

Senate Calendar

THURSDAY, MARCH 10, 2016

SENATE CONVENES AT: 1:00 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

NEW BUSINESS

Third Reading

- S. 123** An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation 554
- S. 214** An act relating to transfer of Exchange plan administration to health insurance carriers..... 554

Second Reading

Favorable with Recommendation of Amendment

- S. 40** An act relating to the creation of a Vulnerable Adult Fatality Review Team
Health and Welfare Report - Sen. Pollina 554
- S. 75** An act relating to food and lodging establishments
Health and Welfare Report - Sen. Collamore 558
Finance Report - Sen. Ayer 570
- S. 116** An act relating to rights of offenders in the custody of the Department of Corrections
Institutions Report - Sen. Flory 571
Judiciary Report - Sen. Benning 574

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

- S. 157** An act relating to breast density notification and education
Health and Welfare Report - Sen. Collamore 577
- S. 183** An act relating to permanency for children in the child welfare system
Judiciary Report - Sen. Sears 578

S. 189 An act relating to foster parents’ rights and protections	
Health and Welfare Report - Sen. McCormack	586
S. 225 An act relating to miscellaneous changes to laws related to motor vehicles	
Transportation Report - Sen. Degree	588
Finance Report - Sen. Mullin	602
S. 245 An act relating to disclosure of health care provider affiliations	
Health and Welfare Report - Sen. Ayer	602
S. 255 An act relating to regulation of hospitals, health insurers, and managed care organizations	
Health and Welfare Report - Sen. Lyons	603

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 39 (For text of Resolution, see Addendum to Senate Calendar for March 10, 2016)	614
H.C.R. 262-278 (For text of Resolutions, see Addendum to House Calendar for March 10, 2016).....	614

ORDERS OF THE DAY

ACTION CALENDAR

NEW BUSINESS

Third Reading

S. 123.

An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation.

S. 214.

An act relating to transfer of Exchange plan administration to health insurance carriers.

Second Reading

Favorable with Recommendation of Amendment

S. 40.

An act relating to the creation of a Vulnerable Adult Fatality Review Team.

Reported favorably with recommendation of amendment by Senator Pollina 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. 33 V.S.A. chapter 69, subchapter 3 is added to read:

Subchapter 3. Vermont Vulnerable Adult Fatality Review Team

§ 6961. VERMONT VULNERABLE ADULT FATALITY REVIEW TEAM ESTABLISHED

(a) Creation. There is created a Vermont Vulnerable Adult Fatality Review Team (Team) within the Office of the Attorney General for the following purposes:

(1) to examine select cases of abuse- and neglect-related fatalities and preventable deaths of vulnerable adults in Vermont;

(2) to identify system gaps and risk factors associated with those deaths;

(3) to educate the public, service providers, and policymakers about abuse- and neglect-related fatalities and preventable deaths of vulnerable adults and strategies for intervention; and

(4) to recommend legislation, rules, policies, procedures, practices, training, and coordination of services to promote interagency collaboration and to improve systemic responses to the abuse and neglect of vulnerable adults.

(b)(1) Membership. The Team shall comprise the following members:

(A) the Attorney General or designee;

(B) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(C) the Commissioner of Public Safety or designee;

(D) the Chief Medical Examiner or designee;

(E) the Assistant Director for Adult Protective Services in the Department of Disabilities, Aging, and Independent Living or designee;

(F) the Adult Services Division Director in the Department of Disabilities, Aging, and Independent Living or designee;

(G) the Director of the Vermont Office of Emergency Medical Services and Injury Prevention or designee;

(H) the State Long-Term Care Ombudsman;

(I) a representative of victim services, appointed by the Executive Director of the Vermont Center for Crime Victim Services;

(J) the Director of the Center on Aging at the University of Vermont, or a gerontologist or geriatrician appointed by the Director;

(K) the Director of Disability Rights Vermont or designee;

(L) a hospital representative, appointed by the Vermont Association of Hospitals and Health Systems;

(M) a long-term care facility representative, appointed by the Vermont Health Care Association; and

(N) a home health agency representative, appointed jointly by the Vermont Association of Home Health Agencies and designated home health agencies that are not members of the Vermont Association of Home Health Agencies.

(2) The members of the Team specified in subdivision (1) of this subsection shall serve two-year terms. Any vacancy on the Team shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term.

(c) Meetings.

(1) The Attorney General or designee shall call the first meeting of the Team to occur on or before September 30, 2016.

(2) The Team shall select a chair and vice chair from among its members at the first meeting, and annually thereafter. The Vice Chair shall also serve as Secretary.

(3) The Team shall meet at such times as may reasonably be necessary to carry out its duties, but at least once in each calendar quarter.

§ 6962. POWERS AND DUTIES; REPORTS

(a) The Team shall develop and implement policies to ensure that the deaths of vulnerable adults in Vermont are reviewed using uniform procedures established by the Team.

(b)(1) The Team may review the death of any person who meets the definition of a vulnerable adult in subdivision 6902(14) of this title and:

(A) who was the subject of an adult protective services investigation; or

(B) whose death came under the jurisdiction of, or was investigated by, the Office of the Chief Medical Examiner.

(2) The Team shall not initiate the review of the death of a vulnerable adult until the conclusion of any adult protective services or law enforcement investigation, criminal prosecution, or civil action.

(3) The review shall not impose unreasonable burdens on health care providers for production of information, records, or other materials. The Team shall first seek to obtain information, records, and other materials from State agencies or that were generated in the course of an investigation by the Adult Protective Services Division, the Office of the Chief Medical Examiner, or law enforcement.

(4) The Team shall establish criteria for selecting specific fatalities for review to ensure the analysis of fatalities occurring in both institutional and home- and community-based settings.

(c)(1) Beginning in 2018, the Team shall submit an annual report to the General Assembly on or before January 15.

(2) The annual report shall:

(A) summarize the Team's activities for the preceding year;

(B) identify any changes to the Team's uniform procedures;

(C) identify system gaps and risk factors associated with deaths reviewed by the Team;

(D) recommend changes in statute, rule, policy, procedure, practice, training, or coordination of services that would decrease the number of preventable deaths in Vermont's vulnerable adult population; and

(E) assess the effectiveness of the Team's activities.

§ 6963. CONFIDENTIALITY

(a) The Team's proceedings and records are confidential and exempt from public inspection and copying under the Public Records Act, and shall not be released. Such information shall not be subject to subpoena or discovery or be admissible in any civil or criminal proceedings; provided, however, that nothing in this subsection shall be construed to limit or restrict the right to discover or use in any civil or criminal proceedings anything that is available from another source and entirely independent of the Team's review. The Team shall not use information, records, or data that it obtains or generates for purposes other than those described in this subchapter.

(b) The Team's conclusions and recommendations may be disclosed, but shall not identify or allow for the identification of any person or entity.

(c) Meetings of the Team are confidential and shall be exempt from the Vermont Open Meeting Law. The Secretary of the Team shall maintain any records, including meeting minutes, generated by the team.

(d) Team members and persons invited to assist the Team shall not reveal information, records, discussions, and opinions disclosed in connection with the Team's work, and shall execute a sworn statement to honor the confidentiality of such information, records, discussions, and opinions. The Chair of the Team shall be responsible for obtaining and maintaining confidentiality agreements.

§ 6964. ACCESS TO INFORMATION AND RECORDS

(a) In any case subject to review by the Team, and upon written request by the Chair of the Team, any person who possesses information or records that are necessary and relevant to Team review shall as soon as practicable provide the Team with the information and records.

(b) The Team shall not have access to the proceedings, reports, and records of peer review committees as defined in 26 V.S.A. § 1441.

(c) Persons disclosing or providing information or records upon the Team's request are not criminally or civilly liable for disclosing or providing information or records in compliance with this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

S. 75.

An act relating to food and lodging establishments.

Reported favorably with recommendation of amendment by Senator Collamore 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 85 is amended to read:

CHAPTER 85. FOOD AND LODGING ESTABLISHMENTS

Subchapter 1. Food and Lodging Establishments Generally

§ 4301. FOOD ESTABLISHMENTS; DEFINITIONS

(a) As used in this subchapter:

(1) ~~“Food” shall include all articles used for food, drink, confectionery, or condiment, by man, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof.~~ “Bakery” means all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of producing for sale bread, cakes, pies, or other food products made either wholly or partially with flour.

(2) “Children’s camp” means any seasonal establishment operated not more than 90 days per year and offering a camping program that provides food, lodging, or both to vacationing youth or family groups.

(3) “Commissioner” means the Commissioner of Health.

(4) “Department” means the Department of Health.

(5) ~~“Establishment” shall include all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of manufacturing, preparing, packing, canning, bottling, keeping, storing, handling, serving, or distributing in any manner, food for sale~~ means food manufacturing establishments, food service establishments, lodging establishments, seafood vending facilities, and shellfish reshippers and repackers.

(6) “Food” means articles of food, drink, confectionery, or condiment for human consumption, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof.

(7) “Food manufacturing establishment” means all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of manufacturing, preparing, packing, canning, bottling, keeping, storing, handling, serving, or distributing food for sale. A food manufacturing establishment shall include food processors, bakeries, distributors, and warehouses.

(8) “Food service establishment” means entities that prepare, serve, and sell food to the public, including restaurants, temporary food vendors, caterers, mobile food units, and limited operations as defined in rule.

(9) “Lodging establishment” means any place where overnight accommodations are regularly provided to the transient, traveling, or vacationing public, including hotels, motels, inns, bed and breakfasts, and children’s camps.

(10) “Salvage food” means any food product from which the label on the packaging has been lost or destroyed or which has been subjected to possible damage as the result of an accident, fire, flood, or other cause that prevents the product from meeting the specifications of the manufacturer or the packer, but is otherwise suitable for human consumption.

(11) “Salvage food facility” means any food vendor for which salvage food comprises 50 percent or more of gross sales.

(12) “Seafood vending facility” means a store, motor vehicle, retail stand, or similar place from which a person sells seafood for human consumption.

(13) “Shellfish reshipper and repacker” means an establishment engaging in interstate commerce of molluskan shellfish.

(b) Nothing in this ~~subchapter~~ chapter shall be construed to modify or affect laws or ~~regulations~~ rules of the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

§ 4302. GENERAL REQUIREMENTS

(a) A person shall not manufacture, prepare, pack, can, bottle, keep, store, handle, serve, or distribute in any manner food for the purpose of sale, in an unclean, unsanitary, or unhealthful establishment or under unclean, unsanitary, or unhealthful conditions.

(b) A person shall not engage in the business of conducting a lodging establishment under unclean, unsanitary, or unhealthful conditions.

§ 4303. ~~SPECIAL PROVISIONS~~ RULEMAKING

The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish minimum standards for the safe and sanitary operation of food and lodging establishments and their administration and enforcement. Subject to the provisions of this subchapter, The rules shall require that an establishment shall be constructed, maintained, and operated with strict regard for the health of the employees and for the purity and wholesomeness of the food therein produced, kept, stored, handled, served, or distributed, so far as may be reasonable and necessary in the public interest and consistent with the character of the establishment, the public pursuant to the following general requirements:

(1) The entire establishment and its immediate appertaining premises, including the fixtures and furnishings, the machinery, apparatus, implements, utensils, receptacles, vehicles, and other devices used in the production, keeping, storing, handling, serving, or distributing of the food, or the materials used in the food, shall be constructed, maintained, and operated in a clean, sanitary, and healthful manner;.

(2) The food and the materials used in the food shall be protected from any foreign or injurious contamination ~~which~~ that may render them unfit for human consumption;.

(3) The clothing, habits, and conduct of the employees shall be conducive to and promote cleanliness, sanitation, and healthfulness;.

(4) There shall be proper, suitable, and adequate toilets and lavatories, constructed, maintained, and operated in a clean, sanitary, and healthful manner;.

