

Journal of the House

Friday, April 22, 2016

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Tom Stevens of Waterbury, Vt.

Message from the Senate No. 47

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 184. An act relating to establishing a State Ethics Commission.

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

The Senate has considered a bill originating in the House of the following title:

H. 399. An act relating to the Department for Children and Families' Registry Review Unit.

And has passed the same in concurrence.

The Senate has considered bills originating in the House of the following titles:

H. 249. An act relating to intermunicipal services..

H. 297. An act relating to the sale of ivory or rhinoceros horn.

H. 512. An act relating to adequate shelter of dogs and cats.

H. 761. An act relating to cataloguing and aligning health care performance measures.

H. 854. An act relating to timber trespass.

H. 860. An act relating to on-farm livestock slaughter.

H. 861. An act relating to regulation of treated article pesticides.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

Senate Bill Referred

S. 184

Senate bill, entitled

An act relating to establishing a State Ethics Commission

Was read and referred to the committee on Rules.

Bill Referred to Committee on Appropriations

S. 230

Senate bill, entitled

An act relating to improving the siting of energy projects

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

House Resolution Adopted

H.R. 20

House resolution, entitled

House resolution requesting the U.S. Department of Veterans Affairs to complete the research necessary to determine if the use of service dogs, including veterinary care, would benefit veterans who have been diagnosed with PTSD

Offered by: All Members of the House

Whereas, according to the Mayo Clinic, post-traumatic stress disorder (PTSD) “is a mental health condition that’s triggered by a terrifying event—either experiencing it or witnessing it,” and

Whereas, among U.S. military veterans, PTSD is a serious problem, and

Whereas, although the estimates cited in different studies vary, the respected RAND Corporation reports that at least 20 percent of veterans who served in either Iraq or Afghanistan have PTSD or depression, and

Whereas, among veterans receiving medical care at Veterans Affairs hospitals, PTSD is the third most prevalent psychiatric diagnosis, and

Whereas, a 2003 statistical analysis documented that a large majority of Vietnam veterans have experienced PTSD at some point in their lives, and

Whereas, in 2009, pursuant to Sec. 1077 of Pub.L. No. 111-84, Congress authorized the U.S. Department of Veterans Affairs (the Department) to study the “benefits, feasibility, and advisability of using service dogs for the treatment or rehabilitation of veterans ...including [those with] post-traumatic stress disorder,” and

Whereas, the legislation stipulated that nonprofit organizations would provide dogs to 200 veterans, and at least one-half of the study group was to consist of individuals “who suffer primarily from a mental health injury or disability,” and

Whereas, although the study was completed, the Department still believes there is inadequate research support to provide dogs and their veterinary care to veterans who are diagnosed with PTSD, and

Whereas, conducting the research deemed necessary to render a decision on this question could prove of long-term benefit for some of the veterans diagnosed with PTSD, now therefore be it

Resolved by the House of Representatives:

That this legislative body requests the U.S. Department of Veterans Affairs to complete the research necessary to determine if the use of service dogs, including veterinary care, would benefit veterans who have been diagnosed with PTSD, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Secretary of Veterans Affairs, the Secretary of Health and Human Services, and the Vermont Congressional Delegation.

Which was read and adopted.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 66

Senate bill, entitled

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

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Message from the Senate No. 48

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 608. An act relating to solid waste management.

And has concurred therein.

The Senate has considered bills originating in the House of the following titles:

H. 112. An act relating to access to financial records in adult protective services investigations.

H. 171. An act relating to restrictions on the use of electronic cigarettes.

H. 280. An act relating to amending the State Board of Education rules on school lighting requirements.

H. 595. An act relating to potable water supplies from surface waters.

H. 622. An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect.

H. 677. An act relating to the Restitution Unit.

H. 690. An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants.

H. 829. An act relating to water quality on small farms.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 345. House concurrent resolution congratulating the Shelburne Volunteer Fire Department on its 75th anniversary.

H.C.R. 346. House concurrent resolution honoring Joseph Woodin on his outstanding leadership of Gifford Medical Center.

H.C.R. 347. House concurrent resolution congratulating the 2016 Junior Iron Chef championship teams.

H.C.R. 348. House concurrent resolution congratulating Ernie Farrar of St. Albans on his induction into the Vermont Sports Hall of Fame.

H.C.R. 349. House concurrent resolution designating April 28, 2016 as Vermont Water Stewardship Day.

H.C.R. 350. House concurrent resolution congratulating the 2016 Mill River Union High School Division II championship cheerleading team.

H.C.R. 351. House concurrent resolution honoring Thomas Donahue for his dynamic leadership at the Rutland Region Chamber of Commerce.

H.C.R. 352. House concurrent resolution congratulating James Messier on his receipt of the National FFA VIP Award.

H.C.R. 353. House concurrent resolution honoring Robin Hadden for her 28 years of outstanding public service as a rural letter carrier in Huntington.

H.C.R. 354. House concurrent resolution commemorating the 150th anniversary of the founding of the Grand Army of the Republic.

H.C.R. 355. House concurrent resolution designating April 27, 2016 as Walk@Lunch Day in Vermont.

H.C.R. 356. House concurrent resolution congratulating the Vermont Maple Festival on its golden anniversary.

H.C.R. 357. House concurrent resolution congratulating Katey Comstock on her 2016 Division II indoor track and field individual championships.

H.C.R. 358. House concurrent resolution honoring Hugh Tallman for a half century of public service in the Town of Belvidere.

H.C.R. 359. House concurrent resolution congratulating Saint Peter Roman Catholic Parish in Rutland on its solar energy leadership.

H.C.R. 360. House concurrent resolution honoring Coach Scott Legacy on his remarkable career directing the Mt. Anthony Union High School Patriots' wrestling program.

H.C.R. 361. House concurrent resolution congratulating the Solomon Wright Public Library on its 50th anniversary.

H.C.R. 362. House concurrent resolution honoring the American Association of University Women of Vermont for its advancement of equity for women.

Bill Amended; Third Reading Ordered**S. 20**

Rep. French of Randolph, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to establishing and regulating dental therapists

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

This bill establishes and regulates a new category of oral health practitioners: dental therapists. It is the intent of the General Assembly to do so in order to increase access for Vermonters to oral health care, especially in areas with a significant volume of patients who are low income, or who are uninsured or underserved.

Sec. 2. 26 V.S.A. chapter 12 is amended to read:

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

Subchapter 1. General Provisions

§ 561. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

(D) administers general dental anesthetics;

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

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

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

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

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

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

(8) “General supervision” means:

(A) the direct or indirect oversight of a dental therapist by a dentist, which need not be on-site; or

(B) the oversight of a dental hygienist by a dentist as prescribed by Board rule in accordance with sections 582 and 624 of this chapter.

