendations to the General Assembly, the Governor, and the Agencies of Education and of Human Services with the goal of ensuring that each child is afforded:

(A) the same educational rights as children who are not deaf, DeafBlind, or hard of hearing, including full communication and language access in all educational environments and provision of qualified teachers, interpreters, and paraprofessionals;

(B) appropriate and ongoing educational opportunities that recognize each child's unique learning needs, provide access to a sufficient number of communication or language mode peers, and include exposure to adult role models who are deaf, DeafBlind, or hard of hearing; and

(C) adequate family supports that promote both early development of communication skills and informed participation by parents and guardians in the education of their children.

(2) The Task Force shall advise the General Assembly, the Governor, and the Agencies of Education and of Human Services with respect to policy development and program administration for persons who are deaf, DeafBlind, or hard of hearing. In furtherance of this duty, the Task Force may:

(A) conduct studies concerning the needs of and opportunities for persons within the State who are deaf, DeafBlind, or hard of hearing and their families;

(B) evaluate the adequacy and systemic coordination of existing services and resources for persons throughout the State who are deaf, DeafBlind, or hard of hearing and their families;

(C) review existing and proposed legislation and rules pertaining to persons who are deaf, DeafBlind, or hard of hearing and advise the General Assembly, the Governor, and the Agencies of Education and of Human Services regarding revisions, coordination, services, and appropriations;

(D) examine delivery models in other states in order to evaluate the adequacy and systemic coordination of existing services and resources for persons throughout the State who are deaf, DeafBlind, or hard of hearing;

(E) encourage and foster local community action on behalf of persons who are deaf, DeafBlind, or hard of hearing;

(F) publicize its findings; and

(G) carry out specific projects assigned by the General Assembly or Governor.

(3) The Task Force shall oversee and monitor the qualification of interpreters for persons who are deaf, DeafBlind, or hard of hearing practicing in the State, including the certification of sign language interpreters.

(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging and Independent Living (DAIL). The Task Force and DAIL may consult with the Agency of Education and with national experts on education of persons who are deaf, DeafBlind, or hard of hearing as necessary to fulfill their obligations under this section.

(e) Reports. On or before January 15 of each year, notwithstanding 2 V.S.A. § 20(d), the Task Force shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, the Governor, and the Agencies of Education and of Human Services with its findings pursuant to activities carried out under subsection (c) of this section and recommendations for administrative and legislative action.

(f) Appointments; meetings.

(1) The Senior Counselor for the Deaf and Hard of Hearing in DAIL's Division of Vocational Rehabilitation or designee shall convene the first meeting of the Task Force on or before July 1, 2015 and shall select interpretive services for the meeting if a member so requests.

(2) At its first meeting, the Task Force shall elect a chair and vice chair.

(3) The Chair shall select interpretive services for any Task Force meeting if a member so requests.

(g) Reimbursement.

(1) Members of the Task Force who are not State employees or otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, payable by DAIL.

(2) DAIL shall pay for interpretive services necessary to conduct all Task Force meetings.

Sec. 3. REPORT; ADDITIONAL POWERS AND DUTIES OF THE TASK FORCE ON PERSONS WHO ARE DEAF, DEAFBLIND, OR HARD OF HEARING

On or before January 15, 2016, the Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, the Governor, and the Agencies of Education and of Human Services. The report shall include the following:

(1) A comprehensive assessment of the educational services and resources presently available to children in the State who are deaf, DeafBlind, or hard of hearing and their families, including:

(A) identification of all losses of or reductions in services and resources arising from the closures of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing;

(B) evaluation of the adequacy of existing services and resources, including, if appropriate, determination of whether these services and resources are accessible statewide, offer adequate family supports, and provide adequate opportunities for direct contact with communication or language mode peers; and

(C) evaluation of the need for services and resources not currently available, adequate, or accessible.

(2) A proposal to restore and expand educational opportunities for children in the State who are deaf, DeafBlind, or hard of hearing and their families that:

(A) ensures that the quality of services available prior to the closings of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing is maintained;

(B) assesses the risks and benefits of educating children who are deaf, DeafBlind, or hard of hearing at a mainstream school, including impacts on academic achievement, extracurricular involvement, and social integration;

(C) addresses the desirability and feasibility of establishing a centralized school for children who are deaf, DeafBlind, or hard of hearing; and

(D) recommends alternative methods of ensuring that children in the State who are deaf, DeafBlind, or hard of hearing are not socially isolated and have adequate opportunities for direct contact with language or communication mode peers.