(5) There shall be proper, suitable, and adequate water supply, heating, light lighting, ventilation, drainage, sewage disposal, and plumbing.

(6) There shall be proper operation and maintenance of pools, recreation water facilities, spas, and related facilities within lodging establishments.

(7) The Commissioner may adopt any other minimum conditions that he or she deems necessary for the operation and maintenance of a food or lodging establishment in a safe and sanitary manner.

§ 4304. EMPLOYEES

(a) An employer shall not ~~require, permit, or suffer any~~ allow a person affected with any contagious, infectious, or other disease or physical ailment ~~which that~~ which that may render ~~such~~ such employment detrimental to the public health to work in ~~such an~~ such an establishment, and a person so affected shall not work in ~~any such an~~ any such an establishment subject to the provisions of this ~~subchapter~~ chapter.

(b) The Commissioner may require a person employed in an establishment subject to the provisions of this chapter to undergo medical testing or an examination necessary for the purpose of determining whether the person is affected by a contagious, infectious, or other disease or physical ailment that may render his or her employment detrimental to public health. The Commissioner may prohibit a person from working in an establishment pursuant to section 127 of this title if the person refuses to submit to medical testing or an examination.

* * *

§ 4305. ~~POWERS AND DUTIES OF STATE BOARD OF HEALTH~~

~~The board may require a person proposing to work or working in an establishment subject to the provisions of this subchapter, to undergo a physical examination for the purpose of ascertaining whether such person is affected with any contagious, infectious, or other disease or physical ailment, which may render his or her employment detrimental to the public health. The examination shall be made at the time and pursuant to conditions which shall be prescribed by the board. A person who refuses to submit to such examination shall not work or be required, permitted, or suffered to work in any such establishment. [Repealed.]~~

§ 4306. INSPECTION

(a) It shall be the duty of the ~~board~~ Commissioner to enforce the provisions of this ~~subchapter~~ chapter and of 6 V.S.A. § 3312(d), and ~~it~~ he or she shall be permitted to inspect through ~~its~~ his or her duly authorized officers, inspectors, agents, or assistants, at all reasonable times, an establishment ~~and, an establishment's records,~~ and a salvage food facility subject to the provisions of this ~~subchapter~~ chapter.

(b) Whenever an inspection demonstrates that the establishment or salvage food facility is not operated in accordance with the provision of this chapter, the officer, inspector, agent, or assistant shall notify the licensee of the conditions found and direct necessary changes.

§ 4307. HEARING; ORDERS

~~When it appears upon such an inspection reveals that any an establishment is being maintained or operated in violation of the provisions of this subchapter chapter or any related rules, the board Commissioner shall ~~cause~~ provide written notice thereof, together with an order commanding an both abatement of such the violation and a compliance with this subchapter chapter within a reasonable period of time to be fixed in the order, to be served by a proper officer upon the person violating such provisions. Under such any related rules~~

~~and regulations as may be prescribed~~ adopted by the ~~board~~ Commissioner, a person upon whom ~~such the~~ notice and order are served shall be given an opportunity to be heard and to show cause as to why such the order should be vacated or amended. When, upon ~~such a~~ hearing, it appears that the provisions of this ~~subchapter~~ chapter have not been violated, the ~~board~~ Commissioner shall immediately vacate ~~such the~~ order, but without prejudice. When, however, it appears that ~~such the~~ provisions have been violated and ~~such the~~ person fails to comply with an order issued by the ~~board~~ Commissioner under the provisions of this section, the ~~board~~ Commissioner shall, ~~forthwith, certify the facts to the proper prosecuting office~~ revoke, modify, suspend, or enforce a civil penalty.

§ 4308. REGULATIONS

~~The board shall make uniform and necessary rules and regulations for carrying out the provisions of this subchapter. [Repealed.]~~

§ 4309. PENALTY

A person who violates a provision of this ~~subchapter~~ chapter or 6 V.S.A. § 3312(d), for which no other penalty is provided, shall be ~~fined not more than \$300.00 for the first offense and, for each subsequent offense, not more than \$500.00~~ shall be fined a civil penalty not to exceed \$10,000.00 for each violation. In the case of a continuing violation, each subsequent day in violation may be deemed a separate violation.

Subchapter 2. Licensing Food and Lodging Establishments

§ 4351. LICENSE FROM DEPARTMENT OF HEALTH

(a) A person shall not operate or maintain a ~~hotel, inn, restaurant, tourist camp~~ food manufacturing facility, retail food establishment, lodging establishment, seafood vending facility, or any other place in which food is prepared and served, or lodgings provided or furnished to the transient traveling or vacationing public, or a seafood vending facility, unless he or she shall ~~have first obtained and holds~~ obtains and holds from the ~~department~~ Commissioner a license authorizing such operation. ~~The secretary may prescribe rules or conditions within which he or she may issue a temporary license for a period not to exceed 60 days. The license shall state the rules or conditions under which it is issued. However, nothing herein shall apply to any person who occasionally prepares and serves meals or provides occasional lodgings. The license shall be displayed in such a way as to be easily viewed by the patrons. All licenses shall be displayed in a manner as to be easily viewed by the public.~~

~~(b) For purposes of this section, “seafood vending facility” includes a store, motor vehicle, stand, or similar place from which a person sells seafood for consumption at another location.~~

(1) A person shall not knowingly and willingly sell or offer for sale a bulk product manufactured by a bakery, regardless of whether the bakery is located in or outside the State, unless the operator of the bakery holds a valid license from the Commissioner.

(2) The Commissioner shall not grant a license to a bakery located outside the State unless:

(A) the person operating the bakery:

(i) has consented in writing to the Department’s inspection and paid the required fee; or

(ii) has presented to the Department satisfactory evidence of inspection and approval from the proper authority in his or her state and paid the required fee; and

(B) inspection of the bakery confirms that it meets the laws and rules of this State.

(c) The Commissioner may issue a temporary license for no more than 90 days. The temporary license shall state the conditions under which it is issued.

(d) If the Commissioner does not renew a license, he or she shall provide written notice to the licensee. The notice shall specify any changes necessary to conform with State rules and shall state that if compliance is achieved within the time designated in the notice, the license shall be renewed. If the licensee fails to achieve compliance within the prescribed time, the licensee shall have an opportunity for a hearing.

(e) Any licensee or perspective licensee aggrieved by a decision or order of the Commissioner may appeal to the Board of Health within 30 days of that decision. Hearings by the Board under this section shall be subject to the provisions of 3 V.S.A. chapter 25 relating to contested cases. The Board shall consider the matter de novo and all persons, parties, and interests may appear and be heard. The Board shall issue an order within 30 days following the conclusion of the hearing.

(f) If a licensee fails to renew his or her license within 60 days of its expiration date, a licensee shall apply for a new license and meet all licensure requirements anew.

§ 4352. APPLICATION

A person desiring to operate ~~a place~~ an establishment in which food is prepared and served or in which lodging is offered to the public shall apply to the ~~board~~ Commissioner upon forms supplied by the ~~board~~ Department and shall pay a license fee as provided by section 4353 of this title. An application for licensure shall be submitted no fewer than 30 days prior to the opening of a food or lodging establishment. Upon receipt of such license fee and when satisfied that the premises are sanitary and healthful in accordance with the provisions of this chapter and related rules, the ~~board~~ Commissioner shall issue a license to the applicant with respect to the premises described therein.

§ 4353. FEES

(a) The Commissioner may establish by rule any requirement the Department needs to determine the applicable license fee category or any license exemption. The following fees shall be paid annually to the ~~Board~~ Department at the time of making the application according to the following schedules:

- (1) Restaurant I—Seating capacity of 0 to 25; \$105.00
 - II—Seating capacity of 26 to 50; \$180.00
 - III—Seating capacity of 51 to 100; \$300.00
 - IV—Seating capacity of 101 to 200; \$385.00
 - V—Seating capacity ~~of 201 to 599~~ over 200; \$450.00
 - VI—Seating capacity ~~600 and over~~; \$1,000.00
 - ~~VII~~—Home Caterer; \$155.00
 - ~~VIII~~ VII—Commercial Caterer; \$260.00
 - ~~IX~~ VIII—Limited Operations; \$140.00
 - ~~X~~ IX—Fair Stand; \$125.00; if operating for four or more days per year; \$230.00
- (2) Lodging establishments
 - I—Lodging capacity of 1 to 10; \$130.00
 - II—Lodging capacity of 11 to 20; \$185.00
 - III—Lodging capacity of 21 to 50; \$250.00
 - IV—Lodging capacity ~~of 51 to 200~~ over 50; \$390.00
 - V—~~Lodging capacity of over 200~~; \$1,000.00 Children's camps; \$150.00

(3) Food ~~processor~~ manufacturing establishment—a fee for any person or persons that process food for resale to restaurants, stores, or individuals according to the following schedule:

(A) Food manufacturing establishments; nonbakeries

I—Gross receipts of \$10,001.00 to \$50,000.00;
\$175.00

~~(B)~~ II—Gross receipts of over \$50,000.00;
\$275.00

III —Gross receipts of \$10,000.00 or less are exempt pursuant to section 4358 of this title

(B) Food manufacturing establishments; bakeries

I—Home bakery; \$100.00

II—Small commercial; \$200.00

III—Large commercial; \$350.00

(4) Seafood vending facility—\$200.00, unless operating pursuant to another license issued by the Department of Health and generating less than \$40,000.00 in seafood gross receipts annually. If generating more than \$40,000.00 in seafood gross receipts annually, the fee is to be paid regardless of whether the facility is operating pursuant to another license issued by the Department of Health.

(5) Shellfish reshippers and repackers—\$375.00.

(b) The Commissioner of ~~Health~~ will shall be the final authority on definition of categories contained herein.

(c) All fees received by the ~~Board~~ Department under this section shall be credited to a special fund and shall be available to the Department to offset the cost of providing the services.

§ 4354. TERM OF LICENSE

Licenses shall expire annually on a date established by the ~~department~~ Department and ~~shall be renewable~~ may be renewed upon the payment of a new license fee if the licensee is in good standing with the Department.

§ 4355. REGULATIONS; REPORTS

~~(a) The board may prescribe such rules and regulations as may be necessary to ensure the operation in a sanitary and healthful manner of places in which food is prepared and served to the public or in which lodgings are~~

~~provided. All reports which such board may require shall be on forms prescribed by it.~~

~~(b) The board shall not adopt any rule requiring food establishments that operate less than six months of the year and provide outdoor seating for no more than 16 people to provide toilet facilities to patrons, and any such rule or portion thereof now in effect is repealed. [Repealed.]~~

§ 4356. INSPECTION, REVOCATION

~~The members of the board and any person in its employ and by its direction, at reasonable times, may enter any place operated under the provisions of sections 4351-4355 of this title, so far as may be necessary in the discharge of its duties. Whenever upon such inspection it is found that the premises are not being conducted in accordance with the provisions of the above named sections or the regulations adopted in accordance therewith, such board shall notify the licensee of the conditions found and direct such changes as are necessary. If such licensee shall fail within a reasonable time to comply with such orders, rules, or regulations adopted under the provisions of such sections, the board shall revoke the license. [Repealed.]~~

§ 4357. PENALTY

~~A person who violates any provision of this subchapter shall be fined not more than \$500.00. [Repealed.]~~

§ 4358. EXEMPTIONS

~~(a) The provisions of this subchapter shall apply only to such those hotels, inns, restaurants, tourist camps, and other places as that solicit the patronage of the public by advertising by means of signs, notices, placards, radio, electronic communications, or printed announcements.~~

~~(b) The provisions of this subchapter shall not apply to an individual manufacturing and selling bakery products from his or her own home kitchen whose average gross retail sales do not exceed \$125.00 per week.~~

~~(c) Any food manufacturing establishment claiming a licensing exemption shall provide documentation as required by rule.~~