§ 562. PROHIBITIONS

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

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

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

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

* * *

§ 565. DISPLAY OF LICENSE OR REGISTRATION

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

* * *

Subchapter 2. Board of Dental Examiners

§ 581. CREATION; QUALIFICATIONS

(a) The ~~state board of dental examiners~~ State Board of Dental Examiners is created and shall consist of:

(1) six licensed dentists in good standing who have practiced in this state State for a period of five years or more and are in active practice;

(2) one licensed dental therapist who has practiced in this State for a period of at least three years immediately preceding appointment and is in active practice;

(3) ~~two~~ one licensed dental ~~hygienists~~ hygienist who ~~have~~ has practiced in this ~~state~~ State for a period of at least three years immediately preceding the appointment and ~~are~~ is in active practice;

(4) one registered dental assistant who has practiced in this state State for a period of at least three years immediately preceding the appointment and is in active practice; and

(5) two members of the public who are not associated with the practice of dentistry.

(b) Board members shall be appointed by the ~~governor~~ Governor pursuant to 3 V.S.A. §§ 129b and 2004.

(c) ~~No~~ A member of the ~~board~~ may Board shall not be an officer or serve on a committee of his or her respective state or local professional dental, dental therapy, dental hygiene, or dental assisting organization, ~~nor shall any member of the board be on the faculty of a school of dentistry, dental hygiene, or dental assisting.~~

* * *

§ 584. UNPROFESSIONAL CONDUCT

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

* * *

(2) rendering professional services to a patient if the dentist, dental therapist, dental hygienist, or dental assistant is intoxicated or under the influence of drugs;

* * *

(6) practicing a profession regulated under this chapter with a dentist, dental therapist, dental hygienist, or dental assistant who is not legally practicing within the ~~state~~ State or aiding or abetting such practice;

* * *

Subchapter 3A. Dental Therapists

§ 611. LICENSE BY EXAMINATION

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

(1) have attained the age of majority;

(2) be a licensed dental hygienist;

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

(4) have successfully completed an emergency office procedure course approved by the Board; and

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

(b) Completion of examination.

(1)(A) An applicant for licensure meeting the qualifications for examination set forth in subsection (a) of this section shall pass a comprehensive, competency-based clinical examination approved by the Board and administered independently of an institution providing dental therapist education.

(B) An applicant shall also pass an examination testing the applicant's knowledge of the Vermont statutes and rules relating to the practice of dentistry approved by the Board.

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

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

§ 612. LICENSE BY ENDORSEMENT

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

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

(2) has passed an examination testing the applicant's knowledge of the Vermont statutes and rules relating to the practice of dentistry approved by the Board;

(3) has successfully completed an emergency office procedure course approved by the Board;

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

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

§ 613. PRACTICE; SCOPE OF PRACTICE

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

(b) A dental therapist may perform the following oral health care services:

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

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

(3) Exposing radiographs.

(4) Oral evaluation and assessment of dental disease.

(5) Dental prophylaxis.

(6) Mechanical polishing.

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

(8) Pulp vitality testing.

-
- (9) Applying desensitizing medication or resin.
 - (10) Fabricating athletic mouthguards.
 - (11) Suture removal.
 - (12) Changing periodontal dressings.
 - (13) Brush biopsies.
 - (14) Administering local anesthetic.
 - (15) Placement of temporary restorations.
 - (16) Interim therapeutic restorations.
 - (17) Placement of temporary and preformed crowns.
 - (18) Emergency palliative treatment of dental pain in accordance with the other requirements of this subsection.
 - (19) Formulating an individualized treatment plan, including services within the dental therapist's scope of practice and referral for services outside the dental therapist's scope of practice.
 - (20) Minor repair of defective prosthetic devices.
 - (21) Recementing permanent crowns.
 - (22) Placement and removal of space maintainers.
 - (23) Prescribing, dispensing, and administering analgesics, anti-inflammatories, and antibiotics, except Schedule II, III, or IV controlled substances.
 - (24) Administering nitrous oxide.
 - (25) Fabricating soft occlusal guards, but not for treatment of temporomandibular joint disorders.
 - (26) Tissue conditioning and soft reline.
 - (27) Tooth reimplantation and stabilization.
 - (28) Extractions of primary teeth.
 - (29) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of +3. A dental therapist shall not extract a tooth if it is unerupted, impacted, fractured, or needs to be sectioned for removal.
 - (30) Cavity preparation.
 - (31) Restoring primary and permanent teeth, not including permanent tooth crowns, bridges, veneers, or denture fabrication.

(32) Preparation and placement of preformed crowns for primary teeth.

(33) Pulpotomies on primary teeth.

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

§ 614. COLLABORATIVE AGREEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c)(1) The supervising dentist shall be professionally responsible and legally liable for all services authorized and performed by the dental therapist pursuant to the collaborative agreement.

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

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

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

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

§ 615. APPLICATION OF OTHER LAWS

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

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

§ 616. USE OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS

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

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

§ 617. REFERRALS

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

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

* * *

Subchapter 6. Renewals, Continuing Education, and Fees

§ 661. RENEWAL OF LICENSE

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

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

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

(d) Dentists.

* * *

(e) Dental therapists. To renew a license, a dental therapist shall meet active practice requirements established by the Board by rule and document completion of no fewer than 20 hours of Board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

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

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

§ 662. FEES

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

(1) Application

(A) Dentist

\$ 225.00

(B) <u>Dental therapist</u>	\$ 185.00
(C) <u>Dental hygienist</u>	\$ 150.00
(C) (D) <u>Dental assistant</u>	\$ 60.00
(2) Biennial renewal	
(A) <u>Dentist</u>	\$ 355.00
(B) <u>Dental therapist</u>	\$ 225.00
(C) <u>Dental hygienist</u>	\$ 125.00
(C) (D) <u>Dental assistant</u>	\$ 75.00

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

* * *

Sec. 3. DEPARTMENT OF HEALTH; REPORT ON GEOGRAPHIC DISTRIBUTION OF DENTAL THERAPISTS

Two years after the graduation of the first class of dental therapists from a Vermont accredited program, the Department of Health, in consultation with the Board of Dental Examiners, shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Human Services and on Government Operations regarding:

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

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

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

Sec. 4. BOARD OF DENTAL EXAMINERS; REQUIRED RULEMAKING

The Board of Dental Examiners shall adopt the rules and perform all other acts necessary to implement the provisions of those sections.

Sec. 5. TRANSITIONAL PROVISION; BOARD OF DENTAL EXAMINERS; INITIAL DENTAL THERAPIST MEMBER

Notwithstanding the provision of 26 V.S.A. § 581(a)(2) in Sec. 1 of this act that requires the dental therapist member of the Board of Dental Examiners to have practiced in this State for a period of at least three years immediately preceding appointment, the initial dental therapist appointee may fulfill this practice requirement if he or she has practiced as a licensed dental hygienist in this State for a period of at least three years immediately preceding appointment, so long as that appointee is a licensed dental therapist in active practice in this State at the time of appointment.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

Rep. LaClair of Barre Town, for the committee on Government Operations, recommended that the recommendation of proposal of amendment offered by the committee on Human Services be amended as follows:

First: In Sec. 2, in 26 V.S.A. § 581 (Board of Dental Examiners; creation; qualifications), by striking out subsection (a) (Board members) in its entirety and inserting in lieu thereof the following:

* * *

Second: In Sec. 4 (Board of Dental Examiners; required rulemaking), following “implement the provisions of” by striking out “those sections” and inserting in lieu thereof “this act”

Third: By striking out Sec. 5 (transitional provision; Board of Dental Examiners; initial dental therapist member) in its entirety and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

Rep. Till of Jericho, for the committee on Ways and Means, recommended that the recommendation of proposal of amendment offered by the committees on Human Services and Government Operations be agreed to with a further amendment thereto as follows:

First: In Sec. 2, 26 V.S.A. chapter 12, in § 611 (license by examination), in subdivision (a)(2), following “be a” by inserting “Vermont”

Second: In Sec. 2, 26 V.S.A. chapter 12, in § 611 (license by examination), by adding a new subsection (d) to read:

(d) A person licensed as a dental therapist under this section shall not be required to maintain his or her dental hygienist license.