(3) An evaluation of 16 V.S.A. § 3823 (the Austine School; financing) and 2013 Acts and Resolves No. 45 (an act relating to the Austine School) that:

(A) assesses whether the General Assembly should waive or otherwise alter the Vermont Center for the Deaf and Hard of Hearing's obligation under 16 V.S.A. § 3823(c), as modified by 2013 Acts and Resolves No. 45, to repay capital appropriations made to or for the benefit the Austine School from the proceeds of certain sales of the Center's real property; and

(B) evaluates the adequacy of the service plan developed by the Secretary of Education pursuant to 2013 Acts and Resolves No. 45.

(4) A recommendation regarding whether the General Assembly should adopt a Bill of Rights specific to persons who are deaf, DeafBlind, or hard of hearing.

(5) Recommendations regarding the need for and potential structure of a State agency division or other staffed entity responsible for overseeing concerns of persons who are deaf, DeafBlind, or hard of hearing and their families, including recommendations regarding what supports are necessary to ensure that this entity is fully functional.

(6) An assessment of whether paraprofessionals who provide instructional support in public schools to students who are deaf, DeafBlind, or hard of hearing are sufficiently qualified and receive adequate training.

(7) An assessment of and recommendations regarding the needs of persons in Vermont who are DeafBlind, including the needs of children who are DeafBlind.

Sec. 4. 16 V.S.A. § 2955a is added to read:

§ 2955a. DATA REPORTING; STUDENTS WITH DISABILITIES

The Agency of Education shall post on its website the data it submits to the U.S. Secretary of Education pursuant to 20 U.S.C. § 1418 (data collection and reporting requirements concerning students with disabilities) within one month of the date of submission. To the extent permitted under 20 U.S.C. § 1232g (family educational and privacy rights), and any regulations adopted thereunder, and in a manner that protects sensitive, personally identifiable, or confidential information, the Agency's posting shall disaggregate all data pertaining to children who are deaf, DeafBlind, or hard of hearing.

Sec. 5. 1 V.S.A. chapter 5, subchapter 5 is amended to read:

Subchapter 5. Interpreters for Judicial, Administrative, and
Legislative Proceedings

§ 331. DEFINITIONS

As used in this subchapter:

(1) “Person who is deaf or hard of hearing” means any person, including a person who is DeafBlind, who has such difficulty hearing, even with amplification, that he or she cannot rely on hearing for communication.

(2) “Proceeding” means any judicial proceeding, contested case under 3 V.S.A. chapter 25, or other hearing before an administrative agency not included under 3 V.S.A. chapter 25.

(3) “Qualified interpreter” means an interpreter for a person who is deaf or hard of hearing, including a person who is DeafBlind, who meets standards of competency established by the national or Vermont Registry of Interpreters for the Deaf as amended, by rule, by the ~~Vermont Commission of the Deaf and Hard of Hearing~~ Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing.

* * *

§ 336. RULES; INFORMATION; LIST OF INTERPRETERS

(a) The ~~Vermont Commission of the Deaf and Hard of Hearing~~ Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing may, by rule, establish factors to be considered by the presiding officer under section 333 of this title before appointing an interpreter who is not a qualified interpreter. Such factors shall encourage the widest availability of interpreters in Vermont while at the same time ensuring that the interpreter:

(1) is able to communicate readily with the person who is deaf, DeafBlind, or hard of hearing;

(2) is able to interpret accurately statements or communications by the person who is deaf, DeafBlind, or hard of hearing;

(3) is able to interpret the proceedings to the person who is deaf, DeafBlind, or hard of hearing;

(4) shall maintain confidentiality;

(5) shall be impartial with respect to the outcome of the proceeding;

(6) shall not exert any influence over the person who is deaf, DeafBlind, or hard of hearing; and

(7) shall not accept assignments the interpreter does not feel competent to handle.