~~(d) The Commissioner shall not adopt a rule requiring food establishments that operate less than six months of the year and provide outdoor seating for less than 16 people at one time to provide toilet and hand washing facilities for patrons.~~

* * *

Subchapter 4. Bakeries

§ 4441. ~~BAKERY PRODUCTS; DEFINITION~~

~~For the purposes of this subchapter,~~

~~(1) The word “bakery” is defined as a building or part of a building wherein is carried on as a principal occupation the production of bread, cakes, pies, or other food products made either wholly or in part of flour and intended for sale.~~

~~(2) The word “person” shall extend and be applied to bodies corporate, and to partnerships and unincorporated associations. [Repealed.]~~

§ 4442. ~~RULES AND INSPECTION BY STATE BOARD OF HEALTH~~

~~The Board shall adopt and enforce rules as the public health may require in respect to the sanitary conditions of bakeries as defined herein. The Board is hereby authorized to inspect any such bakery at all reasonable times through its duly appointed officers, inspectors, agents, or assistants. [Repealed.]~~

§ 4443. ~~SLEEPING ROOMS SEPARATE~~

~~The sleeping rooms for persons employed in a bakery shall be separated from the rooms where food products or any ingredient thereof are manufactured or stored. [Repealed.]~~

§ 4444. ~~LICENSE~~

~~(a) No person shall operate a bakery in this state without having obtained from the department a license describing the building used as a bakery, including the post office address of the same, which license shall be posted by the owner or operator of such bakery in a conspicuous place in the shop described in such license or in the sales room connected therewith.~~

~~(b) No person shall knowingly and willfully sell or offer for sale in this state any bulk product manufactured by a bakery, whether such a bakery is located within or without the state, unless the operator of such bakery shall hold a valid license, as prescribed, from the department, which license shall in no case be granted covering a bakery located outside the state unless the person operating such bakery shall have consented in writing to its inspection and paid the fee as herein provided, or shall have paid the fee and received a license after presenting to the department satisfactory evidence of inspection and approval from the proper authority of his or her own state, and such bakery shall have been found by the inspection to meet the requirements of the laws of this state and rules and regulations of the secretary relating thereto. [Repealed.]~~

§ 4445. ~~RENEWAL OF LICENSE~~

~~The holder of such a license who desires to continue to operate a bakery shall annually, commencing on or before January 31, 1974, and thereafter on or before January 31, renew his or her license, pay the renewal fee, and receive a new license provided the licensee is entitled thereto. [Repealed.]~~

§ 4446. ~~FEE~~

~~(a) A person owning or conducting a bakery as specified in sections 4441 and 4444 of this title shall pay to the Board a fee for each certificate and renewal thereof in accordance with the following schedule:~~

~~Bakery I—Home Bakery; \$100.00~~

~~II—Small Commercial; \$200.00~~

~~III—Large Commercial; \$350.00~~

~~IV—Camps; \$150.00~~

~~(b) The Commissioner of Health will be the final authority on definition of categories contained herein.~~

~~(c) All fees received by the Board under this section shall be credited to a special fund and shall be available to the Department to offset the cost of providing the services. [Repealed.]~~

§ 4447. ~~REVOCATION~~

~~Such license may be suspended or revoked by the board for cause after hearing. [Repealed.]~~

§ 4448. ~~NEW BAKERY~~

~~No person shall open a new bakery in this state without having given at least 15 days' notice to the department of intention to open such bakery which notice shall contain a description and location of the building proposed to be used as such bakery. Upon receipt of such notice, the department shall cause such premises to be examined and, if found to comply with the provisions and statutes relating to bakeries and the rules and regulations prescribed by the secretary, a license shall be issued upon payment of the fee as herein provided. [Repealed.]~~

§ 4449. ~~LOCAL REGULATIONS~~

~~The provisions of this subchapter shall not prevent local health authorities from making and enforcing orders or regulations concerning the sanitary condition of bakeries and the sale of bakery products, except that such orders and regulations shall be suspended to the extent necessary to give effect to the provisions of this subchapter and the rules and regulations prescribed pursuant thereto. [Repealed.]~~

§ 4450. PENALTY

~~A person who violates any provisions of this subchapter shall be fined not more than \$500.00. [Repealed.]~~

§ 4451. EXCEPTIONS

~~The provisions of this subchapter shall not apply to individuals manufacturing in and selling from their own private home kitchens bread, cakes, pies, or other food products made either wholly or in part from flour whose average gross retail sales of such products do not exceed \$125.00 a week, nor to restaurants, inns, or hotels subject to the provisions of subchapter 2 of this chapter, nor to church, fraternal, or charitable food sales. [Repealed.]~~

~~Subchapter 5. Salvage Food Facilities~~

§ 4461. DEFINITIONS

~~For the purposes of this subchapter:~~

~~(1) "Salvage food" means any food product from which the label on the packaging has been lost or destroyed or which has been subjected to possible damage as the result of accident, fire, flood, or other cause which may prevent the product from meeting the specifications of the manufacturer or the packer, but is otherwise suitable for human consumption.~~

~~(2) "Salvage food facility" means a food vendor for which salvage foods comprise 50 percent or more of gross sales. [Repealed.]~~

§ 4462. REGULATIONS AND INSPECTION

~~The state board of health is authorized to inspect any salvage food facility at all reasonable times through its officers, inspectors, agents, or assistants. [Repealed.]~~

~~Subchapter 6. Temporary Outdoor Seating~~

§ 4465. LIMITED FOOD ESTABLISHMENTS; TEMPORARY OUTDOOR SEATING

~~A food establishment that prepares and serves food for off-premises uses may provide temporary outdoor seating for up to 16 persons from May 1 to October 31 without providing patron toilet or handwashing facilities. [Repealed.]~~

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Health & Welfare with the following amendment thereto:

In Sec. 1, by striking out 18 V.S.A. § 4353, subsection (a), in its entirety and inserting in lieu thereof the following:

(a) The Commissioner may establish by rule any requirement the Department needs to determine the applicable license fee category or any license exemption. The following fees shall be paid annually to the Board at the time of making the application according to the following schedules:

- (1) Restaurant I—Seating capacity of 0 to 25; \$105.00
 - II—Seating capacity of 26 to 50; \$180.00
 - III—Seating capacity of 51 to 100; \$300.00
 - IV—Seating capacity of 101 to 200; \$385.00
 - V—Seating capacity of 201 to 599; \$450.00
 - VI—Seating capacity 600 and over; \$1,000.00
 - VII—Home Caterer; \$155.00
 - VIII—Commercial Caterer; \$260.00
 - IX—Limited Operations; \$140.00
 - X—Fair Stand; \$125.00; if operating for four or more days per year; \$230.00

(2) Lodging establishments

- I—Lodging capacity of 1 to 10; \$130.00
- II—Lodging capacity of 11 to 20; \$185.00
- III—Lodging capacity of 21 to 50; \$250.00
- IV—Lodging capacity of 51 to 200; \$390.00
- V—Lodging capacity of over 200; \$1,000.00
- VI—Children’s camps; \$150.00

(3) Food ~~processor~~ manufacturing establishment—a fee for any person or persons that process food for resale to restaurants, stores, or individuals according to the following schedule:

- (A) Food manufacturing establishments; nonbakeries

I—Gross receipts of \$10,001.00 to \$50,000.00;
\$175.00

~~(B)~~II—Gross receipts of over \$50,000.00;
\$275.00

III—Gross receipts of \$10,000.00 or less are
exempt pursuant to section 4358 of this title

(B) Food manufacturing establishments; bakeries

I—Home bakery; \$100.00

II—Small commercial; \$200.00

III—Large commercial; \$350.00

(4) Seafood vending facility—\$200.00, unless operating pursuant to another license issued by the Department of Health and generating less than \$40,000.00 in seafood gross receipts annually. If generating more than \$40,000.00 in seafood gross receipts annually, the fee is to be paid regardless of whether the facility is operating pursuant to another license issued by the Department of Health.

(5) Shellfish reshippers and repackers—\$375.00.

(Committee vote: 7-0-0)

S. 116.

An act relating to rights of offenders in the custody of the Department of Corrections.

Reported favorably with recommendation of amendment by Senator Flory for the Committee on Institutions.

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. 28 V.S.A. § 857 is added to read:

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL
REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 2. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

* * *

(d)(1) ~~Any~~ Except as provided in subdivision (2), any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, ~~except that:~~

(2)(A) the ~~The~~ court or Board ~~may in its discretion~~ shall permit the inspection of the report, ~~or parts thereof~~ redacted of information that may compromise the safety or confidentiality of any person, by the State's Attorney, and by the defendant or inmate, or his or her attorney, ~~or;~~ and

(B) the court or Board may in its discretion permit the inspection of the report or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

(3) Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

* * *

Sec. 3. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, a central file at the facility

containing an individual file for each inmate. Except as otherwise may be indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown ~~and shall not be accessible to inmates at the facility.~~ Information that may compromise the safety or confidentiality of any person shall be redacted from a file prior to inspection by an inmate. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a ~~state~~ State or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 4. 28 V.S.A. § 602 is added to read:

§ 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS

(a) At the request of any person in the custody or under the supervision of the Department, the Department shall provide records maintained by the Department concerning that person if that person is:

(1) a party in a case in any division of the Superior Court in which the Department is also a party; or

(2) a defendant in a hearing before the Parole Board in which revocation of parole is a possible outcome.

(b) Nothing in this title concerning the confidentiality of the Department's records shall be construed as limiting a person's right to access records about himself or herself, except as specified in subsections (c) and (d) of this section.

(c) The Department shall redact any information compromising the safety or confidentiality of any person prior to providing the record to a person under this section.

(d) The Department may seek a court order limiting disclosure of records. The order may be granted only if the court finds clear and convincing evidence that disclosure of records would create a substantial and identifiable risk to public safety.

(e) As used in this section, "records" means records stored in any form, physical or electronic.

Sec. 5. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

* * *

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:

(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

Reported favorably with recommendation of amendment by Senator Benning 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. 28 V.S.A. § 456 is added to read:

§ 456. PAROLE BOARD INDEPENDENCE

(a) The Parole Board shall be an independent and impartial body.

(b) The Parole Board shall not be counseled or represented by any attorney who, at the same time, has:

(1) an attorney-client relationship with the Department of Corrections; or

(2) an attorney-client relationship with an offender who has a hearing pending before the Board.

Sec. 2. 28 V.S.A. § 857 is added to read:

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious

functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 3. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

* * *

(d)(1) Any Except as provided in subdivision (2) of this subsection, any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, ~~except that:~~

(2)(A) the The court or Board may in its discretion shall permit the inspection of the report, or parts thereof redacted of information that may compromise the safety or confidentiality of any person, by the State's Attorney, and by the defendant or inmate, or his or her attorney, or, and

(B) the court or Board may, in its discretion, permit the inspection of the report or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

(3) Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

* * *

Sec. 4. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, a central file at the facility containing an individual file for each inmate. Except as otherwise may be indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown ~~and shall not be accessible to inmates at the facility.~~ Information that may compromise the safety or confidentiality of any person shall be redacted from a file prior to inspection by an inmate. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a ~~state~~ State or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 5. 28 V.S.A. § 602 is added to read:

§ 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS

(a) At the request of any person in the custody or under the supervision of the Department, the Department shall provide records maintained by the Department concerning that person if that person is:

(1) a party in a case in any division of the Superior Court in which the Department is also a party; or

(2) a defendant in a hearing before the Parole Board in which revocation of parole is a possible outcome.

(b) Nothing in this title concerning the confidentiality of the Department's records shall be construed as limiting a person's right to access records about him- or herself, except as specified in subsections (c) and (d) of this section.

(c) The Department shall redact any information compromising the safety or confidentiality of any person prior to providing the record to a person under this section.

(d) The Department may seek a court order limiting disclosure of records. The order may be granted only if the court finds by a preponderance of the evidence that disclosure of records would create a substantial and identifiable risk to public safety.