Thereupon, the report of the committees on Government Operations and Ways and Means were agreed to.

Pending the question, Shall the House propose to the Senate to amend as recommended by the Committee on Human Services, as amended? **Rep. Copeland-Hanzas of Bradford** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend as recommended by the Committee on Human Services, as amended? was decided in the affirmative. Yeas, 109. Nays, 32.

Those who voted in the affirmative are:

Ancel of Calais	Greshin of Warren	Partridge of Windham
Bancroft of Westford	Haas of Rochester	Patt of Worcester
Bartholomew of Hartland	Head of South Burlington	Pearson of Burlington
Baser of Bristol	Hoooper of Montpelier	Poirier of Barre City
Berry of Manchester	Jerman of Essex	Potter of Clarendon
Bissonnette of Winooski	Jewett of Ripton	Pugh of South Burlington
Botzow of Pownal	Johnson of South Hero	Purvis of Colchester
Branagan of Georgia *	Juskiewicz of Cambridge	Rachelson of Burlington
Briglin of Thetford	Keenan of St. Albans City	Ram of Burlington
Browning of Arlington	Kitzmiller of Montpelier	Russell of Rutland City
Burke of Brattleboro	Klein of East Montpelier	Ryerson of Randolph
Buxton of Tunbridge	Komline of Dorset	Scheuermann of Stowe
Carr of Brandon	Krebs of South Hero	Sharpe of Bristol
Chesnut-Tangerman of Middletown Springs	Krowinski of Burlington	Shaw of Pittsford
Clarkson of Woodstock	LaClair of Barre Town	Sheldon of Middlebury
Cole of Burlington	Lalonde of South Burlington	Sibilia of Dover
Connor of Fairfield	Lanpher of Vergennes	Smith of New Haven
Conquest of Newbury	Lawrence of Lyndon	Stevens of Waterbury
Copeland-Hanzas of Bradford	Lefebvre of Newark	Strong of Albany
Dakin of Chester	Lenes of Shelburne	Stuart of Brattleboro
Dakin of Colchester	Lippert of Hinesburg	Sullivan of Burlington
Dame of Essex	Long of Newfane	Sweaney of Windsor
Davis of Washington	Lucke of Hartford	Till of Jericho
Deen of Westminster	Macaig of Williston	Toleno of Brattleboro
Donahue of Northfield	Manwaring of Wilmington	Townsend of South Burlington
Donovan of Burlington	Marcotte of Coventry	Trieber of Rockingham
Eastman of Orwell	Martin of Wolcott	Troiano of Stannard
Emmons of Springfield	Masland of Thetford	Viens of Newport City
Fagan of Rutland City	McCormack of Burlington	Walz of Barre City
Feltus of Lyndon	McCullough of Williston	Webb of Shelburne
Forguites of Springfield	McFaun of Barre Town	Wood of Waterbury
Frank of Underhill	Miller of Shaftsbury	Woodward of Johnson
French of Randolph	Morris of Bennington	Yantachka of Charlotte
Gage of Rutland City	Mrowicki of Putney	Young of Glover
Gonzalez of Winooski	Nuovo of Middlebury	Zagar of Barnard
Graham of Williamstown	O'Brien of Richmond	
	Olsen of Londonderry	
	O'Sullivan of Burlington	

Those who voted in the negative are:

Batchelor of Derby	Gamache of Swanton	Parent of St. Albans Town
Beck of St. Johnsbury	Hebert of Vernon	Pearce of Richford
Beyor of Highgate	Helm of Fair Haven	Savage of Swanton
Burditt of West Rutland	Higley of Lowell	Shaw of Derby
Canfield of Fair Haven	Hubert of Milton	Terenzini of Rutland Town
Condon of Colchester	Lewis of Berlin	Toll of Danville
Corcoran of Bennington	Martel of Waterford	Turner of Milton
Cupoli of Rutland City	McCoy of Poultney	Van Wyck of Ferrisburgh
Devereux of Mount Holly	Morrissey of Bennington	Willhoit of St. Johnsbury
Evans of Essex	Murphy of Fairfax	Wright of Burlington
Fiske of Enosburgh	Myers of Essex	

Those members absent with leave of the House and not voting are:

Brennan of Colchester	Fields of Bennington	Tate of Mendon
Christie of Hartford	Grad of Moretown	
Dickinson of St. Albans Town	Huntley of Cavendish	
	Quimby of Concord	

Rep. Branagan of Georgia explained her vote as follows:

“Mr. Speaker:

There are many aspects of this bill that will improve dental care for all Vermonters and especially low income Vermonters. On third reading I’ll have an amendment to address my concern of therapists practicing with no licensed dentist on site.”

Thereupon, third reading was ordered.

Recess

At twelve o'clock and three minutes in the afternoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock in the afternoon, the Speaker called the House to order.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 132

Rep. Mrowicki of Putney, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to the prohibition of conversion therapy on minors

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 1. FINDINGS

In recognition that being lesbian, gay, bisexual, or transgender is part of the natural spectrum of human identity and is not a disease, disorder, illness, deficiency, or shortcoming, the General Assembly finds:

(1) Vermont has a compelling interest in protecting the physical and psychological well-being of children, including lesbian, gay, bisexual, and transgender youth, and in protecting its children against exposure to serious harms.

(2) A 2015 report published by the U.S. Substance Abuse and Mental Health Service's Administration states "conversion therapy . . . is a practice that is not supported by credible evidence and has been disavowed by behavioral health experts and associations . . . [m]ost importantly, it may put young people at risk of serious harm."

(3) The American Academy of Pediatrics, the American Counseling Association, the American Psychiatric Association, the American Psychological Association, the American School Counselor Association, and the National Association of Social Workers, together representing more than 477,000 health and mental health professionals, have all taken the position that homosexuality is not a mental disorder and thus there is no need for a "cure."

* * * Conversion Therapy * * *

Sec. 2. 18 V.S.A. chapter 196 is added to read:

CHAPTER 196. CONVERSION THERAPY

§ 8351. DEFINITIONS

As used in this chapter:

(1) "Conversion therapy" means any practice by a mental health care provider that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to change sexual or romantic attractions or feelings toward individuals of the same sex or gender. "Conversion therapy" does not include psychotherapies that:

(A) provide support to an individual undergoing gender transition; or

(B) provide acceptance, support, and understanding of clients or the facilitation of clients' coping, social support, and identity exploration and development, including sexual-orientation-neutral or gender-identity-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices without seeking to change an individual's sexual orientation or gender identity.