(b) Rules established by the ~~Vermont Commission of the Deaf and Hard of Hearing~~ Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing pursuant to subdivision 331(3) of this title amending the standards of competency established by the national or Vermont Registry of the Deaf shall be limited to the factors set forth in subsection (a) of this section.

(c) The ~~Vermont Commission of the Deaf and Hard of Hearing~~ Task Force on Persons Who are Deaf, DeafBlind, or Hard of Hearing may prepare an explanation of the provisions of this subchapter which ~~shall~~ may be distributed to all State agencies and courts.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to persons who are deaf, DeafBlind, or hard of hearing.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Nitka for the Committee on Appropriations.

The Committee recommends that the recommendation of amendment of the Committee on Government Operations be amended as follows:

First: In Sec. 2, 33 V.S.A. § 1602, in subsection (f), by adding a new subdivision (4) to read:

(4) The Task Force may meet up to eight times each year to perform its functions under this section, unless the Commissioner of Disabilities, Aging, and Independent Living approves additional meetings.

Second: By adding a new Sec. 5 to read as follows:

Sec. 5. REPEAL

33 V.S.A. §§ 1601 and 1602 (Task Force on Persons Who are Deaf, Deaf Blind, or Hard of Hearing) are repealed on February 1, 2018.

And by renumbering the remaining sections to be numerically correct.

(Committee vote: 6-0-1)

S. 133.

An act relating to an employee's use of benefits.

Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Economic Development, Housing & General Affairs.

The Committee recommends that the bill be amended in Sec. 2, 21 V.S.A. § 495j by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) An employer, employment agency, or labor organization shall not discharge or penalize an employee because the employee has used, or attempted to use, accrued employer-provided sick leave or other employer-provided benefits.

(Committee vote: 3-0-2)

NOTICE CALENDAR

Committee Bills for Second Reading

S. 137.

An act relating to penalties for selling and dispensing marijuana.

By the Committee on Judiciary.

S. 141.

An act relating to possession of firearms.

By the Committee on Judiciary.

Second Reading

Favorable with Recommendation of Amendment

S. 20.

An act relating to establishing and regulating licensed dental practitioners.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Health & Welfare.

The Committee recommends that the bill be amended as follows:

First: In Sec. 1, in 26 V.S.A. § 561 (definitions), by striking out in its entirety subdivision (8) and inserting in lieu thereof the following:

(8) "General supervision" means:

(A) For a dental practitioner with a Master’s degree or higher, a dentist’s supervision of a dental practitioner’s oral health care services that does not require the dentist to be on-site at the time those services are being performed, but that requires the dental practitioner to perform those services with the prior knowledge and consent of the dentist.

(B) For a dental practitioner with less than a Master’s degree:

(i) for the oral health care services set forth in subdivisions (b)(1)-(14), (16)-(19), and (34) of section 612 of this chapter, the supervision described in subdivision (8)(A) of this section; and

(ii) for all other oral health care services set forth in subsection 612(b) of this chapter that are not described in subdivision (i) of this subdivision (B), supervision that requires the dentist to authorize those services and remain on-site while the dental practitioner performs them.

Second: In Sec. 1, in 26 V.S.A. § 611 (license by examination), in subdivision (a)(3), following “administered by an institution accredited” by inserting “by the Commission on Dental Accreditation”

Third: In Sec. 1, following § 611 (license by examination), by inserting § 611a to read as follows:

§ 611a. LICENSE BY ENDORSEMENT

The Board may grant a license as a dental practitioner to an applicant who:

(1) is currently licensed in good standing to practice as a dental practitioner or dental therapist in any jurisdiction of the United States or Canada that has licensing requirements deemed by the Board to be at least substantially equivalent to those of this State;

(2) has met active practice requirements and any other requirements established by the Board by rule; and

(3) pays the application fee set forth in section 662 of this chapter.

Fourth: By adding two new sections to be numbered Secs. 2 and 3 to read as follows:

Sec. 2. AFFILIATION WITH THE STATE OF MINNESOTA

(a) License by endorsement. For the purposes of 26 V.S.A. § 611a (license by endorsement) in Sec. 1 of this act, a person licensed as a dental therapist in the State of Minnesota who has been certified by the Minnesota Board of Dentistry to practice as an advanced dental therapist shall be deemed to meet the requirements of 26 V.S.A. § 611a(1).