(e) As used in this section, "records" means records stored in any form, physical or electronic.

Sec. 6. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

* * *

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:

(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

* * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 157.

An act relating to breast density notification and education.

Reported favorably with recommendation of amendment by Senator Collamore 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. § 158 is added to read:

§ 158. DENSE BREAST NOTIFICATION AND EDUCATION

(a) All health care facilities that perform mammography examinations shall include in the summary of the mammography report to be provided to a patient information that identifies the patient's individual breast tissue classification based on the Breast Imaging Reporting and Data System established by the American College of Radiology. If a facility determines that a patient has heterogeneously dense or extremely dense breasts, the summary of the

mammography report shall also include a notice substantially similar to the following:

“Your mammogram indicates that you have dense breast tissue. Dense breast tissue is a normal finding that is present in about 40 percent of women. Dense breast tissue can make it more difficult to detect cancer on a mammogram and may be associated with a slightly increased risk for breast cancer. This information is provided to raise your awareness of the impact of breast density on cancer detection and to encourage you to discuss this issue, as well as other breast cancer risk factors, with your health care provider as you decide together which screening options may be right for you.”

(b) Facilities that perform mammography examinations may update the language in their notices over time to reflect advances in science and technology, as long as they continues to notify patients about the frequency of dense breast tissue and its effect on the accuracy of mammograms and encourage patients to discuss the issue with their health care provider. Facilities shall notify the Department of Health each time they make changes to the notice required by this section and shall provide an updated copy for the Department’s information and review.

(c) Nothing in this section shall be construed to create a duty of care or other legal obligation beyond the duty to provide notice as set forth in this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016 and shall apply to exams performed on or after January 15, 2017.

(Committee vote: 5-0-0)

S. 183.

An act relating to permanency for children in the child welfare system.

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. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

(a) ~~The family division of the superior court~~ Family Division of the Superior Court may establish a permanent guardianship at a permanency planning hearing or at any other hearing in which a permanent legal disposition

of the child can be made, including a child protection proceeding pursuant to 33 V.S.A. § 5318, or a delinquency proceeding pursuant to 33 V.S.A. § 5232. The court shall also issue an order permitting or denying visitation, contact or information with the parent at the same time the order of permanent guardianship is issued. Before issuing an order for permanent guardianship, the court shall find by clear and convincing evidence all of the following:

(1) Neither parent is ~~capable or willing to provide adequate care to the child, requiring that parental rights and responsibilities be awarded to a permanent guardian~~ able to assume or resume parental duties within a reasonable time.

(2) ~~Neither returning the child to the parents nor adoption of the child is likely within a reasonable period of time.~~

(3) ~~The child is at least 12 years old unless the proposed permanent guardian is:~~

~~(A) a relative; or~~

~~(B) the permanent guardian of one of the child's siblings.~~

(4) ~~The child has resided with the permanent guardian for at least a year or the permanent guardian is a relative with whom the child has a relationship and with whom the child has resided for at least six months.~~

~~(5)~~(3) A permanent guardianship is in the best interests of the child.

~~(6)~~(4) The proposed permanent guardian:

(A)(i) is emotionally, mentally, and physically suitable to become the permanent guardian; and

(ii) is financially suitable, with kinship guardianship assistance provided for in 33 V.S.A. § 4903 if applicable, to become the permanent guardian;

(B) has expressly committed to remain the permanent guardian for the duration of the child's minority; and

(C) has expressly demonstrated a clear understanding of the financial implications of becoming a permanent guardian including an understanding of any resulting loss of ~~state~~ State or federal benefits or other assistance.

(b) The parent voluntarily may ~~voluntarily~~ consent to the permanent guardianship, and shall demonstrate an understanding of the implications and obligations of the consent.

(c) After the ~~family division of the superior court~~ Family Division of the Superior Court issues a final order establishing permanent guardianship, the

case shall be transferred to the appropriate ~~probate division of the superior court~~ Probate Division of the Superior Court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the ~~probate division~~ Probate Division. Appeal of any decision by the ~~probate division of the superior court~~ Probate Division of the Superior Court shall be de novo to the ~~family division~~ Family Division.

(d) The Family Division of the Superior Court may name a successor permanent guardian in the initial permanent guardianship order. In the event that the permanent guardian dies or the guardianship is terminated by the Probate Division of the Superior Court, if a successor guardian is named in the initial order, custody of the child transfers to the successor guardian pursuant to subsection 2666(b) of this title.

Sec. 2. 14 V.S.A. § 2665 is amended to read:

§ 2665. REPORTS

The permanent guardian shall file a written report on the status of the child to the ~~probate division of the superior court~~ Probate Division of the Superior Court annually pursuant to subdivision 2629(b)(6) of this title and at any other time the court may order. ~~The report shall include the following:~~

~~(1) The location of the child.~~

~~(2) The child's health and educational status.~~

~~(3) A financial accounting of the income, expenditures and assets of the child if the permanent guardian is receiving any state or federal government benefits for the child.~~

~~(4) Any other information regarding the child that the probate division of the superior court may require.~~

Sec. 3. 14 V.S.A. § 2666(b) is amended to read:

(b) Where the permanent guardianship is terminated by the ~~probate division of the superior court~~ Probate Division of the Superior Court order or the death of the permanent guardian, the custody and guardianship of the child shall not revert to the parent, but to the ~~commissioner for children and families~~ Commissioner for Children and Families as if the child had been abandoned. If a successor permanent guardian has been named in the initial permanent guardianship order, custody shall transfer to the successor guardian, without reverting first to the Commissioner. The Probate Division of the Superior Court shall notify the Department when custody transfers to the Commissioner or the successor guardian.

Sec. 4. 33 V.S.A. § 5124 is amended to read:

§ 5124. POSTADOPTION CONTACT AGREEMENTS

(a) Either or both parents and each intended adoptive parent may enter into a postadoption contact agreement regarding communication or contact between either or both parents and the child after the finalization of an adoption by the intended adoptive parent or parents who are parties to the agreement. Such an agreement may be entered into if:

(1) the child is in the custody of:

(A) the Department for Children and Families; or

(B) a nonparent pursuant to subdivision 5318(a)(2) or (a)(7), or subdivision 5232(b)(2) or (b)(3) of this title;

(2) an order terminating parental rights has not yet been entered; and

(3) either or both parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights.

* * *

(c) A postadoption contact agreement must be in writing and signed by each parent and each intended adoptive parent entering into the agreement. There may be separate agreements for each parent. The agreement shall specify:

* * *

(9) ~~an acknowledgment that once the adoption is finalized, the court shall presume that the adoptive parent's judgment concerning the best interests of the child is correct~~ the adoptive parent's judgment regarding the child is in the child's best interests;

* * *

Sec. 5. 33 V.S.A. § 5318 is amended to read:

§ 5318. DISPOSITION ORDER

(a) Custody. At disposition, the Court shall make such orders related to legal custody for a child who has been found to be in need of care and supervision as the Court determines are in the best interest of the child, including:

(1) An order continuing or returning legal custody to the custodial parent, guardian, or custodian. ~~Following disposition, the Court may issue a conditional custody order for a fixed period of time not to exceed two years.~~

~~The Court shall schedule regular review hearings to determine whether the conditions continue to be necessary. The order may be subject to conditions and limitations.~~

(2) When the goal is reunification with a custodial parent, guardian, or custodian an order transferring temporary custody to a noncustodial parent, a relative, or a person with a significant relationship with the child. The order may provide for parent-child contact. ~~Following disposition, the Court may issue a conditional custody order for a fixed period of time not to exceed two years. The Court shall schedule regular review hearings to evaluate progress toward reunification and determine whether the conditions and continuing jurisdiction of the Family Division of the Superior Court are necessary.~~

(3) An order transferring legal custody to a noncustodial parent and closing the juvenile proceeding. The order may provide for parent-child contact with the other parent. Any orders transferring legal custody to a noncustodial parent issued under this section shall not be confidential and shall be made a part of the record in any existing parentage or divorce proceeding involving the child. On the motion of a party or on the Court's own motion, the Court may order that a sealed copy of the disposition case plan be made part of the record in a divorce or parentage proceeding involving the child.

(4) An order transferring legal custody to the Commissioner.

(5) An order terminating all rights and responsibilities of a parent by transferring legal custody and all residual parental rights to the Commissioner without limitation as to adoption.

(6) An order of permanent guardianship pursuant to 14 V.S.A. § 2664.

(7) An order transferring legal custody to a relative or another person with a significant relationship with the child. The order may be subject to conditions and limitations and may provide for parent-child contact with one or both parents. The order shall be subject to ~~periodic review as determined by the Court~~ review pursuant to subdivision 5320a(b) of this title.

* * *

(f) Conditions. Conditions shall include protective supervision with the Department if such a condition is not in place under the terms of an existing temporary care or conditional custody order. Protective supervision shall remain in effect for the duration of the order to allow the Department to take reasonable steps to monitor compliance with the terms of the conditional custody order.

Sec. 6. 33 V.S.A. § 5320 is amended to read:

§ 5320. POSTDISPOSITION REVIEW HEARING

~~If the permanency goal of the disposition case plan is reunification with a parent, guardian, or custodian, the~~ The Court shall hold a review hearing within 60 days of the date of the disposition order for the purpose of monitoring progress under the disposition case plan and reviewing parent-child contact. Notice of the review shall be provided to all parties. A foster parent, preadoptive parent, or relative caregiver, or any custodian of the child shall be provided with notice of any post disposition review hearings and an opportunity to be heard at the hearings. Nothing in this section shall be construed as affording such person party status in the proceeding. This section shall not apply to cases where full custody has been returned to one or both parents unconditionally at disposition, or cases where the court has created a permanent guardianship at disposition. The Department shall, and any other party or caregiver may prepare a written report to the Court regarding progress under the plan of services from the disposition case plan.

Sec. 7. 33 V.S.A. § 5320a is added to read:

§ 5320a. DURATION OF CONDITIONAL CUSTODY ORDERS
POSTDISPOSITION

(a) Conditional custody orders to parents. Whenever the court issues a conditional custody order transferring custody to a parent either at or following disposition, the presumptive duration of the order shall be no more than six months from the date of the disposition order or the conditional custody order, whichever occurs later, unless otherwise extended by the court after hearing. Prior to the termination of the order, any party may file a request to extend the order pursuant to subsection 5113(b) of this title. Upon such motion, the Court may extend the order for an additional period of time not to exceed six months. Prior to vacating the conditional custody order, the court may schedule a hearing on its own motion to review the case prior to discharging the conditions. If a motion to extend is not filed, the court shall issue an order vacating the conditions and transferring full custody to the parent without conditions.

(b)(1) Custody orders to nonparents. When the court at disposition issues an order continuing or transferring legal custody with a nonparent pursuant to subdivision 5318(a)(2) or (a)(7) of this title, the court shall set the matter for a hearing six months from the date of disposition or custody order whichever occurs later. At the hearing, the court shall determine whether it is in the best interests of the child to:

(A) transfer either full or conditional custody of the child to a parent;

(B) establish a permanent guardianship pursuant to 14 V.S.A. § 2664 with the nonparent who has had custody of the child as the guardian; or

(C) terminate residual parental rights and release the child for adoption.

(2) If, after hearing, the court determines that reasonable progress has been made towards reunification and that reunification is in the best interests of the child but will require additional time, the court may extend the current order for a period not to exceed six months and set the matter for further hearing.

Sec. 8. 33 V.S.A. § 5125 is added to read:

§ 5125. REINSTATEMENT OF PARENTAL RIGHTS

(a) Petition for reinstatement.

(1) A petition for reinstatement of parental rights may be filed by the Department for Children and Families on behalf of a child in the custody of the Department under the following conditions:

(A) the child's adoption has been dissolved; or

(B) the child has not been adopted after at least three years from the date of the court order terminating parental rights.