(2) "Mental health care provider" means a person licensed to practice medicine pursuant to 26 V.S.A. chapter 23, 33, or 81 who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; a clinical mental health counselor as defined in 26 V.S.A. § 3261; a licensed marriage and family therapist as defined in 26 V.S.A. § 4031; a psychoanalyst as defined in 26 V.S.A. § 4051; any other allied mental health professional; or a student, intern, or trainee of any such profession.

§ 8352. TREATMENT OF MINORS

A mental health care provider shall not use conversion therapy with a client younger than 18 years of age.

§ 8353. UNPROFESSIONAL CONDUCT

Any conversion therapy used on a client younger than 18 years of age by a mental health care provider shall constitute unprofessional conduct as provided in the relevant provisions of Title 26 and shall subject the mental health care provider to discipline pursuant to the applicable provisions of that title and of 3 V.S.A. chapter 5.

* * * Physicians * * *

Sec. 3. 26 V.S.A. § 1354(a) is amended to read:

(a) The ~~board~~ Board shall find that any one of the following, or any combination of the following, whether or not the conduct at issue was committed within or outside the ~~state~~ State, constitutes unprofessional conduct:

* * *

(39) use of the services of a physician assistant by a physician in a manner which is inconsistent with the provisions of chapter 31 of this title; or

(40) use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Osteopathy * * *

Sec. 4. 26 V.S.A. § 1842(b) is amended to read:

(b) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a:

* * *

(13) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Psychologists * * *

Sec. 5. 26 V.S.A. § 3016 is amended to read:

§ 3016. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct listed in this section and in 3 V.S.A. § 129a:

* * *

(11) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Clinical Social Workers * * *

Sec. 6. 26 V.S.A. § 3210(a) is amended to read:

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a licensed social worker constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial of a license:

* * *

(12) failing to clarify the clinical social worker's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients; or

(13) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

Sec. 7. 26 V.S.A. § 3210(a) is amended to read:

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial or discipline of a license:

* * *

(12) failing to clarify the licensee's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients; or

(13) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Clinical Mental Health Counselors * * *

Sec. 8. 26 V.S.A. § 3271(a) is amended to read:

(a) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a-;

* * *

(7) independently practicing outside or beyond a clinical mental health counselor's area of training, experience or competence without appropriate supervision; or

(8) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Marriage and Family Therapists * * *

Sec. 9. 26 V.S.A. § 4042(a) is amended to read:

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

* * *

(7) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Psychoanalysts * * *

Sec. 10. 26 V.S.A. § 4062(a) is amended to read:

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

* * *

(7) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Naturopathic Physicians * * *

Sec. 11. 26 V.S.A. § 4132(a) is amended to read:

(a) The following conduct and conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter or an applicant for licensure constitutes unprofessional conduct:

* * *

(11) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except Sec. 7 shall take effect on July 1, 2017.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Action on Bill Postponed

S. 215

House bill, entitled

An act relating to the regulation of vision insurance plans

Was taken up and pending the reading of the report of the committee on Health Care, on motion of **Rep. Poirier of Barre City**, action on the bill was postponed until the next legislative day.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 224

Rep. Marcotte of Coventry, for the committee on Commerce & Economic Development, to which had been referred Senate bill, entitled

An act relating to warranty obligations of equipment dealers and suppliers

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds:

(1) Vermont has long relied on economic activity relating to working farms and forestland in the State. These working lands, and the people who work the land, are part of the State's cultural and ecological heritage, and Vermont has made major policy and budget commitments in recent years in support of working lands enterprises. Farm and forest enterprises need a robust system of infrastructure to support their economic and ecological activities, and that infrastructure requires a strong economic base consisting of dealers, manufacturers, and repair facilities. Initiatives to help strengthen farm and forest working lands infrastructure are in the best interest of the State.

(2) Snowmobiles and all-terrain vehicles have a significant economic impact in the State, including the distribution and sale of these vehicles, use by residents, ski areas, and emergency responders, as well as tourists that come to enjoy riding snowmobiles and all-terrain vehicles in Vermont. It is in the best interest of the State to ensure that Vermont consumers who want to purchase snowmobiles and all-terrain vehicles have access to a competitive marketplace and a strong network of dealers, suppliers, and repair facilities in the State.

(3) The distribution and sale of equipment, snowmobiles, and all-terrain vehicles within this State vitally affects the general economy of the State and the public interest and the public welfare, and in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate equipment, snowmobile, and all-terrain vehicle suppliers and their representatives, and to regulate dealer agreements issued by suppliers who are doing business in this State, in order to protect and preserve the investments and properties of the citizens of this State.

(4) There continues to exist a disparity in bargaining power between equipment, snowmobile, and all-terrain vehicle suppliers and the independent dealer network. This disparity in bargaining power enables equipment, snowmobile, and all-terrain vehicle suppliers to compel dealers to execute dealer agreements, related contracts, and addenda that contain terms and conditions that would not routinely be agreed to by the equipment, snowmobile, and all-terrain vehicle dealer if this disparity did not exist. It therefore is in the public interest to enact legislation to prevent unfair or arbitrary treatment of equipment, snowmobile, and all-terrain vehicle dealers by equipment, snowmobile, and all-terrain vehicle suppliers. It is also in the public interest that Vermont consumers, municipalities, businesses, and others that purchase equipment, snowmobiles, and all-terrain vehicles in Vermont have access to a robust independent dealer network to obtain competitive

prices when purchasing these items and to obtain warranty, recall, or other repair work.

(b) It is the intent of the General Assembly that this act be liberally construed in order to achieve its purposes.

Sec. 2. 9 V.S.A. chapter 107 is amended to read:

CHAPTER 107. EQUIPMENT AND MACHINERY DEALERSHIPS

§ 4071. DEFINITIONS

As used in this chapter:

(1) “Current net price” means the price listed in the supplier’s price list or ~~catalog~~ catalogue in effect at the time the dealer agreement is terminated, less any applicable discounts allowed.

(2)(A) “Dealer” means a person, ~~corporation, or partnership~~ primarily engaged in the business of retail sales of ~~farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, yard and garden equipment, attachments, accessories, and repair parts~~ inventory. ~~Provided however, “dealer” shall~~

(B) “Dealer” does not include a “single line dealer,” a person primarily engaged in the retail sale and service of industrial, forestry, and construction equipment. ~~“Single line dealer” means a person, partnership or corporation who:~~

~~(A)(i) has purchased 75 percent or more of the dealer’s total new product~~ his or her new inventory from a single supplier; and

~~(B)(ii) has a total annual average sales volume for the previous three years in excess of \$15~~ \$100 million for the entire territory for which the dealer is responsible.

(3) “Dealer agreement” means a written or oral ~~contract or~~ agreement between a dealer and a ~~wholesaler, manufacturer, or distributor~~ supplier by which the supplier gives the dealer is ~~granted~~ the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype, or advertising or other commercial symbol.