(b) Vermont State Colleges and University of Vermont.

(1) The Board of Trustees of the Vermont State Colleges shall and the Board of Trustees of the University of Vermont may explore the potential of entering into an affiliation agreement with colleges in the State of Minnesota that have an accredited dental therapy program so that the college credits of a Vermont State College student or a University of Vermont student can transfer into such a program in order for the student to attend the program.

(2) On or before January 1, 2017, those Boards of Trustees shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Health Care and on Government Operations regarding the efforts of the Boards and any success in reaching an affiliation agreement with the State of Minnesota.

Sec. 3. BOARD OF DENTAL EXAMINERS; REPORT ON GEOGRAPHIC DISTRIBUTION AND GENERAL SUPERVISION OF DENTAL PRACTITIONERS

No earlier than two years after the effective date of this act but on or before January 1, 2018, the Board of Dental Examiners shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Health Care and on Government Operations regarding:

(1) Geographic distribution.

(A) The geographic distribution of licensed dental practitioners practicing in this State.

(B) The geographic areas of this State that are underserved by licensed dental practitioners.

(C) The Board's recommended incentives to promote the practice of licensed dental practitioners in underserved areas of this State, particularly those areas that are rural in nature and have high numbers of people living in poverty.

(2) General supervision. The Board's analysis of the effectiveness of the requirement that a dental practitioner be under the general supervision of a dentist as described in 26 V.S.A. § 561, and any recommendations for amendments to that general supervision requirement. In its report, the Board shall address whether a dental practitioner should be able to practice under less stringent supervision requirements and if so, under what conditions.

And by renumbering the remaining section (Effective Date) to be numerically correct.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.

The Committee recommends that the report of the Committee on Health and Welfare be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. chapter 12 is amended to read:

CHAPTER 12. DENTISTS, DENTAL THERAPISTS, DENTAL HYGIENISTS, AND DENTAL ASSISTANTS

Subchapter 1. General Provisions

§ 561. DEFINITIONS

As used in this chapter:

(1) "Board" means the ~~board of dental examiners~~ Board of Dental Examiners.

(2) "Director" means the ~~director of the office of professional regulation~~ Director of the Office of Professional Regulation.

(3) "Practicing dentistry" means an activity in which a person:

(A) undertakes by any means or method to diagnose or profess to diagnose or to treat or profess to treat or to prescribe for or profess to prescribe for any lesions, diseases, disorders, for deficiencies of the human oral cavity, teeth, gingiva, maxilla, or mandible or adjacent associated structures;

(B) extracts human teeth or corrects malpositions of the teeth or jaws;

(C) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances, or other structures to be used or worn as substitutes for natural teeth or adjusts those structures, except on the written prescription of a duly licensed dentist and by the use of impressions or casts made by a duly licensed and practicing dentist;

(D) administers general dental anesthetics;

(E) administers local dental anesthetics, except dental hygienists as authorized by ~~board~~ Board rule; or

(F) engages in any of the practices included in the curricula of recognized dental colleges.

(4) "Dental therapist" means an individual licensed to practice as a dental therapist under this chapter.

(5) “Dental hygienist” means an individual licensed to practice as a dental hygienist under this chapter.

~~(5)~~(6) “Dental assistant” means an individual registered to practice as a dental assistant under this chapter.

~~(6)~~(7) “Direct supervision” means supervision by a licensed dentist who is readily available at the dental facility for consultation or intervention.

(8) “General supervision” means the direct or indirect oversight of a dental therapist by a dentist, which need not be on-site.

§ 562. PROHIBITIONS

(a) No person may use in connection with a name any words, including “Doctor of Dental Surgery” or “Doctor of Dental Medicine,” or any letters, signs, or figures, including the letters “D.D.S.” or “D.M.D.,” which imply that a person is a licensed dentist when not authorized under this chapter.

(b) No person may practice as a dentist, dental therapist, or dental hygienist unless currently licensed to do so under the provisions of this chapter.

(c) No person may practice as a dental assistant unless currently registered under the provisions of this chapter.

(d) A person who violates this section shall be subject to the penalties provided in 3 V.S.A. § 127.