(2) The child, if 14 years of age or older, may also file a petition to reinstate parental rights if the adoption has been dissolved, or if parental rights have been terminated and the child has not been adopted after three years from the date of the court order terminating parental rights. This section shall not apply to children who have been placed under permanent guardianship pursuant to 14 V.S.A. § 2664.

(b) Permanency plan. The Department shall file an updated permanency plan with the petition for reinstatement. The updated plan shall address the material change in circumstances since the termination of parental rights, the Department's efforts to achieve permanency, the reasons for the parent's desire to have rights reinstated, any statements by the child expressing the child's opinions about reinstatement, and parent's present ability and willingness to resume or assume parental duties.

(c) Hearing.

(1) The court shall hold a hearing to consider whether reinstatement is in the child's best interest. The court shall conditionally grant the petition if it finds by clear and convincing evidence that:

(A) the parent is presently willing and has the ability to provide for the child's present and future safety, care, protection, education, and healthy mental, physical, and social development;

(B) reinstatement is the child's express preference;

(C) if the child is 14 years of age or older and has filed the petition, that the child is of sufficient maturity to understand the nature of this decision;

(D) the child has not been adopted, or the adoption has been dissolved;

(E) the child is not likely to be adopted; and

(F) reinstatement of parental rights is in the best interests of the child.

(2) Upon a finding by clear and convincing evidence that all conditions set forth in subdivision (c)(1) exist and that reinstatement of parental rights is in the child's best interest, the court shall issue a conditional custody order for up to six months transferring temporary legal custody of the child to the parent, subject to conditions as the court may deem necessary and sufficient to ensure the child's safety and well-being. The court may order the Department to provide transition services to the family as appropriate. If during this time period the child is removed from the parent's temporary conditional custody due to allegations of abuse or neglect, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(d) Final order. After the child is placed with the parent for up to six months pursuant to subsection (c) of this section, the court shall hold a hearing to determine if the placement has been successful. The court shall enter a final order of reinstatement of parental rights upon a finding by preponderance of the evidence that placement continues to be in the child's best interest.

(e) Effect of reinstatement. Reinstatement of parental rights does not vacate or otherwise affect the validity of the original order terminating parental rights. Reinstatement restores a parent's legal rights to his or her child, including all rights, powers, privileges, immunities, duties, and obligations that were terminated by the court in the termination of parental rights order. Such reinstatement shall be a recognition that the parent's and child's situation have changed since the time of the termination of parental rights, and reunification is appropriate. An order reinstating the legal parent and child relationship as to one parent of the child has no effect on the legal rights of any other parent whose rights to the child have been terminated by the court; or the legal sibling relationship between the child and any other children of the parent. A parent whose rights are reinstated pursuant to this section is not liable for child support owed to the Department during the period from termination of parental rights to reinstatement. The Department and its employees are not liable for civil damages resulting from any act or omission in providing services under this section unless the act or omission constitutes gross negligence.

Sec. 9. EFFECTIVE DATES

This act shall take effect on September 1, 2016, except for this section and Sec. 4 (postadoption contact agreements), which shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

S. 189.

An act relating to foster parents' rights and protections.

Reported favorably with recommendation of amendment by Senator McCormack 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. FOSTER PARENT WORKING GROUP; REPORT

(a) Creation. There is created a Foster Parent Working Group to recommend legislation, rules, or policies, or any combination thereof, pertaining to rights and protections for foster parents in Vermont.

(b) Membership. The Working Group shall be composed of the following eight members:

(1) the Commissioner for Children and Families or designee;

(2) the Deputy Commissioner for Children and Families' Family Services Division;

(3) the System of Care Manager in the Department for Children and Families' Family Services Division or designee;

(4) a representative of the Vermont Foster and Adoptive Family Association;

(5) a representative of Voices for Vermont's Children;

(6) the Chief Superior Court Judge or designee; and

(7) two fosters parents from different regions of the State, appointed by the Governor.

(c) Powers and duties. The Working Group shall examine the relationship between foster parents, the Department for Children and Families, and the court system to assess whether any laws, rules, or policies should be amended or implemented to better support the work of foster parents, including the following:

(1) access to the Department for Children and Families on evenings and weekends;

(2) access to the Department for Children and Families' records about a particular foster child or foster family;

(3) scheduling court-ordered visits and appointments with the Department for Children and Families;

(4) fear of reprisal for refusal of a placement or raising concerns about the Department for Children and Families or the foster care system; and

(5) any regional differences identified in the State's foster care system.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department for Children and Families.

(e) Report. On or before January 15, 2017, the Working Group shall submit a written report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its findings and any proposed changes to law, rule, or policy.

(f) Meetings.

(1) The Commissioner shall call the first meeting of the Working Group to occur on or before September 1, 2016.

(2) The Working Group shall select a chair from among its members at the first meeting.

(3) The Working Group shall cease to exist on January 31, 2017.

(g) Reimbursement. Members of the Working Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to both per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than three meetings.

(h) Appropriation. The sum of \$1,080.00 is appropriated to the Department for Children and Families from the General Fund in fiscal year 2017 for per diem compensation and reimbursement of expenses for members of the Working Group.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

S. 225.

An act relating to miscellaneous changes to laws related to motor vehicles.

Reported favorably with recommendation of amendment by Senator Degree for the Committee on Transportation.

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

* * * Dealers * * *

Sec. 1. 23 V.S.A. § 4(8) is amended to read:

(8)(A)(i) “Dealer” means a person, partnership, corporation, or other entity engaged in the business of selling or exchanging new or used motor vehicles, snowmobiles, motorboats, or all-terrain vehicles. A dealer may, as part of or incidental to such business, repair such vehicles or motorboats, sell parts and accessories, or lease or rent such vehicles or motorboats. “Dealer” shall not include a finance or auction dealer or a transporter.

(ii)(I) For a dealer in new or used cars or motor trucks, “engaged in the business” means having sold or exchanged at least 12 cars or motor trucks, or a combination thereof, in the immediately preceding year, or 24 in the two immediately preceding years.

(II) For a dealer in snowmobiles, motorboats, or all-terrain vehicles, “engaged in the business” means having sold or exchanged at least ~~one snowmobile, motorboat, or all-terrain vehicle~~ six snowmobiles, motorboats, or all-terrain vehicles, respectively, in the immediately preceding year or ~~two~~ 12 in the two immediately preceding years.

(III) For a dealer in trailers, semi-trailers, or trailer coaches, “engaged in the business” means having sold or exchanged at least ~~one trailer, semi-trailer, or trailer~~ each six trailers, semi-trailers, or trailer coaches, in the immediately preceding year or a combination of ~~two~~ 12 such vehicles in the two immediately preceding years. However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (8)(A)(ii)(III).

(IV) For a dealer in motorcycles or motor-driven cycles, “engaged in the business” means having sold or exchanged at least ~~one motorcycle or motor-driven cycle~~ six motorcycles or motor-driven cycles in the immediately preceding year or a combination of ~~two~~ 12 such vehicles in the two immediately preceding years.

* * *

Sec. 2. DEALER REGULATION REVIEW

(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other states, to determine whether and how Vermont's regulation of dealers and associated motor vehicle laws should be amended to:

(1) enable vehicle and motorboat sales to thrive while protecting consumers from fraud or other illegal activities in the market for vehicles and motorboats; and

(2) protect the State's interest in collecting taxes, enforcing the law, and ensuring an orderly marketplace.

(b) In conducting his or her review, the Commissioner shall consult with new and used dealers or representatives of such dealers, or both, and other interested persons.

(c) The Commissioner shall review:

(1) required minimum hours and days of operation of dealers;

(2) physical location requirements of dealers;

(3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold;

(4) the permitted uses of dealer plates;

(5) whether residents of other states should be allowed to register vehicles in Vermont;

(6) the effect any proposed change will have on fees and taxes that dealers collect and consumers pay;

(7) the effect any proposed changes will have on the ability of Vermont consumers and law enforcement to obtain information from a dealer selling vehicles or motorboats in Vermont; and

(8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.

(d) On or before January 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate and House Committees on Transportation and submit proposed legislation as may be required to implement the recommendations.

* * * Motor-Assisted Bicycles * * *

Sec. 3. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(45)(A) “Motor-driven cycle” means any vehicle equipped with two or three wheels, a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, motor-driven cycles shall be subject to the purchase and use tax imposed under 32 V.S.A. chapter 219 rather than to a general sales tax. ~~At~~ Neither an electric personal assistive mobility device nor a motor-assisted bicycle is not a motor-driven cycle.

(B) “Motor-assisted bicycle” means a bicycle or tricycle with fully operable pedals, that is equipped with a motor capable of generating a maximum power prescribed by the Commissioner or capable of producing a maximum top speed as prescribed by the Commissioner or both. Under Vermont law, motor-assisted bicycles shall be governed as bicycles as prescribed in section 1136 of this title.

* * *

Sec. 4. 23 V.S.A. § 1136(d) is added to read:

(d) Motor-assisted bicycles shall be governed by Vermont laws applicable to bicycles, and operators of motor-assisted bicycles shall be subject to all of the rights and duties applicable to bicyclists under Vermont law. Motor-assisted bicycles shall be exempt from motor vehicle registration, licensing, and inspection requirements. Nothing in this subsection shall interfere with the existing right of municipalities to regulate the operation and use of motor-assisted bicycles in accordance with 24 V.S.A. § 2291(1) and (4).

* * * Nondriver Identifications Cards; Data Elements * * *

Sec. 5. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

* * *

(b) Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a ~~\$20.00~~ \$24.00 fee. At least 30 days before an identification card will expire, the Commissioner shall either mail first class to the cardholder or send the cardholder electronically an application to renew the identification card.

* * *

(i) An identification card issued under this subsection to an ~~individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card~~ initial or renewal applicant shall include data elements as prescribed in 6 C.F.R. § 37.19.

* * *

* * * Refund When Registration Plates Not Used * * *

Sec. 6. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or motor boat when the owner returns the number plates, if any, ~~the validation sticker, if issued for that year,~~ and the registration certificate to the Commissioner. Upon cancellation of the registration, the Commissioner shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

(1) For registrations ~~which are~~ cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a fee of \$5.00. ~~The validation stickers may be affixed to the plates.~~

(2) For registrations ~~which are~~ cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of \$5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle, ~~or that the current validation sticker has not been affixed to the plate or to the snowmobile or motorboat.~~

(3) For registrations ~~which are~~ cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of \$5.00. ~~The validation stickers may be affixed to the plates.~~

* * * Refunds of Overpayments * * *

Sec. 7. 23 V.S.A. § 381(e) is amended to read:

(e) Whenever a payment is received that is less than, but within \$0.99 of, the required fee, the transaction shall be processed. The Commissioner may determine that action will not be taken to collect the missing portion of the fee. ~~When~~ Notwithstanding 32 V.S.A. § 509, when a payment up to ~~\$1.00~~ \$5.00 greater than the required fee is received, the excess shall not be refunded.

* * * Provisions Common to Registrations and Operator's Licenses * * *

Sec. 8. 23 V.S.A. § 208 is added to read:

§ 208. RECIPROCAL RECOGNITION OF NONRESIDENT REGISTRATIONS, LICENSES, AND PERMITS, FOREIGN VISITORS

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

Sec. 9. 23 V.S.A. § 411 is amended to read:

§ 411. RECIPROCAL PROVISIONS

~~As determined by the Commissioner, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. Any exemptions provided in this~~

~~section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his or her residence like exemptions and privileges are granted to operators duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this State. [Repealed.]~~

* * * Operator's Licenses * * *

Sec. 10. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

(a)(1) Except as otherwise provided by law, a resident shall not operate a motor vehicle on a highway in Vermont unless he or she holds a valid license issued by the State of Vermont. A new resident who has moved into the State from another jurisdiction and who holds a valid license to operate motor vehicles under section ~~411~~ 208 of this title shall procure a Vermont license within 60 days of moving to the State. Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

(2) In addition to any other requirement of law, a nonresident as defined in section 4 of this title shall not operate a motor vehicle on a Vermont highway unless:

(A) he or she holds a valid license or permit to operate a motor vehicle issued by another U.S. jurisdiction; ~~or~~

(B) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and operates for a period of not more than 30 days for vacation purposes; or

(C) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and:

(i) is 18 or more years of age, is lawfully present in the United States, and has been in the United States for less than one year;

(ii) the jurisdiction that issued the license is a party to the 1949 Convention on Road Traffic or the 1943 Convention on the Regulation of Inter-American Motor Vehicle Traffic; and

(iii) he or she possesses an international driving permit.