(4) “Inventory” means ~~farm, utility, forestry, or industrial equipment, implements, machinery, yard and garden equipment, attachments, or repair parts. These terms do not include heavy construction equipment.~~

(A) “Inventory” means:

(i) farm, utility, forestry, yard and garden, or industrial:

(I) tractors;

(II) equipment;

(III) implements;

(IV) machinery;

(V) attachments;

(VI) accessories; and

(VII) repair parts;

(ii) snowmobiles, as defined in 23 V.S.A. § 3201(5), and snowmobile implements, attachments, garments, accessories, and repair parts; and

(iii) all-terrain vehicles, as defined in 23 V.S.A. § 3801(1), and all-terrain vehicle implements, attachments, garments, accessories, and repair parts.

(B) "Inventory" does not include heavy construction equipment.

(5) "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location. In the event of termination of a dealer agreement by the supplier, "net cost" shall include the reasonable cost of assembly or disassembly performed by a dealer.

(6) "Supplier" means a wholesaler, manufacturer, or distributor of inventory ~~as defined in this chapter~~ who enters into a dealer agreement with a dealer.

(7) "Termination" of a dealer agreement means the cancellation, nonrenewal, or noncontinuance of the agreement.

(8) "Coerce" means the failure to act in a fair and equitable manner in performing or complying with a provision of a dealer agreement; provided, however, that recommendation, persuasion, urging, or argument shall not be synonymous with coerce or lack of good faith.

(9) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing, as interpreted under 9A V.S.A. § 1-201(B)(20).

§ 4072. NOTICE OF TERMINATION OF DEALER AGREEMENTS

~~(a) Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not~~

~~less than 120 days prior to the effective date of the termination. No supplier may terminate, cancel, or fail to renew a dealership agreement without cause. "Cause" means failure by an equipment dealer to comply with the requirements imposed upon the equipment dealer by the dealer agreement, provided the requirements are not substantially different from those requirements imposed upon other similarly situated equipment dealers in this State.~~

~~(b) The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events which in addition to the above definition of cause, are also cause for termination, cancellation, or failure to renew a dealership agreement:~~

~~(1) the filing of a petition for bankruptcy or for receivership either by or against the dealer;~~

~~(2) the making by the dealer of an intentional and material misrepresentation as to the dealer's financial status;~~

~~(3) any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;~~

~~(4) the commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;~~

~~(5) a change or additions in location of the dealer's place of business as provided in the agreement without the prior written approval of the supplier; or~~

~~(6) withdrawal of an individual proprietor, partner, major shareholder, the involuntary termination of the manager of the dealership, or a substantial reduction in the interest of a partner or major shareholder without the prior written consent of the supplier.~~

~~(c) Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with a supplier shall notify the supplier of that intent not less than 120 days prior to the effective date of termination.~~

~~(d) Notification required by this section shall be in writing and shall be made by certified mail or by personal delivery and shall contain:~~

~~(1) a statement of intention to terminate the dealer agreement;~~

~~(2) a statement of the reasons for the termination; and~~

~~(3) the date on which the termination shall be effective.~~

TERMINATION OF DEALER AGREEMENT

(a) Requirements for notice.

(1) A person shall provide a notice required in this section by certified mail or by personal delivery.

(2) A notice shall be in writing and shall include:

(A) a statement of intent to terminate the dealer agreement;

(B) a statement of the reasons for the termination, including specific reference to one or more requirements of the dealer agreement that serve as the basis for termination, if applicable; and

(C) the effective date of termination.

(b) Termination by a supplier for cause.

(1) In this subsection, "cause" means the failure of a dealer to meet one or more requirements of a dealer agreement, provided that the requirement is reasonable, justifiable, and substantially the same as requirements imposed on similarly situated dealers in this State.

(2) A supplier shall not terminate a dealer agreement except for cause.

(3) To terminate a dealer agreement for cause, a supplier shall deliver a notice of termination to the dealer at least 120 days before the effective date of termination.

(4) A dealer has 60 days from the date it receives a notice of termination to meet the requirements of the dealer agreement specified in the notice.

(5) If a dealer meets the requirements of the dealer agreement specified in the notice within the 60-day period, the dealer agreement does not terminate pursuant to the notice of termination.

(c) Termination by a supplier for failure to meet reasonable marketing or market penetration requirements.

(1) Notwithstanding subsection (b) of this section, a supplier shall not terminate a dealer agreement for failure to meet reasonable marketing or market penetration requirements except as provided in this subsection.

(2) A supplier shall deliver an initial notice of termination to the dealer at least 24 months before the effective date of termination.

(3) After providing an initial notice, the supplier shall work with the dealer in good faith to meet the reasonable marketing or market penetration requirements specified in the notice, including reasonable efforts to provide the dealer with adequate inventory and marketing programs that are substantially the same as those provided to dealers in this State or region, whichever is more appropriate under the circumstances.

(4) If the dealer fails to meet reasonable marketing or market penetration requirements specified in the notice by the end of the 24-month period, the supplier may terminate the dealer agreement by providing a final notice of termination not less than 90 days prior to the effective date of the termination.

(5) If a dealer meets the reasonable marketing or market penetration requirements within the 24-month period, the dealer agreement shall not terminate.

(d) Termination by a supplier upon a specified event. Notwithstanding subsection (b) of this section, a supplier may terminate immediately a dealer agreement if one of the following events occurs:

(1) A person files a petition for bankruptcy or for receivership on behalf of or against the dealer.

(2) The dealer makes an intentional and material misrepresentation regarding his or her financial status.

(3) The dealer defaults on a chattel mortgage or other security agreement between the dealer and the supplier.

(4) A person commences the voluntary or involuntary dissolution or liquidation of a dealer organized as a business entity.

(5) Without the prior written consent of the supplier:

(A) The dealer changes the business location specified in the dealer agreement or adds an additional dealership of the supplier's same brand.

(B) An individual proprietor, partner, or major shareholder withdraws from, or substantially reduces his or her interest in, the dealer.

(6) The dealer fails to operate in the normal course of business for eight consecutive business days, unless the failure to operate is caused by an emergency or other circumstances beyond the dealer's control.

(7) The dealer abandons the business.

(8) The dealer pleads guilty to or is convicted of a felony that is substantially related to the qualifications, function, or duties of the dealer.

(e) Termination by a dealer. Unless a provision of a dealer agreement provides otherwise, a dealer may terminate the dealer agreement by providing a notice of termination to the supplier at least 120 days before the effective date of termination.

* * *

(a)(1) Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 4073 of this title may examine any books or records of the dealer to verify the eligibility of any item for repurchase.