* * *

§ 565. DISPLAY OF LICENSE OR REGISTRATION

Every dentist, dental therapist, dental hygienist, and dental assistant shall display a copy of his or her current license or registration at each place of practice and in such a manner so as to be easily seen and read.

* * *

Subchapter 2. Board of Dental Examiners

* * *

§ 584. UNPROFESSIONAL CONDUCT

The ~~board~~ Board may refuse to give an examination or issue a license to practice dentistry, to practice as a dental therapist, or to practice dental hygiene or to register an applicant to be a dental assistant and may suspend or revoke any such license or registration or otherwise discipline an applicant, licensee, or registrant for unprofessional conduct. Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a by an applicant or person licensed or registered under this chapter:

* * *

Subchapter 3A. Dental Therapists

§ 611. LICENSE BY EXAMINATION

(a) Qualifications for examination. To be eligible for examination for licensure as a dental therapist, an applicant shall:

(1) have attained the age of majority;

(2) be a licensed dental hygienist;

(3) be a graduate of a dental therapist educational program administered by an institution accredited by the Commission on Dental Accreditation to train dentists or dental hygienists; and

(4) pay the application fee set forth in section 662 of this chapter and an examination fee established by the Board by rule.

(b) Completion of examination.

(1) An applicant for licensure meeting the qualifications for examination set forth in subsection (a) of this section shall pass a comprehensive, competency-based clinical examination approved by the Board and administered independently of an institution providing dental therapist education. An applicant shall also pass an examination testing the applicant's knowledge of the Vermont laws and rules relating to the practice of dentistry approved by the Board.

(2) An applicant who has failed the clinical examination twice is ineligible to retake the clinical examination until further education and training are obtained as established by the Board by rule.

(c) The Board may grant a license to an applicant who has met the requirements of this section.

§ 612. LICENSE BY ENDORSEMENT

The Board may grant a license as a dental therapist to an applicant who:

(1) is currently licensed in good standing to practice as a dental therapist in any jurisdiction of the United States or Canada that has licensing requirements deemed by the Board to be at least substantially equivalent to those of this State;

(2) has met active practice requirements and any other requirements established by the Board by rule; and

(3) pays the application fee set forth in section 662 of this chapter.

§ 613. PRACTICE; SCOPE OF PRACTICE

(a) A person who provides oral health care services, including prevention, evaluation, and assessment; education; palliative therapy; and restoration under the general supervision of a dentist within the parameters of a collaborative agreement as provided under section 614 of this subchapter shall be regarded as practicing as a dental therapist within the meaning of this chapter.

(b) In addition to services permitted by the Board by rule, a dental therapist may perform the following oral health care services:

(1) Oral health instruction and disease prevention education, including nutritional counseling and dietary analysis.

(2) Periodontal charting, including a periodontal screening examination.

(3) Exposing radiographs.

(4) Dental prophylaxis.

(5) Prescribing, dispensing, and administering analgesics, anti-inflammatories, and antibiotics.

(6) Applying topical preventive or prophylactic agents, including fluoride varnishes, antimicrobial agents, and pit and fissure sealants.

(7) Pulp vitality testing.

(8) Applying desensitizing medication or resin.

(9) Fabricating athletic mouthguards.

(10) Placement of temporary restorations.

(11) Fabricating soft occlusal guards.

(12) Tissue conditioning and soft reline.

(13) Interim therapeutic restorations.

(14) Changing periodontal dressings.

(15) Tooth reimplantation and stabilization.

(16) Administering local anesthetic.

(17) Administering nitrous oxide.

(18) Oral evaluation and assessment of dental disease.

(19) Formulating an individualized treatment plan, including services within the dental therapist's scope of practice and referral for services outside the dental therapist's scope of practice.

(20) Extractions of primary teeth.

(21) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of +3. A dental therapist shall not extract a tooth if it is unerupted, impacted, fractured, or needs to be sectioned for removal.

(22) Emergency palliative treatment of dental pain.

(23) Placement and removal of space maintainers.

(24) Cavity preparation.

(25) Restoring primary and permanent teeth, not including permanent tooth crowns, bridges, or denture fabrication.

(26) Placement of temporary crowns.

(27) Preparation and placement of preformed crowns.

(28) Pulpotomies on primary teeth.

(29) Indirect and direct pulp capping on primary and permanent teeth.