* * *

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall either mail first class to the licensee or send the licensee electronically an application for renewal of the license. A person shall not operate a motor vehicle unless properly licensed.

* * *

Sec. 11. CONFORMING CHANGES

In 23 V.S.A. §§ 614 and 615, “section 411” is hereby replaced with “section 208.”

* * * Special Examinations; Conforming Changes * * *

Sec. 12. 23 V.S.A. § 637 is amended to read:

§ 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

The Commissioner may designate physicians, certified physician assistants, licensed advance practice registered nurses, ophthalmologists, oculists, and optometrists properly registered and authorized to practice in this State or in an adjoining state as examiners of operators. The Commissioner may refer any matter relative to the issuing, suspending, or reinstating of licenses ~~which concern~~ that concerns the physical or mental condition or eyesight of any applicant for or holder of a license or any petitioner for reinstatement to, and require the applicant or other person to be examined by, such examiner in the vicinity of the person’s residence as he or she determines to be qualified to examine and report. Such examiner shall report to the Commissioner the true and actual result of examinations made by him or her together with his or her decision as to whether the person examined should be granted or allowed to retain an operator’s license or permitted to operate a motor vehicle.

Sec. 13. 23 V.S.A. § 638 is amended to read:

§ 638. ~~DISSATISFACTION WITH PHYSICAL AND MENTAL EXAMINATION~~

~~If any person is dissatisfied with the result of an examination given by any one examiner, as provided in section 637 of this title, he or she may apply to the Commissioner for and shall be granted an examination by two physicians, ophthalmologists, oculists, or optometrists selected from a list of examiners approved by the Commissioner, and their decision shall be final. The Commissioner may designate the area of specialization from which the examiners are to be selected in each case, but in no event shall he or she limit the choice of an examiner to any one individual within the profession from which he or she is to be chosen. [Repealed.]~~

Sec. 14. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

The compensation of the examiners provided in ~~sections~~ section 637 and 638 of this title shall be paid by the person examined.

* * * School Bus Operators * * *

Sec. 15. 23 V.S.A. § 1282(d) is amended to read:

(d)(1) ~~A No less often than every two years, and before the start of a school year, a person licensed by the Department of Motor Vehicles to assume the duty of transporting school pupils in either a Type I or Type II school bus shall annually before the commencement of the school year furnish his or her the employer, where he or she is employed who employs him or her as a school bus driver, the following:~~

(A) a certificate signed by a licensed physician, ~~or~~ a certified physician assistant, or a nurse practitioner in accordance with written protocols, certifying that ~~he or she~~ the licensee is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties, and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the Commissioner; and

(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

(2) Upon receipt of a certificate required by this subsection which indicates that the school bus driver is not mentally or physically competent or does not meet the minimum hearing or vision standards, the employer shall immediately notify the Commissioner.

(3) The certificates required under this subsection may be valid for up to two years from the examination.

* * * Overweight and Overdimension Vehicles * * *

Sec. 16. 23 V.S.A. § 1391a(d) is amended to read:

(d) Fines imposed for violations of this section shall be deposited in the Transportation Fund, unless the fines are the result of enforcement actions on a town highway by an enforcement officer employed by or under contract with the municipality, in which case the fine shall be paid to the municipality, except for ~~a \$6.00~~ the administrative charge for each case authorized under 13 V.S.A. § 7251, which shall be retained by the State.

Sec. 17. 23 V.S.A. § 1400(d) is amended to read:

~~(d) The Commissioner may enter into contracts with an electronic permitting service that will allow the service to issue single trip permits to a commercial motor vehicle operator, on behalf of the Department of Motor Vehicles. The permitting service shall be authorized to issue single trip permits for travel to and from a Vermont facility by commercial motor vehicles which are not greater than 72 feet in length on routes that have been approved by the Agency of Transportation. The permitting service may assess, collect, and retain an additional administrative fee which shall be paid by the commercial motor vehicle carrier. [Repealed.]~~

* * * Motor Vehicle Titles * * *

Sec. 18. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

Except when the context otherwise requires, as used in this chapter:

* * *

(13) “Salvaged motor vehicle” means a motor vehicle which has been purchased or otherwise acquired as salvage; scrapped, dismantled, or destroyed; or declared a total loss by an insurance company.

* * *

(17) “Salvage certificate of title” means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both.~~

* * *

Sec. 19. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

The certificate of title shall be mailed or personally delivered, upon proper identification of the individual, to the first lienholder named in it or, if none, to the owner. However, a person is entitled to a personal delivery of only one title in a single day and of no more than three titles in a calendar month.

Sec. 20. 23 V.S.A. § 2091 is amended to read:

§ 2091. DISMANTLING OR DESTRUCTION OF VEHICLE SALVAGE CERTIFICATES OF TITLE; FORWARDING OF PLATES AND TITLES OF CRUSHED VEHICLES

(a) Except for vehicles for which no certificate of title is required pursuant to section 2012 of this title and for vehicles which are more than 15 years old,

any person who purchases or in any manner acquires a vehicle as salvage; any person who scraps, dismantles, or destroys a motor vehicle; or any insurance company or representative thereof who declares a motor vehicle to be a total loss, shall make application apply to the Commissioner for a salvage certificate of title within 15 days of the time the vehicle is purchased or otherwise acquired as salvage; is scrapped, dismantled, or destroyed; or is declared a total loss. However, an insurance company or representative thereof proceeding under subsection (c) of this section may apply outside this 15-day window to the extent necessary to comply with the requirements of that subsection.

(b) The Except as provided in subsection (c) of this section, the application shall be accompanied by:

(1) any certificate of title; and

(2) any other information or documents that the Commissioner may reasonably require to establish ownership of the vehicle and the existence or nonexistence of any security interest in the vehicle.

(c)(1) An insurer required to obtain a salvage certificate of title under this section for a vehicle declared a total loss, or a representative of the insurer, may obtain the title without satisfying the requirements of subsection (b) of this section if the application for the salvage certificate of title is accompanied by:

(A) the required fee;

(B) evidence that the insurer has made payment for the total loss of the vehicle, and evidence that the payment was made to any lienholder identified in the records of certificates of title of the Department and to the vehicle owner, if applicable; and

(C) a copy of the insurer's written request for the certificate of title sent at least 30 days prior to the application to the vehicle owner and to any lienholder identified in the records of certificates of title of the Department, proof that the request was sent by certified mail or was delivered by a courier service that provides proof of delivery, and copies of any responses from the vehicle owner or lienholder.

(2) If the Commissioner issues a salvage certificate of title to an eligible person under this subsection, the title shall be issued free and clear of all liens.

(b)(d) When Except for vehicles for which no certificate of title is required under this chapter, when a vehicle is destroyed by crushing for scrap, the person causing the destruction shall immediately mail or deliver to the Commissioner the certificate of title, if any, endorsed "crushed" and signed by

the person, accompanied by the original plate showing the original vehicle identification number. The plate shall not be removed until such time as the vehicle is crushed.

~~(e)~~(e) This section shall not apply to, and salvage certificates of title shall not be required for, unrecovered stolen vehicles or vehicles stolen and recovered in an undamaged condition, provided that the original vehicle identification number plate has not been removed, altered, or destroyed and the number thereon is identical with that on the original title certificate.

* * * Abandoned Motor Vehicles * * *

Sec. 21. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

§ 2151. ~~ABANDONED MOTOR VEHICLES; DEFINED~~ DEFINITIONS

~~(a)(1) For the purposes of~~ As used in this subchapter, an “abandoned motor vehicle” means:

(1)(A) “Abandoned motor vehicle” means:

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the owner or person in control of the property ~~for more than 48 hours~~, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

~~(B)~~(ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.

(B) “Abandoned motor vehicle” does not include a vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic.

(2) “Landowner” means a person who owns or leases or otherwise has authority to control use of real property.

(3) For purposes of this subsection, “public “Public vehicle identification number” means the public vehicle identification number which is usually visible through the windshield and attached to the driver’s side of the dashboard, instrument panel, or windshield pillar post or on the doorjamb on the driver’s side of the vehicle.

~~(b) Construction equipment. A vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be an abandoned motor vehicle.~~

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

(a) Public property. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property, and may contact a towing service for its removal ~~of such motor vehicle~~, based upon personal observation by the officer that the vehicle is an abandoned motor vehicle.

(b) Private property.

(1) A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property, and may contact a towing service for its removal ~~from private property of such vehicle~~, based upon ~~complaint of the owner or agent of the property~~ the request of the landowner on which whose property the vehicle is located ~~that the and information indicating that the~~ vehicle is an abandoned motor vehicle.

(2) ~~An owner or agent of an owner~~ A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may contact a towing service for its removal ~~from that property of an abandoned vehicle~~. ~~If an owner or agent of an owner~~ A landowner who removes or causes removal of an abandoned motor vehicle, ~~the owner or agent~~ shall immediately notify the police agency in the jurisdiction from which the vehicle is removed. ~~Notification shall include identification of~~ and provide the registration plate number, the public vehicle identification number, if available, and the make, model, and color of the vehicle. ~~The owner or agent of an owner of property upon which a motor vehicle is abandoned~~ landowner may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service under the provisions of this subsection, without incurring any civil liability to the owner of the abandoned vehicle.

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

(a) ~~Within 30 days of removal of the vehicle, a towing service which has removed an abandoned motor vehicle~~ A landowner on whose property an abandoned motor vehicle is located shall apply to the Department for an abandoned motor vehicle certification on forms supplied by the Department of

~~Motor Vehicles~~ within 30 days of the date the vehicle was discovered on or brought to the property unless the vehicle has been removed from the property. An abandoned motor vehicle certification form shall indicate the date of ~~removal,~~ that the abandoned motor vehicle was discovered or brought to the property; the make, color, model, and location found, and of the vehicle; the name, address, and phone telephone number of the towing service, landowner; and a certification of the public vehicle identification number, if any, to be recorded by a law enforcement officer. This subsection shall not be construed as creating a private right of action against the landowner.

(b) Upon receipt of an abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall attempt to identify and notify the owner of the vehicle as required by section 2154 of this title. If no owner can be determined by the Commissioner within the time period allowed by section 2154 of this title, the Commissioner shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title, or both, and the vehicle may be disposed of in the manner set forth in section 2156 of this title.

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

(a) The Department ~~of Motor Vehicles~~ shall make a reasonable attempt to locate an owner of an abandoned motor vehicle.

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days of the date of receipt of the abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

(2) If the abandoned motor vehicle is identifiable by its registration plates or public vehicle identification number, the Department ~~of Motor Vehicles~~ shall, within three business days of receipt of the form for certification of abandoned motor vehicle, send notice to the last known registered owner and lienholder of the vehicle. The notice shall be sent by certified mail, return receipt requested, and shall advise the last known registered owner of the motor vehicle's location and a telephone number where additional information about the motor vehicle may be obtained. If the receipt is not returned to the Department within seven business days, the Commissioner shall, by first class mail, send a second notice. Within 21 days of sending the second notice, the last known registered owner or lienholder may reclaim and retrieve the motor vehicle by presenting to the Department ~~of Motor Vehicles~~ satisfactory evidence of ownership, and paying or arranging to pay any fees or charges authorized by section 2155 of this title. If the last known registered owner or lienholder fails or refuses to reclaim the motor

vehicle within 21 days of the second mailing, the Commissioner of ~~Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title.