(2) Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer the following items that the dealer previously purchased from the supplier, or other qualified vendor approved by the supplier, that are in the possession of the dealer on the date of termination of the dealer agreement:

(A) ~~all inventory previously purchased from the supplier in possession of the dealer on the date of termination of the dealer agreement;~~ and

(B) required signage, special tools, books, manuals, supplies, data processing equipment, and software ~~previously purchased from the supplier or other qualified vendor approved by the supplier in the possession of the dealer on the date of termination of the dealer agreement.~~

(b) The supplier shall pay the dealer:

(1) 100 percent of the net cost of all new, ~~and~~ unsold, undamaged, and complete ~~farm and utility tractors, utility equipment, forestry equipment, industrial equipment, farm implements, farm machinery, yard and garden equipment, attachments, and accessories~~ inventory, other than repair parts, purchased from the supplier within the 30-month period preceding the date of termination, less a reasonable allowance for deterioration attributable to weather ~~conditions~~ exposure at the dealer's location.

(2) ~~90~~ 100 percent of the current net prices of all new and undamaged repair parts.

(3) ~~85~~ 95 percent of the current net prices of all new and undamaged superseded repair parts.

(4) ~~85~~ 95 percent of the latest available published net price of all new and undamaged noncurrent repair parts.

(5) Either the fair market value, or the supplier shall assume the lease responsibilities of, any specific data processing hardware that the supplier required the dealer to purchase to satisfy the reasonable requirements of the dealer agreement, including computer systems equipment and software required and approved by the supplier to communicate with the supplier.

(6) ~~Repurchase at~~ 75 percent of the net cost of specialized repair tools, signage, books, and supplies previously purchased, pursuant to requirements of the supplier and held by the dealer on the date of termination. ~~Specialized~~

~~repair tools must be unique to the supplier's product line and must be complete and in usable condition.~~

(7) ~~Repurchase at average~~ Average as-is value shown in current industry guides; for dealer-owned rental fleet financed by the supplier or its finance subsidiary, provided the equipment was purchased from the supplier within 30 months of the date of termination.

(c) The party that initiates the termination of the dealer agreement shall pay the cost of the return, handling, packing, and loading of the inventory. If the termination is initiated by the supplier, the supplier shall reimburse the dealer five percent of the net parts return credited to the dealer as compensation for picking, handling, packing, and shipping the parts returned to the supplier.

(d) Payment to the dealer required under this section shall be made by the supplier not later than 45 days after receipt of the inventory by the supplier. A penalty shall be assessed in the amount of daily interest at the current New York prime rate plus three percent of any outstanding balance over the required 45 days. The supplier shall be entitled to apply any payment required under this section to be made to the dealer as a setoff against any amount owed by the dealer to the supplier.

§ 4075. EXCEPTIONS TO REPURCHASE REQUIREMENT

The provisions of this chapter shall not require a supplier to repurchase from a dealer:

(1) a repair part with a limited storage life or otherwise subject to physical or structural deterioration, including gaskets or batteries;

(2) a single repair part normally priced and sold in a set of two or more items;

(3) a repair part that, because of its condition, cannot be marketed as a new part without repackaging or reconditioning by the supplier or manufacturer;

(4) any inventory that the dealer elects to retain;

(5) any inventory ordered by the dealer after receipt of notice of termination of the dealer agreement by either the dealer or supplier; ~~or~~

(6) any inventory that was acquired by the dealer from a source other than the supplier unless the source was approved by the supplier;

(7) a specialized repair tool that is not unique to the supplier's product line, over 10 years old, incomplete, or in unusable condition;

(8) a part identified by the supplier as nonreturnable at the time of the dealer's order; or

(9) supplies that are not unique to the supplier's product line, over three years old, incomplete, or in unusable condition.

* * *

§ 4077a. ~~PROHIBITED ACTS~~

~~No supplier shall:~~

~~(1) coerce any dealer to accept delivery of any equipment, parts, or accessories therefor, which such dealer has not voluntarily ordered, except that a supplier may require a dealer to accept delivery of equipment, parts or accessories that are necessary to maintain equipment generally sold in the dealer's area of responsibility, and a supplier may require a dealer to accept delivery of safety related equipment, parts, or accessories pertinent to equipment generally sold in the dealer's area of responsibility;~~

~~(2) condition the sale of any equipment on a requirement that the dealer also purchase any other goods or services, but nothing contained in this chapter shall prevent the supplier from requiring the dealer to purchase all parts reasonably necessary to maintain the quality of operation in the field of any equipment used in the trade area;~~

~~(3) coerce any dealer into a refusal to purchase the equipment manufactured by another supplier; or~~

~~(4) discriminate in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers, but nothing contained in this chapter shall prevent differentials which make only due allowance for a difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such equipment is sold or delivered by the supplier.~~

PROHIBITED ACTS

(a) A supplier shall not coerce or attempt to coerce a dealer to accept delivery of inventory that the dealer has not voluntarily ordered, except inventory that is:

(1) necessary to maintain inventory in a quantity, and of the model range, generally sold in the dealer's geographic area of responsibility; or

(2) safety-related and pertinent to inventory generally sold in the dealer's geographic area of responsibility.

(b) A supplier shall not condition the sale of inventory on a requirement that the dealer also purchase any other goods or services, provided that a supplier may require a dealer to purchase parts reasonably necessary to maintain inventory used in the dealer's geographic area of responsibility.

(c)(1) A supplier shall not prevent, coerce, or attempt to coerce a dealer from investing in, or entering into an agreement for the sale of, a competing product line or make of inventory.

(2) A supplier shall not require, coerce, or attempt to coerce a dealer to provide a separate facility or personnel for a competing product line or make of inventory.

(3) Subdivisions (1)–(2) of this subsection do not apply unless a dealer:

(A) maintains a reasonable line of credit for each product line or make of inventory;

(B) maintains the principal management of the dealer; and

(C) remains in substantial compliance with the supplier's reasonable facility requirements, which shall not include a requirement to provide a separate facility or personnel for a competing product line or make of inventory.

(d) A supplier shall not discriminate in the prices it charges for inventory of like grade and quality it sells to similarly situated dealers, provided that a supplier may use differentials that allow for a difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the supplier sells or delivers the inventory.

(e) A supplier shall not change the geographic area of responsibility specified in a dealer agreement without good cause, which for purposes of this subsection includes the dealer's market penetration within the assigned geographic area of responsibility and changes in the inventory warranty registration pattern in the area surrounding the dealer's geographic area of responsibility.

§ 4078. WARRANTY OBLIGATIONS

(a) A supplier shall:

(1) specify in writing a dealer's reasonable obligation to perform warranty service on the supplier's inventory;

(2) provide the dealer a schedule of reasonable compensation for warranty service, including amounts for diagnostic work, parts, labor, and the time allowance for the performance of warranty service; and

(3) compensate the dealer pursuant to the schedule of compensation for the warranty service the supplier requires it to perform.

(b) Time allowances for the diagnosis and performance of warranty service shall be reasonable and adequate for the service to be performed by a dealer that is equipped to complete the requirements of the warranty service.

(c) The hourly rate paid to a dealer shall not be less than the rate the dealer charges to customers for nonwarranty service.

(d) A supplier shall compensate a dealer for parts used to fulfill warranty and recall obligations at a rate not less than the price the dealer actually paid the supplier for the parts plus 20 percent, plus freight and handling if charged by the supplier.