(30) Suture removal.

(31) Brush biopsies.

(32) Repairing defective prosthetic devices.

(33) Recementing permanent crowns.

(34) Mechanical polishing.

§ 614. COLLABORATIVE AGREEMENT

(a) Before a dental therapist may enter into his or her first collaborative agreement, he or she shall:

(1) complete 1,000 hours of direct patient care using dental therapy procedures under the direct supervision of a dentist; and

(2) receive a certificate of completion signed by that supervising dentist that verifies the dental therapist completed the hours described in subdivision (1) of this subsection.

(b) In order to practice as a dental therapist, a dental therapist shall enter into a written collaborative agreement with a dentist. The agreement shall include:

(1) practice settings where services may be provided and the populations to be served;

(2) any limitations on the services that may be provided by the dental therapist, including the level of supervision required by the supervising dentist;

(3) age- and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency;

(4) a procedure for creating and maintaining dental records for the patients that are treated by the dental therapist;

(5) a plan to manage medical emergencies in each practice setting where the dental therapist provides care;

(6) a quality assurance plan for monitoring care provided by the dental therapist, including patient care review, referral follow-up, and a quality assurance chart review;

(7) protocols for prescribing, administering, and dispensing medications, including the specific conditions and circumstances under which these medications may be dispensed and administered;

(8) criteria relating to the provision of care to patients with specific medical conditions or complex medication histories, including requirements for consultation prior to the initiation of care;

(9) supervision criteria of dental assistants and dental hygienists; and

(10) a plan for the provision of clinical resources and referrals in situations that are beyond the capabilities of the dental therapist.

(c)(1) The supervising dentist shall accept responsibility for all services authorized and performed by the dental therapist pursuant to the collaborative agreement.

(2) A supervising dentist shall be licensed and practicing in Vermont.

(3) A supervising dentist is limited to entering into a collaborative agreement with no more than two dental therapists at any one time.

(d)(1) A collaborative agreement shall be signed and maintained by the supervising dentist and the dental therapist.

(2) A collaborative agreement shall be reviewed, updated, and submitted to the Board on an annual basis or as soon as a change is made to the agreement.

§ 615. APPLICATION OF OTHER LAWS

(a) A dental therapist authorized to practice under this chapter shall not be in violation of section 562 of this chapter as it relates to the unauthorized practice of dentistry if the practice is authorized under this chapter and under the collaborative agreement.

(b) A dentist who permits a dental therapist to perform a dental service other than those authorized under this chapter or by the Board by rule or any dental therapist who performs an unauthorized service shall be in violation of section 584 of this chapter.

§ 616. USE OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS

(a) A licensed dental therapist may supervise dental assistants and dental hygienists directly to the extent permitted in the collaborative agreement.

(b) At any one practice setting, a licensed dental therapist may have under his or her direct supervision no more than a total of two assistants, hygienists, or combination thereof.

§ 617. REFERRALS

(a) The supervising dentist is responsible for arranging for another dentist or specialist to provide any necessary services needed by a patient that are beyond the scope of practice of the dental therapist and which the supervising dentist is unable to provide.

(b) A dental therapist, in accordance with the collaborative agreement, shall refer patients to another qualified dental or health care professional to receive any needed services that exceed the scope of practice of the dental therapist.

* * *

Subchapter 6. Renewals, Continuing Education, and Fees

§ 661. RENEWAL OF LICENSE

(a) Licenses and registrations shall be renewed every two years on a schedule determined by the ~~office of professional regulation~~ Office of Professional Regulation.

(b) No continuing education reporting is required at the first biennial license renewal date following licensure.

(c) The ~~board~~ Board may waive continuing education requirements for licensees who are on active duty in the ~~armed forces of the United States~~ U.S. Armed Forces.

(d) Dentists.

* * *

(e) Dental therapists. To renew a license, a dental therapist shall meet active practice requirements established by the Board by rule and document completion of no fewer than 20 hours of Board-approved continuing

professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

(f) Dental hygienists. To renew a license, a dental hygienist shall meet active practice requirements established by the ~~board~~ Board by rule and document completion of no fewer than 18 hours of ~~board-approved~~ Board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

(~~f~~)(g) Dental assistants. To renew a registration, a dental assistant shall meet the requirements established by the ~~board~~ Board by rule.