(b) An owner or lienholder may reclaim an abandoned motor vehicle by presenting to the Department of ~~Motor Vehicles~~ satisfactory evidence of ownership, and paying or reimbursing, or making arrangements to pay or reimburse, the towing agency, the Department of ~~Motor Vehicles~~, or the ~~owner or agent of private property~~ landowner, as the case may be, any towing fee or storage charges permitted under section 2155 of this title.

§ 2155. FEES AND CHARGES

(a) Towing fees. For towing an abandoned motor vehicle from private property, a towing service may charge a reasonable fee to be paid by the vehicle owner or agent of the owner landowner of the private property.

(b) Storage charges. In addition to any towing fee, an owner or lienholder reclaiming an abandoned motor vehicle may be charged and shall pay a fee for the costs of storage of the vehicle, except that no fee may be charged for storage for any period preceding the date upon which the form for abandoned motor vehicle certification is sent ~~by the towing service~~ to the Department of ~~Motor Vehicles~~.

* * *

* * * Repeals and Conforming Change * * *

Sec. 22. REPEALS

The following sections are repealed:

- (1) 23 V.S.A. § 366 (log-haulers; registration).
- (2) 23 V.S.A. § 382 (diesel-powered pleasure cars; registration).
- (3) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).
- (4) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 23. 23 V.S.A. § 369 is amended to read:

§ 369. TRACTORS OTHER THAN FARM TRACTORS

The annual fee for registration of a tractor, except ~~log-haulers on snow roads and~~ farm tractors as otherwise provided in this chapter, shall be based on the actual weight of such tractor at the same rate as that provided for trucks of like weight under the provisions of this chapter. The minimum fee for registering any tractor shall be \$20.00.

Sec. 24. 23 V.S.A. § 603(a)(2) is amended to read:

(2) The Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license; under the provisions of this subsection ~~or section 605 of this title~~, shall be entitled to hearing as provided in sections 105–107 of this title.

Sec. 25. 18 V.S.A. § 1772(13) is amended to read:

(13) “Motor vehicle” means ~~every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products~~ all vehicles propelled or drawn by power other than muscular power, including snowmobiles, motorcycles, all-terrain vehicles, farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, or tracked vehicles or electric personal assistive mobility devices.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

(a) This section and Sec. 25 shall take effect on passage.

(b) All other sections shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

Reported favorably by Senator Mullin for the Committee on Finance.

(Committee vote: 7-0-0)

S. 245.

An act relating to disclosure of health care provider affiliations.

Reported favorably with recommendation of amendment by Senator Ayer 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. GREEN MOUNTAIN CARE BOARD; NOTICE TO PATIENTS OF NEW AFFILIATION

The Green Mountain Care Board shall maintain a policy for reviewing new physician acquisitions and transfers as part of the Board’s hospital budget

review responsibilities. The policy shall require hospitals to provide written notice about a new acquisition or transfer of health care providers to each patient served by a health care provider during the previous three-year period, including:

(1) notifying the patient that the health care provider is now affiliated with the hospital;

(2) providing the hospital's name and contact information;

(3) notifying the patient that the change in affiliation may affect his or her out-of-pocket costs, depending on the patient's health insurance plan and the services provided; and

(4) recommending that the patient contact his or her insurance company with specific questions or to determine his or her actual financial liability.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that after passage the title of the bill be amended to read: "An act relating to notice to patients of new health care provider affiliations"

(Committee vote: 5-0-0)

S. 255.

An act relating to regulation of hospitals, health insurers, and managed care organizations.

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. § 9405a is amended to read:

§ 9405a. PUBLIC PARTICIPATION AND STRATEGIC PLANNING

(a) Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care needs that the hospital provides or could provide in its service area. Needs identified through the process shall be integrated with the hospital's long-term planning. ~~The process shall be updated as necessary to continue to be consistent with such planning and capital expenditure projections, and identified needs shall be summarized in the hospital's community report.~~ Each hospital shall post on its website a description of its identified needs, strategic initiatives developed to address the identified needs, annual progress on

implementation of the proposed initiatives, and opportunities for public participation. Hospitals may meet the community health needs assessment and implementation plan requirement through compliance with the relevant Internal Revenue Service community health needs assessment requirements for nonprofit hospitals.

(b) When a hospital is working on a new community health needs assessment, the hospital shall post on its website information about the process for developing the community needs assessment and opportunities for public participation in the process.

Sec. 2. 18 V.S.A. § 9405b is amended to read:

§ 9405b. HOSPITAL COMMUNITY REPORTS

(a) The Commissioner of Health, in consultation with representatives from hospitals, other groups of health care professionals, and members of the public representing patient interests, shall adopt rules establishing a ~~standard format for community reports, as well as the contents, which~~ statewide comparative hospital quality report. Hospitals located outside this State which serve a significant number of Vermont residents, as determined by the Commissioner of Health, shall be invited to participate in the community report process established by this section. The report shall include:

(1) Measures of quality, including process and performance measures, that are valid, reliable, and useful, including comparisons to appropriate national benchmarks for high quality and successful results.

(2) Measures of patient safety that are valid, reliable, and useful, including comparisons to appropriate industry benchmarks for safety.

(3) Measures of hospital-acquired infections that are valid, reliable, and useful, including comparisons to appropriate industry benchmarks.

(4) Valid, reliable, and useful information on nurse staffing, including comparisons to appropriate industry benchmarks for safety. This information may include system-centered measures such as skill mix, nursing care hours per patient day, and other system-centered measures for which reliable industry benchmarks become available.

(5) Measures of the hospital's financial health, including comparisons to appropriate national benchmarks for efficient operation and fiscal health.

~~(5)~~(6) A summary of the hospital's budget, including revenue by source, the one-year and four-year capital expenditure plans, the depreciation schedule for existing facilities, and quantification of cost shifting to private payers.

~~(6)~~(7) Data that provides valid, reliable, useful, and efficient information for payers and the public for the comparison of charges for higher volume health care services.

(b) Each hospital shall publish on its website:

~~(7)~~(1) ~~The~~ the hospital's process for achieving openness, inclusiveness, and meaningful public participation in its strategic planning and decision-making; decisionmaking;

~~(8)~~(2) ~~The~~ the hospital's consumer complaint resolution process, including identification of the hospital officer or employee responsible for its implementation-;

~~(9) Information concerning recently completed or ongoing quality improvement and patient safety projects.~~

~~(10) A description of strategic initiatives discussed with or derived from the identification of health care needs; the one-year and four-year capital expenditure plans; and the depreciation schedule for existing facilities.~~

~~(11)~~(3) ~~Information~~ information on membership and governing body qualifications, a listing of the current governing body members, and means of obtaining a schedule of meetings of the hospital's governing body, including times scheduled for public participation; and

(4) a link to the comparative statewide hospital quality report.

~~(12) Valid, reliable, and useful information on nurse staffing, including comparisons to appropriate industry benchmarks for safety. This information may include system-centered performance measures, such as skill mix, nursing care hours per patient day, and other such system-centered performance measures as reliable industry benchmarks become available in the future.~~

~~(b) On or before January 1, 2005, and annually thereafter beginning on June 1, 2006, the board of directors or other governing body of each hospital licensed under chapter 43 of this title shall publish on its website, making paper copies available upon request, its community report in a uniform format approved by the Commissioner of Health and in accordance with the standards and procedures adopted by rule under this section. Hospitals located outside this State which serve a significant number of Vermont residents, as determined by the Commissioner of Health, shall be invited to participate in the community report process established by this subsection.~~

~~(c) The community reports shall be provided to the Commissioner of Health. The Commissioner of Health shall publish the reports statewide comparative hospital quality report on a public website and shall ~~develop and include a format for comparisons of hospitals within the same categories of~~~~

~~quality and financial measures~~ update the report at least annually beginning on June 1, 2017.

Sec. 3. 18 V.S.A. § 9408a is amended to read:

§ 9408a. UNIFORM PROVIDER CREDENTIALING

* * *

~~(e) The commissioner may enforce compliance with the provisions of this section as to insurers and as to hospitals as if the hospital were an insurer under 8 V.S.A. § 3661. [Repealed.]~~

* * *

Sec. 4. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

* * *

(5) All patients admitted to the hospital shall be under the care of a ~~state~~ State registered and licensed practicing physician as defined by the laws of the State of Vermont. All hospitals shall use the uniform credentialing application form described in subsection 9408a(b) of this title.

* * *

Sec. 5. 18 V.S.A. § 9409 is amended to read:

§ 9409. HEALTH CARE PROVIDER BARGAINING GROUPS

(a) ~~The commissioner~~ Green Mountain Care Board may approve the creation of one or more health care provider bargaining groups, consisting of health care providers who choose to participate. A bargaining group is authorized to negotiate on behalf of all participating providers with the ~~commissioner, the secretary of administration, the secretary of human services, the Green Mountain Care board, or the commissioner of labor~~ Secretary of Administration, the Secretary of Human Services, the Green Mountain Care Board, or the Commissioner of Labor with respect to any matter in this chapter; chapter 13, 219, 220, or 222 of this title; 21 V.S.A. chapter 9; and 33 V.S.A. chapters 18 and 19 with respect to provider regulation, provider reimbursement, administrative simplification, information technology, workforce planning, or quality of health care.

(b) The ~~commissioner~~ Green Mountain Care Board shall adopt by rule criteria for forming and approving bargaining groups, and criteria and procedures for negotiations authorized by this section.

(c) The rules relating to negotiations shall include a nonbinding arbitration process to assist in the resolution of disputes. Nothing in this section shall be construed to limit the authority of the ~~commissioner, the commissioner of labor, the secretary of administration, the Green Mountain Care board, or the secretary of human services~~ Secretary of Administration, the Secretary of Human Services, the Green Mountain Care Board, or the Commissioner of Labor to reject the recommendation or decision of the arbiter.

Sec. 6. HEALTH CARE PROVIDER BARGAINING GROUP; RULEMAKING

For the purposes of regulating health care provider bargaining groups pursuant to 18 V.S.A. § 9409, the Green Mountain Care Board shall apply Rule 6.00 of the Department of Financial Regulation, as that rule exists on the effective date of this section, until the Board's adoption of a permanent rule on provider bargaining groups pursuant to Sec. 5 of this act.

Sec. 7. 18 V.S.A. § 9414 is amended to read:

§ 9414. QUALITY ASSURANCE FOR MANAGED CARE

(a) The Commissioner shall have the power and responsibility to ensure that each managed care organization provides quality health care to its members, in accordance with the provisions of this section.

(1) In determining whether a managed care organization meets the requirements of this section, the Commissioner ~~shall~~ may review and examine, in accordance with subsection (e) of this section, the organization's administrative policies and procedures, quality management and improvement procedures, utilization management, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, grievance and appeal procedures, member services, financial incentives or disincentives, disenrollment, provider contracting, and systems and data reporting capacities. The Commissioner ~~may~~ shall establish, by rule, specific criteria to be considered under this section.

* * *

(4) The Commissioner or designee may resolve any consumer or provider complaint arising out of this subsection as though the managed care organization were an insurer licensed pursuant to Title 8. As used in this section, "complaint" means a report of a violation or suspected violation of the

standards set forth in this section or adopted by rule pursuant to this section and made by or on behalf of a consumer or provider.

(5) The Commissioner shall prepare an annual report on or before July 1 of each year providing the number of complaints received during the previous calendar year regarding violations or suspected violations of the standards set forth in this section or adopted by rule pursuant to this section. The report shall specify the aggregate number of complaints related to each standard and shall be posted on the Department's website.

(b)(1) A managed care organization shall assure that the health care services provided to members are consistent with prevailing professionally recognized standards of medical practice.