(e) The wholesale price on which a dealer's markup reimbursement is based for any parts used in a recall or campaign shall not be less than the highest wholesale price listed in the supplier's wholesale price catalogue within six months prior to the start of the recall or campaign.

(f)(1) Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made for warranty parts and service within 30 days after its receipt and approval.

(2) The supplier shall approve or disapprove a warranty claim within 30 days after its receipt.

(3) If a claim is not specifically disapproved in writing within 30 days after its receipt, it shall be deemed to be approved and payment shall be made by the supplier within 30 days after its receipt.

(g) A supplier violates this section if it:

(1) fails to perform its warranty obligations;

(2) fails to include in written notices of factory recalls to machinery owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of such defects; or

(3) fails to compensate a dealer for repairs required by a recall.

(h) A supplier shall not:

(1) impose an unreasonable requirement in the process a dealer must follow to file a warranty claim; or

(2) impose a surcharge or fee to recover the additional costs the supplier incurs from complying with the provisions of this section.

§ 4079. REMEDIES

(a) A person damaged as a result of a violation of this chapter may bring an action against the violator in a Vermont court of competent jurisdiction for damages, together with the actual costs of the action, including reasonable attorney's fees, injunctive relief against unlawful termination, ~~cancellation,~~ ~~nonrenewal,~~ or substantial change of competitive circumstances, and such other relief as the Court deems appropriate.

(b) A provision in a dealer agreement that purports to deny access to the procedures, forums, or remedies provided by the laws of this State is void and unenforceable.

(c) ~~Nothing contained in this chapter may prohibit~~ Notwithstanding subsection (b) of this section, a dealer agreement may include a provision for binding arbitration of disputes ~~in an agreement.~~ Any arbitration shall be consistent with the provisions of this chapter and 12 V.S.A. chapter 192, and the place of any arbitration shall be in the county in which the dealer's principal place of business is maintained in this State.

* * *

Sec. 3. APPLICABILITY TO EXISTING DEALER AGREEMENTS

Notwithstanding 1 V.S.A. § 214, for a dealer agreement, as defined in 9 V.S.A. § 4071, that is in effect on or before July 1, 2016, the provisions of this act shall apply on July 1, 2016.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered**S. 255**

Rep. Donahue of Northfield, for the committee on Health Care, to which had been referred Senate bill, entitled

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

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 2, 18 V.S.A. § 9405b, in subsection (b), by striking out the renumbered subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

~~(1)~~(3) Information information on membership and governing body qualifications; a listing of the current governing body members, including each member's name, town of residence, occupation, employer, and job title, and the amount of compensation, if any, for serving on the governing body; and means of obtaining a schedule of meetings of the hospital's governing body, including times scheduled for public participation; and

Second: By adding a section to be Sec. 2a to read as follows:

Sec. 2a. 18 V.S.A. § 9456(d) is amended to read:

(d)(1) Annually, the Board shall establish a budget for each hospital ~~by~~ on or before September 15, followed by a written decision by October 1. Each hospital shall operate within the budget established under this section.

* * *

(3)(A) The Office of the Health Care Advocate shall have the right to receive copies of all materials related to the hospital budget review and may:

(i) ask questions of employees of the Green Mountain Care Board related to the Board's hospital budget review;

(ii) submit written questions to the Board that the Board will ask of hospitals in advance of any hearing held in conjunction with the Board's hospital review;

(iii) submit written comments for the Board's consideration; and

(iv) ask questions and provide testimony in any hearing held in conjunction with the Board's hospital budget review.

(B) The Office of the Health Care Advocate shall not further disclose any confidential or proprietary information provided to the Office pursuant to this subdivision (3).

Third: By striking out Secs. 10, recommendations for potential alignment, and 11, effective dates, in their entirety and inserting in lieu thereof the following:

Sec. 10. RECOMMENDATIONS FOR POTENTIAL ALIGNMENT

(a) 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 rules adopted in accordance with 18 V.S.A. § 9414(a)(1) as they apply to managed care organizations to identify opportunities for alignment, including alignment of mental health standards. The Director of Health Care Reform 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. In preparing his or her recommendations, the Director shall take into consideration the financial and operational implications of alignment and shall consult with interested stakeholders, including the Department of Health, the Department of Mental Health, health care providers, accountable care organizations, the Office of the Health Care Advocate, the Vermont Association of Hospitals and Health Systems, the Vermont Medical Society, and health insurance and managed care organizations, as defined in 18 V.S.A. § 9402.

(b) In advance of the implementation of any of the recommendations provided pursuant to subsection (a) of this section and to the extent permitted under federal law, when making a utilization review determination on or after January 1, 2017, the Department of Vermont Health Access shall ensure that:

(1) a mental health professional licensed in Vermont whose training and expertise is at least comparable to the treating provider is involved in the review whenever authorization for mental health or substance abuse services is denied or when payment is stopped for mental health or substance abuse services already being provided;

(2) a physician under the direction of the Department's Chief Medical Officer is involved in the review whenever authorization for health care services other than mental health or substance abuse services is denied or when payment is stopped for health care services already being provided;

(3) adverse action letters delineate the specific clinical criteria upon which the adverse action was based; and

(4) for determinations applicable to patients receiving inpatient care, Department staff are available by telephone to discuss the individual case with the clinician requesting the benefit determination.

Sec. 11. 18 V.S.A. § 115 is amended to read:

§ 115. ~~CHRONIC DISEASES; STUDY; PROGRAM~~ PUBLIC HEALTH SURVEILLANCE ASSESSMENT AND PLANNING

(a) The Department of Health may, in the discretion of the Commissioner, accept for treatment children who have chronic diseases ~~such as cystic fibrosis and severe hemophilia~~ or developmental disabilities.

(b) The ~~State Board~~ Commissioner of Health is authorized to:

(1) study the prevalence of chronic disease;

(2) make such morbidity studies as may be necessary to evaluate the over-all problem of chronic disease and developmental disabilities;

(3) develop an early case-finding program, in cooperation with the medical profession;

(4) develop and carry on an educational program as to the causes, prevention and alleviation of chronic disease and developmental disabilities; and

(5) ~~integrate this program with that of the State rehabilitation center where possible, by seeking the early referral of persons with chronic disease, who could benefit from the State rehabilitation program~~ adopt rules for the purpose of screening chronic diseases and developmental disabilities in newborns.

(c) The ~~State Board~~ Department of Health is directed to consult and cooperate with the medical profession and interested official and voluntary agencies and societies in the development of this program.

(d) The ~~Board~~ Department is authorized to accept contributions or gifts which are given to the State for any of the purposes as stated in this section, and the Department is authorized to charge and retain monies to offset the cost of providing newborn screening program services.

Sec. 12. 18 V.S.A. § 115a is amended to read:

§ 115a. ~~CHRONIC DISEASES OF CHILDREN; TREATMENT~~

~~The Department of Health may, in the discretion of the Commissioner, accept for treatment children who have chronic diseases such as cystic fibrosis.~~
[Repealed.]