§ 662. FEES

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

(1) Application

(A) Dentist	\$ 225.00
(B) <u>Dental therapist</u>	<u>\$ 185.00</u>
(C) Dental hygienist	\$ 150.00
(C)(D) Dental assistant	\$ 60.00

(2) Biennial renewal

(A) Dentist	\$ 355.00
(B) <u>Dental therapist</u>	<u>\$ 225.00</u>
(C) Dental hygienist	\$ 125.00
(C)(D) Dental assistant	\$ 75.00

(b) The licensing fee for a dentist, dental therapist, or dental hygienist or the registration fee for a dental assistant who is otherwise eligible for licensure or registration and whose practice in this ~~state~~ State will be limited to providing pro bono services at a free or reduced-fee clinic or similar setting approved by the ~~board~~ Board shall be waived.

* * *

Sec. 2. COMMISSION ON DENTAL ACCREDITATION; EFFECTIVE DATE

The provision set forth in Sec. 1 of this act, in 26 V.S.A. § 611(a)(3) (license by examination; graduate), that requires accreditation by the

Commission on Dental Accreditation, shall take effect once that accreditation from the Commission becomes available.

Sec. 3. BOARD OF DENTAL EXAMINERS; REPORT ON GEOGRAPHIC DISTRIBUTION OF DENTAL THERAPISTS

No earlier than two years after the effective date of this act but on or before January 1, 2020, the Board of Dental Examiners shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Health Care and on Government Operations regarding:

(1) the geographic distribution of licensed dental therapists practicing in this State;

(2) the geographic areas of this State that are underserved by licensed dental therapists; and

(3) The Board's recommended incentives to promote the practice of licensed dental therapists in underserved areas of this State, particularly those areas that are rural in nature and have high numbers of people living in poverty.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

And that after passage the title of the bill be amended to read:

An act relating to establishing and regulating dental therapists.

(Committee vote: 4-1-0)

S. 58.

An act relating to requiring that the Defender General receive the same early retirement benefit as a State's Attorney.

Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.

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. 13 V.S.A. § 5254 is amended to read:

§ 5254. PERSONNEL DESIGNATION AND EXPENDITURES

(a) The ~~defender-general~~ Defender General, ~~deputy-defender-general~~ Deputy Defender General, public defenders and deputy public defenders shall be exempt from the classified ~~state~~ State service.

(b) Clerical and office staff in the ~~office of the defender general~~ Office of the Defender General and in all local offices shall be hired by the ~~defender general~~ Defender General. Clerical and office staff shall be ~~state~~ State employees paid by the ~~state~~ State, and shall receive those benefits and compensation available to classified ~~state~~ State employees who are similarly situated, unless otherwise covered by the provisions of a collective bargaining agreement setting forth the terms and conditions of employment, negotiated pursuant to the provisions of 3 V.S.A. chapter 27 ~~of Title 3~~. Clerical and office staff employed by the ~~office of the defender general~~ Office of the Defender General shall not be part of the classified service as set forth in 3 V.S.A. chapter 13 ~~of Title 3~~.

(c) The ~~deputy defender general~~ Deputy Defender General shall be entitled to compensation at an annual rate that does not exceed an amount \$500.00 less than the salary of the ~~defender general~~ Defender General. The public defenders and deputy public defenders shall be entitled to compensation at annual rates not to exceed an amount \$1,000.00 less than the salary of the ~~defender general~~ Defender General.

(d) The ~~defender general~~ Defender General is responsible for assuming expenses for his or her office and all local offices. The entirety of expenditures shall not exceed those set in the annual budget of the ~~office of the defender general~~ Office of the Defender General and such expenditures shall be subject to the provisions of ~~section 32 V.S.A. § 702 of Title 32~~.

(e) The Defender General shall receive an early retirement allowance equal to that of a State's Attorney or sheriff.