(2) A managed care organization shall participate in establish a chronic care program as needed to implement the Blueprint for Health established in chapter 13 of this title. The program If needed to implement the Blueprint, a managed care organization shall establish a chronic care program, which shall include:

(A) appropriate benefit plan design;

(B) informational materials, training, and follow-up necessary to support members and providers; and

(C) payment reform methodologies.

(3) Each managed care organization shall have procedures to assure availability, accessibility, and continuity of care, and ongoing procedures for the identification, evaluation, resolution, and follow-up of potential and actual problems in its health care administration and delivery.

(4) Each managed care organization shall be accredited by a national independent accreditation organization approved by the Commissioner.

(c) ~~The~~ Consistent with participation in the Blueprint for Health pursuant to subdivision (b)(2) of this section and the accreditation required by subdivision (b)(4) of this section, the managed care organization shall have an internal quality assurance program to monitor and evaluate its health care services, including primary and specialist physician services, and ancillary and preventive health care services, across all institutional and noninstitutional settings. The internal quality assurance program shall be fully described in written form, provided to all managers, providers, and staff and made available to members of the organization. The components of the internal quality assurance program shall include, ~~but not be limited to,~~ the following:

(1) a peer review committee or comparable designated committee responsible for quality assurance activities;

(2) accountability of the committee to the Board of Directors or other governing authority of the organization;

(3) participation by an appropriate base of providers and support staff;

(4) supervision by the medical director of the organization;

(5) regularly scheduled meetings; and

(6) minutes or records of the meetings which describe in detail the actions of the committee, including problems discussed, charts reviewed, recommendations made, and any other pertinent information.

~~(d)(1) In addition to its internal quality assurance program, each managed care organization shall evaluate the quality of health and medical care provided to members. The organization shall use and maintain a patient record system which will facilitate documentation and retrieval of statistically meaningful clinical information.~~

~~(2) A managed care organization may evaluate the quality of health and medical care provided to members through an independent accreditation organization. [Repealed.]~~

* * *

Sec. 8. 18 V.S.A. § 9414a is amended to read:

§ 9414a. ANNUAL REPORTING BY HEALTH INSURERS

(a) As used in this section:

(1) “Adverse benefit determination” means a denial, reduction, modification, or termination of, or a failure to provide or make payment in whole or in part for, a benefit, including:

(A) a denial, reduction, modification, termination, or failure to provide or make payment that is based on a determination of the member’s eligibility to participate in a health benefit plan;

(B) a denial, reduction, modification, or termination of, or failure to make payment in whole or in part for, a benefit resulting from the application of any utilization review; and

(C) a failure to provide coverage for an item or service for which benefits are otherwise provided because the item or service is determined to be experimental, investigational, or not medically necessary or appropriate.

(2) “Claim” means a pre-service review or a request for payment for a covered service that a member or the member’s health care provider submits to the insurer at or after the time that health care services have been provided.

(3) “Concurrent review” means utilization review conducted during a member’s stay in a hospital or other facility, or during another ongoing course of treatment.

(4) “Grievance” means a complaint submitted by or on behalf of a member regarding:

(A) an adverse benefit determination;

(B) the availability, delivery, or quality of health care services;

(C) claims payment, handling, or reimbursement for health care services; or

(D) matters relating to the contractual relationship between a member and the managed care organization or health insurer offering the health benefit plan.

(5) “Independent external review” means a review of a health care decision by an independent review organization pursuant to 8 V.S.A. § 4089f.

(6) “Post-service review” means the review of any claim for a benefit that is not a pre-service or concurrent review.

(7) “Pre-service review” means the review of any claim for a benefit with respect to which the terms of coverage condition receipt of the benefit in whole or in part on approval of the benefit in advance of obtaining health care.

(8) “Utilization review” means a set of formal techniques designed to monitor the use, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency, of health care services, procedures, or settings, including prescription drugs.

(b) Health insurers with a minimum of 2,000 Vermont lives covered at the end of the preceding year or who offer insurance through the Vermont Health Benefit Exchange pursuant to 33 V.S.A. chapter 18, subchapter 1 shall annually report the following information to the Commissioner of Financial Regulation, in plain language, as an addendum to the health insurer’s annual statement:

(1) the health insurer’s state of domicile and the total number of states in which the insurer operates;

(2) the total number of Vermont lives covered by the health insurer;

(3) the total number of claims submitted to the health insurer;

(4) the total number of claims denied by the health insurer, including the total number of denied claims for mental health services, treatment for substance use disorder, and prescription drugs;

(5) data regarding the number and percentage of denials of service by the health insurer ~~at the preauthorization level, based on utilization review, including utilization review at the pre-service review, concurrent review, and post-service review levels and including denials of mental health services, services for substance use disorder, and prescription drugs broken out separately, including:~~

(A) ~~the total number of denials of service by the health insurer at the preauthorization level;~~

(B) ~~the total number of denials of service at the preauthorization level appealed to the health insurer at the first-level grievance and, of those, the total number overturned;~~

(C) ~~the total number of denials of service at the preauthorization level appealed to the health insurer at any second-level grievance and, of those, the total number overturned;~~

(D) ~~the total number of denials of service at the preauthorization pre-service level for which external review was sought and, of those, the total number overturned;~~

(6) the total number of adverse benefit determinations made by the health insurer, including:

(A) the total number of adverse benefit determinations appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

(B) the total number of adverse benefit determinations appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

(C) the total number of adverse benefit determinations for which external review was sought and, of those, the total number overturned;

(7) ~~the total number of claims denied by the health insurer because the service was experimental, investigational, or an off-label use of a drug, was not medically necessary, involved access to a provider that is inconsistent with the limitations imposed by the plan, or was subject to a preexisting condition exclusion; [Repealed.]~~

(8) the total number of claims denied by the health insurer as duplicate claims, as coding errors, or for services or providers not covered;

(9) the percentage of claims processed in a timely manner;

(10) the percentage of claims processed accurately, both financially and administratively;

(11) the number and percentage of utilization review decisions meeting the timelines described in subdivisions (A)–(D) of this subdivision (11), including timeliness data for all utilization review decisions and timeliness data for physical health, mental health, substance use disorder, and prescription drug utilization review decisions broken out separately:

(A) concurrent reviews within 24 hours;

(B) urgent pre-service reviews within 48 hours of receipt of the request;

(C) non-urgent pre-service reviews within two business days of receipt of request; and

(D) post-service reviews within 30 days of receipt of request;

(12) data regarding the number of grievances related to availability, delivery, or quality of health care services or matters relating to the contractual relationship between a member and the health insurer, including:

(A) health care provider performance and office management issues;

(B) plan administration;

(C) access to health care providers and services;

(D) access to mental health providers and services; and

(E) access to substance use disorder providers and services;

(13) the total number of claims, including separate numbers for claims related to mental health services, services for substance use disorder, and prescription drugs, denied by the health insurer on the grounds that the service was experimental, investigations, or an off-label use of a drug; was not medically necessary; or involved access to a provider that is inconsistent with the limitations imposed by the plan;

(14) results of surveys evaluating health care provider satisfaction with the health insurer;

(15) the health insurer's actions taken in response to the prior year's health care provider survey results;

(16)(A) the titles and salaries of all corporate officers and board members during the preceding year; and

(B) the bonuses and compensatory benefits of all corporate officers and board members during the preceding year;

~~(10)~~(17) the health insurer's marketing and advertising expenses during the preceding year;

~~(11)~~(18) the health insurer's federal and Vermont-specific lobbying expenses during the preceding year;

~~(12)~~(19) the amount and recipient of each political contribution made by the health insurer during the preceding year;

~~(13)~~(20) the amount and recipient of dues paid during the preceding year by the health insurer to trade groups that engage in lobbying efforts or that make political contributions;

~~(14)~~(21) the health insurer's legal expenses related to claims or service denials during the preceding year; and

~~(15)~~(22) the amount and recipient of charitable contributions made by the health insurer during the preceding year.

~~(b)~~(c) Health insurers may indicate the extent of overlap or duplication in reporting the information described in subsection ~~(a)~~(b) of this section.

~~(e)~~(d) The Department of Financial Regulation shall create a standardized form using terms with uniform, industry-standard meanings for the purpose of collecting the information described in subsection ~~(a)~~(b) of this section, and each health insurer shall use the standardized form for reporting the required information as an addendum to its annual statement. To the extent possible, health insurers shall report information specific to Vermont on the standardized form and shall indicate on the form where the reported information is not specific to Vermont.

~~(d)~~(e)(1) The Department of Financial Regulation and the Office of the Health Care Advocate shall post on ~~its website~~ their websites links to the standardized form completed by each health insurer pursuant to this section. Each health insurer shall post its form on its own website.

(2) The Department of Vermont Health Access shall post on the Vermont Health Benefit Exchange established pursuant to 33 V.S.A. chapter 18, subchapter 1 an electronic link to the standardized forms posted by the Department of Financial Regulation pursuant to subdivision (1) of this subsection.

~~(e)~~(f) The Commissioner of Financial Regulation may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this section.

Sec. 9. 18 V.S.A. § 1854(a) is amended to read:

(a) A hospital shall make public the maximum patient census and the number of registered nurses, licensed practical nurses, and licensed nursing assistants providing direct patient care in each unit during each shift. Each unit's information shall be reported in full-time equivalents, with either every

eight hours or 12 hours worked by a registered nurse, licensed practical nurse, or licensed nursing assistant during the shift as one full-time equivalent. The reporting of this information shall be in a manner consistent with the requirements for public reporting for measures of nurse staffing selected by the ~~commissioner of financial regulation~~ Commissioner of Health under subdivision ~~9405b(a)(12)~~ 9405b(a)(4) of this title, but shall not in any way change what is required to be posted as set forth in this subsection. Each unit's information shall be posted in a prominent place that is readily accessible to patients and visitors in that unit at least once each day. The posting shall include the information for the preceding seven days.

Sec. 10. RECOMMENDATIONS FOR POTENTIAL ALIGNMENT

The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall compare the requirements in federal law applicable to Vermont's accountable care organizations and to the Department of Vermont Health Access in its role as a public managed care organization with the provisions of 18 V.S.A. § 9414(a)(1) as they apply to managed care organizations to identify opportunities for alignment. The Director of Health Care Reform shall consult with interested stakeholders, including accountable care organizations; health insurance and managed care organizations, as defined in 18 V.S.A. § 9402; health care providers; and the Office of the Health Care Advocate, shall take into consideration the financial and operational implications of alignment, and shall make recommendations on or before December 15, 2017 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on appropriate ways to improve alignment.

Sec. 11. EFFECTIVE DATES

(a) Secs. 1 (hospital needs assessment) and 2 (hospital community reports) and this section shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 39 (For text of Resolution, see Addendum to Senate Calendar for March 10, 2016)

H.C.R. 262-278 (For text of Resolutions, see Addendum to House Calendar for March 10, 2016)

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.

Kirstin Schoonover of Huntington – Superior Court Judge – By Sen. Benning for the Committee on Judiciary. (2/25/16)

Brian Valentine of Huntington – Magistrate Division Judge – By Sen. Nitka for the Committee on Judiciary. (3/9/16)

Mary Morrissey of Jericho – Superior Court Judge – By Sen. Ashe for the Committee on Judiciary. (3/9/16)

Kevin Bourdon of Waltham – Member, Electricians Licensing Board – By Sen. Balint for the Committee on Econ. Dev., Housing and General Affairs. (3/11/16)

Hannah Sessions of Salisbury – Member, Vermont Housing and Conservation Board – By Sen. Balint for the Committee on Econ. Dev., Housing and General Affairs. (3/11/16)

NOTICE OF JOINT ASSEMBLY

March 17, 2016 - 10:30 A.M. - Retention of Superior Court Judges: David Howard, Robert A. Mello, Helen M. Toor and Thomas S. Durkin.

FOR INFORMATION ONLY

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means

must be reported out by the last of those committees on or before **Friday, March 18, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on 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).