Sec. 13. 18 V.S.A. § 5087 is amended to read:

§ 5087. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

* * *

(b) The Department of Health is authorized to collect information for the birth information network for the purpose of preventing and controlling disease, injury, and disability. The Commissioner ~~of Health~~, in collaboration

with appropriate partners, shall coordinate existing data systems and records to enhance the network's comprehensiveness and effectiveness, including:

- (1) vital records (birth, death, and fetal death certificates);
- (2) the children with special health needs database;
- (3) newborn metabolic screening;
- (4) a voluntary developmental screening test;
- (5) universal newborn hearing screening;
- ~~(5)~~(6) the Hearing Outreach Program;
- ~~(6)~~(7) the cancer registry;
- ~~(7)~~(8) the lead screening registry;
- ~~(8)~~(9) the immunization registry;
- ~~(9)~~(10) the special supplemental nutrition program for women, infants, and children;
- ~~(10)~~(11) the Medicaid claims database;
- ~~(11)~~(12) the hospital discharge data system;
- ~~(12)~~(13) health records, ~~(such as including~~ discharge summaries, disease indexes, nursery logs, pediatric logs, and neonatal intensive care unit logs), from hospitals, outpatient specialty clinics, genetics clinics, and cytogenetics laboratories; and
- ~~(13)~~(14) the Vermont health care claims uniform reporting and evaluation system.

* * *

Sec. 14. CONGENITAL HEART DEFECT SCREENING; RULEMAKING

On or before January 1, 2017, the Commissioner of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 requiring the screening for a congenital heart defect on every newborn in the State, unless a critical congenital heart defect was detected prenatally. Screening tests for critical congenital heart defects may include pulse oximetry or other methodologies that reflect the standard of care.

Sec. 15. 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.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 559

The Senate proposed to the House to amend House bill, entitled

An act relating to an exemption from licensure for visiting team physicians

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

Sec. 5. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXEMPTIONS

This chapter does not prohibit:

* * *

(10) An advanced practice registered nurse who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the APRN is employed as or formally designated as the team APRN by an athletic team visiting Vermont for a specific sporting event and the APRN limits the practice of advanced practice registered nursing in this State to treatment of the members, coaches, and staff of the sports team employing or designating the APRN.

And by renumbering the existing Sec. 5, effective date, to be Sec. 6

Which proposal of amendment was considered and concurred in.

Action on Bill Postponed

H. 845

House bill, entitled

An act relating to legislative review of certain report requirements

Was taken up and on motion of **Rep. Cole of Burlington**, action on the bill was postponed until April 27, 2016.

Action on Resolution Postponed

H.R. 21

House resolution, entitled

House resolution requesting the Shumlin administration and the Attorney General to release certain e-mails

Was taken up and pending the question, Shall the resolution be adopted?
Rep. Jewett of Ripton moved to amend the resolution as follows:

By striking out entire resolution and inserting in lieu thereof the following:

House resolution supporting the Attorney General's investigation of the EB-5 Program and calling on the Attorney General to determine which EB-5 Program-related records are subject to public disclosure

Whereas, Vermont's EB-5 Program is the subject of several federal and state investigations into civil and criminal violations, and

Whereas, Vermonters are outraged by the allegations of wrongdoing and appropriately interested in holding accountable all persons responsible, and

Whereas, the General Assembly is deeply concerned about how the criminal and civil misconduct and violation of trust will affect the residents of the Northeast Kingdom of Vermont, and

Whereas, under 1 V.S.A. § 317(c)(14), records which are relevant to litigation to which a public agency is a party of record are exempt from public inspection and copying under the Public Records Act, but shall be available to the public after ruled discoverable by the court before which the litigation is pending, and in any event upon final termination of the litigation, and

Whereas, records related to the EB-5 Program may be the subject of pending or future public records requests, and

Whereas, in responding to a public records request, a public agency is required to either produce or state the grounds for withholding responsive records within specific timeframes and may only withhold a responsive record if the record is exempt from public inspection and copying under the Public Records Act, now therefore be it

Resolved by the House of Representatives:

That this legislative body expresses its solidarity with the residents of the Northeast Kingdom and its commitment to repair the harm caused by the alleged misconduct related to the EB-5 Program, and be it further

Resolved: That this legislative body fully supports the Attorney General's ongoing and comprehensive investigation of the EB-5 Program, and be it further

Resolved: That this legislative body requests the Attorney General to determine which records related to the EB-5 Program should lawfully be withheld and which should be publicly released in response to a public records request, and be it further

Resolved: That this legislative body requests that the administration promptly respond to all current and future public records requests, disclosing all records other than those that the Attorney General determines should lawfully be withheld, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Governor and to the Attorney General.

Pending the question, Shall the resolution be amended as recommended by Rep. Jewett of Ripton? **Rep. Pearson of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number.

Pending the call of the roll, **Rep Wright of Burlington** moved to postpone action until Tuesday, April 26, 2016, which was agreed to.

Adjournment

At two o'clock and thirty-two minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, April 25, 2016, at two o'clock in the afternoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 345

House concurrent resolution congratulating the Shelburne Volunteer Fire Department on its 75th anniversary;

H.C.R. 346

House concurrent resolution honoring Joseph Woodin on his outstanding leadership of Gifford Medical Center;

H.C.R. 347

House concurrent resolution congratulating the 2016 Junior Iron Chef championship teams;

H.C.R. 348

House concurrent resolution congratulating Ernie Farrar of St. Albans on his induction into the Vermont Sports Hall of Fame;

H.C.R. 349

House concurrent resolution designating April 28, 2016 as Vermont Water Stewardship Day;

H.C.R. 350

House concurrent resolution congratulating the 2016 Mill River Union High School Division II championship cheerleading team;

H.C.R. 351

House concurrent resolution honoring Thomas Donahue for his dynamic leadership at the Rutland Region Chamber of Commerce;

H.C.R. 352

House concurrent resolution congratulating James Messier on his receipt of the National FFA VIP Award;

H.C.R. 353

House concurrent resolution honoring Robin Hadden for her 28 years of outstanding public service as a rural letter carrier in Huntington;

H.C.R. 354

House concurrent resolution commemorating the 150th anniversary of the founding of the Grand Army of the Republic;

H.C.R. 355

House concurrent resolution designating April 27, 2016 as Walk@Lunch Day in Vermont;

H.C.R. 356

House concurrent resolution congratulating the Vermont Maple Festival on its golden anniversary;

H.C.R. 357

House concurrent resolution congratulating Katey Comstock on her 2016 Division II indoor track and field individual championships;

H.C.R. 358

House concurrent resolution honoring Hugh Tallman for a half century of public service in the Town of Belvidere;

H.C.R. 359

House concurrent resolution congratulating Saint Peter Roman Catholic Parish in Rutland on its solar energy leadership;

H.C.R. 360

House concurrent resolution honoring Coach Scott Legacy on his remarkable career directing the Mt. Anthony Union High School Patriots' wrestling program;

H.C.R. 361

House concurrent resolution congratulating the Solomon Wright Public Library on its 50th anniversary;

H.C.R. 362

House concurrent resolution honoring the American Association of University Women of Vermont for its advancement of equity for women;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2016, seventy-third Biennial session.]