Sec. 2. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this subchapter shall have the following meanings:

* * *

(4) "Average final compensation" shall mean:

* * *

(C) For purposes of determining average final compensation for group A or group C members, a member who has accumulated unused sick leave at retirement shall be deemed to have worked the full normal working time for his or her position for 50 percent of such leave, at his or her full rate of compensation in effect at the date of his or her retirement. For purposes of determining average final compensation for group F members, unused annual

or sick leave, termination bonuses and any other compensation for service not actually performed shall be excluded. The average final compensation for a State's Attorney and the Defender General shall be determined by the State's Attorney's or the Defender General's highest annual compensation earned during his or her creditable service.

* * *

(9) "Employee" shall mean:

* * *

(B) any regular officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2001; but, irrespective of the member's classification, shall not include any member of the General Assembly as such, any person who is covered by the Vermont Teachers' Retirement System, any person engaged under retainer or special agreement or C beneficiary employed by the Department of Public Safety for not more than 208 hours per year, or any person whose principal source of income is other than State employment. In all cases of doubt, the Retirement Board shall determine whether any person is an employee as defined in this subchapter. Also included under this subdivision are employees of the Department of Liquor Control who exercise law enforcement powers, employees of the Department of Fish and Wildlife assigned to law enforcement duties, motor vehicle inspectors, full-time deputy sheriffs employed by the State of Vermont, full-time members of the Capitol Police force, investigators employed by the Criminal Division of the Office of the Attorney General, Department of State's Attorneys, Department of Health, or Office of the Secretary of State, who have attained full-time certification from the Vermont Criminal Justice Training Council, who are required to perform law enforcement duties as the primary function of their employment, and who may be subject to mandatory retirement permissible under 29 U.S.C. § 623(j), who are first included in membership of the system on or after July 1, 2000. Also included under this subdivision are full-time firefighters employed by the State of Vermont and the Defender General.

* * *

Sec. 3. 3 V.S.A. § 459 is amended to read:

§ 459. NORMAL AND EARLY RETIREMENT

* * *

(d) Early retirement allowance.

* * *

(5) Notwithstanding subdivisions (1) and (2) of this subsection, a State's Attorney, the Defender General, or sheriff who has completed 20 years of creditable service, of which 15 years has been as a State's Attorney, the Defender General, or sheriff, shall receive an early retirement allowance equal to the normal retirement allowance, at age 55, without reductions.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

(Committee vote: 5-0-0)

Reported favorably by Senator McCormack for the Committee on Appropriations.

(Committee vote: 7-0-0)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Robert Ide of Peacham – Commissioner, Department of Motor Vehicles – By Sen. Kitchel for the Committee on Transportation. (3/12/15)

Sue Minter of Waterbury Center – Secretary, Agency of Transportation – By Sen. Westman for the Committee on Transportation. (3/13/15)

William Hoser of Chester – Member of the Vermont Board of Medical Practice – By Sen. McCormack for the Committee on Health and Welfare. (3/13/15)

Sarah Flynn of Burlington – Member of the Community High School of Vermont Board – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Churchill Hinds of Colchester – Member, Vermont State Colleges Board of Trustees – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Michael Pieciak of Winooski – Member, Vermont State Colleges Board of Trustees – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Patricia Boucher of Enosburg Falls – Member of the Parole Board – Sen. McAllister for the Committee on Institutions. (3/17/15)

PUBLIC HEARINGS

Tuesday, March 24, 2015 – Room 11 – 6:00 P.M. – 8:00 P.M. – Re: Renewable Energy Siting – Jt. Mtg. Senate and House Committees on Natural Resources and Energy.

REPORTS ON FILE

Reports 2015

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following report 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 Vermont Legislative webpage.

1. Working Lands Enterprise Initiative Annual Report: Fiscal Year 2014. (Vermont Agency of Agriculture, Food and Markets) (March 2015)

NOTICE OF JOINT ASSEMBLY

Thursday, March 19, 2015 - 10:30 A.M. – House Chamber - Retention of four Superior Court Judges and two Magistrates.

FOR INFORMATION ONLY

CROSSOVER DEADLINES

The Senate Rules Committee established the following Crossover deadlines:

(1) All **Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 13, 2015**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate** bills referred pursuant to Senate Rule 31 to the Committees on Appropriations and Finance must be reported out by the last of those committees on or before **Friday, March 20, 2015**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

These deadlines may be waived for any bill or committee only with the consent of the Committee on Rules.

Note: Pursuant to Senate Rule 44A, the Senate will not act on House bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).